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Congressional Record

PROCEEDINGS AND DEBATES OF THE 92d CONGRESS, SECOND SESSION

SENATE—*Thursday, October 5, 1972*

(Legislative day of Wednesday, October 4, 1972)

The Senate met at 8:30 a.m., upon the expiration of the recess, and was called to order by Hon. FRANK E. MOSS, a Senator from the State of Utah.

PRAYER

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

The Lord is my light and my salvation; whom shall I fear? The Lord is the strength of my life; of whom shall I be afraid?—Psalm 27: 1.

In Thy presence, O God, we hush our thoughts to silence, we tutor our spirits in sincerity and wait to feel once more the tides of life rise within our waiting hearts. Draw us close to Thee and hold us fast lest we go astray. Save us from false choices and poor judgment. Give us the grace and good manners of the Master. May we be loyal to all the truth we know, obedient to the high prompting laid upon our conscience, and in our faithfulness may we see the advancement of Thy kingdom and find our wills in harmony with Thine.

For Thine own sake we ask it. 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 legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 5, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. FRANK E. Moss, a Senator from the State of Utah, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Wednesday, October 4, 1972, be approved.

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

COMMITTEE MEETINGS DURING SENATE SESSION TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing and Urban Affairs, a special subcommittee of the Committee on the Judiciary, the Committee on Commerce, and the Committee on Armed Services may be authorized to meet during the session of the Senate today.

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

EXECUTIVE SESSION

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

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

INTERSTATE COMMERCE COMMISSION

The ACTING PRESIDENT pro tempore. The clerk will state the first nomination.

The second assistant legislative clerk proceeded to read nominations in the Interstate Commerce Commission.

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

The ACTING PRESIDENT pro tempore. Without objection, the nominations will be considered en bloc; and, without objection, they are confirmed.

Mr. MANSFIELD. Mr. President, I request that the President be immediately notified of the confirmation of the nominations.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

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

ON McGOVERN'S DEFENSE POLICIES

Mr. BUCKLEY. Mr. President, the Democratic candidate for the Presidency of the United States has made a number of proposals for major reductions in the U.S. defense effort. He proposes a $30 billion reduction in U.S. defense expenditures from the current $83 billion to approximately $54 billion. I would like to address myself to just one area—strategic nuclear forces—which receive especially hard treatment at the hands of the nominee's panel of defense cutters. My colleagues from Maryland and Nebraska will address themselves to other aspects of the McGovern proposals.

It has long been recognized that the fundamental element of our defense posture has been the continuing ability of our strategic nuclear forces to deter war. This ability has in turn been the keystone of the mutual defense agreements in Europe and elsewhere which have been basic to the security of the free world. While it is conceivable that the United States can be ill prepared for a conventional war and still ultimately be capable of defending its interests, it is utterly inconceivable that the United States can afford to be unprepared in its strategic nuclear forces and expect to emerge as a viable society in the event of a nuclear conflict. Therefore, it is with the utmost concern that I have evaluated the recommendations made in the Senator from South Dakota's defense budget. I found the implications of the Senator's proposals even more ominous than I had anticipated.

The testimony taken by the committees of the Congress in evaluating the recently concluded strategic arms limitations talks revealed that in an era when the Soviet Union has surpassed the United States in numbers of such strategic nuclear delivery vehicles as intercontinental ballistic missiles and ballistic-missile-firing submarines, it is only the U.S. technological advantage in strategic weapons that enables us to maintain a fully credible deterrent force. Yet, the Senator from South Dakota's defense budget would reduce U.S. research and development expenditures in the fiscal year 1973 budget by nearly 50 percent. To understand the implication of the proposed cut, it should be noted that even

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at present levels, we are spending for defense research and development, in terms of constant dollars, less than we were 15 years ago while the Soviets have been increasing their own expenditures to the point where they can now initiate twice as many R. & D. projects as we can. Moreover, the Senator is recommending the termination of precisely those areas of technological effort that have heretofore been responsible for the U.S. qualitative advantage over the Soviet Union.

For example, the Senator urges that the Minuteman III ICBM program and the Poseidon submarine-launched ballistic missile program be terminated at their present levels. Both of these programs are designed to modernize our existing ICBM and submarine-launched ballistic missile forces without increasing the aggregate number of missiles. The United States has not deployed an additional ICBM silo since 1966, nor has it launched an additional ballistic-missile-firing submarine since 1967. On the other hand, the SALT accords recently concluded between the United States and the Soviet Union will permit the Soviets to have up to 62 operational modern Yankee-class missile firing submarines and approximately 1,400 land-based ICBM's while limiting the United States to a force of 1,000 ICBM's and 41 modern Polaris/Poseidon submarines.

The President has stated that the United States can "live with" this disparity in aggregate forces only because the United States possesses the technology to deploy the Minuteman III ICBM and Poseidon multiple warhead missiles. Senator McGOVERN would stop the Minuteman III deployment at about 150 missiles of the Minuteman III type whereas the President has requested a force of at least 550; he would limit the deployment of missile firing submarines with Poseidon multiple warhead missiles to seven submarines whereas the President has requested 31; and he would eliminate the work required to improve their capabilities.

One could at least understand, if not agree with, the Senator's proposals for so sharply limiting existing U.S. strategic forces if he were recommending a serious program for the replacement of existing forces with more sophisticated weapons, as is permitted under the SALT accords. However, he takes the opposite position. Rather than modernize and improve our submarine-launched ballistic force, the Senator from South Dakota recommends the sharp curtailment of research and development and procurement activities for the new Trident submarine, a submarine designed to replace the older vessels in the Polaris/Poseidon submarine fleet.

Similarly, the McGovern defense budget would not only reduce the aging U.S. B–52 bomber fleet from approximately 450 aircraft to 200 aircraft, but it would terminate the B–1 bomber program which would provide us with the only presently feasible, thoroughly tested and reliable replacement for an existing component of our strategic nuclear forces which is today comprised of an obsolescent aircraft, the B–52, an aircraft which recent newspaper reports have emphasized is quite literally falling apart. To curtail the B–1 program would be particularly foolhardy given the fact that the Soviet Union is developing the Backfire, a long-distance supersonic bomber which is far superior to our subsonic B–52. The characteristics and capabilities of the Backfire are such that the editors of the current edition of the authoritative Jane's All the World's Aircraft were moved to observe that Soviet procurement of the Backfire without U.S. procurement of the B–1 bomber would jeopardize U.S. leadership in the one area of strategic forces which President Nixon noted on June 15 was primarily responsible for the U.S. acceptance of Soviet superiority in ICBM's and SLBM's.

As one studies the McGovern defense proposals, one is staggered by the sheer imprudence of the posture recommended.

One of the proposals, for example, is that we reduce the role of our U.S. based fighter aircraft from that of interception against manned aircraft to that of surveillance; and this despite the fact that because of continuing budgetary pressures, the U.S. air defense capability has already reached a point where it is, in the words of the Armed Forces Journal, at "the lowest level since 1942." Lest someone suggest that this is typical military-industrial complex exaggeration let me point out that in the last 5 years, our U.S.-based ground to air antiaircraft missiles have been reduced from 1,500 to 500. Despite this, the Senator from South Dakota recommends that we scrap the Air Force's F–15 and the Navy's F–14 fighter aircraft programs, which are the only ones which are capable of providing us with aircraft in the relatively near future which have the capabilities required to assure us of the ability to maintain the integrity of U.S. air space against modern aircraft of the kinds now being deployed by the Soviet Union.

I might note, parenthetically, that the F–14 and the F–15 are the only planes which we have in sight which are capable of competing with the Soviet Mig–23 Foxbat aircraft which are now being based in the eastern Mediterranean.

The ultimate implications of the McGovern defense recommendations, however, are far more important and far more serious than any single detail of his proposed budget. These recommendations, which will sharply cut back our conventional capabilities as well as our strategic credibility, would have the inevitable effect of undercutting the flexibility with which the United States will be able to respond to any initiatives or military provocations launched by the Soviet Union or her surrogates, and will undercut the plausibility of our own attempts to counter them. When an opponent perceives that we have embarked on a policy of unilateral disarmament, a policy which will reduce the military options available to an American President to the single one of an all-out nuclear retaliation to any given provocation—and a retaliation at that which will invite the assured destruction of the United States, then such an opponent will soon enough understand that it will have become implausible that an American President will react at all to any provocation except one which poses the gravest threat to the immediate security of the United States. If we allow our defenses to be reduced to such a state, then we will inevitably invite other nations to test and exploit our weakness. At the same time, because our mutual security arrangements with our allies in Europe and elsewhere will have lost their credibility, we will see those alliances eroding away; and worse still, we will provide an impetus to others to develop their own independent nuclear capabilities as they lose confidence in the protection formerly granted through the U.S. nuclear umbrella.

In the area of our strategic forces, the McGovern defense budget proposes to save us $4 billion a year by cutting in half the current direct cost of our nuclear forces of approximately $8 billion per year. Surely this expenditure represents an acceptable amount to pay for what is, in effect, an insurance premium against the risk of a nuclear war and against the loss of our credibility in world affairs. Surely the cost of failing to provide for a minimum strategic defense is vastly less than what would have to be spent to rebuild the United States if the judgment of the Senator from South Dakota about defense matters should prove to be less than 1,000 percent correct.

I yield back the remainder of my time.

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

Mr. BEALL. Mr. President, we all know that in the heat of a political campaign, statements are made, and positions are taken, that are highly partisan and sometimes exaggerated. I expect this. The press expects it. We all really expect it. However, there is one area of campaign rhetoric where it is most important to be careful with our language and proposals, and that is where it affects our national security and our relations with other nations.

It is for this reason that I have been stunned over the proposals of candidate GEORGE McGOVERN in the national security area. The only conclusion that we can come to after looking at the Senator's defense budget proposals is that he has been duped by some exceedingly bad advice. His naive and unrealistic proposals are the one facet of this campaign that has me and millions of other Americans truly concerned, and maybe even a little frightened; and when I say millions of Americans, I do not exaggerate.

How much the Americans among us whose ancestors came to this country from Eastern Europe feel when they see these proposals?

How must our citizens who are concerned over the fate of Israel feel when the McGovern insecurity plan is discussed.

How must our friends and allies—to whom we have made commitments—react when we talk so cavalierly of cutting back our defense capabilities?

Mr. President, let me give a few examples of matters which create this concern.

Item: Prof. Abram Chayes, chairman of McGOVERN's foreign affairs advisory panel was recently interviewed in Europe with respect to McGovern defense positions. Speaking of Southeast Asia, Professor Chayes says:

I don't think Hanoi will want Communist regimes in Cambodia and Laos, at least not right away. But if it does, then we'll have to dump (Cambodian President) Lon Nol and (Laotian Premier) Souvanna Phouma, too!

An incredible statement by one who is a chief adviser speaking for a major presidential candidate.

Item: The respected Dr. William Kirtner, director of the University of Pennsylvania Foreign Policy Research Institute, studied in detail the McGovern budget proposals. His conclusion:

When the McGovern defense package is unwrapped, it reveals a dangerously decimated defense establishment—the strategic forces are frozen at current levels or reduced; almost all new projects in development are cancelled; the total research effort is sharply reduced.

Item: The McGovern budget—on close examination—reveals the complete lack of knowledge and inattention to detail that can be nothing but embarrassing to the candidate. For instance even the most unsophisticated member of our society knows the need for maintenance work and other items to keep machinery and vehicles working. Senator McGOVERN apparently does not.

His budget shows $20.9 billion available for equipment supplies and services, yet he later indicates that $20.7 billion of this is to invest in strategic and general purpose forces—this leaves $200 million for operating costs such as fuel, electrical power, communications, medical supplies and services, spare parts, and so forth. Fiscal year 1972 baseline costs for these items were $9.5 billion—allowing for inflation this would come to about $10.4 billion in fiscal year 1975—the year of the McGovern budget.

His budget allows $200 million for these matters—a 98-percent cut—based on present levels.

Even if we take into account his reductions the cost would be about $8 billion in 1975.

Any family that would plan a budget like GEORGE McGOVERN's defense budget—would be the laughing stock of the neighborhood—only in this case it is not a laughing matter; it is a matter of vital importance to you, and me, and all Americans.

Mr. President, in bringing to public view the great deficiencies in the proposals that candidate McGOVERN has made, I do not want anyone to get the idea that I believe, or the President believes, in unlimited military spending. Mr. McGOVERN has said that all he wants is that which is adequate. That is all I want, Mr. President, but the facts indicate that what is necessary—at the minimum—is much more than he has proposed.

In this light, look at President Nixon's record in this area. It is evident that he is concerned about the amount of our gross national product that we devote to military matters.

For the result, look at the facts after 3½ years of the Nixon administration:

First. The total defense budget, including Vietnam expenditures, has been reduced in real terms—constant dollars—to the level it was before the Vietnam war—1964.

Second. The total defense budget is today a smaller portion of the Federal budget and of our GNP than at any time since before the Korean war.

Third. The President's budgets for the past 3 years provided—for the first time in 20 years—more spending for human resources than for defense.

With these facts in mind—and they are facts—the figures prove this: It is evident that the President has cut defense to the point where it can be cut no further without severe consequences.

Yet candidate McGOVERN, in giving full vent to his wild imagination, has given us his bump-and-grind budget.

I call it the bump-and-grind budget, because it lays us bare and would put us in a most embarrassing position with our friends and allies around the world.

Perhaps as much a concern to me in the defense area as his budget proposals is the philosophy that Senator McGOVERN seems to follow in this area.

It is a misguided philosophy.

It is a discredited philosophy.

It is a dangerously naive philosophy.

Let me quote some statements by which I believe he indicates his confusion in this regard.

For example:

I am convinced that we will some day use the phrase "negotiate from strength" as one of the most damaging and costly cliches in the American vocabulary.

Or this one:

The Nixon Administration's fears about Soviet intentions to achieve a first strike capability still seem incredible to me.

Or when asked whether he felt the Russians would test him if elected:

No, I don't think so. I think they would regard me as a friend, and would do everything they could to keep my friendship.

I believe it comes through in things he says that he really does not believe that it is necessary to remain strong to preserve peace.

He seems to believe that all we have to do to maintain peace is just trust the other super powers—that if we treat them with love and kindness, that if we unilaterally weaken ourselves, then they will do likewise, and the world will be one big happy family, in which good intentions will take the place of a good national defense.

Mr. President, how I wish that were true.

All of us would love to be able to live in a world built on mutual trust and concern for the other guy.

But let us be realistic.

The history of civilization is packed full of evidence of man's innate instinct to take advantage of those weaker than himself.

How can we view this history—recent history—without being disturbed over the wars that time and again have come about, because one nation decided it was stronger than another nation and could subvert them with impunity.

How many times has it happened and how can we ignore it?

Well, Candidate McGOVERN ignores it.

Is there any question, then, that we are alarmed over a budget that would lower our active military personnel to a level less than that existing at the time of Pearl Harbor?

And it is not just personnel that he would cut. Look at the other things.

He would reduce our offensive missile and bomber warheads by 65 percent.

He would reduce air defense fighters and missiles by 60 percent.

He would reduce naval attack carriers by 54 percent.

He would reduce tactical air wings, 14 percent in the Air Force, 50 percent in the Navy, and 33 percent for the Marine Corps.

He would cut U.S. forces in Europe from 300,000 to 130,000 men, unilaterally.

He would recall all U.S. land forces from South Korea.

He would stop development of the F–15 fighter and the B–1 bomber.

He would, in summation, put this Nation in the worst and most insecure position since before World War II.

Mr. President let me end with another quote from a statement by Dr. Kintner of the Foreign Policy Research Institute. It sums up—in a nutshell—the danger that GEORGE McGOVERN poses to our Nation:

Senator McGovern either does not recognize the concept of balance in strategic arms and the R & D supporting it, or does not believe balance is necessary. His budget which devastates current investment would have its main impact several years from now, when we do not know what threats may face us; it amounts to a fiscal formula for unilateral disarmament. This could only satisfy the Soviet Union, upon whose benign sentiments we and our allies would then depend, because the McGovern budget would leave us no other choice.

In short, the McGovern defense proposals leave us a military force too small to be effective and too large to be cheap. We may agree on the necessity to reorder priorities in the United States, but, in today's world, we dare not reorder the priority of national strength in favor of national weakness.

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

Mr. BEALL. I yield.

Mr. MANSFIELD. While the distinguished Senator is talking about the defense budget, I should like to invite his attention—I am sure he is aware of this, but I do not think we can emphasize it too often—to the fact that in the military construction appropriation bill, which passed the Senate on Tuesday, there was a total reduction by the Senate of $223,658,000, or 12 percent below the budget request.

On the defense appropriation bill, which passed the Senate on Monday of this week, there was a reduction of $4,989,518,000 below the budget request.

So on these two bills, on which the Senate voted this week, there was a total reduction below the budget request of $5,213,176,000, for which I think the Senate and Congress as a whole deserve a great deal of credit.

Mr. BEALL. I certainly agree with the distinguished majority leader. I am

happy to see that the legislative branch of the Government performs its constitutional responsibility of carefully examining and reducing, where possible, the appropriation requests from the executive branch.

However, I am not talking about a $4 billion legislative cut. I am talking about a proposal, made by a candidate for President, to reduce defense appropriation requests by $30 billion, and I think there is a distinction to be made here.

Mr. MANSFIELD. There is a distinction, but I just wanted to bring out this fact; and I am going to emphasize it and reemphasize it, because Congress is blamed for too many things for which it is not responsible. It is a clay pigeon, a sitting duck, so to speak. When Congress—this includes both Democrats and Republicans—performs something of significance, such as these cuts, that should be taken into consideration by the people downtown.

Mr. BEALL. I agree with the distinguished majority leader. I assure him that I am concerned that the legislative branch of the Government always assert itself. I am afraid that in the last 30 years the legislative branch has too often thrown the hot potato to the executive branch, and thus we have seen an erosion of legislative responsibility that I hope will not continue over the next 2 or 3 years.

Mr. MANSFIELD. I could not agree more with the Senator.

ORDER OF BUSINESS

Mr. MOSS. Under the previous order, the Senator from Nebraska (Mr. HRUSKA) is recognized for not to exceed 15 minutes.

McGOVERN'S DEFENSE PROPOSALS

Mr. HRUSKA. Mr. President, a presidential election campaign should be a time for weighing the grave issues that face the Nation. The candidates and their supporters should concentrate on clearly defining where they stand. That is what the people expect of them and that is what the people deserve.

I commend the Senator from New York and the Senator from Maryland for their part in seeking to concentrate on one very grave and fundamental issue in the campaign: the subject of national security, the subject of national defense, the posture of defense of our country. In calling attention to the facts and some views and observations, they have contributed constructively to the idea of concentrating on the issues.

It was with some interest that I listened to the colloquy between the distinguished majority leader and the distinguished Senator from Maryland. It is true that the Subcommittee on Defense Appropriations has reduced the budget by some $5 billion. I was there. I participated in that process. I have sat for some years on the Appropriations Committee, in particular on the appropriations for defense. But I want to suggest, as I shall point out later in my remarks, that there is a difference between a selective cut or a series of selective cuts, judiciously and very deliberately engaged in and concluded upon, and the type of procedure which would result in a very vast and very substantial reduction in our national budget.

Now, that is the kind of cut that the candidate for the other party suggested when, in January, and prior thereto, he suggested that as President, for fiscal year 1975, the defense budget would call for expenditures of $54.8 billion, and an armed force of 1,735,000 men, 12 land divisions, the equivalent of 26 wings of tactical airplanes, and six aircraft carriers.

That is a tremendous and a radical reduction and weakening of our national force. It is beyond the point of reason in terms of the world in which we live today.

As I proceed, I shall detail some of the conclusions that we can draw and some of the observations which have been made on that kind of program.

Unfortunately, day after day as this campaign has proceeded, the tendency on one side has been to wander away from the facts and to engage in name calling and rhetoric.

In my political career which has spanned several decades, I cannot remember a single past campaign where the underdog resorted to comparing the President of the United States with Adolf Hitler, or where he equated America with Nazi Germany. Yet, the presidential nominee of the Democratic Party has made those charges several times. This type of attack is even too much for some of Senator McGOVERN's supporters. I cite an article in yesterday's papers referring to McGOVERN's analogy as "getting into the gutter." I ask unanimous consent that the complete article from the Washington Post be printed in the RECORD.

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

A prominent Northern California congressional Democrat has criticized Sen. George McGovern for "getting into the gutter" in his charges that the Nixon administration is the most corrupt in U.S. history.

Rep. Jerome Waldie of Antioch, considered a possibility for the 1974 Democratic gubernatorial nomination, Monday made a joint appearance with Rep. Alfonzo Bell (R. Los Angeles), who spoke on behalf of President Nixon before a Comstock luncheon.

Waldie was asked in a written question from the audience whether McGovern's corruption charge wasn't "really getting into the gutter."

"Yes, it is," Waldie replied.

Waldie said he did not approve of the charge, as well as McGovern's statements likening Mr. Nixon's policies to those of Adolph Hitler.

"I find no comfort in a presidential campaign descending to that level," declared Waldie, who nonetheless stressed his support of McGovern.

Mr. HRUSKA. Mr. President, in the same vein, it seems that whenever a newsman or columnist disagrees with the challenger in this election, he can expect to be called "lousy, bitter, paranoid, despicable and obnoxious." If young people decide that they prefer to reelect the President, then they are told that they are "too confused to know what end is up," and union members who also decide that President Nixon deserves their support are advised that they ought to have their heads examined.

This is the bitter invective of desperation—the rhetoric of last resort. These are the words of a candidate whose campaign is so far behind as to be beyond hope of recovery. It deserves no place in a presidential election, for it is the symptom of a narrow, self-righteous view—an intolerance for the freedom of opinion that is so essential to democracy in America.

This morning, I would like to do my part to put one of the central issues of this election campaign back on the tracks of rational discussion. I would like to focus attention on a very real issue that shows clearly the disparity between the two presidential candidates. I want to put aside the bitter invective that has become a trademark of the challenger in his desperate attempts to regain the lost confidence of the American people and concentrate on the issue.

I expect that those who support the Democratic nominee will welcome this opportunity to discuss exactly where he stands on one of the most important substantive issues of this and every election: the military strength and security of the United States.

This Senator does not come to this discussion without some knowledge of the facts involved. The interests of my home State require me to be familiar with this subject because Nebraska is the home base of the Strategic Air Command, the nerve center of this Nation's worldwide retaliatory air strike capability. In addition, since coming to Congress 20 years ago I have served on both the House and Senate Appropriations Committee and have participated in the annual review of the defense budget. I am now a member of the Defense Appropriation Subcommittee and of its conference committee on the fiscal year 1973 appropriation bill, just approved this week.

Each year our subcommittee goes over the entire military budget with great care; we do not in any sense of the word rubberstamp the Pentagon's requests. This year, for instance, we have made reductions of $4.989 billion in the budget estimates, trimming the total appropriation to approximately $75 billion. This type of paring requires us to familiarize ourselves with this Nation's entire military operation. But we undertake our examination with the premise that we want our military strength to be entirely equal to the challenges facing this Nation so that our security and that of our allies can never be in doubt. We made our reductions prudently and in a responsible way; we do not lop off in indiscriminate fashion huge programs and installations with a meat ax. I am afraid the same cannot be said for the Democratic nominee.

America's strength has always been a major concern to both Democrats and Republicans. Whereas in the past both Republicans and Democrats seeking the Presidency have agreed that America must remain strong—as I believe a majority of my colleagues of both parties in the Senate still agree, and an overwhelming majority of the public surely does—this year the Democratic candidate has gone on record as advocating

a dangerous policy of national weakness. He supports a policy that could lead us to the brink of nuclear war and away from the tremendous progress that President Nixon has made in reducing world tensions and reaching better understanding with the Soviet Union and Communist China.

This is a grave charge, Mr. President, and I assure you that I do not make it lightly. Grave as it is, it is backed up by the public claims and utterances of the men who sought to unseat President Nixon. In fact, men who competed with the successful Democratic nominee.

I know that many of my Democratic colleagues share my misgivings. Listen to just two of them.

The Senator from Minnesota (Mr. HUMPHREY) said:

> Not only are Senator McGovern's proposals a serious threat to the security of our Nation, but they are, indeed, a direct threat to the economic security of working families. . . .

On the nationally televised program, "Face the Nation," he went even further, citing some of the specific ways in which the McGovern defense proposals would endanger America. This is how Senator HUMPHREY characterized the defense policy of the man who is now running as the Democratic candidate for President. He stated, and I am quoting directly, that a President McGovern would:

> . . . halt the Minuteman procurement; halt the Poseidon procurement; halt the B–1 prototype; phase out 230 of our 530 strategic bombers; reduce aircraft carrier force from 15 to 6; reduce our naval air squadrons by 80 percent; halt all naval surface shipbuilding; reduce the number of cruisers from 230 to 130; reduce the number of submarines by eleven.

Mr. President, this is a far cry from a judicious, well-selected, and deliberately made cut of $5 billion in a budget of $75 billion.

My colleague fom Minnesota summed up the effect this would have on America in this way:

> Now when you get down to that and reduce the total number of forces 66,000 below what we had pre-Pearl Harbor, you are not talking about just removing waste or just doing something that seems to be kind of comfortable for the country. You are cutting into the very fiber and the muscle of the defense establishment, and there can be no doubt about it.

And the Senator from Washington (Mr. JACKSON), a well-respected member of the Senate Armed Services Committee, made these comments on the McGovern proposals:

> Senator McGovern thinks he can head an administration and guarantee the safety of America—with the Navy without modern ships, the Air Force without modern planes, and an obsolete, undefended and out-numbered strategic force.

Senator JACKSON has also said:

> Senator McGovern wants to pull more than one-half of our troops out of Europe, therefore, jeopardizing the Atlantic Alliance and crippling an all-important opportunity to negotiate the withdrawal of Soviet occupation forces from Central Europe, where they have been since the end of World War II. He chooses to wholly ignore the current Soviet naval and strategic buildup—the greatest peacetime military buildup by any nation.

What were the proposals that spurred such strong criticism from members of the Senator's own party? Last January, Senator McGOVERN suggested that as President his fiscal year 1975 defense budget would call for expenditures of $54.8 billion, an Armed Force of 1,735,000 men, 12 land divisions, the equivalent of 26 wings of tactical airplanes and 6 aircraft carriers. On September 21, another statement was released supporting the January proposals, but in light of the heavy fire these proposals had drawn, all the figures—the specifics—were surgically removed. While pledging reductions in manpower, force structure and overseas deployment, the specifics are carefully camouflaged.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a table entitled "A Comparison of Military Forces—McGovern Proposal Versus President's 1973 Budget."

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

Mr. HRUSKA. Mr. President, the statements from the Senator's Democratic colleagues sum up the disastrous consequence of the McGovern defense budget more aptly than I could hope to. This Senator can think of no more damning indictment than those. Nothing I could say could point up more clearly the danger that America would face if a man who is dedicated to stripping our country of its strength should get to the White House.

I believe that is one of the main reasons why so many lifelong members of the Democratic Party are supporting President Nixon this year. They know that we cannot afford the alternative. They know that a leader dedicated to weakening America and ushering in a new isolationism—an isolationism that would cut us off from our friends and give our adversaries an overwhelming military superiority—is unacceptable.

On September 24, a most provocative article appeared in the Washington Post entitled "How Much for Security?" It was written by Earl C. Revenal, a former director of the Asian Division—systems analysis—in the Office of the Secretary of Defense in the Johnson administration. Mr. Revenal makes some very cogent statements regarding the true meaning of the McGovern defense proposals which should be of interest to my colleagues on both sides of the aisle.

One of the most telling comments in the article is this:

> His (McGovern's) defense program unintentionally prejudices—at least entrusts to luck—certain other American defense objectives in the world—even ones for which McGovern himself professes concern. I refer to northeast Asia . . . central Europe . . . and the eastern Mediterranean. . . ."

I ask unanimous consent that further excerpts from that article be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 2.)

Mr. HRUSKA. Mr. President, we have been down this road before. History should remind us that isolationism and weakness are not guarantors of peace. Just the opposite is true. In the late 1930's and again following World War II, this Nation withdrew within its borders in an attempt to forget the rest of the world and concentrate on our own domestic problems and priorities. The results of those two periods of isolationism were not happy: the events of 1941–45 and 1950–53 should be grim reminders of the fruits of weakness. The United States in 1972 cannot afford another such experience; it is to safeguard us against war that President Nixon has supported a strong defense posture to deter our enemies. It is this advantage that the Senator from South Dakota would give up.

But perhaps this is what we should expect from a man who is willing to turn his back on our allies, who is anxious to end our commitments not only to South Vietnam, but also to all the rest of Southeast Asia: Laos, Cambodia, Thailand. Not long ago one of his spokemen said that McGOVERN "had no interest in keeping any presence" in all of Southeast Asia. Where will the Senator's shopping list for abandonment end? What nations are justified in continuing to look to a McGovern administration for support?

The world press is concerned with this question, just as all Americans should be. Let me quote from some recent editorial comment on McGOVERN's defense proposals:

> While Senator McGovern is seeking to reduce American forces in Europe by more than half, and thereby knock down essential pillars of European defense, the Russians are openly working to undermine the already shaky foundations . . . It is much to be hoped that President Nixon will be able, for a little longer at least, to prevent things being made quite so easy for the Kremlin.
> —London Daily Telegraph

> His (McGovern's) proposals on defense and foreign policy are inspired by a desire for popularity rather than by wisdom and a sense of responsibility. McGovern has a Vietnam policy that amounts to unconditional surrender. . . . His concept of foreign policy does not bear comparison with the clear and realistic concept of Nixon, who in his first term has proved himself a guardian of world peace aware of his responsibilities.—Stuttgarter Zeitung, West Germany.

> The election of McGovern would mean he would preside at the decline and fall of the United States as a world power. Under a President McGovern, the United States would have no weight in world affairs. . . . The American presence and determination have so stabilized conditions in Southeast Asia that the nations in this region can stand up to the enemy when the Americans are gone—that is, if the Nixon Doctrine is still in force—Bangkok Post, Thailand.

If the McGovern proposals are bad Government, they are also bad politics. If the Senator is curious as to why he is almost 30 percentage points behind in the latest polls, perhaps he should examine his own statements for the reasons. If there is one issue that the great majority of Americans are united on it is that we should maintain a strong defense capability—second to none in the world. By flying in the face of this popular sentiment, Senator McGOVERN has courted disaster—and justifiably so—on November 7.

The Senator's supporters cannot even fluff-off these defense proposals by saying that they are the product of ill-conceived suggestions brought on by the frustrations of a losing campaign. The McGovern fiscal year 1975 defense budget was carefully thought out and announced last January in the cool winter of contemplation. It has been reaffirmed by the candidate and his advisers in recent weeks. Senator McGOVERN gives every indication that, if elected, he will try to put these dangerous programs into effect. He will have even more difficulty in dropping his support for these suggestions than he has had with some other matters in the past. Americans should be alert to the fact that if GEORGE McGOVERN is elected on November 7, he will do his best to make this Nation a second-class military power within 4 years. We cannot let this happen.

In contrast to the McGovern defense posture of weakness and insecurity, the Nixon administration is pledged to keeping America strong and secure. While doing all that he could to secure a generation of peace for this Nation and the world, the President has not relaxed his view that America must remain the dominant military power in the world. Only in this way can we maintain a balance of power sufficient to insure that we will not again be involved in a devastating world war.

A weakened, isolated America, vulnerable to military blackmail and distrusted by the other nations of the free world, can never face down another country seeking to force its will on others.

The only guarantor of peace is a military capability in this country second to none. America must stay strong. America must stay respected. America must survive. Mr. President, I remind everyone to whose attention these words will be directed that the first duty of a nation is always to survive.

If we were to strip ourselves of our strength as suggested by the McGovernites—if we were to make the Soviet Union, by default, the most powerful nation in the world—we would be tempting them to push us to the brink—to make demands and apply pressures that they do not dare apply today.

In the long, hard postwar years, it has been the strength of America that has kept that from happening.

To forget that lesson today would be to render meaningless the sacrifices and the vision of Democratic and Republican leaders of the last three decades who managed, sometimes against long odds and fierce attack to prevent a third world war.

I say that we must not allow the misguided views of one man to destroy this progress, especially today, when we are so much closer to a full generation of peace than ever before. I say to my colleagues that one man, even if he is party nominee for President, should not be allowed to risk the future well-being of America and the free world.

Anyone who is familiar with what a McGovern presidency would mean to America's security and strength—anyone who has scrutinized the record and the repeated declarations of the nominee in this field with care and attention—can only conclude that despite the best of intentions, it would leave America in deadly peril.

And when these observations are made by this Senator, it is not to deny the nominee the best of intentions, nor his sincerity, nor his patriotism. It is his judgment that should be severely challenged.

Judging from the polls, an overwhelming majority of Americans of both parties already realize this. I hope that they do not lose sight of that fact between now and the 7th of November. And I do not believe they will.

Mr. President, I yield the floor.

EXHIBIT 1

A COMPARISON OF MILITARY FORCES—McGOVERN PROPOSAL VERSUS PRESIDENT'S 1973 BUDGET

	1973 President's budget	McGovern's proposal
Military personnel (thousands):		
End strength:		
Army	841	648
Navy	602	471
Marine Corps	198	140
Air Force	717	476
Total, DOD	2,358	1,735
Civilian personnel (thousands):		
End strength	1,036	761
Strategic forces:		
Intercontinental ballistic missiles:		
Minuteman	1,000	[1] 1,000
Titan II	54	0
Polaris-Poseidon missiles	656	[2] 656
Strategic bombers	511	200
Air defense forces:		
Manned fighter interceptor squadrons	7	5
Army air defense batteries	21	8
General purpose forces:		
Land forces:		
Army divisions	13	10
Marine Corps divisions	3	2
Tactical air forces:		
Air Force wings	21	18
Navy attack wings	13	6
Marine Corps wings	3	2
Naval forces:		
Attack and antisubmarine carriers	16	6
Nuclear attack submarines	60	[1] 69
Escort ships	207	130
Amphibious assault ships	66	56

[1] Conversion of this force to MIRVed Minuteman III would not continue in 1973.
[2] Conversion of this force to MIRVed Poseidon would not continue in fiscal 1973.
[3] This force would be built to an eventual size of 84 ships, a bit smaller than currently planned for the 1980's.

Source: Department of Defense.

EXHIBIT 2

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

HOW MUCH FOR SECURITY?

(By Earl C. Ravenny)

THREE ASSUMPTIONS

How, then, does McGovern make his case? Or how (in the style of the old radio serials) can a nation that has been number one in the world unilaterally cut its defense spending by more than a third and yet find security in a world of determined and opportunistic adversaries? Essentially, McGovern postulates three things:

1. The contingencies in which we would have to use our general purpose forces—whether in Europe or in Asia—are extremely unlikely.

2. We should place more reliance on "non-military" instruments of foreign policy, such as diplomacy and trade.

3. Our present forces are much larger than needed to cope with these contingencies.

These postulates contain a substantial measure of truth, but they cannot quite square the circle. As for contingencies, for example, the McGovern budget rests heavily on the fact that specific threats have diminished, particularly in Korea, Taiwan and central Europe, and perhaps recently in the eastern Mediterranean. This is certainly true, but it is an observation of the likelihood of the threat, not its "size," which in all cases has actually increased. This would argue as much for letting our commitments lapse as for reducing the forces to implement them.

In any case, though it is true that any particular war is improbable, the probability of armed conflict or challenge is not zero in the world. As long as the *consequences* of such unlikely events are *presumed* to be matters of vital interest for the United States, we must maintain general purpose forces to cope with them. Added to this is the cardinal principle of deterrence—that the adequacy of forces makes their use even less likely.

The second postulate—about "non-military" instruments—is so universally true that it is not much more than a placebo. Everyone hopes, in a crisis of conflicting interests, that diplomacy, economic inducements and other sympathetic ties will help resolve the problem. But the possession of adequate force also somehow makes diplomacy more effective.

WHAT KIND OF CUTS?

So we come back to the third of Mr. McGovern's postulate; that his program can do the job with less. But the critical questions are: "What job?" and "How much less?" Here we should realize that cutting the defense budget could mean several very different things:

Eliminating inefficiency—the "leaner, tougher" forces that McGovern talks about; the better combat-to-support and officer-to-man ratios; the fewer bases, headquarters and command layers; the more stable personnel policies; the more competent procurement; the simpler weapons systems.

Reducing the "confidence factor"—deliberately assuming increased risk of failure of deterrence or defense. Here McGovern argues that existing planning factors are too conservative and result in overcalculation and excessive expense.

Eliminating (or unconsciously prejudicing) actual objectives or "missions," including the defense of our allies and friends. Here, McGovern intends very little reduction. He would support our NATO commitment, come to the defense if Israel, and, with the exception of Southeast Asia, continue to underwrite the defense, against overt aggression, of every Asian state to which we are now committed—including Korea and Taiwan, presumably for the sake of Japan. He would not, however, maintain or send counter-insurgency forces, even to defend loyal allies—on the presumptive grounds that the targets of internal wars deserve their fate.

Impairing the "essence" of national security—our integrity and well-being as a society and a political system within our national territory. Here, of course, it is not even open to suggestion that a responsible politician would knowingly advocate policies that endangered what he perceived to be the essentials of his country's security.

It is fair to say, then, that McGovern intends to cut into inefficiency and over-high levels of confidence, and that his program intentionally gives up a few American defense objectives, particularly in Southeast Asia. Beyond this, it may be unfair, but is probably true, to say that his defense program unintentionally prejudices—at least entrusts to luck—certain other American defense objectives in the world—even ones for which McGovern himself professes concern. I refer to northeast Asia—our ability to conduct forward defense at the 38th parallel and the Taiwan strait, ostensibly on behalf of Japan; central Europe, where no allied

government would sleep better with the withdrawal of 60 per cent of our forces, and where the viability of conventional defense as well as the composition of the NATO alliance would have to be gravely reviewed; and the eastern Mediterranean, where, despite fervent assurances, McGovern can hardly convince Mrs. Meir, who would be happier with an America with more aircraft carriers and better relations with the Greek colonels.

MATCHING ENDS AND MEANS

This is where Melvin Laird comes in. In letters to Senate and House committees on July 5, 1972, he did a bit more than plaster the "white flag" on the McGovern defense budget. Though Laird's statements did contain many mere debating points—or what we might now more appropriately call "forensic bargaining chips"—he also raised certain critical questions; not just the green eyeshade stuff about meticulous costing, but substantive challenges about degrees of confidence in deterrence and defense, and the possible impairment of the defense objectives that Sen. McGovern himself claims to share with Secretary Laird.

For if we must take literally McGovern's protestations that he, no less than Laird, is committed to the continuing defense of the western Pacific, central Europe and the eastern Mediterranean, his sharp reductions of American conventional capability may very well promote nuclear prolifieration, lower the nuclear threshold, preempt mutual and balanced force reductions in Europe, unnerve our allies and inspire them to make accommodations with our adversaries, restrict the range of presidential options in a crisis, place a heavy burden on our mobility forces to lift troops back to the theater of combat, diminish our influence on the actions of other nations, hasten the unraveling of our alliance systems in the Atlantic and the Pacific, and cause us in an overall sense to turn our back on calculations of the balance of power.

What emerges is that the McGovern defense concept is probably not stable, because it tries to do too much with too little. This is not to join its critics in saying that it is a dangerous or irresponsible program. After all, the Nixon Doctrine suffers from the same problem. It is simply to point out that the McGovern program can't decide whether to out-Nixon the Nixon Doctrine or really to cut back on our commitments. Thus it is susceptible to two kinds of corrections, or further moves that might restore the balance of ends and means.

One course is to emphasize the commitments, suppress the figures, hope for the best, and later—if in office—remedy the deficiencies in costing, confidence and capabilities. This is the politically "advisable" course, and the broad spectrum of party advice represented in last week's statement by McGovern's national security panel.

The problem with this approach is that McGovern's original "$54.8 billion in 1975" has already, in some public statements by his advisers, become "$55–60 billion." In still other statements it has crept up to "$30 billion less than Nixon"; and since the Nixon defense budget is expected by 1977 to be at $100 million, this would yield a McGovern budget of $70 billion. And this kind of locked-in logic would still leave "President McGovern" a hostage to the advice of his professional military. This might well subscribe to his stated defense objectives but insist on buying higher confidence. Given, further, the three-cushion billiard game of inter-service bureaucratic politics, one could easily foresee a Democratic defense budget—without any apologies—of $85–90 billion by 1977, still tied to the upward curve of inflation and defense "logic."

MESSAGE FROM THE HOUSE— ENROLLED BILL SIGNED

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (S. 2770) to amend the Federal Water Pollution Control Act.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. Moss).

CONSUMER PROTECTION ORGANIZATION ACT OF 1972

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

The legislative clerk read as follows:

Calendar No. 1049 (S. 3970) a bill to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants in order to protect and serve the interest of consumers and for other purposes.

The ACTING PRESIDENT pro tempore. Under the previous order, the 1 hour allotted to the Senate before proceeding to vote on the motion to invoke cloture will now begin and will be equally divided and controlled between the Senator from Connecticut (Mr. RIBICOFF) and the Senator from North Carolina (Mr. ERVIN).

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

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

The Senator from Connecticut is recognized.

Mr. RIBICOFF. Mr. President, the Senate has now voted twice on whether to invoke cloture on S. 3970. Both times more than 60 percent of the Senate voted to do so, but both times cloture failed. This morning we vote a third and last time. It is our final chance this year to establish a Consumer Protection Agency.

All we ask is a chance to vote on the amendments and on the bill. This is the business of the Senate and the responsibility of its Members.

In 2 weeks of debate the bill has been portrayed by its opponents as upsetting the Federal administrative process and disrupting the entire economy. Of course, this is untrue. In drafting it, we consulted the Chairman of the Administrative Conference, department and agency officials, leading law professors and representatives of the business community. The bill is a synthesis of the best ideas we received from all of them.

After so many words have been said about the bill, both for and against it, it may be worthwhile to review, briefly and objectively, its principal provisions.

Title I establishes a three member Council of Consumer Advisers patterned after the Council of Economic Advisers. It will prepare a yearly report on the status of the consumer interest, just as the CEA does on the economy.

In addition, it will be responsible for:

First. Recommendation of program priorities;

Second. Assistance in program coordination;

Third. Development of new policies and legislation; and

Fourth. Evaluation of current programs.

Title II establishes an independent, nonregulatory Consumer Protection Agency. The Agency will be headed by a three-member Commission appointed by the President with the advice and consent of the Senate for a term of 4 years, coterminous with the President. The Commission will be chaired by an Administrator who shall be the chief administrative and exectuive officer.

The principal functions of the Agency will be to:

First. Represent consumer interests before Federal agencies and courts;

Second. Receive and transmit consumer complaints;

Third. Conduct surveys and research concerning the interests of consumers;

Fourth. Disseminate information relating to consumer interests;

Fifth. Publish a Federal Consumer Register of information useful to consumers; and

Sixth. Make grants to states, localities, and nonprofit, private organizations to encourage and assist their consumer protection programs and activities.

The most important function of the Agency will be representation of the consumer interest before Federal agencies and courts (sections 203, 204). In formal adjudicatory or rulemaking proceedings under the Administrative Procedure Act, the CPA is authorized to intervene as a party, but shall refrain from doing so unless such intervention is necessary to adequately represent the interests of consumers. The purpose of this limitation is to emphasize that the Administrator must exercise discretion in his intervention and avoid unnecessary involvement in the administrative process. Where submission of written briefs and other material is sufficient, the Administrator should do no more than that.

In informal agency activities, such as notice and comment rulemaking or investigations, the Administrator is authorized to present oral and written arguments to agency officials and have an opportunity to participate equal to that of any person outside the agency. This means that if the lead tinsel manufactures have a meeting with the Commissioner of FDA on the schedule for removing lead tinsel from the market, the Administrator is entitled to present his views on the subject to FDA officials. The section does not give him the right to

be present at the tinsel manufacturers meeting and argue his case at the same time they do. To use an analogy from broadcasting, the concept is one of "fairness," not "equal time."

The Administrator is authorized to seek judicial review and intervene in any civil proceeding reviewable under law if he was a party to the proceeding below, or participated in the activity out of which the appeal arose. The Administrator may also seek review of cases in which he did not intervene or participate, unless the court determines that such intervention or participation in the judicial proceeding would be detrimental to the interests of justice. However, before taking the appeal, he must file a timely petition before the Federal agency for hearing and reconsideration, if this is authorized by statute or agency rules. The purpose of this provision is to allow the CPA to forego pro forma interventions in order to preserve its appellate rights.

The complaint section (206) has been simplified and pared down from the 1970 bill. It now provides that nonfrivolous complaints alleging violations of the law shall be referred to the appropriate authorities. Producers and sellers of goods are to be furnished copies of complaints unless such disclosure is likely to prejudice or impede an investigating or prosecuting action. Public disclosure to the extent required to protect consumer health or safety or reveal substantial economic injury to consumers is authorized. Prior to public disclosure, the producer or seller will be afforded an opportunity to review and comment on the complaint and that comment will be included with the complaint at the time it is made public. The evaluation of the complaint by any agency to which it was referred will also be included. The name of the complainant will be deleted where the Administrator finds good cause to do so.

To carry out his survey and research authority, section 207 grants the Administrator authority to submit written interrogatories to persons engaged in a trade, business or industry substantially affecting interstate commerce and whose activities are found to substantially affect the interests of consumers. Such interrogatories must be by general or specific order setting forth the consumer interest involved and the purposes for which the information is sought.

The purpose of the interrogatories will be to promote and protect the health and safety of consumers and to discover instances of consumer fraud. In responding to the interrogatory, no one need disclose any information priviliged according to law. The Administrator may not use the authority granted here where the information is publicly available, can be obtained from another Federal agency, or is for use in an agency proceeding or activity. Thus, when the Administrator is involved in cases before other agencies, he may only use the discovery authority granted under section 203. Interrogatories must be relevant to the purpose for which they are sought and not unnecessarily burdensome.

Section 207 also provides for access by the CPA to information contained in the files of other agencies which does not involve national security, tax records, policy recommendations intended for internal use only, and other similar private information.

Section 208 covers information disclosure. As a general rule, the Administrator is authorized to disclose as much information as he deems appropriate in carrying out the purposes of the act. However, he shall not disclose:

First. Information received from another agency which is exempt from disclosure under the Freedom of Information Act or any other law, and which the agency has specified shall not be disclosed, except in a form or manner prescribed by the host agency.

Second. Trade secrets or other confidential business information, except to protect the public health and safety, and in a manner designed to protect confidentiality, to Congress and courts and other agencies; and

Third. Information which would violate any relationship privileged according to law.

The Administrator is directed to take all reasonable measures to assure that the information released is accurate and not misleading or incomplete. Where the release of information is likely to cause substantial injury to a person, the Administrator is ordered to notify the person and provide an opportunity for comment and injunctive relief, unless immediate release is necessary to protect the public health or safety. Tight restrictions are imposed on the release of information which discloses product or service names.

Section 212 authorizes $15 million for fiscal year 1973, $20 million for fiscal year 1974, and $25 million for fiscal year 1975. The section also provides that funds appropriated for the agency cannot be withheld by OMB.

Title III authorizes $20 million and $40 million for planning and program grants to States, local governments, and private, nonprofit organizations in fiscal years 1974 and 1975. No grant funds are authorized for 1973 because in the first year the CPA should concentrate on getting organized and beginning its operations.

No more than 15 percent of the total funds may be reserved for the States for contracting with private, nonprofit organizations. Ten percent of the program grant funds are specified for pilot and demonstration projects.

Mr. President, this is a reasonable, responsible bill. It is the product of more than 3 years work by the Government Operations Committee. It is fair to both business and consumers. It will not disrupt the machinery of government. S. 3970 deserves to be voted upon by the Senate.

The previous cloture votes show that a large majority of the Senate wants to act on this bill. Those favoring the legislation and those who oppose it have argued the merits at length. Many amendments have been introduced. Each should be considered. But we cannot do so, as long as our democratic processes are thwarted. So let us halt this filibuster and vote on the bill.

Mr. President, I urge a yes vote on the cloture petition.

The PRESIDING OFFICER (Mr. JORDAN of North Carolina). Who yields time?

Mr. ERVIN. Mr. President, I yield to the able and distinguished Senator from Alabama (Mr. ALLEN) so much of the time allotted to the opposition as he may use.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. I thank the distinguished Senator from North Carolina for giving me time to speak in opposition to invoking cloture on S. 3970, the so-called consumer protection bill.

I have made clear in my speeches on the floor of the Senate on this bill that I am not participating in a filibuster; I am not participating in extended debate on this subject. The time that is being consumed at this time by the Senator from Alabama is time that is allowed under rule XXII for a discussion of this matter. The time would be employed whether the Senator from Alabama was speaking or not.

Mr. President, I have a great deal more interest in seeing the Senate proceed to the consideration of the equal educational opportunities bill, which I understand is to be brought up as soon as this bill and H.R. 1 have been disposed of one way or the other.

I would state that is an anomalous situation, but actually the issues on the consumer protection bill will be brought to a head quicker by allowing debate to continue than by cutting off debate because if debate is cut off, from a practical standpoint under rule XXII each Senator would be allowed 1 hour, there would be a quorum call, rollcalls on various amendments, and the issue could be prolonged for some 2 or 3 days; whereas, if the Senate stands firm and votes against the application of cloture it would be third time that the Senate has said to the proponents of this bill, "Let the opponents of the bill continue their discussion of the bill," and I would feel that since I have been in the Senate there never has been more than three efforts to invoke cloture on a particular bill. I would feel that in all likelihood if the Senate stands firm, if it votes again against applying cloture, that the bill will be set aside and that the Senate will be allowed to dispose of H.R. 1 and then have the education bill, the so-called antibusing bill—and that is a misnomer as will be brought out in discussion of the bill, although that is a popularly used phrase to describe the bill. So we can get on with the business of the Senate much more expeditiously if we vote to continue discussion of this bill rather than if we vote to cut it off.

The longer process is to vote to cut off debate; the shorter process is to vote to allow debate to continue. I believe the Record will substantiate that conclusion of the Senator from Alabama.

Now, Mr. President, discussing briefly the merits or demerits—and the Senator from Alabama says that the demerits out-

weigh the merits—speaking of the issues of the bill itself, I would like to point out that behind this maladroit piece of legislation lies the misconception that the way to promote consumer protection is to mistrust all existing Federal agencies.

Yet what new method is provided with regard to setting up this new agency, appointed in the same manner as existing agencies; what is there to believe this would be any different than agencies we have already? Do not trust them but trust this agency that is sought to be set up under this bill.

A reading of section 2 will show that the only reason advanced by the proponents of this bill for urging its enactment is, in essence, an insupportable indictment of Federal agencies, because the proponents strongly indicate officials of other Federal agencies are generally faithless to their duties as public officers and cannot honestly, accurately, impartially, efficiently, determine the rights and interests of consumers under the law.

If that is not their conclusion, why are they seeking to set up this agency that would seek to regulate the regulators?

While the proponents of this bill do not hesitate to indict existing Federal agencies as faithless to the public, they would except the proposed Consumer Protection Agency as though it will be error free and will discard the bias, passions and clouded eyes which they attribute to all other Federal agencies.

As I have stated many times, I have no quarrel with the creation of a new Federal Consumer Protection Agency if such an agency will contribute to better and more efficient consumer protection.

I have no objection to voting on this bill right now. My vote would be cast against it. I would be willing to vote right now on this bill, or any of the amendments. There is an amendment pending that is a modification of the amicus amendment that the Senate rejected some days ago. But, Mr. President, during the few short years that the Senator from Alabama has had the honor and privilege of representing the people of Alabama in the U.S. Senate, he has never voted to cut off the right of any Senator to stand on this floor and express his honest, firmly held convictions with respect to legislation pending before the U.S. Senate. That is a policy that the Senator from Alabama has adhered to without exception. Do not choke off debate. Let the debate continue.

That is one of the time-honored qualities or attributes of the U.S. Senate. A U.S. Senator can stand on this floor and discuss an issue as long as he is on the floor—that is, subject to rule XXII, which allows two-thirds of the Senators to cut off the right of a Senator to speak.

Two-thirds of the Senators, on two separate occasions in recent days, have refused to cut off the right of those who want to discuss this matter on the floor of the Senate, and I trust that the vote today is going to be even more definite, even more positive, in saying, "Let this debate continue. Do not choke off debate in the U.S. Senate."

As I have said, I have no quarrel with the creation of a new Federal Consumer Protection Agency if such an agency will contribute to better and more efficient consumer protection. S. 3970 will not create such an agency, in the judgment of the junior Senator from Alabama. This hodgepodge bill was concocted in haste, and its slapdash approach to Government shows through. Rather than protect the consumer, the agency fashioned by S. 3970 is nothing more than a disruptive force empowered to wander to and fro through the halls of Government, and, whenever it takes a mind to, to engage administrative agencies in guerrilla warfare.

The rationale for this bill is that the administrative agencies that Congress has created have not treated the American consumer fairly and this is so because the Congress has failed properly to exercise its oversight functions. Therefore, if we create just one more agency to monitor all the other agencies, then the Congress will only have to oversee the activities of that one agency because this agency is going to oversee the overseer, and it is going to regulate the regulator. That is the rationale of the bill, to which the Senator from Alabama cannot subscribe. Thus it follows that everyone should benefit from this bill, the Congress will fulfill its duties and thereby pass the buck over to the Consumer Protection Agency in doing this.

The existing administrative agencies, thanks to the generous help of the new agency, will more completely fulfill their functions. The new agency will, of course, benefit most by being born.

But, what appears simple in the abstract, we in the Committee on Government Operations, who considered the bill over weeks and months and added dozens of amendments to the bill during the process of its consideration, found extremely difficult to fashion. In order to correct the existing errors, assumed, in the workings of administrative agencies, the oversight agency has been empowered, with very few exceptions, to enter into the most minor deliberations of any Federal authority from the most humble unit up to and including the Office of the President. It is said that such authority is necessary in order to correct existing deficiencies. The drafters of this bill have no way of knowing how many Federal agencies are affected and how much they are affected. Right now, there is no way anyone can know. Not until the Commission is appointed and decides for itself which of the many possible Federal agencies' activities it finds attractive, will anyone know how the power delegated to the Consumer Protection Agency will be exercised.

Should the Consumer Protective Agency develop a taste for labor-management problems, it can take a bite out of the Federal Mediation and Conciliation Service because consumers are interested in prices and prices are a function of labor costs and resolution of labor-management problems directly affect labor costs. Or, maybe, proceedings of the National Labor Relations Board will whet its appetite. Will the Consumer Protection Agency be a gourmet, or a glutton? We do not know. Perhaps a pinch of FCMS mediation and a dash of NLRB unfair labor practice will sate it. It may have a craving for Federal Communications Commission license renewals.

Perhaps its appetite will be satisfied by CAB route designations. If the Consumer Protection Agency develops a thirst, will it slake it on EPA water quality standards? Or will it quench it on USDA milk marketing orders? I do not know. Nobody knows. The guidelines, if they may be called that, do not restrict the Agency within any known bounds. The guidelines established in this bill, and I refer you to sections 203 and 401(11), are not merely complex, but are circular. The guidelines, if you will indulge me in the use of that term, can be reduced to just 13 words which I expressed on the Senate floor last week: "The CPA may intrude in any Federal proceeding or activity of its choice." Just 13 words and I repeat them—the CPA may intrude in any Federal proceeding or activity of its choice. That is a pretty wide ranging field for the CPA.

If the CPA thinks or, as the bill says "determines," that a proceeding "may" result in a "substantial" effect on a "substantial" concern "related to" transactions "regarding" a subject of interest, the CPA "may" intervene. That is the so-called guideline established in this bill. Now some may feel that this requirement to predict a substantial effect on a substantial concern relating to something, regarding something else makes out a comprehensible guideline. See if you agree. Read sections 203 and 401(11) as they interrelate.

I shall not take the time of the Senate to read those sections.

And a comprehensible guideline is what this bill most dearly needs. That is why I supported what has been called the amicus amendment in committee. The amicus amendment has a certain clarity to it that the present bill lacks. While the CPA could still have an input to the same administrative agencies as in the Committee bill, S. 3970, on which it is sought to choke off debate by action of the Senate in just a few minutes, that input is circumscribed. The interests of consumers would still be brought into the decisions of all agencies, but without the guerrilla warfare approach now present in the committee bill. Instead of pitting agency against agency, the amicus amendment will grant the Consumer Protection Agency the right always, on its own determination, to bring consumer interests before any Federal agency in a similar, but stronger, way than an amicus curiae now presents a view to a court. That amendment provides for a similar input in Federal court proceedings to assure again that the consumers' interests are considered at that level. What more is needed? Do we actually have to pit agency against agency in trial by combat? Must we establish a Federal Circus Maximus for diversion? Pit a new gladiator CPA bureau against the many existing bureaus? This is not the Roman Senate, this is the U.S. Senate. We have no need to provide for such divergent tactics to entertain the voters.

As I said at the start of my remarks, I have no quarrel with the creation of a

new Federal Consumer Protection Agency if such an agency will contribute to a better and a more efficient protection of the American consumer. That is what I favor. Not a new diversion, but a new agency offering representation of the consumer in all areas in which the consumer needs representation.

Mr. President, in the event that cloture is not invoked and the discussion is permitted to continue, and the leadership, in the exercise of its wisdom, asks that the measure be set aside, I shall not have an opportunity to offer an amendment that I have to exempt the TVA from the operation of this bill.

Therefore, I ask unanimous consent to have printed in the RECORD at this point remarks that I had planned to make and that I shall make in the event that the matter is drawn our further with regard to exempting TVA. I also ask unanimous consent to have printed in the RECORD two telegrams relating to the matter, one from Mr. Dail Gibbs, manager of the Alabama Rural Electric Association, and one from Mr. J. Wiley Bowers, executive director of the Tennessee Valley Public Power Association.

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

SPEECH OF SENATOR JAMES B. ALLEN IN SUPPORT OF HIS AMENDMENT TO EXEMPT THE TENNESSEE VALLEY AUTHORITY FROM COVERAGE UNDER THE CONSUMER PROTECTION ACT OF 1972, S. 3970

Mr. President, the Tennessee Valley Authority is essentially a regional, not a national agency. Its service area is specifically defined by law.

In creating the TVA, the Congress deliberately determined that TVA should be independent of old-line agencies, reporting directly to the President and the Congress. By statute, TVA was directed to establish its headquarters in the region it serves and not in Washington, D.C., so as to identify with the region and the people within it.

Let me point out that it was the specific intent of Congress to give TVA authority commensurate with its responsibility, to create an agency free from the entanglements of red tape, to free it from the ailments of central bureaucracy, thus TVA was given authority to buy land, negotiate its construction contracts and sign local agreements for power sales without prior "clearance" from Washington.

TVA controls its own personnel functions, its costs, manages its schedules and is itself responsible for all its acts.

Because of this, TVA operations have consistently been excluded from many statutes applicable to federal agencies generally. It is exempt, for example, from the Federal Tort Claims Act since the agency can sue and be sued either in State or District Courts. I ask unanimous consent to place in the Record at this point in my speech a list of statutes from which the TVA is specifically exempt.

Mr. President, the TVA chemical plants in Muscle Shoals, Alabama, are used for the production of fertilizer in times of peace but are required by law to be readily convertible to the production of munitions when necessary. Under defense mobilization conditions, these plants produce phosphorus, anhydrous and hydrous ammonia, ammonium nitrates and calcium carbide. Thus, TVA's national defense research and production program and its fertilizer research and production program are Siamese twins. They must be held together if any real benefits are to be derived from them.

S. 3970 ignores TVA's required defense role in the area of electrical power as well as fertilizer. I offer into the Record at this point an explanation of how CPA under Section 203 of the bill could have adverse effects on the TVA power program. I also offer into the Record at this point a letter I have received from TVA Board Chairman A. J. Wagner relating to the impact of S. 3970 on the operations of TVA. Mr. Wagner expresses grave concern and suggests that TVA be excluded.

Unlike private utilities, the TVA power program is legislatively mandated to be used as a tool to promote the economic growth of the region it serves. The enabling statute commands TVA to provide the energy to markets at the lowest possible cost so that consumers can be served at the "lowest possible rates." It has done just this. Rates to residential users are half the national average.

In fact, Mr. President, during the 1972 fiscal year, residential customers served by the 110 municipal and 50 rural electric systems that purchased wholesale power from TVA paid an average of 1.28 cents per kwh for electricity, or 57 percent of the national average.

The average residential rate for the TVA area showed an increase from 1.22 cents a kwh recorded a year earlier to the 1.28 cents, while the national average increased from 2.14 cents per kwh to aproximately 2.5 cents during the same period.

Let me add—and this is very important—that unlike the majority of federal agencies, TVA is required to be self-financing and self-liquidating. From its inception, the proceeds of TVA power sales have covered all costs, power operations, including the in-lieu tax payments to states and counties, and have provided payments to the U.S. Treasury.

At the end of the 1972 fiscal year, TVA had paid $1,026,000,000 to the Treasury from power proceeds. Every obligation laid upon the Agency has been met. And in order for the obligations of the TVA Act to be honored, the Agency must continue to be autonomous in determining the "lowest possible rates," that will encourage electricity use and to recover the costs of power production as required by law.

EFFECTS OF S. 1177 NOW S. 3970 ON TVA POWER PROGRAM

Authority of Consumer Agency under section 203 to request initiation of policy making proceeding, or to intervene in or obtain judicial review of such proceeding may have the following adverse effects on TVA power program:

(a) Delay needed adjustments in power rates to maintain financial integrity of program (TVA operates on such a small margin that rapid increases in costs may make power rate increases necessary on short notice).

(b) Weakens ability of TVA Board to determine rates and power policies solely on basis of objectives of power program as set forth in the TVA Act.

(c) Raise questions in minds of potential purchasers of TVA's obligations as to TVA's authority and ability to operate system economically and efficiently, thus affecting interest rates on obligations.

Furthermore, under current practices the management of 110 municipal and 50 cooperative distributors of TVA electricity are involved in the rate-making process. These persons, who are responsive to their city governments or to their membership, are in a good position to protect the consumer interest. Section 203 could interfere with their ability to carry out this function.

TVA EXCLUSIONS OR EXEMPTIONS FROM UNITED STATES CODE PROVISIONS

TITLE 5

SEC. 305(a)(2) exempts TVA from conducting, under regulations prescribed by the Office of Management and Budget, a systematic agency review of its operations.

Sec. 4102(a)(1)(B) exempts TVA from requirements to establish a training program for its employees.

Sec. 4301 exempts TVA from establishing, under regulations established by the City Service Commission, a performance rating plan for evaluating the work performance of its employees.

Sec. 4501 exempts TVA from conducting an incentive award program.

Sec. 5102 exempts TVA from the General Schedule classification system.

Sec. 5331, by reference to section 5102, exempts TVA from General Schedule pay system.

Sec. 5341, by its terms exempts TVA from prevailing rate systems.

Sec. 5363 by reference to the TVA act excludes TVA from limitation on the power of an agency head to set pay by administrative action.

Sec. 5504 by reference to section 5541 exempts TVA from the requirement of using bi-weekly pay periods.

Sec. 5541 exempts TVA from premium pay provisions (overtime compensatory time, etc.)

Sec. 5595 exempts TVA from provisions dealing with severance pay and back pay.

Sec. 5911 exempts TVA from provisions establishing authority to provide quarters and facilities for employees.

Sec. 6101 by reference to section 5541(2) exempts TVA from basic 40-hour work week provisions established under Civil Service Commission regulations.

Sec. 7901 states that the health program conducted by TVA is not affected by provisions establishing general employee health programs.

Section 8331 exempts TVA employees from the Civil Service Retirement System.

Section 8901 exempts TVA from the general government health insurance program.

TITLE 16

Sec. 666c makes inapplicable to TVA the provisions of the Fish and Wildlife Coordination Act.

TITLE 28

Sec. 1491, which establishes jurisdiction of the Court of Claims to render judgments on claims against the United States, states:

"Nothing herein shall be construed to give the Court of Claims jurisdiction in suits against or founded on actions of the Tennessee Valley Authority, nor to amend or modify the Tennessee Valley Authority Act of 1933, as amended, with respect to suits by or against the Authority."

Sec. 2680 exempts TVA from the provisions of the Federal Tort Claims Act.

TITLE 33

Section 558b exempts lands held by TVA from authority given to the Secretary of the Army to authorize exchanges of land.

Section 558c exempts lands held by TVA from authority given to the Secretary of the Army to grant rights of way over certain lands owned by the United States.

Section 709 exempts TVA from the authority of the Secretary of the Army to prescribe regulations for the use of storage allocated for flood control or navigation at reservoirs constructed with Federal funds. In the case of danger from floods on the lower Ohio and Mississippi Rivers TVA is directed to regulate the release of water from the Tennessee River into the Ohio River in accordance with instructions issued by the Department of the Army.

Section 733 in effect exempts TVA from requirements that the sufficiency of title to land it acquires must be approved by the Attorney General before public money is expended upon the land.

TITLE 40

Section 255 repeats the provisions of 33 USC sec. 733.

TITLE 50

Section 175 repeats the provisions of 33 USC sec. 733.

TENNESSEE VALLEY AUTHORITY,
Knoxville, Tenn., June 14, 1972.

Hon. JAMES B. ALLEN,
U.S. Senate,
Washington, D.C.

DEAR JIM: We are glad to provide the information requested in your letter of June 6 as to TVA activities which would be affected by the provisions of S. 1177 creating an independent Consumer Protection Agency. You have listed Formalized Proceedings and Informal Activities as categories for the breakdown of such information.

We presently have no activities involving consumers' interests with respect to which formalized proceedings in the way of rulemaking or adjudications are required, either by the Administrative Procedure Act or otherwise. As to informal activities, it is difficult for us to envisage how far the Consumer Protection Agency might go under such legislation in trying to shape the policies of agencies such as TVA in the sales of consumer products or services to the public, and for that reason we are unable to say definitely what activities would or would not be affected. The activities about which we are most concerned in this regard are our sales of electric power and fertilizer materials.

As you know, TVA is the source of power supply for an 80,000 square mile area in the Tennessee Valley region. TVA provides power at wholesale to municipal and cooperative distributors as well as directly to a number of large industrial consumers and government installations. These power sales are made under contracts negotiated by TVA with the various purchasers, and the contracts provide for adjustments in the power rates from time to time to reflect changing economic conditions. As to the level of such rates, section 15d(f) of the TVA Act requires that:

"The Corporation shall charge rates for power which will produce gross revenues sufficient to provide funds for operation, maintenance, and administration of its power system; payments to States and counties in lieu of taxes; debt service on outstanding bonds, including provision and maintenance of reserve funds and other funds established in connection therewith; payments to the Treasury as a return on the appropriation investment pursuant to subsection (e) hereof; payment to the Treasury of the repayment sums specified in subsection (e) hereof; and such additional margin as the Board may consider desirable for investment in power system assets, retirement of outstanding bonds in advance of maturity, additional reduction of appropriation investment, and other purposes connected with the Corporation's power business, having due regard for the primary objective that power shall be sold at rates as low as are feasible."

By a basic bond resolution, which is a necessary incident of issuing its power revenue bonds, TVA has contracted with the purchasers of such bonds that it will establish and maintain power rates which accord with the foregoing statutory requirements and also with other requirements of the bond resolution relating to the protection of the bondholders. The TVA Board of Directors must comply with the provisions of section 15d(f) of the Act and of the basic bond resolution. It would seem to us most undesirable for the proposed Consumer Protection Agency, whose interests would extend only to those of consumers, to become involved in the TVA Board's actions in this regard. Although the Board would not necessarily be required to follow the consumer agency's recommendations, the fact that it did not follow them, even though its not doing so was required by the Act and the bond resolution, could lead to public misunderstanding and dissatisfaction. Moreover, TVA power consumers are fully protected by the stated objective in the TVA Act that TVA power be sold at rates as low as are feasible and by the requirement that the members of the TVA Board, as a condition of their appointments, subscribe to the wisdom and feasibility of the TVA Act. In view of these provisions, the exercise by the proposed Consumer Protection Agency of functions relating to TVA power rates would duplicate functions already performed by the TVA Board.

TVA also engages, in accordance with the TVA Act, in the production and sale of fertilizer materials in a nation-wide fertilizer educational program. Here again, the pricing of the product requires a careful weighing of production costs and the objectives of the program which is and we believe should remain the responsibility of the TVA Board.

If you need any additional information, please let us know.

Sincerely yours,

AUBREY J. WAGNER,
Chairman.

CHATTANOOGA, TENN.,
September 25, 1972.

Senator JAMES B. ALLEN,
Senate Office Building,
Washington, D.C.:

The Tennessee Valley Public Power Association urges your support of amendment to exempt the Tennessee Valley Authority from provisions of the Consumer Protection Organization Act of 1972, S. 3970. TVA is a consumer oriented Federal agency directed by Congress to keep electric rates as low as possible. It would be useless duplication of effort to place TVA under Consumer Protection Act.

J. WILEY BOWERS,
Executive Director,
Tennessee Valley Public Power Association.

MONTGOMERY, ALA., *October 2, 1972.*

Senator JAMES B. ALLEN,
Senate Office Building,
Washington, D.C.

DEAR SENATOR ALLEN: We want to assure you of 100 percent support in your amendment to Senate bill 3970 to exclude TVA.

DAIL GIBBS,
Manager,
Alabama Rural Electric Association.

Mr. ALLEN. I yield the floor, and reserve the remainder of the time allocated to the Senator from North Carolina (Mr. ERVIN).

Mr. RIBICOFF. Mr. President, I yield the Senator from New York such time as he may require.

Mr. JAVITS. Mr. President, one of the few advantages of a relatively empty Chamber is that one can speak quietly and still be understood by his colleagues. We realize, on this cloture vote, that Senators are not here because they have probably made up their minds. For whatever it means to posterity, I have a few observations which I should like to make this morning.

I must say that as I listened to the Senator from Alabama, a very gifted orator indeed and a very able Senator, who understands, notwithstanding his few short years here, unusually well how the Senate operates, and has already made a significant mark on this body, I found "curiouser and curiouser" the diversity of this world.

The Senator said, if I recall his words correctly, "If the Senate stands firm."

That is quite an admission against interest, Mr. President, because the Senate standing firm is 32 Senators out of 100. By that logic, 32 of the Senators, when they make up their minds that they will try to talk a measure to death, can succeed; and, as has constantly been iterated and reiterated in this Chamber, in the final analysis the Senate does not, according to the Constitution, act by a majority; and that admission against interest—which is not unusual; it has been said or implied many times here—only demonstrates the validity of what people like myself have argued for many years, that rule XXII simply makes a shambles and a mockery of the Constitution.

The fact is that you have to have a two-thirds majority here to legislate, not in the other body but here, notwithstanding the Constitution. That is being demonstrated today, and the Senator admits it.

"If the Senate stands firm." Who is the Senate? Is it the 55 Senators who voted "yea" or for cloture, or the 32 who voted "nay"? Obviously it is the 32 who voted "nay," and the Senator knows as well as I do that probably a majority will again today vote to close debate, and that majority will not have its way, notwithstanding that this matter has been debated for weeks, and that we are at a loss, all of us, to find new arguments, because there are none. The matter has been thoroughly explored, debated, and hashed over; there is nothing more to say except to pass on some specific amendments, which cloture will give us every opportunity to do.

One other point I find extremely curious: We are told sure, it is fine to have a Consumer Protection Agency, but at one and the same time that it is wrong to have one because it is making a gladiatorial contest of the representation of consumers.

Mr. President, I do not care too much for gladiatorial contests. We almost had one on the floor the other day, and I found it extremely distasteful, as indeed I think most Members did. Whatever may have been the respective weight at ringside of the various contestants, and their abilities, we still found it extremely distasteful, and quite rightly.

But, Mr. President, if we are going to have a gladiatorial contest, it would be horrible, and even worse than unsporting, to send one of the gladiators into the arena without weapons; and yet that is precisely what it is proposed to do. The amicus amendment is simply a proposal to strip the Consumer Protection Agency of even such weaponry, in terms of representing consumers, as is in the hands of every other agency and department of Government today.

We have constantly maintained that all we are trying to do is establish—which is really what the Government Operations Committee is supposed to do—a reorganization of the consumer function in the Government by establishing an agency equipped for the purpose with a singleness of objective, rather than the diversity of every agency and every department theoretically being empowered to protect the consumer. But, knowing the fear or timidity of some sections of American business—happily not all—we have inserted in the bill a whole legion of assurances and safe-

guards, many at the behest of the distinguished Senator from Alabama (Mr. ALLEN), of the chairman of our committee (Mr. ERVIN), and of other Senators, in order to assure, reassure, and lock in again the fact that business would not be under any circumstances imposed on.

To me the most ironclad of those assurances, aside from the specificity of detail, was the amendment sponsored by the Senator from Arkansas (Mr. MCCLELLAN), chairman of the Appropriations Committee and former chairman of our committee. The Senator from Connecticut (Mr. RIBICOFF), the Senator from Illinois (Mr. PERCY) and I accepted it. That amendment was to establish what is really a controlling supervisory commission, with jurisdiction over the general policy of this enterprise, binding upon its administrator, which would be bipartisan in its nature, and subject to confirmation by the Senate, with the feeling that that was the ultimate sanction. Senator MCCLELLAN, I think everybody will recognize, certainly is not a man who would think of any idea other than one which he felt would give a sense of stability and even relative conservatism to the operation of this Agency.

My staff has made a list—and I think it is appropriate that it should be included in the RECORD—of 20 substantive provisions and criteria which are safeguards against any undue interference by the Consumer Protection Agency with responsible business practices and the orderly processes of government. They include the following: The CPA will have no regulatory authority. There is a limitation upon its intervention, which limitation is very strong when it comes to intervention in court, with the court having to find, under very strict criteria, a basis for intervention.

A protection against the delay of agency proceedings or their disruption, because he must proceed exactly in accordance with the normal rules and regulations of the agency.

A protection against intrusion by the agency in private meetings or discussions. It may present orally or in writing its views, but it is not required to be present at any particular meeting or discussion.

A protection against any abuse of the agency's compulsory process, so that it may not be arbitrary, for discovery or even for interrogatories.

A very strict protection against any unfair inquiry in terms of acquiring information from miscellaneous businessses. We have limited the places where the administrator really has authority to get information to a relationship of that information to consumer health or safety or consumer health or safety or consumer fraud, and that may be tested in court.

A protection against arbitrary, capricious, or vindicative intervention by the Consumer Protection Agency—again, subject to judicial review.

A protection against unwarranted allegations in complaints from consumers, especially as it relates to a specific business or its products and services, with a full opportunity to the respondent to reply and to have publication equally of that reply.

Very strict protection against the disclosure of confidential information in the hands of any other government agency, and protection for business secrets that may come into the possession of the agency.

Protection against disclosure to the public of false or misleading information—again, subject to court action.

Protection against surprise disclosure, with prior notice to a company affected and an opportunity to come in.

Protection against unfair comparison of products or services of a particular business.

Clarification that substantive criteria applicable to agency decisions remain unaffected by the power given to the Consumer Protection Agency.

I ask unanimous consent that a specification of these 20 safeguards and the details be printed in the RECORD.

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

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

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

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

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

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

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

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

7. Protection against arbitrary, capricious or vindictive intervention by CPA: The determination by the CPA that a consumer interest may be substantially affected by the result of an agency proceeding will be subject to ultimate judicial review if there was prejudicial error involved. (Section 210(e)(1)(B)). The Administrator is required explicitly and concisely to set forth in a public statement the interests of consumers he is representing in a particular agency or court proceeding. Section 402(b).

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

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

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

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

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

13. Protection against CPA access to in-

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

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

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

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

17. Protections against disclosure to the public of false or misleading information regarding a business: CPA disclosures may not be inaccurate, misleading or incomplete. Otherwise, CPA will be required promptly to issue a retraction, to take other appropriate measures to correct any error, or to release significant additional information affecting the accuracy of information previously released. Section 208(d).

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

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

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

FINAL OBSERVATION

The structure and operation of a Consumer Protection Agency need not be hostile to business interests. There are numerous situations where the CPA would, in presenting the case for consumers, find itself advancing or defending a business practice. For example, antitrust law today often frustrates industry self-regulation even where health or safety considerations may be at stake. The television industry, alerted to a potential fire hazard in color TVs two years ago, responsibly assembled in Chicago to upgrade flammability standards only at the risk of possible antitrust suit by the Justice Department. Not untypical, the power lawnmower industry for years has been leery of using collective means to devise an alternative to the rotary blade, which each year is responsible for more than 140,000 injuries, some resulting in death, blinding or severe disfigurement. The CPA might also help to expedite agency action, as for example in the case of a new drug application before the FDA, where more timely response could promote health or save lives. In these circumstances, the consumer interest in maximizing safety would clearly outweigh the consumer interest in seeing that the antitrust laws are enforced to the letter. Thus, the CPA would expectably intervene on behalf of the legitimate business interest which, in not a few cases, coincides with the legitimate consumer interest.

Mr. JAVITS. Mr. President, I have been a major business lawyer for as many years as I have been a Senator. I have served many small businesses and many investors. I have fought the interests, so-called, and I have represented them. I represent to the Senate that the set of safeguards against arbitrary action and vexatious inquiry, causing difficulties where none should be caused, as in this bill, are as well balanced with the sheer vesting or concentration in one element of the authority to espouse the consumer's role in various activities of the Federal Government as can be done, in my judgment. If anyone has another one, I will be the first to accept it. As Senators know, I not only have been ready to accept but also to use my brain if the occasion arose to fashion an idea into a legislative actuality.

Mr. President, I should like to make one last point in respect of this debate on the cloture petition. I think it may be that the opponents of this measure really are not being all that wise, if I may respectfully submit that observation. The consumer movement is growing very strongly in this country. It is becoming almost as dominant a political fact as the environmental movement. A minority may be able to frustrate the consideration of this bill, which has already passed the House, in this session, when it is coming to a close; and there may be many reasons why, quite apart from the merits, it may be possible to repulse this activity on the part of consumers.

I may be here or not, but I predict that if this measure is repulsed, the ensuing consumer protection bill will be tougher, meaner, and more difficult so far as those elements of business are concerned who think they are scoring a victory now. It really will be a pyrrhic victory. They may think that sufficient unto the day is the cause and that if they lick it now, that is the end of it. But this is extremely shortsighted thinking. The next consumer protection bill which comes along in 1973, when there is a great deal of time, is going to be a much more difficult one for American business. I believe that those who bring about the death of this bill—which, as I say, they may do—will regret it as one of the worst decisions of their lives.

Finally, Mr. President, this is not a choice among alternatives. The Senate is cutting itself off, if it denies cloture—notwithstanding the charm and attractiveness of the Senator from Alabama—from dealing with this measure. It is not a choice among alternatives, because alternatives can only be offered if the matter is brought to finality, both in this Chamber and in a conference which would then ensue with the House.

So I hope very much that the Senate will realize that, having gone this far in both the House and the Senate, this is the time to fashion the fairest bill, fairest to business and giving such reasonable voice to the consumers' interest as is not remotely incompatible with the efficient and intelligent operation of business. To rebuff that effort now may, in my opinion, result in legislation which even I would find injudicious on another occasion, and will certainly result in a worse bill or law, so far as the efficient operation of business is concerned, than this could possibly be.

Mr. President, this will be the third time that cloture is being voted on. It demonstrates again what I have argued in this and other debates: That this is a government which is now subject to the veto of one-third of the Senate in any measure, no matter how serious. I think that those who pride themselves on the fact that if an absolute majority of the Senate really wants to do something, it can do it, and it cannot be frustrated, had better take another think on it, in this and in other cases. Mr. President, I hope very much that an interest in the consumer interest—and this is certainly a key vote on that subject—and an interest in the true fidelity of the concept of representative government, even if a Member does not believe in the bill, will induce the Senate today to vote for cloture which it has, so far, denied to the bill on two previous occasions.

I reserve the remainder of my time.

Mr. MONDALE. Mr. President, I ask unanimous consent that Mr. Paul London of the staff of the Committee on Banking, Housing and Urban Affairs be granted the privilege of the floor during consideration of H.R. 1.

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

Mr. ERVIN. Mr. President, I have listened with much interest to my good friend from New York. During the years that he and I have served in the Senate, I have learned to admire him for the brilliance of his intellect and I have acquired a deep affection for the geniality of his heart. I concede to him all power except in one field.

Normally, I would say, if any person in the Senate has the intellectual capacity to unscrew the inscrutable, it is my good friend from New York (Mr. JAVITS). But he has just exhibited a real deficiency and that is in prophetic power. He predicted that if this bill is not passed at this time, then, in the future there would be a more drastic consumer agency bill.

Well, Mr. President, I just do not believe that the human mind is gifted with

enough imagination to draft a more drastic bill than the pending one.

The pending bill would give the consumer administrator jurisdiction over all the earth insofar as it covers the United States of America. It would not only give him jurisdiction by way of oversight over everything that goes on on the earth, which has an effect on land, or on personal property, or on manufacturing, or on extending credit, or rendering services, but it would also give him jurisdiction by way of oversight over the heavens above, this is so because he can interfere with the licensing of those who like to hunt birds which fly above the surface of the earth. The administrator has oversight jurisdiction not only over the earth and the heavens, but also over the water beneath the earth.

As I demonstrated I think conclusively the other day, the Administrator can interfere in all matters where the U.S. Government extends any kind of financial assistance to people who make boats for use in fishing, fishing lines, hooks, nets, and all the other paraphernalia by which men capture the fish; and then, after they get the fish to the land, the Administrator would still have jurisdiction by way of oversight over the fishing markets.

So, Mr. President, if there is going to be a more drastic consumer agency bill than the pending one, it will have to authorize an appropriation to carry the agents of the Consumer Protection Agency up to the moon and into outer space because the pending bill given them will have complete oversight jurisdiction over everything on the earth so far as the United States and its possessions are concerned.

This bill has drastic impact upon those who produce things—and everyone produces goods and services of some kind unless they are mentally incompetent or parasites. The bill authorizes the administration to demand virtually any information he wants of everyone who produces anything of any character. I do not see what else can be done to widen his powers of oversight over virtually all governmental and business activities in the United States. Indeed, the bill reminds me of the man who received a telegram from his undertaker saying, "Your mother-in-law died today. Shall we cremate or bury?"

The man wired back, "Take no chances. Cremate and bury."

That is precisely what this bill would do throughout the United States to the rights of those who produce goods and services, who extend credit, and who do anything on the surface of the earth, in the heavens above, in the waters, or under the ocean will affect what the administrator conceives to be a consumer interest.

My good friend from New York said that the bill will afford much protection for the people. Every page of the bill is permeated with provisions which say that the consumer agency can agitate and litigate. Yet, when I offered before the committee the pending amendment, to make it certain that people could be protected against unlawful acts of the consumer administrator, it was overwhelmingly voted down.

Mr. President, there is a principle of law that we call sovereign immunity. Under this principle an individual citizen cannot sue the Government or an agency of the Government unless it is authorized by law so to do. Under this bill the consumer agency would have not only the power to destroy the business of an individual, but also the power to destroy his character. This is true, because it gives him the express power to be a public scandalmonger if he wants to.

This is true, because there is a provision in the bill authorizing the administrator to disseminate to the public every complaint he receives from a consumer unless he finds it to be frivolous—and I do not believe the administrator would consider any complaint from a consumer to be frivolous. Despite some ineffective safeguards, he would be able to disseminate complaints to the public and destroy not only the business, but also the character of the businessman. The businessman would be without remedy, even if the administrator ignored the weak safeguards.

Thus, I offered this amendment before the committee:

> If the Administrator or anyone acting for him violates or threatens to violate any provisions of this Act or any provisions of any other law, the person aggrieved by the violation or the threat of violation may bring a civil action against the Administrator in a United States district court and the court shall have jurisdiction to issue any restraining order or injunction necessary or appropriate to protect the person aggrieved against the violation or the threat of violation.

I thought that anyone would vote for such an amendment. The amendment was overwhelmingly rejected on the basis of the argument that if a producer of goods, or a provider of services, is given the right to protect himself by a lawsuit against unlawful acts by the administrator, acts in violation of the very act that he is professing to enforce, it would impede the administrator in the execution of the powers given him by the bill.

In other words, the bill in its present forms locks the doors of the courts of justice against people who would be injured or threatened with injury by governmental tyranny on the part of the administrator.

It has been said here time after time that the consumer has no advocate. Well, I have been wrestling with the Federal Trade Commission for the protection of some of my constituents. I found that under the Inflammable Materials Act, the Department of Commerce writes the regulations and the FTC enforces them. I found that the Department of Commerce and the FTC disagree as to what the current regulation means. If Congress were to pass the consumer agency bill, the administrator could enter the controversy between my constituents and Department of Commerce and the FTC and we could witness the spectacle of hearing the Federal Government speaking with three different voices. I have long since discovered that all agencies have lawyers, investigators, and accountants to protect the public interest. The public interest and the interest of the consumer are identical. The statement that a consumer has no one to represent him in the Federal Government is without foundation. The fact is that there are literally hundreds and hundreds and hundreds of lawyers and hundreds and hundreds of investigators in the agencies of the Federal Government to protect the public interest. The public interest is the interest of the consumers, because the consumers are the public.

The PRESIDING OFFICER (Mr. JORDAN of North Carolina). All time of the Senator has expired. Who yields time?

Mr. RIBICOFF. Mr. President, what time remains?

The PRESIDING OFFICER. Five minutes remain to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I yield 5 minutes to the Senator from Illinois.

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

Mr. PERCY. Mr. President, 2 days ago I urged my colleagues in this Chamber and I called upon the White House to stop this nonsense now and end the filibuster that is preventing the Senate from working its will on the pending Consumer Protection Agency legislation before it. We came within three votes of doing just that.

Since that time, I have discussed this matter with a number of my fellow Senators and I have made further inquiries into the position of the administration. As Senators know, the stated reason of the administration for opposing any attempt to cut off debate was to allow time to have its several amendments—I believe they are five in number—to be given consideration. To be candid, neither I nor the other sponsors of this legislation, Senator RIBICOFF and Senator JAVITS, are especially enamored of these administration amendments. Their effect would be to do the following:

First. Strike the Council of Consumer Advisers in title I and substitute, as in the House bill, a statutory term of office for Virginia Knauer.

Second. Eliminate the title III grant program altogether.

Third. Eliminate section 203(g), as amended by Senator METCALF in committee, which permits the CPA to present its views before State and local agencies and courts upon request of the unit conducting the proceeding, the Governor of the State, or of an agency or official duly authorized by the State to represent the interests of consumers before such State or local agencies and courts.

Fourth. Eliminate the independent compulsory information gathering authority in section 207(b)—a proposed amendment by Senator GURNEY which was rejected in committee by a 10-to-5 vote. Instead, the committee provided for extensive protections against unfair advantage to the CPA in requiring information from businesses under this section.

Fifth. Eliminate from section 201(e)(1)(a) authority for the administrator to obtain judicial review where he is arbitrarily denied the "full opportunity" to communicate his information and

views under section 203(b) in informal agency activities.

Fundamentally, I believe the bill, as is, is the bill that the majority of the Senate of the United States wants to pass. Fundamentally, I do not believe that the administration amendments are in the best interest of consumers. But my overriding concern is that this bill not die and that whatever reasonable accommodation can be reached which permits it to be voted upon by the Senate should be attempted. For, as a practical matter, even working out our differences on the above-stated amendments, the Senate bill would still be a more preferable vehicle than the bill that passed the House for assuring an effective voice for consumers in the deliberations of their Government.

Wanting to work with and not against an administration on this issue, an administration whose reelection I enthusiastically support, I have communicated this thought to the White House. Based upon their prior expressions of support for the concept of an independent advocacy agency this year and the unequivocal position taken by the White House and the Republican Party in its 1972 platform, adopted just 2 months ago, in which we advocated the establishment of an independent agency for consumer protection, I had expected a favorable reception to the offer that I and my cosponsors were willing to make. Instead, the word back is no word but a deafening silence. Indeed, the spokesman for the administration on this matter is not even the President's Special Assistant for Consumer Affairs, Mrs. Virginia Knauer, whose outstanding work on behalf of consumers throughout the Nation has won the respect of all of us. The spokesman instead is a congressional liaison aide, and perhaps that is the real problem underlying the confused and contradictory statements that have emanated from the administration on this matter. They support creation of a consumer advocacy agency, but they do not support it.

If the administration really wants an independent advocacy agency as it has stated so many times in the past, then now is the time to speak up and to summon support for ending this travesty on the floor of the Senate, and supporting one of the most important piece of consumer legislation ever to be before the Congress.

There can be no greater indictment of the Senate and its procedures than to permit this kind of stall which is so repugnant to our notions of democratic procedure and fairplay. I call upon my colleagues in the Senate and I call upon the White House to face up to their responsibilities and commitments by moving now to cut off further unlimited debate on this vital measure.

Mr. FULBRIGHT. Mr. President, for the record, I would like to make a few brief remarks with respect to the pending business—invoking cloture on S. 3970, the Consumer Protection Act of 1972.

Since becoming a Member of the Senate, I have consistently opposed efforts to invoke cloture because it would deny Senators the right to fully consider the important questions which this body is obliged to decide.

I have done so because I strongly believe that the Senate's tradition of careful and thorough consideration of legislation is one of the most important safeguards of our constitutional processes. I have spoken at great length on previous occasions about my dedication to this principle.

Extended debate protects the Senate's ability to function in a deliberative manner while striking the proper balance between constantly changing majority and minority interests.

It is the duty of the Senate not to allow any measure, regardless of its merits, to pass without the most complete and thorough examination. History has demonstrated time and again the fundamental soundness of this principle and how essential it is to wise legislation and good government.

While great mistakes are often the consequence of hasty action, they rarely follow the delay which comes after full discussion and deliberation.

Anthony Lewis, the well-known columnist of the New York Times once noted:

> Democracy is a process, not a result. It is no particular set of policies but the means of reaching them. It is a commitment to rational discourse, to persuasion, to restraint in the use of political advantage, to the reservation of force or threat.

Mr. President, the real significance of the vote which will shortly take place is aptly described in this quotation. By voting against invoking cloture today, I seek to retain the capacity of the Senate for persuasion and for rational discourse.

Therefore, even though I favor enactment of the pending bill and shall support it, I believe the necessity of maintaining the strength and integrity of this body takes precedence over its expeditious disposition.

Mr. BUCKLEY. Mr. President, I have followed the floor debate on S. 3970, the proposal to establish a consumer protection agency; I have studied the bill reported by the Committee on Government Operations, along with the various statements, pro and con, issued by members of the committee. After reviewing the matter, I have concluded with considerable reluctance that I cannot support the measure in its present form.

I say with considerable reluctance, because the bill is designed, after all, to promote and protect the interests of consumers. I agree with that worthy goal. But even so laudable a goal cannot save what is to my mind a bad piece of legislation. The bill would, I believe, create more problems than those it attempts to solve and incur social and economic costs far in excess of the ostensible benefits the consumer might derive from its enactment.

In taking this position, I do not want to be misunderstood. A convincing case can be made for better consumer protection legislation. I have supported, and will continue to support, any reasonable measure that will in fact accomplish that goal. But better consumer protection by no means requires the establishment of a massive new Federal bureaucracy of the sort proposed by the pending bill.

This point bears talking about, because the tendency these days is to discuss the problems of consumers in deceptively simple terms. To listen to some of the more ardent consumer advocates, you would think that the political universe neatly divided itself into two, and only two, kinds of people; namely, those who are "for" the consumer, and those who are "against" him. Thus, it is being said with regard to the pending bill, that one must either be for it, or against the consumer.

Frankly, Mr. President, I wish matters were as simple as that. In that case, I would simply cast my vote for the bill, congratulate myself on my purity of motive, and write to my constituents that all their consumer woes will soon be over. I wish, as I say, that things were that simple. Unfortunately, they are not. Nevertheless, the temptation persists here and elsewhere to support anything that is put forward with the magic phrase "consumer protection" on the label. Under the circumstances, Member of Congress are exceedingly reluctant to position themselves in these matters anywhere but on the side of the angels. It would be easy, perhaps even politically profitable, for me to do likewise. But, Mr. President, I cannot. "Consumer protection" is not some sort of talismanic phrase which requires us to approve everything put forward under its name. It is necessary to look behind the label to see what's on the inside. Upon examination, it turns out that this magic new political elixir being offered up for the cure of consumer woes is in fact the same old patent medicine we have been swallowing for years; that is, another Federal bureaucracy. Only this time, we are promised, the medicine will do the trick.

How many times have we heard that argument, Mr. President? How many times has it been said that such-and-such a problem fairly demands legislation, and that a massive new Federal bureaucracy is the only way to solve it? In consumer affairs alone, Mr. President, we are positively brimful of Federal agencies. A member of my own delegation from New York City recently remarked that:

> There are approximately 50 federal agencies and bureaus performing some 200 or 300 functions affecting the consumer.

The proponents of this Consumer Protection Agency, of course, assume that the new agency will redress the failures of the old agencies. As to how this feat will be accomplished, we have only their prayerful hopes and deep-felt assurances. But the American consumer, who is also, I hasten to add, a taxpayer, wants something more than hopes and assurances. Whether he will get anything more than a bigger tax bill is, I must confess, an open question. Yet, the tendency persists, everytime a measure of this sort is brought to the floor, to say that now, at last, finally, and forever, we are going to solve the problem once and for all. It is being said now during the current debate, and it will be said a thousand times before we are done. Each time, the argument is the same; each time we are told that the ultimate solution is near at hand; each time we are promised that if the pending measure is enacted, the consumer will be adequately protected.

Indeed, the last time we heard this argument was only a few months ago, on July 21 of this year. The pending business at that time was S. 3419, the so-called consumer product safety bill, which the Senate subsequently passed and which is now in conference. In his opening statement on that bill, the distinguished Senator from Washington, the chairman of the Commerce Committee, stated that:

> The bill would usher in a new era in product safety—an era in which Government, industry, and the consumers would work together to assure the safety and efficacy of our foods, drugs, and other products. The bill grants the Federal Government the authority to move decisively against any unsafe product in the marketplace. It also grants the consumer the right to cause such Government movement when the Government fails to act.

Now, Mr. President, if there were any reliable expectation that that purpose would be carried out in fact, there would be little need to consider the measure now before us. The ink is not even dry on the consumer products safety bill—indeed, its final provisions have yet to be penned—and yet here we are attempting to shore it up with additional legislation.

Now the distinguished Senator from Washington sincerely meant what he said in the statement I just quoted, and if the decisionmaking were entirely within his control, I have no doubt that the high promise of his statement would be fulfilled. But it is in the nature of bureaucracy to strangle the noblest intentions with miles of redtape. I sincerely hope that the Consumer Product Safety bill now in conference will accomplish its stated objectives. But I hope I may be pardoned for saying that I am less than wildly enthusiastic about its probable fate. For nearly 40 years, the Federal Government has been creating administrative agencies, boards, and Commissions, each one designed to deal with a crisis of some sort, each one hailed as providing a remedy. And yet, after nearly 40 years, many of the problems supposedly remedied by the creation of these agencies persist.

Now, of course, the proponents of the Consumer Protection Agency acknowledge the failure of many of these regulatory schemes—only they draw what is to my mind the wrong conclusion from the evidence. They say that past agency failures only point to the need for a newer agency designed to oversee all the others. But we must ask, what is there in the 40-odd years of Federal administrative regulation which suggests that such an agency can do the job? There is very little evidence, I submit, to sustain an optimistic conclusion.

Yet the myth persists that adequate consumer protection requires the creation of a super consumer agency, and along with it, the myth that the Federal Government has hitherto been deaf to the cries of the consumer. In considering the legislation before us, Mr. President, I asked my staff to review recent congressional efforts in the area of consumer protection. They found that in the past decade, Congress has enacted at least a dozen major laws designed to protect the consumers against unfair or unscrupulous business dealings, or to insulate him from unsafe or shoddy goods. I have already mentioned the Consumer Product Safety bill now in conference and soon to be enacted. But in addition, there are these: The Food, Drug and Cosmetic Act amendments of 1960 and 1962; the Hazardous Substances Labeling Act of 1960; the National Traffic and Motor Vehicle Act of 1966; the Radiation Control for Health and Safety Act of 1968; the Natural Gas Pipeline Safety Act of 1968; the Wholesome Poultry Act of 1968; the Wholesome Meat Act of 1969; the Child Protection and Safety Act of 1969; the Fair Packaging and Labeling Act of 1966; the Truth-in-Lending Act of 1969; and the Consumer Product Warranties and FTC Expansion Act, passed only last year.

These are, of course, only the major enactments of the past few years. To them must be added a variety of lesser laws and regulations designed to safeguard the consumer, and the noticeable increase in concern for the consumer on the part of virtually all our Federal agencies. Nor can we in fairness ignore the step-up in proconsumer activity at the State and local level.

I do not pretend, Mr. President, that this increased governmental activity at all levels on behalf of the consumer has solved most consumer problems; nor do I claim that these new laws I referred to are all that we need.

None of these acts is perfect; all, I am sure, could stand yet further improvement. Where they are wanting, we should supply the deficiency, and if new legislation is indicated, we ought to enact it. But for all their failings, these recent laws I mentioned have one significant virtue in comparison to the measure now before us. And that is that each of them was designed to meet a reasonably specific problem, whether it be the failure to give adequate warning as to the content of certain foods or medicines, the sleight-of-hand by which a so-called warranty turns out to be no warranty at all, or the dangerous aspects of certain children's toys. Each of these represents a reasonably defined problem of manageable proportions, one that lends itself to some sort of reasonable and manageable solution. When a bill dealing with such matters comes up, it is possible to know what one is voting for and why.

By contrast, the measure before us today begins with an ill-defined and vague definition of "consumer interest" and proceeds from there to delegate an enormous and unprecedented degree of authority to a consumer czar, who, in the name of vaguely defined "consumer interests" would be empowered to inject himself into virtually every activity, formal and informal, of virtually every agency of government. That prospect may strike joy into the heart of some of our more ardent and outspoken consumer advocates, but to my mind, Mr. President, it constitutes an open invitation to great mischief and administrative chaos.

The extent of authority proposed to be granted by this bill is not generally known. If you were to ask the man-in-the-street whether he favored better "consumer protection," he would undoubtedly say "yes"; and so would every Member of Congress. But we are not debating the general issue of whether we should have more or less "consumer protection"; we are debating a particular piece of legislation which would place in the hands of a single man more power than I believe has ever been vested in any single nonelected Federal official. And if we would put the question in these terms, I suspect that our man-in-the-street would begin to be a little queasy. If we were to inform him, for example, that this bill would empower the consumer administrator at his own discretion to intervene as a full-fledged party in the affairs of every other Federal agency; if he were informed that the administrator would be able to sue every other agency in court, or intervene in court suits brought by other agencies against the Government; if he were informed that the administrator would as a matter of right have access to virtually every scrap of paper in the files of virtually every other agency—with few exceptions; if he were informed that the Department of Justice believes that this proposal constitutes a "threat . . . to the orderly and effective dispatch of the public business"; and if he were informed that, as a taxpayer, he would have to ante-up tens of millions of dollars in legal and other fees while different agencies of the Federal Government fight with one another to determine which one really represents the "true" consumer interest, then our proverbial man-in-the-street might have serious second thoughts about the desirability of the legislation now before us.

At the root of the controversy is the difficulty of defining the nature of the interests we seek to protect. The bill authorizes the Administrator to act whenever the "interests of consumers" are involved, and it defines those interests as those relating to:

> (A) the safety, quality, purity, potency, healthfulness, durability, performance, repairability, effectiveness, dependability, availability, or cost of real or personal property, tangible or intangible goods, services, or credit;
>
> (B) the preservation of consumer choice and a competitive market;
>
> (C) the prevention of unfair or deceptive trade practices;
>
> (D) the maintenance of truthfulness and fairness in the advertising, promotion, and sale by a producer, distributor, lender, retailer, or supplier of such property, goods, services, and credit;
>
> (E) the availability of full, accurate, and clear information and warnings by a producer, distributor, lender, retailer, or supplier concerning such property, goods, services, and credit; and
>
> (F) the protection of the legal rights and remedies of consumers;

As the distinguished chairman of the committee pointed out in his statement opposing the bill:

> This definition, of course, circumscribes nothing at all. Rather, it embraces the entire conduct of the government in any matter which may have economic effect.

Given the almost universal breadth of "consumer interest" as defined, in the bill, the power delegated to the Adminis-

trator is in effect the power to intervene wherever and whenever he takes a liking to, for whatever purposes he may deem important. Such a grant of power is, to my mind, of dubious constitutionality. Not since the days of the NRA during the height of the depression has it been proposed to devolve such enormous power into the hands of a single man. Has the phrase "consumer interest" acquired such a talismanic charm that we must blind ourselves to the obvious dangers of conferring potentially mischievous authority upon a nonelective official?

The assumption of the proponents, of course, is that this power will be used only for beneficial purposes, and that the scope of the Administrator's authority must be broad both in terms of when he may act and what he may do. Let us consider that for a moment. Let us assume that this bill is already law and consider some hypothetical situations in which the consumer administrator would be free to act in the interests of consumers.

Let us consider, for example, the recent controversy over the use of hexachlorophene. It has been found, apparently, that hexachlorophene, a common ingredient in many disinfectants, can in certain situations produce harmful side effects. Its use was proscribed with a good deal of fanfare, but before long hospital nurseries which had long relied on hexachlorophene found themselves confronted by an alarming rise in the incidence of staphylococcus infections. Science, it appears, has yet to discover a remedy for staph infections comparable to hexachlorophene but lacking certain harmful side effects. But where lies the relevant "consumer interest"? Does it lie in the prohibition of hexachlorophene because it can produce harmful side effects, or does it lie in the prevention of staph infections? Which is the true "consumer interest"?

Let us consider another example. Many areas of the country, my own among them, face in the near term a series of rather hard choices in the matter of electrical energy production. "Brownouts," or worse, it is said by many, will be a common phenomenon before very long unless new sources of electrical output are constructed. That, in turn, has led to considerable controversy over the question of atomic powerplants and the question of whether we ought add to our dwindling oil reserves by expanding offshore drilling. Both, of course, raise in turn serious potential problems with regard to safety and the environment. But wherein lies the appropriate "consumer interest?" Is the consumer to be thought of as willing to tolerate continued "brownouts," and if so, for how long? Is he to be thought of as favoring atomic power, or only oil and coal energy sources? If the former, where and when shall such plants be built, and at what costs? If the latter, would our imaginary consumer favor the risks of offshore oil drilling as opposed to the risks involved in the burning of soft coal? What criteria shall the Administrator apply in determining the tradeoffs among the need for more energy, the actual and potential economic costs, and the possibility of adverse ecological impacts? Where lies the "true" consumer interest?

Or let us consider the general question of trade barriers. Does the interest of our imaginary consumer consist in a preference for free trade or for tariffs? Does he want relatively more expensive American-made goods where cheaper imports are available? Indeed, are there considerations other than price which interest him? Should the consumer administrator intervene on behalf of cheaper imports or on behalf of those American workers who may have to seek new employment because of such imports? Wherein lies the "true" consumer interest?

This list of examples, Mr. President, might be extended indefinitely. I raise them, not to deny that there are legitimate consumer interests that need protection, but only to show that different men mean different things when they speak of so-called consumer interests. The silent assumption of the proponents of the bill before us is that "consumer interests" are a fully homogeneous, fully compatible set of interests, when in fact they are not. Some consumers are concerned primarily with price, others with quality; still others might be willing to trade off either price or quality, or both, for the sake of environmental protection. It is therefore enormously difficult, if not impossible, to say in the abstract what the "consumer interests" are that we are trying to protect. That is why I much prefer, and why I would enjoin my colleagues to pursue, a course of action which identifies specific consumer complaints, examines their ultimate causes, weighs the social and economic costs of various remedies, and, in the end, produces specific legislation to deal with them. This is the course that Congress has pursued in the past with measurable, though understandably imperfect, results. This position, of course, will not placate those who have declared all-out war on American business, apparently on the theory, as the distinguished chairman pointed out, "that every businessman in the United States sits up all night scheming about how he can cheat his customers." But I believe that in the long run the multifarious interests of consumers will be better served by the systematic consideration of each consumer issue as it arises than by a wholesale delegation of virtually unlimited authority to a single Federal bureaucrat.

I would be happy, Mr. President, to support the proposal for the creation of a consumer agency whose powers were more carefully circumscribed. There is a need, for example, for what might be called a consumer information clearinghouse, whose function it would be to develop a special expertise in consumer law and policy, advising individual consumers and consumer groups where necessary, testifying before committees of Congress, submitting relevant evidence to various Federal and State agencies, and even suggesting to business the ways in which consumer complaints might justly be satisfied. And even beyond that, Mr. President, I would support the idea embodied in the so-called amicus approach, whereby a consumer protection agency would be authorized to submit testimony, briefs, or memoranda to other agencies and to the courts on matters of concern to consumers.

But such proposals, which are essentially reasonable, and which, I believe, would go a long way toward alleviating many consumer grievances, are a far cry from the radical proposal now before us.

In closing, Mr. President, I would like to summarize my main objections to the pending bill as written:

In the first instance, it places an unjustifiably optimistic faith in the efficacy of a Federal bureaucracy. The record of the past 40 years is strewn with the wreckage of high legislative intentions which end up being strangled in miles of bureaucratic red tape. Ironically, many of those who now urge this massive new consumer agency upon us have been the harshest critics of past Federal agency failures. Federal agencies have enough difficulty now without having their actions subjected to what amounts to administrative harassment on the part of other units of the executive branch.

Second, the bill would place in the hands of a single man extraordinary and unparalleled authority, limited in effect only by his own discretion. I think it unwise for Congress to delegate such a potentially dangerous power to any man, however worthy our intention—or his—may be.

Third, the bill assumes that all citizens have virtually identical interests as consumers. As I have suggested, consumer interests" come in assorted sizes, shapes, and colors; one man's consumer preference is not necessarily the same as another's. To be sure, all citizens share certain common objectives such as the elimination of false advertising, fraudulent business practices, or unsafe products. But the bill is not confined to these and similar related concerns, which, as I say, are shared by all. Rather, the bill defines the agency's jurisdiction in such a way as to encompass virtually every aspect of every commercial transaction in the entire country, and authorizes the consumer Administrator to take such action as he may deem necessary on behalf of all "consumers." In all but the most obvious situations, such as outright fraud and the like, what this means is that the administrator, if he acts at all, will be forced to "represent" some consumers at the expense of others. But because he will be acting under color of governmental authority, that central fact will often be obscured. It is not sufficient merely to say that he will act for consumers. It is necessary to ask, which consumers?

Last, the bill assumes that most, if not all, abuses against the consumer are the result of governmental inaction and that, therefore, it lies within the power of governmental regulation to cure them. Mr. President, I should be the last to suggest that the Government has exhausted, or even used as effectively as it could, those remedies which are now at its disposal to protect the consumer. I would certainly favor all reasonable proposals to energize the Government where

it has been lax, or to enact new laws where the facts warrant their enactment. But by the same token, I do not believe that it lies within the power of the Federal Government to remedy all the ills which are popularly ascribed as afflicting the consumer. Many so-called regulatory remedies, even when they succeed in eliminating the sought-after evil, create additional problems or impose additional costs. Putting to one side for the moment such concerns as fraud and deception, it seems to one that many grievances of consumers come down to the necessity of having to make tradeoffs between price and other factors.

There seems to be a good deal of evidence, for example, which suggests that inflatable air bags in automobiles would cut down considerably on serious injuries and fatalities. Congress or a consumer agency might, on the basis of such evidence—assuming it is accurate—want to require that all automobiles be equipped with these bags; but their addition would incur increased costs. The question would therefore arise as to whether the consumer would prefer less safety at lower cost, or greater safety at higher cost. I could imagine reasonable-minded consumers going both ways on the issue. But it would certainly place a would-be governmental regulator in a delicate position.

It seems to me, Mr. President, that many, if not most consumer interests, the interests that all of us want to protect, fall into just such a gray area. I referred to the need for new electrical energy sources a few moments ago, along with other examples. We deal, in these situations, with a series of choices that no one but the public, either through the marketplace or through their elected representatives, has the right to make. And save in the case of fraud, deception, or other admittedly unscrupulous commercial dealings, or in the area of drugs, food, or patently unsafe products, I think it would be unwise for Congress to delegate its responsibilities to a nonelective bureaucrat. I have, as I say, no objection to a consumer protection agency which would function as a catalyst for other agencies or as an adviser to the executive and legislative branches on how they might best proceed in protecting the consumer. But to vest in such an agency the unqualified powers and jurisdiction proposed by the pending bill is, I submit, a hazardous undertaking that could do more harm than good to the very consumers we seek to protect.

Mr. President, I would like to close by recalling some remarks that President John F. Kennedy made a little over a decade ago with regard to the potential uses and abuses of the Federal regulatory process. He wrote:

> The Congress must see that the statutes under which the agencies are organized and under which they operate adequately set forth the goals that the Congress seeks to achieve. These statutes should neither place responsibilities upon agencies beyond the practical limits of administration, nor couch their objectives in such indecisive terms as to leave vast areas open for the free play of agency discretion.

That statement, Mr. President, contains much wisdom, and I fully concur in both its letter and spirit, so much so that I believe it ought to be the criterion by which we judge the merits of proposed Federal agencies. Tested by this standard, I believe that the pending bill violates virtually every canon prescribed by the late President. I shall therefore oppose it, in the hope that the next Congress will be given the opportunity to adopt more reasonable and manageable legislation.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 10:15 having arrived, under the unanimous-consent agreement, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (S. 3970), a bill to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants in order to protect and serve the interest of consumers and for other purposes.

Abraham Ribicoff.
Fred R. Harris.
Robert C. Byrd.
Warren Magnuson.
John O. Pastore.
Mike Mansfield.
Birch Bayh.
Edward Kennedy.
Thomas F. Eagleton.
Gaylord Nelson.
Charles H. Percy.
Edward W. Brooke.
Jacob K. Javits.
Mark O. Hatfield.
James B. Pearson.
Richard S. Schweiker.

CALL OF THE ROLL

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

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

[No. 521 Leg.]

Allen	Harris	Pastore
Bellmon	Hart	Percy
Bentsen	Hartke	Randolph
Boggs	Hruska	Ribicoff
Buckley	Hughes	Roth
Byrd, Harry F., Jr.	Javits	Sparkman
Cannon	Jordan, N.C.	Spong
Cooper	Jordan, Idaho	Stafford
Cranston	Long	Stennis
Edwards	Mansfield	Talmadge
Ervin	McClellan	Thurmond
Goldwater	Mondale	Young
Gurney	Moss	
	Muskie	

The PRESIDING OFFICER. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the presence of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Aiken	Fannin	Montoya
Anderson	Fong	Nelson
Bayh	Fulbright	Packwood
Beall	Gambrell	Pearson
Bible	Gravel	Proxmire
Brock	Griffin	Schweiker
Brooke	Hansen	Scott
Burdick	Hollings	Smith
Case	Humphrey	Stevens
Chiles	Inouye	Stevenson
Cook	Jackson	Symington
Cotton	Kennedy	Taft
Curtis	Magnuson	Tunney
Dole	Mathias	Weicker
Dominick	Miller	Williams

Mr. MANSFIELD. I announce that the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), 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), 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.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Oregon (Mr. HATFIELD), the Senator from Ohio (Mr. SAXBE), 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 Utah (Mr. BENNETT) is detained on official business.

The PRESIDING OFFICER. A quorum is present.

The question, Is it the sense of the Senate that debate on S. 3970, a bill to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and sever the interests of consumers, and for other purposes, shall be brought to a close? Under the rule, a rollcall vote is mandatory, and the clerk will please call the roll.

The assistant legislative clerk called the roll.

(Mrs. EDWARDS assumed the Chair as Presiding Officer.)

Mr. MANSFIELD (after having voted in the affirmative). I have already voted in the affirmative, but I wish at this time to exercise a live pair with the distinguished Senator from Montana (Mr. METCALF). Both of us would vote "yea" if we were permitted to vote, and the Senator from Mississippi (Mr. EASTLAND) would vote "nay" if he were present and voting. So I withdraw by vote.

Mr. CANNON (after having voted in the negative). I have a pair with the Senator from Idaho (Mr. CHURCH) and the Senator from Rhode Island (Mr. PELL). If they were present and voting, they would vote "yea." I have already voted "nay." Therefore, I withdraw my vote.

Mr. MANSFIELD. I announce that the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), 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), 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 West Virginia (Mr. ROBERT C. BYRD), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE, and the Senator from Missouri (Mr. EAGLETON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the the Senator from Tennessee (Mr. BAKER), the Senator from Oregon (Mr. HATFIELD), the Senator from Ohio (Mr. SAXBE), 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 Utah (Mr. BENNETT) is detained on official business.

If present and voting, the Senator from Utah (Mr. BENNETT) and the Senator from Texas (Mr. TOWER) would each vote "nay."

Also, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The yeas and nays resulted—yeas 52, nays 30, as follows:

[No. 522 Leg.]

YEAS—52

Aiken	Hollings	Percy
Anderson	Hughes	Proxmire
Bayh	Humphrey	Randolph
Beall	Inouye	Ribicoff
Bentsen	Jackson	Roth
Boggs	Javits	Schweiker
Brooke	Kennedy	Scott
Burdick	Magnuson	Smith
Case	Mathias	Spong
Chiles	Miller	Stafford
Cook	Mondale	Stevens
Cranston	Montoya	Stevenson
Gambrell	Moss	Symington
Gravel	Muskie	Tunney
Griffin	Nelson	Weicker
Harris	Packwood	Williams
Hart	Pastore	
Hartke	Pearson	

NAYS—30

Allen	Dominick	Jordan, Idaho
Bellmon	Edwards	Long
Bible	Ervin	McClellan
Brock	Fannin	Sparkman
Buckley	Fong	Stennis
Byrd,	Fulbright	Taft
Harry F., Jr.	Goldwater	Talmadge
Cooper	Gurney	Thurmond
Cotton	Hansen	Young
Curtis	Hruska	
Dole	Jordan, N.C.	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Cannon, against.
Mansfield, for.

NOT VOTING—16

Allott	Eastland	Mundt
Baker	Hatfield	Pell
Bennett	McGee	Saxbe
Byrd, Robert C.	McGovern	Tower
Church	McIntyre	
Eagleton	Metcalf	

The PRESIDING OFFICER. On this vote the yeas are 52 and the nays are 30. Two-thirds of the Senators present and voting not having voted in the affirmative, the motion to invoke cloture is not agreed to.

Mr. HANSEN. Madam President, I move to reconsider the vote. I withdraw that.

Mr. TAFT. Madam President, while I voted against cloture today, I commend the efforts of Senator PERCY, Senator JAVITS, and Senator RIBICOFF in their work and concern in behalf of the Nation's consumers.

I believe there clearly is a need to increase the protection and representation of the consumer. Quite often Federal agencies have become too close to the industries they are to regulate and often they do not properly consider the interest of the consumer. A good example is the Interstate Commerce Commission. This agency has demonstrated an amazing lack of consumer awareness. Partly for this reason I have joined with the distinguished majority leader, Senator MANSFIELD, in introducing legislation to abolish the ICC.

The ultimate solution to inadequate consumer representation, however, is not the abolition of all regulatory agencies. Rather, the Federal agency determination and rulemaking process must be made more responsible, and in this effort I believe some form of consumer protection legislation is necessary.

However, I cannot support S. 3970 because I do not feel that title II in the bill is workable. It would create a bureaucratic monstrosity. I cannot buy a pig in a poke even under the bright banner of consumerism. I fear it would lead to consummate confusionism. For instance, I have great difficulty in determining at what point intervention would take place in a particular agency proceeding, especially in informal proceedings.

I believe a great deal of friction would be created between the CPA and the other Federal agencies. The CPA would almost inevitably become unduly involved in technical determinations made by agencies under the present wording of title II. Further debate might bring a better approach that would provide for intervention only if the agency finding or determination is clearly demonstrated not to be in the best interests of the consumers. Under this approach a possible procedure could be that the Federal agency would be required to file a "consumer impact statement" when a determination substantially affected consumer interests.

The CPA at this point could review the impact statement and be authorized to intervene only if the agency determination did not properly consider consumer interests. This approach I believe would greatly streamline the procedures of present title II language and provide more of an incentive for individual agencies to properly consider consumer interests.

It is quite unfortunate that such a complex bill as S. 3970 comes to the Senate so late in the session. Senators who have sincere questions regarding the procedures involved in S. 3970 are unfairly placed in the position of being anticonsumer if they feel further debate is merited. I believe, notwithstanding the merit of the objective of S. 3970, attention must be focused on the procedures established by the bill. A perfect example of this is the Occupational Safety and Health Act. The objective of that act, protection of the health and safety of workers, is equally as laudable to that of S. 3970. The procedures implemented, however, to carry out the Occupational Safety and Health Act have proved to be extremely objectionable, as evidenced the other evening in the Senate debate.

I believe S. 3970, if enacted, would also present extreme procedural problems in the future. I therefore, with reluctance, voted against the motion to close further debate on this legislation.

It is my sincere hope, however, that either this session or early in the next Congress constructive consumer legislation will be enacted by the Senate.

SOCIAL SECURITY AMENDMENTS OF 1972

The PRESIDING OFFICER (Mrs. EDWARDS). The Senate will be in order. 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.

The Senate resumed the consideration of the bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. MANSFIELD. Madam President, will the Senator yield, without relinquishing his right to the floor?

Mr. LONG. Madam President, I ask unanimous consent that, without losing my right to the floor, I may yield to the majority leader for a unanimous-consent request.

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

INTERNATIONAL CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

Mr. MANSFIELD. Madam President, As the Senate is aware, the International Convention on the Prevention and Punishment of the Crime of Genocide, Executive O, 81st Congress, 1st session, has been on the Executive Calendar since May 4, 1971. Because of a variety of circumstances, it was impossible to take the action which I would have liked to take, and call up the treaty earlier and dispose of it. But because of the fact that we are approaching the end of the session and hopefully a sine die adjournment by the end of next week—and I mean it—I ask unanimous consent at this time that the Senate go into executive session and I be permitted to call up the International Convention on the Prevention and Punishment of the Crime of Genocide, and that there be a 4-hour limitation attached to such request.

Mr. ERVIN. Madam President, with reluctance I object.

The PRESIDING OFFICER. Objection is heard.

Mr. JAVITS. Madam President, will the Senator yield to me?

Mr. LONG. I ask unanimous consent that I may yield to the Senator from New York, reserving my right to the floor.

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

Mr. JAVITS. Madam President, this treaty has never been more desirable than now, notwithstanding that it is over 25 years old. The Committee on Foreign Relations has considered it very carefully, and on both legal and diplomatic grounds has held it valid for ratification by the Senate and has, in my judgment, completely negated the fears expressed with respect to its effect upon our domestic situation in terms of law, either of the States or of the Federal Government. There is really no reason, other than those fears, which I believe have been completely dispelled by the record before the Committee on Foreign Relations, to delay the ratification of this treaty.

I think it is terribly tragic, Madam President, that at a time when terror has produced such bloodshed, we have not and apparently cannot even consider this particular measure, considering the pressures of time and the denial to the majority leadership of unanimous consent for a reasonable length of time to discuss it.

Madam President, knowing the deep feelings which millions of Americans entertain upon this subject, and tens of millions throughout the world, I would first like to thank the majority leader for his thoughtfulness. He assured me that he would bring it up before the end of the session. He certainly has tried to do so, as we saw demonstrated in a public way this morning. No leadership likes to be rebuffed.

Senator MANSFIELD has tried in a very honorable, dignified, and sincere way, as is his wont. I deplore and regret the result.

I hope very much that, as this treaty will remain pending, and as the President of the United States has, after years, asked the Senate to move to ratify it, that if this administration carries on for another term, the President will renew his request, which I have every confidence he will do, and that in the next session the Senate Foreign Relations Committee may again act affirmatively, which I expect it will do, and that then the leadership may bring this matter on at a more propitious time for consideration by the Senate.

Madam President, as Senator PROXMIRE is absent, I should like again to pay a tribute to him for the indefatigable way over the years in which he has pursued the effort, in which I have joined, to bring about action on the Genocide Treaty.

Again, I thank the majority leader for his effort this morning, and I thank Senator Long for yielding.

Mr. MANSFIELD. I appreciate the remarks of the distinguished Senator from New York. I assure him that I anticipate that this matter will be on the calendar early next year and that every effort will be made to bring it up as expeditiously as possible early next year.

Mr. JAVITS. I am very grateful.

Mr. PROXMIRE subsequently said: Madam President, first I want to commend the distinguished majority leader for attempting to call up the Genocide Treaty. For the past 4 years I have risen virtually every day the Senate has been in session to plead with this body to pass this treaty which has been supported enthusiastically by President's Truman, Kennedy, Johnson, and Nixon.

Madam President, only the Senate stands in the way of the ratification of this treaty. The President has given the treaty his vigorous support. Virtually every significant nation in the world has ratified the treaty. It would outlaw the most heinous and vicious crime known to man—the planned, premeditated extermination of an entire race. An overwhelming majority of the Senate has indicated one way or another their support of this amendment.

It is a sad blot on the proud escutcheon of this Nation that we have failed to take action to ratify the Genocide Treaty.

Of course, I am deeply disappointed that the Senator from North Carolina (Mr. ERVIN) has objected to the consideration of the Genocide Treaty this year. I hope that the Foreign Relations Committee will again report the amendment out and do so promptly early next year, so that the Senate can work its will.

NO SATURDAY SESSION

Mr. HANSEN. Mr. President, will the Senator yield for a question?

Mr. MANSFIELD. I yield.

Mr. HANSEN. Mr. President, will the manager of the bill permit me to pose a question to the majority leader, without the Senator from Louisiana losing his right to the floor?

Mr. LONG. I yield for that purpose. In fact, I ask unanimous consent that I may yield to the majority leader and that when he relinquishes the floor, I be recognized.

The PRESIDING OFFICER (Mr. GAMBRELL). The Senator from Louisiana has the floor and has yielded to the majority leader.

Mr. MANSFIELD. I yield.

Mr. HANSEN. I ask the distinguished majority leader what the plans are for a Saturday session.

Mr. MANSFIELD. There will be no Saturday session this week. We have been operating on a 12-hour day basis for the first 3 days, and it looks as though that will continue into today and tomorrow.

I think there is a breaking point beyond which one should not go. Based on the fact that we met last Saturday but did not have a good attendance—although we did have a quorum—I think perhaps we could accomplish more by not meeting this Saturday and giving Members a chance to cogitate and rest and think things over.

So it is definite that there will be no meeting this Saturday, but we will be in late today and tomorrow.

Mr. HANSEN. I thank the majority leader.

INTERNATIONAL CONVENTION ON CIVIL LIABILITY FOR OIL POLLUTION DAMAGE

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

Mr. MANSFIELD. I yield.

Mr. MAGNUSON. Mr. President, the International Convention on Civil Liability for Oil Pollution Damage has been on the calender since August 5. I understand that the Senator from Rhode Island (Mr. PELL) has some language that he is attempting to get the committee to accept.

This is a highly important matter, and I am hopeful that when the Senator from Rhode Island (Mr. PELL) works out the language, we can ratify this treaty.

Almost every week we read in newspapers about oil pollution spillage all over the world. This treaty is not exactly what I would like, but it does establish a basis of liability.

It is an international convention which involves most of the oil-shipping countries. It is a very important convention, and I hope we can get to it.

Mr. MANSFIELD. We will do our best. As the Senator knows, at his behest the Senator from Rhode Island (Mr. PELL) has been contacted, and he will be contacted again.

Mr. MAGNUSON. I will contact him again. I think he has worked out what he wants.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 1194 and 1203.

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

U.S. PARTICIPATION IN THE INTERNATIONAL EXPOSITION IN SPOKANE, 1974

The bill (S. 4022) to provide for the participation of the United States in the International Exposition on the Environment to be held in Spokane, Wash., in 1974, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with Public Law 91-269 (22 U.S.C. 2801 et seq.), the President is authorized to provide for United States participation in the International Exposition on the Environment (hereafter in this Act referred to as the "exposition"), which is being held at Spokane, Washington, in 1974. The puposes of such exposition are to—

(1) offer to United States citizens and to people throughout the world a program for the improvement of man's physical environment; demonstrate through improved projects how the resources of air, water, and land can be utilized to man's benefit without pollution; and broaden public understanding of ecology and related sciences;

(2) encourage tourist travel in and to the United States, stimulate foreign trade; and promote cultural exchanges; and

(3) commemorate the one hundredth anniversary of the founding of the city of Spokane.

SEC. 2. (a) The President, through the

Secretary of Commerce, is authorized to carry out in the most effective manner the proposal for Federal participation in the exposition transmitted by the President to the Congress pursuant to section 3 of Public Law 91-269 (22 U.S.C. 2803).

(b) The President is authorized to appoint, by and with the advice and consent of the Senate, a Commissioner for a Federal exhibit at the exposition (as provided in the proposal referred to in subsection (a)) who shall be in the Department of Commerce and receive compensation at the rate prescribed for level V of the Federal Executive Salary Schedule. The Commissioner shall perform such duties in the execution of this Act as the Secretary of Commerce may assign.

SEC. 3. (a) The Secretary of Commerce is authorized to obtain the services of consultants and experts as authorized by section 3109 of title 5, United States Code, to the extent he deems it necessary to carry out the provisions of this Act. Persons so appointed shall be reimbursed for travel and other necessary expenses incurred including a per diem allowance, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

(b) The Secretary of Commerce is authorized to appoint and fix the compensation of persons, other than consultants and experts referred to in subsection (a), who perform functions to carry out the provisions of this Act, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates: *Provided, however,* That no person appointed under this paragraph shall receive compensation at a rate in excess of that received by persons appointed subject to chapter 51 of such title for performing comparable duties.

(c) The Secretary of Commerce is authorized to enter into such contracts as may be necessary to provide for United States participation in the exposition.

(d) The Secretary of Commerce is authorized to erect such buildings and other structures as may be appropriate for the United States participation in the exposition on land (approximately four acres including land necessary for ingress and egress) conveyed to the United States, in consideration of the participation by the United States in the exposition, and without other consideration. The Secretary of Commerce is authorized to accept title to such land or any interest therein: *Provided, however,* That the land or interest may be accepted only if the Secretary determines that it is free of liens, or of any other encumbrances, restrictions, or conditions that would interfere with the use of the property for purposes of the United States or prevent the disposal of the property as hereinafter set out. In the acceptance of such property and the design and construction of buildings and other structures and facilities thereon, the Secretary of Commerce shall consult with the Secretary of the Interior, the Administrator of General Services, and the heads of other interested agencies to assure that such activities will be undertaken in a manner that (1) minimizes to the greatest extent practicable any adverse effects on the recreation, fish and wildlife, and other environmental values of the area; and (2) preserves and enhances to the greatest extent practicable the utility of the property for governmental purposes, needs, or other benefits following the close of the exposition.

(e) The Secretary of Commerce is authorized to incur such other expenses as may be necessary to carry out the purposes of this Act, including but not limited to expenditures involved in the selection, purchase, rental, construction, and other acquisition, of exhibits and materials and equipment therefor and the actual display thereof, and including but not limited to related expenditures for costs of transportation, insurance, installation, safekeeping, printing, maintenance, and operation, rental of space, and dismantling; and to purchase books of reference, newspapers, and periodicals.

SEC. 4. The head of each department, agency, or instrumentality of the Federal Government is authorized—

(1) to cooperate with the Secretary of Commerce with respect to carrying out any of the provisions of this Act; and

(2) to make available to the Secretary of Commerce, from time to time, on a reimbursable basis, such personnel as may be necessary to assist the Secretary of Commerce to carry out his functions under this Act.

SEC. 5. The Secretary of Commerce shall report to the Congress within one year after the date of the official close of the exposition on the activities of the Federal Government pursuant to this Act, including a detailed statement of expenditures. Upon transmission of such report to the Congress, all appointments made under this Act shall terminate, except those which may be extended by the President for such additional period of time as he deems necessary to carry out the purposes of this Act.

SEC. 6. After the close of the exposition, all Federal property shall be disposed of in accordance with provisions of the Federal Property and Administrative Services Act of 1949, and other applicable Federal laws relating to the disposition of excess and surplus property.

SEC. 7. The functions authorized by this Act may be performed without regard to the prohibitions and limitations of the following laws:

(1) That part of section 3109(b) of title 5, United States Code, which reads "(not in excess of one year)".

(2) Section 16(a) of the Administrative Expenses Act of 1946 (ch. 744, August 2, 1946; 60 Stat. 810; 31 U.S.C. 638a) to the extent that it pertains to hiring automobiles.

(3) Section 3648 of the Revised Statutes, as amended (31 U.S.C. 529) (advance of public moneys).

(4) Sections 302-305 of the Federal Property and Administrative Services Act of 1949 (June 30, 1949, ch. 288, 63 Stat. 393 et seq.) as amended (41 U.S.C. 252-255) (competitive bids; negotiated contracts, advances).

(5) Section 322 of the Act of June 20, 1932 (ch. 314, 47 Stat. 412; 40 U.S.C. 278a) (lease of buildings to Government; maximum rental).

(6) Section 3709 of the Revised Statutes, as amended (41 U.S.C. 5) (advertisement of proposals for competitive bids).

(7) Section 3710 of the Revised Statutes (41 US.C. 8) (opening of bids).

(8) Section 2 of the Act of March 3, 1933 (ch. 212, 47 Stat. 1520; 41 U.S.C. 10a) (Buy American Act).

(9) Section 3735 of the Revised Statutes (41 U.S.C. 13) (contracts limited to one year).

(10) Section 501 of title 44, United States Code (printing by Government Printing Office).

(11) Section 3702 of title 44, United States Code (advertisements without authority).

(12) Section 3703 of title 44, United States Code (rates of payment for advertisement).

SEC. 8. There are hereby authorized to be appropriated not to exceed $11,500,000, to remain available until expended, to carry out United States participation in the exposition.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MOSS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONVEYANCE OF CERTAIN PROPERTY IN CANANDAIGUA, N.Y., TO SONNENBERG GARDENS

The bill (H.R. 13780) to authorize the Administrator of Veterans' Affairs to convey certain property in Canandaigua, N.Y., to Sonnenberg Gardens, a nonprofit, educational corporation, was considered, ordered to a third reading, read the third time, and passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROGRAM

Mr. MANSFIELD. Mr. President, for the information of the Senate, it is hoped that it will be possible shortly to get to the so-called equal education opportunities bill. It is hoped that, in pursuance of the promise made by the leadership to the Senate—the commitment made—we will be able to dispose of the pending business today, perhaps no later than tomorrow. But the Senate should be on notice that the so-called antibusing bill will follow, as soon as it is possible to do so, and will become the pending business.

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

Mr. MANSFIELD. I yield.

Mr. JAVITS. Mr. President, I wish to interpose in the RECORD an objection to any unanimous-consent requests on that bill.

Mr. MANSFIELD. I thank the Senator.

I thank the Senator from Louisiana for his courtesy and graciousness in giving me this time.

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. JAVITS. Mr. President, I ask that during the consideration of H.R. 1, my assistant, John Scales, be granted the privilege of the floor.

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

Mr. LONG. Mr. President, I would hope that during the next few minutes Senators would show some consideration to those who have important engagements and will be required to leave the city. If Senators have an amendment or two that are not controversial, which we believe we could accept on behalf of the committee, perhaps they can offer them now. For example, the Senator from Texas has an amendment which we believe we can accept. Also, I believe the Senator from Alaska has an amendment he wants to offer, and I think we can accept it.

If we could dispose of the few matters that can be agreed to almost unanimously, then we could go ahead and debate and decide some of the more controversial matters that must be decided before the Senate can pass on this matter.

I hope that the Senator from Texas can be recognized, because he has other pressing commitments, and that we can consider his amendment and the amendment of the Senator from Alaska.

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

Mr. LONG. I yield.

Mr. MONDALE. This is fine, but I asked to be recognized some time ago on an amendment I have, which I think is very important; and I would not want to agree to a situation which might result in interminable delay.

Mr. LONG. I would think we could take up the amendment of the Senator from Minnesota within an hour.

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

Mr. LONG. I yield.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the following members of the Subcommittee on Health have the privilege of the floor: Stanley Jones, Larry Horowitz, Lee Goldman, and Philip Caper.

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

AMENDMENT NO. 1700

Mr. BENTSEN. I thank the distinguished chairman of the committee.

Mr. President, I call up my amendment No. 1700.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER (Mr. STEVENSON). Without objection, it is so ordered, and the amendment will be printed in the RECORD at this point.

The text of the amendment is as follows:

On page 338, line 21, strike "December 31, 1972" and insert "June 30, 1973".

Mr. BENTSEN. Mr. President, I ask unanimous consent the name of the distinguished Senator from Minnesota (Mr. HUMPHREY) be added as a cosponsor of this amendment.

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

Mr. BENTSEN. Mr. President, I shall be brief. Section 227 of H.R. 1 establishes a new method for reimbursement under the medicare program for supervisory physicians in teaching hospitals. Under present law, as the committee report states, hospitals are reimbursed under part A of the medicare program for the costs they incur in compensating physicians for teaching and supervisory activities and in paying the salaries of residents and interns under approved teaching programs. In addition, reasonable charges are paid under the medical insurance program—part B—for teaching physicians' services to patients.

The committee bill changes the criteria for reimbursement. Under the committee bill services of teaching physicians would be reimbursed on a costs basis unless the patient is bona fide private or unless the hospital has charged all patients and collected from a majority on a fee-for-service basis.

For donated services of teaching physicians, a salary cost would be imputed equal to the prorated usual costs of full-time salaried physicians. Any such payment would be made to a special fund designed by the medical staff to be used for charitable and educational purposes.

Mr. President, I do not intend to discuss the merits of the committee amendment, although I have some serious reservations about the merits.

Section 227 would go into effect on December 31, 1972, less than 3 months from the time we pass this bill.

Whatever the merits of the new provision, that target date does not allow sufficient time for the States and the medical schools to provide for the new arrangements and funding that will be required.

I am informed that hospitals and medical schools in San Antonio, Dallas, and Houston, may face the loss of up to $20 million. These are funds which would have to be replaced by the State.

The thrust of my amendment is to extend by 6 months—until the end of the fiscal year—the time when this amendment will go into effect.

I believe this is a reasonable amendment, one which will allow for the adjustments necessary by hospitals, the schools, and the State.

I have talked over my amendment with the chairman of the Finance Committee, and I hope that he will find it possible to accept it during this colloquy.

Mr. LONG. Mr. President, this amendment would change an effective date in the committee bill which, as I understand from the Senator's argument, would create a problem in his State. I would be willing to accept the amendment. I think the ranking member of the committee would also be willing because I have had a chance to discuss this matter with him.

I would hope, therefore, that the Senate will agree to the amendment.

Mr. BENTSEN. I thank the Senator from Louisiana very much.

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

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

The PRESIDING OFFICER. All time on the amendment has now been yielded back.

The question is on agreeing to the amendment—No. 1700—of the Senator from Texas (Mr. BENTSEN).

The amendment was agreed to.

Mr. MONDALE. Mr. President, I understand that the distinguished floor manager of the bill would like to accept some noncontroversial amendments and I would therefore be willing to yield for that purpose with the understanding that when they have been handled I will be recognized for the purpose of calling up my amendment.

Mr. MILLER. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment as follows:

On page 575, change lines 3 and 4 to read as follows: "person's household and receiving without reasonable payment therefor, support and maintenance in kind from such person, the dollar amounts".

Mr. LONG. Mr. President, I have had a chance to review the amendment and I think it is meritorious. In fact, it is what the committee intended anyway. The Senator from Iowa has clarified what I think we had in mind. He seeks to say that there would be no reduction for the value rent where the aged, blind, or disabled were paying for their rent.

Mr. MILLER. It is not only rent, it is also room and board. The way the bill now reads, if a person wanted to move in with another older person who said, "Fine, come on in, but you will have to share expenses," and the person did share the expenses, they would still get cut back.

I am advised by the director of our State social program that if this is not amended as I have composed it in my amendment, there will be a tremendous increase in the load on nursing homes, although people would much rather live with individuals and they would be cut back. This is in accordance with the best approach to this. I understand that the Senator has checked this, and the distinguished Senator from Utah has, too.

Mr. LONG. It was my understanding that the committee bill sought to do what the Senator seeks to achieve by his amendment, but to be sure of the language, we will be happy to accept the amendment.

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

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

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment of the Senator from Iowa (Mr. MILLER).

The amendment was agreed to.

AMENDMENT NO. 1653

Mr. TUNNEY. Mr. President, I call up my amendment No. 1653 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be printed in the RECORD at this point.

The text of the amendment is as follows:

On page 963, between lines 18 and 19, insert the following:

ALLOWANCE OF DEDUCTION FOR CERTAIN EXPENSES NECESSARY FOR GAINFUL EMPLOYMENT

SEC. 535. (a) Section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by redesignating subsection (h) as (i), and by inserting after subsection (g) the following new subsection:

"(h) CERTAIN EXPENSES NECESSARY FOR GAINFUL EMPLOYMENT.—

"(1) IN GENERAL.—In the case of an individual who maintains a household which includes as a member one or more of the following qualifying individuals—

"(A) a child or stepchild of the taxpayer (within the meaning of section 152) who is under the age of 15,

"(B) a dependent of the taxpayer who is under the age of 15 or who is physically or mentally incapable of caring for himself or herself, or

"(C) the spouse of the taxpayer, if he or she is physically or mentally incapable of caring for himself or herself,

the deduction allowed by subsection (a) shall include the reasonable expenses paid or incurred during the taxable year for household services and for the care of one or more individuals described in subparagraph (A), (B), or (C), but only if such expenses are ordinary and necessary to enable the taxpayer to be gainfully employed.

"(2) MAINTAINING A HOUSEHOLD.—For purposes of paragraph (1), an individual shall be treated as maintaining a household for any taxable year only if over half of the cost of maintaining the household during such period is furnished by such individual (or if such individual is married during such period, is furnished by such individual and his or her spouse).

"(3) SPECIAL RULES.—For purposes of this subsection—

"(A) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the deduction provided by subsection (a) shall be allowed only if the taxpayer and his spouse file a single return jointly for the taxable year.

"(B) GAINFUL EMPLOYMENT REQUIREMENT.—If the taxpayer is married for any period during the taxable year, there shall be taken into account employment-related expenses incurred during any month of such period only if—

"(i) both spouses are gainfully employed on a substantially full-time basis, or

"(ii) the spouse is a qualifying individual described in paragraph (1) (C) of this subsection.

"(C) CERTAIN MARRIED INDIVIDUALS LIVING APART.—An individual who for the taxable year would be treated as not married under section 143 (b) if paragraph (1) of such section referred to any dependent, shall be treated as not married for such taxable year.

"(D) PAYMENTS TO RELATED INDIVIDUALS.—No deduction shall be allowed under subsection (a) for any amount paid by the taxpayer to an individual bearing a relationship to the taxpayer described in paragraphs (1) through (8) of section 152(a) (relating to definition of dependent) or to a dependent described in paragraph (9) of such section.

"(E) REDUCTION FOR CERTAIN PAYMENTS.—In the case of employment-related expenses incurred during any taxable year solely with respect to a qualifying individual (other than an individual who is also described in subparagraph (A) or (B) of paragraph (1) of this subsection and who is under the age of 15) the amount of such expenses which may be taken into account for purposes of this section shall be reduced—

"(i) if such individual is 15 or older and is described in subparagraph (B) of paragraph (1) of this subsection, by the amount by which the sum of—

"(I) such individual's adjusted gross income for such taxable year, and

"(II) the disability payments received by such individual during such year, exceeds $750, or

"(ii) in the case of a qualifying individual described in subparagraph (C) of paragraph (1) of this subsection, by the amount of disability payments received by such individual during the taxable year.

For purposes of this subparagraph, the term 'disability payment' means a payment (other than a gift) which is made on account of the physical or mental condition of an individual and which is not included in gross income."

(b) Section 62(c) of the Internal Revenue Code of 1954 (relating to trade and business deductions of employees) is amended by adding at the end thereof the following new subparagraph:

"(E) CERTAIN EXPENSES NECESSARY FOR GAINFUL EMPLOYMENT.—The deductions allowed under section 162 which consist of expenses allowable by reason of the application of subsection (h) thereof, paid or incurred by the taxpayer in connection with the performance by him or by her of services as an employee."

(c) Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended—

(1) by striking out section 214 (relating to expenses for household and dependent care services necessary for gainful employment), and

(2) by striking out the item relating to section 214 in the table of sections for such part.

(d) The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Mr. TUNNEY. Mr. President, the amendment I offer today will, if enacted, amend the Internal Revenue Code to allow a business deduction for household and childcare expenses incurred by working mothers and certain other individuals to enable them to be gainfully employed.

The time is long overdue, Mr. President, to remove the inequity in our tax laws which enables business men to deduct "ordinary and necessary" business expenses, yet denies to working mothers a deduction for the most "ordinary and necessary" business expense they incur—the cost of maintaining their households and assuring safe and responsible care for their children while they work.

In 1971, 42 percent of the mothers in the United States worked outside the home. Of the approximately 12.5 million mothers with children under 6, more than one in every three is working today. That means there were more than 4.3 million mothers with children under 6 who were in the labor force last year. Of those mothers, 650,000 of them were single parents holding down a job.

If a businessman can deduct the cost of hiring a secretary to improve his effectiveness in working—if he can treat his entertainment expenses as a tax deduction—if a retailer can deduct the expenses of a store manager to keep an eye on things while he is away generating new business or promotions—how can it be said to be fair and just that a working mother should not be allowed the same sort of deduction for expenses which are vitally related to her work?

It cannot be denied that the expense we are talking about is fundamental in enabling a parent to work to the full extent of her capacities.

These child care expenses are not personal expenses, like doctors' bills. They should not be classified with charitable contributions as they now are. They are ordinary and necessary expenses incurred to enable an individual to be gainfully employed.

The parents who would benefit from my proposal simply cannot avoid paying for the care of their children and for other household expenses if they need or desire work. Very often, they have to relinquish a sizable portion of their income in order to secure these services. Yet they are not allowed to take these considerable costs as a business deduction.

There are many reasons why mothers go out to work. At the lower income levels, it is a matter of compelling financial necessity. Whether or not they prefer to be full-time mothers devoting all their care and attention to the family and the home, they do not really have the choice. They must work, they must produce a second income to keep their family out of poverty and provide even the basic necessities.

Others wish to work to improve their standard of living, to withstand the cutting edge of inflation. And there are those who wish to work as a matter of self-fulfillment, to use their capabilities to the fullest extent possible.

And for the single parent who must work to provide sustenance for herself and her children, the nature of these expenses is crystal clear. Whereas there may be doubts about many of the expenses businessmen take as tax deductions, especially in the area of entertainment, the expenses dealt with by my amendment are absolutely necessary for those families to be viable, self-supporting economic units.

There are other income earners, both men and women who must provide care for a spouse or other dependent who is incapable of caring for himself. The amendment would extend to the expenses incurred in providing such care as a necessary adjunct to employment.

Apart from the objection of principle that genuine business deductions should be treated as business deductions and not as personal deductions, there is a much more practical objection to leaving the existing provisions as they are.

This arises from the fact that some 68 percent of the families with earnings of $10,000 or less use the standard deduction form and do not itemize their personal deductions. As a result, they do not get the benefit of the existing child care deduction. Yet these are often the people with modest to moderate incomes. They are people who are doing their best to be self-reliant and to improve their lot. They are often the people who need a second income in the family to ward off the effects of inflation which others can bear with greater ease. They are people who need help and support, not discrimination against their efforts in the tax structure.

My amendment does not create another loophole in our income tax laws. It is not a soft subsidy for those who do not need it. It simply is a correction of a basic inequity whose burden often falls heavily on those who have small capacity to bear it.

Last November, I offered this amendment to the Revenue Act of 1971; it passed by a vote of 74 to 1 but the amendment was eliminated in conference.

When I reintroduced it as a bill, S. 3227, on February 24, 1972, 23 Senators joined me in cosponsoring it and many others expressed their support. I am therefore, resubmitting it now and ask-

ing that the Senate reaffirm its belief in fair treatment for working mothers.

Frankly, Mr. President, given the provisions already contained in H.R. 1, I think it would be a monstrous inequity if we do not enact this deduction.

With that having been said, I am prepared to yield to the distinguished chairman of the committee for his views.

The PRESIDING OFFICER (Mr. STEVENSON). The Chair is informed that part of the bill to which this amendment addresses itself has been stricken from the bill and therefore the amendment will have to be redrafted.

Mr. LONG. Mr. President, I ask unanimous consent that the amendment be added at the end of the bill.

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

Mr. LONG. Mr. President, the women's organizations have made a strong case that it is not fair to let the businessman deduct the expenses of someone who helps him in his business, and at the same time to deny them the opportunity to deduct the expense of hiring someone to help them with child care or domestic work so that they can take work outside the home. The more one thinks about it, the more discriminatory and unfair it seems to be.

For example, a woman author points out that she can be productive and write a good book and do good work, but if she cannot have someone available to look after her children while she is working on the book, it is totally impossible for her to do that. She would contend that the secretary that Mr. Rockefeller has to have so that he can do his job as president of the Chase-Manhattan Bank is not so essential to him as a babysitter is to her so that she can write that book.

I really believe that one of these days we will realize this argument is such that we should extend it even beyond that the Senator is urging here.

When the matter came up before on last year's tax bill, the Treasury people said that something of this sort should be on this bill, H.R. 1, and not on that tax bill. And notwithstanding the Treasury argument, this matter was voted upon by the Senate, and as I recall it was agreed to by an overwhelming majority on the tax bill that was before the Senate.

In the area where we are trying to provide a tax opportunity for poor people, it serves a useful purpose. It helps a housewife who is productive to be free from household responsibilities so that she can go to work and do something that benefits society as a whole, and at the same time it tends to provide an opportunity for a person to come into a home and have a job. So it both helps a playwriter or a professional woman to realize her ambition and be productive, and it also helps a working mother who might happen to have that same skill to do something to add to her income. I point out that this would be something which would be to the overall benefit of society.

I am persuaded that the argument in favor of the amendment is as good now as it was at the time the Senate considered the tax bill last year.

I hope very much that the Senate will permit us to accept the amendment.

Mr. BENNETT. Mr. President, I would have to object to the amendment because I think it is very loosely drawn. It is so loosely drawn that if a rich woman has a maid and is making a fine living writing books, she can decide that she can deduct all of her household expenses.

The language of the amendment reads in part: "shall include the reasonable expenses paid or incurred during the taxable year for household services."

It does not say for child care. It says "household services."

I continue to read from the amendment: "and for the care of one or more individuals * * * only if such expenses are ordinary and reasonable to enable the taxpayer to be gainfully employed."

Mr. President, if she is presiding over a household with half a dozen servants, to her those may be ordinary and necessary expenses. There is not a thing here about child care. For the first time we are allowing individuals to deduct personal expenses as business expenses. This drives a hole into the Internal Revenue Code that a lot of things can be driven through in the years ahead.

I think the amendment should be rejected. If the author of the amendment wants to tighten it down, that might make it more palatable. However, I think this is a dangerous amendment. It does not benefit only the members of the public who are on or near welfare, because there is no limit.

Mr. TUNNEY. Mr. President, I am afraid I would have to disagree with the distinguished Senator from Utah. The whole thrust of my amendment is to assist a working mother. Section (h)(1) reads as follows:

> In the case of an individual who maintains a household which includes as a member one or more of the following qualifying individuals—
>
> (A) a child or stepchild of the taxpayer (within the meaning of section 152) who is under the age of 15,
>
> "(B) a dependent of the taxpayer who is under the age of 15 or who is physically or mentally incapable of caring for himself or herself, or
>
> (C) the spouse of the taxpayer, if he or she is physically or mentally incapable of caring for himself or herself,

When it talks about household services, we are obviously referring to the care that is given to that dependent so that the mother can go out and work. It is not intended to provide for a staff of servants for the working mother. It is to provide for the care for that dependent and provide services that are necessary for that dependent so that the mother can work.

Mr. BENNETT. If that is the intention, it does not come through in the language. A millionaire could meet the qualification if she has a child in the house. A person would not have to be on welfare.

May I point out also that it does not say, "expenses paid or incurred during the taxable year for household services or for the care of one or more individuals." It says "household services and for the care."

So, it can cover any expense that this woman can relate to her earning a living, no matter what her income is or how she earns it.

Mr. TUNNEY. Mr. President, the Senator from Utah has served on the Finance Committee long enough to know that the Internal Revenue Service would not allow a staff of servants as ordinary and necessary expenses for a working mother, whether or not she is a millionaire. Ordinary and necessary expenses means exactly what it says. It means ordinary and necessary for the purpose of taking care of that dependent. And the same thing is true with a millionaire that hires a secretary. That is an ordinary and necessary business expense. If it is not an ordinary and necessary business expenses, then that businessman cannot take that deduction.

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

Mr. TUNNEY. I yield to the distinguished Senator from Minnesota.

Mr. HUMPHREY. Mr. President, may I say most respectfully that a millionaire has a tax attorney to get around anything we are trying to do here in the Senate. We are not talking about millionaires. There are not too many of them anyway. We are talking about a working mother who wants to go out to try to earn a living and who wants to work on a clerical staff and who needs to have someone in the household to take care of dependents.

That is what this amendment is all about.

May I point out to the Senator that if one is in business, he will find a way to get almost all of these people taken care of.

I submit that those of us who serve in this body have had to sign a little book when we came into somebody's place or we have had to sign a little book when we went on somebody's boat. Why is that? Is it because they want our autograph? Baloney. They want our signatures for the Internal Revenue Service. It is not a compliment. But that is why it happens.

Why do we not treat these people that do not have certified public accountants or tax attorneys the way we treat those who do? This amendment is designed to help someone work downtown, write a book, work in the dramatic arts, or whatever it might be to be able to deduct that expense as an ordinary business expense.

It is a good amendment. We should not worry about the millionnaires. Perhaps we could include in the amendment something that says, "If you have a million dollars, it does not apply."

Mr. TUNNEY. Mr. President, I want to point out that the amendment reads, beginning on line 21 of page 2:

> The deduction allowed by subsection (a) shall include the reasonable expenses paid or incurred during the taxable year for household services and for the care of one or more individuals . . . only if such expenses are ordinary and necessary to enable the taxpayer to be gainfully employed.

That does not mean a maid or a half a dozen servants in the house. It means having someone to take care of a dependent who is mentally incapable of taking care of himself or a child under the age of 15.

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

Mr. TUNNEY. I yield to the Senator from Indiana.

Mr. BAYH. Mr. President, I appreciate the Senator's yielding.

I want to add one or two points. I point out to my colleagues that I have the privilege of being chairman of the Constitutional Subcommittee. I suppose that that committee has held more hearings on the subject of equal rights for women than any other committee. I am the principal sponsor of that Senate measure. I have studied this matter with great care.

I would like to make two points. First of all, I thing there is a great disparity involved if we worry about millionaires, we discriminate between millionaires who are men and millionaires who are women. One can write off the expenses if he takes his clients off to lunch and fills them up with martinis if he is a man. However, if it is a woman who is the millionaire and she is at home, we do not allow her to claim any expenses covered by the Senator from California. That is point No. 1.

Second, the hard fact is that if a woman is a working mother and has to work to help support the family, she is not allowed to deduct those expenses that are necessary.

Today 40 percent of all the women who are working are the sole support of their children. They are the sole support of their children, so we are concerned about the impact of this amendment. We should be concerned about not just the woman involved but the children at home for whom she is the sole support.

I supported the Senator earlier on the other measure and I am happy to support him again on this measure.

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

Mr. TUNNEY. I yield.

Mr. LONG. Mr. President, I point out to the Senator and to the Senate that we put in the tax law, in order to try to help provide jobs, and that is the only excuse for his, a $3 billion investment tax credit to encourage them to go out and buy new equipment. If one wishes to talk about a loophole, that is the biggest loophole in the tax law. It is an incentive for somebody to do something; we gave them a $3 billion tax credit; a tax advantage justified solely because you would like them to buy more equipment and modernize, in the hope they would put more people to work, even though many times by the time they get through improving their machinery they have less people working rather than more people working.

Sometimes a tax credit is given to put people out of work rather than to provide jobs, but they were calling it a provision to provide jobs. I have seen cases where a man tells me they have a modernization program going on and that they are going to spend $100 million improving the plant. I ask, "How many more jobs will be provided?" By the time they get through they will have one-half of the jobs that they had before but they will have a better plant.

But here we are talking about providing a deduction for a housewife who is helping support a family so that she can go out and take a job and someone can come in the house to help her. I do not think anyone disagrees that the ordinary working mother should be able to deduct the child care expense that is paid. Even the House is willing to agree with us on that. But the way it used to be, when the mother brought someone in to the house when she went out to be the breadwinner, the tax service would say, "How much time did the woman spend washing dishes?" So they reduced the reduction for the time the woman spent washing dishes and separated it from the time she went around the house with nothing to do but care for the children.

Then they asked, "How much time was spent using the vacuum cleaner?" Then they deducted the time for the use of the vacuum cleaner. Then they were asked, "How much time did she spend cleaning up the bathroom and putting things in order around the house?" They reduced the deduction for the time spent there.

Now, when a businessman rents a strongbox down at the bank we do not go into that strongbox and say, "How many of these papers are business papers and how many of these papers are personal effects?" We do not do that to him.

I understand the Senator is not trying to extend this to working mothers without children to support. Is that correct?

Mr. TUNNEY. The Senator is correct.

Mr. LONG. It would apply only to working mothers with children to support, and she is not privileged to leave the dishes dirty until she gets back home because she has a child that must be cared for in that home; and if she is going to bring someone in to look after the home they might as well look after the whole place rather than be idle.

Mr. TUNNEY. That is correct, and I would like to point out that we have tightened the amendment of last year. Initially, I was not sure if I wanted to see it tightened down as much as we did. But later on, I thought that, in order to expedite consideration on the floor, it would be appropriate to allow the deduction only if both spouses are employed substantially on a full-time basis. I put that provision in with great reluctance, but was persuaded by the people at the Treasury Department that it was necessary. They felt it was essential. I put it in to expedite consideration of my proposal. I wish at times I had not, but I did put it in to give that working mother an opportunity to get that deduction.

I feel it is absolutely essential that she be given this right. We have been speaking during the last few days of this debate about how we want welfare mothers to work. The Senate now has a perfect opportunity to give welfare mothers an opportunity to go to work, make a decent living, and not have to pay all of her earnings to someone to take care of the children.

Mr. LONG. If the Senate's view prevails on the minimum wage bill, we will have extended coverage under the minimum wage. In a great number of such places people will no longer be able to afford domestic help so they will have to let domestic help go and thereby put people out of work; this will happen unless we provide them with the deduction which might make it possible to retain the help they have.

Furthermore, if the Senator's amendment prevails, and I am confident it will since the Senate voted for it before, then we will encourage mothers who are capable of finding jobs to find more remunerative jobs that pay $4 or $5 an hour. Those mothers will be paying taxes on their income, and if it a case where the husband is also working, that puts them in a higher tax bracket, and that will increase the overall tax being paid and the overall income the country is receiving. Those same people you would be hiring to help this mother take the job may well be people you will be taking off of welfare rolls.

Mr. TUNNEY. Exactly.

Mr. LONG. So that you tend to do what this Senator thinks you should do by making work more attractive than welfare, and doing it in the most dignified fashion, by allowing a working mother a deduction which has a parallel exemption in all sorts of businesses.

In the case of a businessman who has a secretary who prepares personal business letters for him as well as business affairs, we do not allocate to the extent that the secretary took dictation and sent out a personal letter, so why should that rule be applied to working mothers? The only way to justify that is on the basis that the Treasury Department cannot afford the tax loss. But in this bill we do so much for family people it is hard to say you should provide for the other situations that are provided for in this bill and deny a working mother that type consideration. As the Senator knows, I did support his amendment when it was offered on the tax bill. I think it is even more appropriate that it be offered on this bill. However, I do not speak for the committee.

Mr. TUNNEY. I thank the Senator.

Mr. BENNETT. Mr. President, will the Senator yield to me?

Mr. TUNNEY. I yield.

Mr. BENNETT. Mr. President, this colloquy has created the impression that now there is no relief, no tax relief for a woman who has to go out and work. The tax law now provides that if the net income of the family is less than $18,000, she may deduct the cost of child care.

That privilege is available to her now. This bill takes off the $18,000 limit, so it raises it, not necessarily to the millionaire class, but to everybody with an income above $18,000.

It does, also, one other interesting thing. It says that in addition to taking the standard deduction, the mother may take this deduction on top of it, so she can double her deduction. She can use as much of that cost for the standard deduction as she needs, and then put it on top of that.

I realize that I am on the wrong side of this issue emotionally, but I think to create the impression that the people who are going to go off welfare are going to move immediately to an income above $18,000, and that, therefore, the existing law does not give these employers a chance to deduct that from their income, is fallacious.

The chairman and I do not disagree

very often, but I do not agree with the argument that under the present law the Internal Revenue Service has to inquire into the activities of the person who is doing the child care in order to determine the amount of the deduction that will follow under this law, because the law does not say that this person would come in and do anything that is assigned.

So I think the basic question here is, Do you want to take the $18,000 limit off and let anybody with an income above that deduct for child care, and do you want those people to get a partial double deduction for the money they spend for child care?

It is that simple, and I am not at all impressed by the argument that under the present law a person who came off welfare would not be able to do that.

Mr. TUNNEY. Mr. President, I am prepared to have a vote on this amendment.

Mr. LONG. Mr. President, permit me to say that people who have higher incomes, to whom the Senator refers, do not take the standard deduction anyway. It is immaterial as far as those people are concerned. They itemize, anyway. As a practical matter, it is somewhat unfair to deny this benefit, if we are going to allow this deduction, to the low-income people who take the standard deduction.

Mr. TUNNEY. Sixty-eight percent of the people who have incomes of $10,000 or less take the standard deduction, and as a result they are not able to take any advantage of the law which now exists to deduct the costs of child care. By making this a deductible business expense—and that is exactly what it is; they would be able to take advantage of this deduction.

I just do not understand how the Senator from Utah can advocate disallowing the deduction for a mother who goes out to work and needs a babysitter to take care of her child, and yet allow it for a millionaire businessman who hires a secretary, in part to take personal dictation, in part to pour him his drinks after he has had a tough day at the office, and in part to do his business affairs.

I am prepared to yield back my time.

Mr. BENNETT. Mr. President, I would like to make one more comment, and then I will sit down. The inference is that these thousands of people who have an income under $10,000 who use the standard deduction are deprived from being able to use anything else. They have the same right as the millionaire does to itemize their income tax forms. So what we are really talking about now, since the law provides this deduction for couples or individuals whose earnings are under $18,000, is to open this up to anybody with an income above that to have the same privilege.

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

Mr. TUNNEY. I yield.

Mr. STEVENS. Mr. President, my staff and the staff of the Senator from California have discussed this amendment, and I am pleased to be a cosponsor of the amendment.

I would like to call attention to one problem that is not covered by the amendment, and hopefully secure an agreement to modify the Senator's amendment along the line of an amendment that I had intended to send to the desk, which is to amendment 1653 offered by the distinguished Senator from California (Mr. TUNNEY). Amendment 1653 is a highly beneficial amendment which will permit the business expense deduction of certain expenses, those incurred for household services and dependent care. It accomplishes this by the addition of a new subsection (h) to section 162 of title 26.

There is, however, one small group of individuals who need similar care for themselves. These are those taxpayers so disabled either physically or mentally that they must incur expenses for the hiring of attendants, the purchase of special equipment, and similar items in order that they may be gainfully employed. These individuals are among the most courageous of our society. They refuse to become public burdens but insist upon paying their own way through life.

The identical policy urging the adoption of the amendment of the Senator from California (Mr. TUNNEY) also strongly argues for the inclusion of my amendment to assist these people. Just as we wish to assist taxpayers who must incur reasonable expenses for household services or for dependent care, so should we assist those people who must incur reasonable expenses for their own care in order to be gainfully employed. This amendment will permit the deduction of ordinary and necessary business expenses, such as special equipment and medical attendants, if the taxpayer must incur these costs to be gainfully employed. The purpose is to insure that these costs are deductible under this section as business expenses.

For instance, I know of one young lady who is entirely incapacitated from the shoulders down, as a result of polio. She has a brilliant mind. She has, in fact, written books. Although she types with a wand that she keeps in her mouth, she hires someone to get her out of bed in the morning, take care of her home, type her final manuscript, and she is doing quite well. She does not want to be on welfare. She has the capability of producing, but she must hire three people to enable her to do her job.

The amendment I had intended to offer would permit the deduction of certain expenses for the physically or mentally disabled, along with the people the Senator has suggested would be included in the Senator's amendment, which I have cosponsored.

Mr. TUNNEY. Mr. President, I have seen the amendment of the Senator from Alaska. I agree with him that a person who is disabled and who can only work if she or he is attended is deserving of the same of business deduction, because it is for that person an ordinary and necessary business expense.

So I accept the amendment, or if the Senator prefers, I will modify my amendment to include his language.

Mr. STEVENS. Mr. President, I am quite agreeable to having that done, and I send the amendment to the desk. It would extend the deduction to people who are disabled physically or mentally and who cannot work unless they can hire people to do necessary work, such as is true in the case of the young lady to whom I referred, who must hire people in order to be able to do her work at home.

I am most gratified that the Senator from California has agreed to accept my amendment. My staff and I have been in contact with groups representing disabled taxpayers and I am informed they strongly support this amendment. I know they will be most grateful also.

I ask unanimous consent that Senators GRAVEL and HUMPHREY be added as cosponsors to amendment No. 1653, as modified.

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

Mr. TUNNEY. Mr. President, I modify my amendment by the language of the amendment offered by the Senator from Alaska.

The PRESIDENT OFFICER. Without objection, the amendment is so modified.

The modification is as follows:

On page 5, line 19, strike the closing quotation mark. On page 5, between lines 19 and 20, insert the following:

"(4) Expenses of individuals physically or mentally disabled.—In the case of an individual who is physically or mentally disabled, the deduction allowed by subsection (a) shall include the reasonable expenses paid or incurred during the taxable year such as for the services of attendants if such expenses are ordinary and necessary to enable the taxpayer to be gainfully employed."

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

The yeas and nays were not ordered.

Mr. LONG. Mr. President, in order to expedite the business of the Senate, I ask unanimous consent that the yeas and nays be ordered.

The PRESIDING OFFICER. Is there objection? If there is no objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from California, as modified. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mrs. EDWARDS), 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 Texas (Mr. BENTSEN), the Senator from Oklahoma (Mr. HARRIS), and the Senator from Virginia (Mr. SPONG) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL), the Senator from Louisiana (Mrs. EDWARDS), and the Senator from New Hampshire (Mr. MCINTYRE) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER),

the Senator from Delaware (Mr. BOGGS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Ohio (Mr. SAXBE), 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 Delaware (Mr. BOGGS), the Senator from Oregon (Mr. HATFIELD), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 71, nays 8, as follows:

[No. 523 Leg.]

YEAS—71

Aiken	Gravel	Packwood
Allen	Griffin	Pastore
Anderson	Gurney	Pearson
Bayh	Hart	Percy
Beall	Hartke	Proxmire
Bellmon	Hollings	Randolph
Bible	Hruska	Ribicoff
Brock	Hughes	Roth
Brooke	Humphrey	Schweiker
Buckley	Inouye	Scott
Burdick	Jackson	Smith
Byrd, Harry F., Jr.	Javits	Sparkman
Cannon	Kennedy	Stafford
Case	Long	Stennis
Chiles	Magnuson	Stevens
Cook	Mansfield	Stevenson
Cooper	Mathias	Symington
Cotton	McClellan	Taft
Cranston	Miller	Talmadge
Ervin	Mondale	Thurmond
Fong	Montoya	Tunney
Fulbright	Moss	Weicker
Gambrell	Muskie	Williams
	Nelson	Young

NAYS—8

Bennett	Dominick	Jordan, N.C.
Curtis	Fannin	Jordan, Idaho
Dole	Hansen	

NOT VOTING—21

Allott	Eastland	McIntyre
Baker	Edwards	Metcalf
Bentsen	Goldwater	Mundt
Boggs	Harris	Pell
Byrd, Robert C.	Hatfield	Saxbe
Church	McGee	Spong
Eagleton	McGovern	Tower

So Mr. TUNNEY'S amendment (No. 1653), as modified, was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

Mr. MONDALE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the bottom of page 615, insert the following new section:

DISREGARD OF 20-PERCENT-INCREASE PROVISION ENACTED IN PUBLIC LAW 92-336

SEC. 306. (a) In determining the annual income of any person for purposes of determining the continued eligibility of that person for, and the amount of, pension payable under the first sentence of section 9(b) of the Veterans' Pension Act of 1959, the Administrator of Veterans' Affairs shall disregard, if that person is entitled to monthly benefits under the insurance program established under title II of the Social Security Act, any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(i) of the Social Security Act.

(b) Notwithstanding any other provision of law, in the case of any individual who is entitled for any month after August 1972 to a monthly benefit under the insurance program established by title II of the Social Security Act, any part of such benefit which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336, or which results from (and would not be payable but for) any cost-of-living increase in such benefits subsequently occurring pursuant to section 215(i) of the Social Security Act, shall not be considered as income or resources or otherwise taken into account for purposes of determining the eligibility of such individual or his or her family or the household in which he or she lives for participation in the food stamp program under the Food Stamp Act of 1964, for surplus agricultural commodities under any Federal program providing for the donation or distribution of such commodities to low-income persons, for admission to or occupancy of low-rent public housing under the United States Housing Act of 1937, for subsidized mortgages or rentals under title II of the National Housing Act, or for any other benefits, aid, or assistance in any form under a Federal program, or a State or local program financed in whole or in part with Federal funds, which conditions such eligibility to any extent upon the income or resources of such individual, family, or household.

(c) The amendments made by subsection (a) of this section shall apply with respect to annual income determinations made pursuant to sections 415(g) and 503 (as in effect both on and after June 30, 1960) of title 38 United States Code, for calendar years after 1971. The amendment made by subsection (b) shall be effective with respect to items furnished after August 1972.

Mr. MONDALE. Mr. President, this is a simple amendment, which says this: The 20-percent social security increase that we granted recently cannot be taken away from senior citizens who are public housing tenants by rent increases, nor can food stamp eligibility be affected by the increased income derived from the social security increase.

On Thursday, September 28, I introduced a somewhat longer amendment to the social security bill to guarantee that the elderly receive the full benefit of the 20-percent social security increase.

Part of this serious problem was solved on Friday, when the Senate accepted modifications to the social security bill to prevent drastic cuts in old age assistance and medicaid—as a result of two programs—the 20-percent raise.

The amendment I am calling up today is meant to complete the work of protecting the 20-percent increase. It does this by preventing housing authorities from raising rents and the Department of Agriculture from cutting food stamp benefits as a result of the 20-percent increase.

We have all heard the terrible stories of how many of the poorest of our senior citizens are being cheated out of their long overdue social security raise. They are losing this raise because as their social security income goes up, other benefits—which they desperately need—are being reduced.

I am proud that I was a cosponsor of the 20-percent social security raise. I know that the Congress intended the full raise—every penny of it—to go to everyone receiving social security.

Because I think these elderly people should get every penny of this raise, I think our action to protect the raise should cover all benefits. We should protect the elderly who receive food stamps and public housing benefits as well as those receiving old-age assistance and medicaid. It is unjust and unfair that any of these other benefits should be reduced because of the 20-percent social security increase.

On Friday the Senate acted to meet the danger that old-age assistance and medicaid benefits would be lost as a result of the 20-percent increase. Senator CRANSTON'S amendment, which was accepted by the distinguished Senator from Louisiana (Mr. LONG), will protect these types of benefits. Under the terms of the amendment, almost all social security beneficiaries in Minnesota will continue to get their old-age assistance benefits and will retain medicaid eligibility. This is very important.

But the Cranston amendment does not protect 15,000 elderly Minnesotans against an increase in public housing rents. Only passage of the amendment I am offering today will do that.

There is also a major problem of the erosion of food stamp benefits. Approximately 35,000 Minnesotans could either lose eligibility for food stamps or find their food stamp benefits cut, because of the 20-percent social security raise. For many of these people, this could be a disaster. A large chunk of their small social security raise would be swallowed up immediately by the rampaging rise in food costs.

My colleague from Minnesota (Mr. HUMPHREY) raised this food stamp question on the floor of the Senate when the Cranston amendment was accepted. The amendment on this subject which we are offering today would take care of this problem. I hope it can be accepted immediately.

Taken together, the rent increase, the loss or erosion of food stamp eligibility, and the loss of other benefits which may follow the 20-percent increase could make the whole 20-percent raise largely meaningless for many among the elderly. This must not be allowed to happen. My amendment completes the work of the Cranston amendment which was accepted on Thursday. It will guarantee full protection for the 20-percent increase. I urge that the whole of this package be approved by the Senate.

Now I am going to yield to the Senator from Connecticut in a moment, but, first, I ask unanimous consent that there be a time limitation of 1 hour on this amendment, to be divided equally between the proponents and the opponents.

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

Mr. MONDALE. I yield to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I commend my distinguished colleague for this amendment.

I wonder whether I could ask a few questions.

Do I correctly understand that the purpose of this amendment is to assure that as a result of the 20-percent social security increase, the recipient of that 20-percent increase is not worse off under the food stamp program, public housing program, and veterans programs than if he or she had not received that increase?

Mr. MONDALE. That is correct. But my amendment also goes further and insures that the 20-percent social security increase which Congress voted to protect the elderly from inflation—to give them a needed improved income—will actually go to those social security recipients and not be diverted to public housing rent increases in a sort of peculiar and cruel revenue-sharing program.

Mr. RIBICOFF. I wonder whether the Senator has some examples of situations in which the recipients could be worse off with a 20-percent increase than if they had not received it in the first place.

Mr. MONDALE. Mr. President, I will submit for the RECORD an article published in the Minneapolis Star of Thursday, September 1, and other articles which demonstrate how much people all over the country on social security were looking forward to this 20-percent increase. Instead they found that all or most of it is being taken away from them in many ways, and many times they end up worse off than they were before the increase.

This article in the Minneapolis Star cites one example. Mrs. Mary Freed will get a 20-percent increase in her social security on October 3. "Big deal," says the reporter.

Mrs. Freed's monthly check will go up $27, to $162, but because of that increase, her rent will rise from $26 to $33 on her efficiency apartment administered by public housing. Her disability payments of $22 a month will decrease. She will be over the limit set by the State as a maximum financial aid level. The medical assistance program will drop her. She will be reinstated, however, as soon as she spends $80 in medical costs. Then she would go on Medicaid again, but only for 6 months. She should spend that amount quickly, because she takes medication. In any event, her total expenses are going to run at least $42 a month because of a $27 increase in social security. That is the kind of example referred to by the distinguished Senator from Connecticuit.

Mr. RIBICOFF. I am sure it was not intended—I know that in voting for the 20-percent increase in the Finance Committee and on the floor, I certainly did not intend—that the recipients of other social services or other programs should be deprived and be worse off as a result of our 20-percent increase in social security. This is certainly a situation we have an obligation to remedy, and I commend the Senator for bringing it to the attention of the Senate. I certainly shall vote for the Senator's amendment.

Mr. MONDALE. I thank the Senator from Connecticut.

Mr. President, I ask unanimous consent to have printed in the RECORD the article to which I have referred, together with an article published in the New York Times of October 3, entitled "Social Security Rise Becomes a Nightmare to Many Elderly."

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

SOCIAL SECURITY RISE BECOMES A NIGHTMARE TO MANY ELDERLY

(By David K. Shipler)

Like millions of other aged Americans, Marie Nashif of Denver will receive a 20 per cent increase in her Social Security check this month. But unlike most, she will not welcome the extra cash.

Mrs. Nashif is among the 187,000 or so elderly for whom Congressional election-year generosity has become a nightmare. The Social Security rise, voted by Congress June 30, has pushed her income just high enough to make her ineligible for the welfare and Medicaid benefits that she needs so desperately.

Mrs. Nashif, a small, alert, 74-year-old woman, suffers badly from arthritis. Until now, her heavy medical bills have been paid fully by Medicaid. But when her monthly Social Security check rises from $138.40 to $166.10, it will surpass the $147 figure that Colorado uses to divide those who are eligible from those who are not.

In exchange for her $27.70 additional from Social Security, Mrs. Nashif will have to pay $5.80 a month in medical insurance premiums, 20 per cent of all doctors bills, the first $68 a year in hospital expenses, $17 a day after 60 days in the hospital, and the total amount of prescription drugs.

Further, she will lose $7 a month in welfare payments, she will probably become ineligible for food stamps, and her rent will rise, since she lives in Federally subsidized housing where rents are tied to income.

"When I take all this into consideration," she said. "I'll be a darn sight worse off than I am now."

Congressional action could eliminate such hardships, and several bills addressed to the problem are now pending. Last Friday, the Senate voted a solution for welfare recipients by passing a measure that would force states to raise the eligible income limits for welfare by the same dollar amount as the Social Security increases. Prospects for the bill in the House are uncertain.

Even if the bill becomes law, it will not help people who now collect Medicaid and are not welfare recipients, and there are thousands of those in New York City alone who risk losing their medical benefits. The bill addresses itself only to welfare recipients.

ACTION BY STATES

Some states have already taken action on their own. Gov. William T. Cahill of New Jersey has ordered Medicaid benefits continued for 4,000 elderly who would otherwise become ineligible.

Delaware has allocated $1-million to raise the eligibility income maximums. Gov. Winfield Dunn of Tennessee has changed administrative regulations to keep 7,500 people on the welfare rolls. Nebraska, Missouri, Iowa, Florida and Wyoming are among the states that have increased the income levels that determine eligibility.

No action has been taken in New York. The state's Department of Social Services contends that it has no power to make the necessary changes without approval from the Legislature, whose regular session begins in January.

New York City has already sent letters informing 6,000 elderly people that their welfare benefits will be halted. This means that they will have to begin paying 20 per cent of their medical expenses.

In addition, many aged New Yorkers who are not on welfare and are not addressed by the Senate bill will be hurt by the Social Security increases.

The city's Office For the Aging estimates that 14,696 persons who now receive 80 per cent of their medical expenses from Medicaid will be cut off altogether. In addition, 22,434 who are not on welfare but are fully covered by Medicaid will have until they have spent all their income above the welfare maximum on medical bills. At that point Medicaid will pick up the full burden again. This totals about 43,000 elderly affected adversely in New York City alone.

The figures elsewhere are smaller, ranging from about 10,000 in California to 400 in Vermont. The United States Department of Health, Education and Welfare calculates that nationwide, 187,000 people will become ineligible for welfare and 93,000 will lose Medicaid.

Even many who do not lose will not gain from the Social Security increase, since some states apply Social Security income against welfare payments. As Social Security rises, welfare decreases; the beneficiary is not the individual, but the state.

"I'm all for the increase," said John Maros, administrator of the Wyoming Division of Public Assistance. "The more Social Security they get the less public assistance is needed." The State of Washington estimates that it will save $2.3-million in welfare payments by next June 30.

"The average pensioner in Alabama won't gain a dime as a result of the increase," said Ruben K. King, Alabama director of pensions and security.

BAN UNDER SENATE BILL

"This is a form of psychological deceit practiced upon senior citizens," said C. Christophor Brown, head of the law reform unit of the Baltimore Legal Aid Bureau. "The government is giving with one hand and taking away with the other."

This cannot happen if the bill passed by the Senate is approved by the House and signed by President Nixon; Under the measure states would be prohibited from reducing welfare payments in response to the Social Security increase.

The bill would also cost the states additional money by requiring them to raise the income limits for eligibility, not merely for those welfare recipients who are on Social Security, but for all disabled, aged and blind. In New York, many in the disabled category are narcotics addicts.

In most states, elderly people on Social Security receive only small amounts of money from welfare, and their removal from the rolls is less of a hardship in terms of direct welfare payments than it is in terms of the services that are corollaries to a welfare status.

In many states, for example, Medicaid—whose cost is shared by the Federal and state governments—is available only to those whose incomes are low enough to qualify them for welfare, even though the Federal guidelines allow Medicaid benefits for those with incomes up to 133 per cent of the welfare maximum.

Other benefits, such as food stamps, legal help and home-making services, are also often tied directly to welfare.

BRONX WOMAN HIT

Mrs. Elesabeth Miles of 1365 Finley Avenue, the Bronx, for example, faces the loss of a valuable homemaker because the Social Security rise will make her ineligible for welfare. She is 62.

"The letter came last Wednesday," she said, "and now I have nothing. I have been a widow for 29 years and am completely blind in the right eye and partially blind in the left eye. My son is unable to take care of me because he has eight children of his own."

Her monthly Social Security check, to rise from $133.10 to $159.70, will have to cover

her $70.40 a month rent, as well as her food and other expenses.

"They say that they are giving me a 20 per cent increase, but they been taking everything back and all I get is nothing," Mrs. Miles said. "We worked hard to take care of ourselves and they just don't care if we live or die."

In a small, sad room on West 86th Street, Joseph Wolfson, 80, a frail, asthmatic man spoke with fear. "Most of the time I am in the hospital because of asthma," he said. "I feel all right now, but who knows what can happen next week? I just can't live with that little amount of money and no Medicaid."

Eva Estelle Jackson, 70, lives alone in Montgomery, Ala., and has suffered from tuberculosis and ulcers. She now receives $132 a month in Social Security and $24 in welfare, but she has been told that the Social Security increase will raise her a few dollars above the welfare maximum she will therefore lose Medicaid, which paid several thousand dollars for three weeks she spent in hospitals last year.

"It's gonna hit me hard," Miss Jackson said. "If they'd just left me with a pension of $1 or $2, and Medicaid, I'd have been a lot better off. If I had some illness, I just don't know what I'd do. I'd just be in bad shape, because I've got nobody to fall back on."

Miss Jackson discovered that she will also have to pay a $2-a-month garbage collection fee to the City of Montgomery. Only those on welfare are exempted from the fee.

Another Montgomery resident, Emily Shepherd, 75, is now in the hospital, being treated for emphysema. When her $137-a-month Social Security check rises to $164, she will lose $66 in welfare from the state, ending up with $39 less a month than now, and no Medicaid.

At that point, her choices will be "either to go into a convalescent home or just go back to my apartment and die," she says. "It's the most ridiculous thing I ever heard of. They should have had a little forethought. They're just a bunch of meatheads in Congress."

In Las Vegas, the Social Security check of Henrietta G. Oberg, 78, will rise from $153 to $183 a month, but her $23 welfare payment will be eliminated as a result, leaving her $7 ahead, but without Medicaid. She is being treated for cancer. "What am I going to do?" she asked.

In Cedar Rapids, Iowa, Mary Wright also lost Medicaid. "It will take it all away from me," she said of the Social Security increase. "I can't afford it. I'm having it all canceled. I got to pay my rent, clothes and feed myself. There's nobody else to do it for me. You can't get any glasses, can't get any teeth—anything you need you can't get."

The difficulties have also affected some younger people. Lennell Frison, 40, a father of 10 in Portland, Ore., is a former foundry worker whose arthritis put him out of a job two years ago. He and his wife, who has diabetes, were told recently that the Social Security rise would mean the end of welfare and the end of medical payments.

"Without that aid to the doctor, man, I don't know how we're going to make it." His wife, he says, works sometimes as a janitor at night, making about $100 a week. They had planned to try to buy the six-room house they now rent, he said, "But we're probably gonna lose it."

Mr. Frison has considered sending his 17-year-old son to work, but he is torn by powerful doubts. "I hate to take my oldest boy out of school, because then he'd be where I am I think I'd go back to work and punish myself instead. I can't stand up too long. My legs won't hold me. But it gets you. A man ain't nothing if he can't feed his children."

In Hazelwood, Mo., a suburb of St. Louis, Mr. and Mrs. Russell French face similar difficulties. Mr. French suffers from heart disease and diabetes, she from arthritis and rickets. Two of their children, Charles, 15, and Lorraine, 12, have rickets, and a third, Russell, is diabetic.

"It's the Medicaid that counts," said Mrs. French. "I figure it would cost us $100 a month just to keep my husband supplied with medicine." Neither she nor her husband can work; their Social Security comes to about $400 a month.

The family's physician, who asked not to be identified, confirmed that the French family needed constant medical attention. "Of all my families, this is the one that is probably the most in need," he said.

When Mrs. French was 10 years old and living in Corning, Ark., she recalled, her mother died because she could not get medical help. "If anyone thinks things have changed, they haven't," she said, "because the same thing probably will happen to us."

Social Security: When a Raise Is Not

(By Joe Blade)

Along with 29 million other Americans, Mrs. Mary Freed will get a 20-percent increase in her Social Security payments Oct. 3.

Big deal!

Mrs. Freed's monthly check will go up $27 to $162.40. Because of that increase:

Her rent will rise from $26 to $33 on her efficiency apartment administered as public housing in an old building at 1706 Stevens Av.

Her aid-to-the-disabled payments of $22 a month will cease. She will be over the limit ($78 plus rent) set by the state as the maximum financial aid level.

The medical assistance (Medicaid) program will drop her. She will be reinstated, however, as soon as she spends $80.40 on medical costs. Then she would go on Medicaid again, but only for six months.

She should spend that amount quickly because she takes medication for diabetes, a heart condition, pains in her legs, a steel ball in her shoulder and, not surprisingly, "nerves." Her total expenses are going to run at least $42.80 a month more because of that $27 increase in Social Security.

"Why in hell when a person gets to 65 and no good don't they take a person out and shoot him instead of torturing him to death?" she said. "I would if I was running things."

Mrs. Freed is a 65-year-old widow. She is one of millions of Americans who will benefit only slightly or not at all from the largest Social Security increase in history.

The reason: When an electioneering Congress approved the 20-percent boost with an eye on the elderly vote, it failed to make adjustments in other assistance programs.

It is the poorest of America's elderly who face tragedy as a result. It is they who most need extra income from Social Security as well as aid from other programs.

But because those benefits are based on income, they will lose much—or all—of that 20-percent boost. Some will lose the other assistance as well. It works like this:

Old Age Assistance such as aid to the disabled and to the blind must be cut virtually dollar-for-dollar as the recipient's income increases.

In 1970 Congress exempted $4 of that year's Social Security raise from cuts in Old Age Assistance. There was no such action this year. And that $4 exemption expires on Dec. 31 of this year.

Food stamps will be lost by 1,269 of Hennepin County's 4,359 Social Security recipients who now purchase them. Their income will rise above the maximum of $180 for a single person and $245 for a couple.

Another 2,297 persons will pay more for their stamps. For example, one 72-year-old man whose Social Security is going up $30 to $178.50 a month will pay $26 for $36 worth of stamps. He had been paying $24.

Public-housing rent is fixed at 25 percent of income after deductions for certain expenses. When a tenant's income goes up, a quarter of the increase is added to the rent.

Some tenants may be pushed above maximum incomes of $4,300 for single persons and $5,200 for couples, again figured after certain deductions.

But the extra income will not be a basis for eviction until the tenant's regular two-year eligibility review, promises James Lemley, director of management at the Minneapolis Housing and Redevelopment Authority.

Medicaid, or medical assistance for the poor, will be lost by about 700 of 1,700 Hennepin County Social Security recipients who now receive it.

Almost all of these persons will be returned, welfare department officials believe, after a "spend-down." If six months' income over maximum levels—$145 for individuals and $202 for couples plus a $4 "pass-through"—goes for medical expenses, they become eligible for the next six months.

Veterans pensions for impoverished veterans and their dependents also are reduced as income increases. However, the reduction is less than dollar for dollar and is least for recipients with the lowest incomes.

Furthermore, none of these pensions will be changed until the end of the year, giving Congress time to act.

The buck stops with Congress if the rules are to change. The state Legislature could raise the outdated standards in Old Age Assistance, but the Legislature does not convene until 1973.

A variety of bills have been introduced in Congress to eliminate taking back money through one program that was handed out through another.

Minneapolis Rep. Donald Fraser is one of 55 co-sponsors of a bill that would require the entire Social Security increase to be disregarded by other programs.

The problem is that the November election, which was a major cause of the problem, now is so near that Congress may adjourn before cleaning up the conflicts.

Social Security

(By Robert T. Smith)

Well, for those on Social Security we have good news and bad news today. First the bad news:

As you may know, President Nixon, who is up for reelection, ordered a "rent watch" the other day on housing of senior citizens on Social Security.

He said he wanted to make sure rents were not "illegally" raised because of the 20-percent increase in Social Security benefits that was to show up in checks Tuesday.

But it doesn't affect the 9,679 older people who live in public housing in the Twin Cities. Housing controlled by federal, state, or local governments is specifically excluded from the "rent watch."

Those in public housing, the poorest of the senior citizens, will have to live with the raise in rent that went into effect with their first check that included the raise in Social Security.

It doesn't make any sense, but those in public housing are in the minority and, therefore, aren't going to tip any elections one way or another.

Now for the good news:

It does affect the 106,000 elderly who live in private housing in the Twin Cities. That is 65,000 in Minneapolis and 41,000 in St. Paul.

If any of you feel your rents have been raised illegally, you can complain to the Internal Revenue Service (IRS). Just call: 725–7124.

The IRS has been ordered to check any

rent complaints of Social Security people throughout Minnesota. Said Richard C. Voskull, IRS district director.

"We are urging landlords not to raise rents unless they are certain such increases are legal. In many cases landlords already have raised rents this year and must wait until 12 months have elapsed since that increase before raising rents again."

This does not include landlords with less than four units.

Landlords cannot raise rents beyond a maximum of 2.5 percent a year, unless there are improvements or increased taxes or services. A tenant must receive a detailed 30-day notice of any increases.

So what can the IRS do? They can order that illegal rents be stopped, that overpayments be returned and that the landlords be fined. The fine can be up to $5,000 under earlier wage-price stabilization guides.

Although anyone can be the victim of an illegal rent increase, the IRS is giving priority to those on Social Security.

Sen. Walter Mondale, who's also up for reelection has proposed a bill to Congress to prevent rent raises for Social Security recipients in public housing. But that may take some time.

Daphne Krause, director of the Minneapolis Age & Opportunities Center, long a fighter against giving the elederly raises and their taking them away, said:

"It's excellent that something is being done to protect those in private housing. Now let's get to work on the public housing. All a raise does for those people is help catch them up on the rising cost of living" Amen.

Mr. MONDALE. I also ask unanimous consent to have printed in the RECORD a series of pathetic letters from Minnesotans that show the cruelty of a situation in which elderly people expected the social security increase and then found that because of the way the law is written public housing rents went up, the food stamp entitlement disappeared, veterans pensions were reduced, they became ineligible for medicaid, and old age assistance was reduced. In one way of another, they found that all or most of the increase was taken away from them; and many found, as in the example I cited, that they end up losing a great deal of money through this increase. It becomes the cruelest form of revenue sharing—the money going through the hands of these old folks and being siphoned off by local governments.

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

MINNEAPOLIS, MINN.,
July 28, 1972.

SENATOR MONDALE: I am very thankful to get our raise in Social Security. But I think when we get this raise that some of us will not be able to buy any more food stamps, and I think the Minneapolis Housing will raise our rents.

So I don't know if the raise will do some of us senior citizens any good. And the young people that are working will have to pay so much more taxes from their wages and I do not think they should have to pay any more taxes.

Let some of the rich people pay more taxes. Why all the loop holes for some. And I want to ask you some questions please answer these. Where do you stand on amnesty? The rights of the homosexual? And what do you think about the people who want to legalize marihuana? Please answer soon.

Sincerely,

Mrs. E. M. HAND.

U.S. SENATE,
Washington, D.C., August 17, 1972.

Mrs. E. M. HAND,
Minneapolis, Minn.

DEAR MRS. HAND: Thank you for your message concerning the DFL platform.

As you may know, I have expressed my reservations about this platform on several occasions. In addition, I am concerned that because of the struggle over the controversial planks, the DFL was unable to take a position on many of the vital issues affecting most Minnesotans and most Americans. For example, I believe the Convention should have focused its attention on such crucial issues as tax reform, health care, environmental protection, housing, jobs, preservation of the family farm, financial security for the elderly, and consumer protection.

When the DFL Central Committee meets in the near future, I am hopeful that we will clearly state our party's position on these and other crucial issues.

In the meantime, I will continue to speak out on what I believe to be the most urgent concerns and needs of the people of Minnesota.

I am proud to have been a cosponsor of the 20 percent increase in Social Security benefits, which passed the Senate on June 30th and has now become law.

This measure, which also provides for regular cost-of-living increases to protect social security recipients from the destructive effects of inflation, should greatly improve the situation of elderly and handicapped citizens in Minnesota and throughout the nation.

With warm regards.

Sincerely,

WALTER F. MONDALE.

MINNEAPOLIS, MINN.,
September 1, 1972.

SENATOR WALTER MONDALE: I have already read my notice. That my rent is to be raised $8.00 a month starting Oct. 1st. So I will have to pay $41.00 a month for my one room efficiency. I would be better off with out the Social Security raise. I have been getting $122.90 SS less $5.80 for Medicare. Then I need $34.53 pension. Now I will be receiving $147.20 SS.

That is what the Minneapolis Housing wrote in my letter when they wrote to tell me my rent would be raised and I will receive my $34.53 pension but I will be losing my food stamps. As one is only allowed an income of $78.00 a month to be able to buy Food Stamps. So the way I figure it I would be better off without the raise when I moved into this building. I paid $30.00 rent. Then when we received our last SS raise my rent was raised to $33.00 and now to $41.00. At first I paid $18.00 for $28.00 worth of Food Stamps. Then I paid $22.00 for $32.00 worth I think it was. But the last time I paid $22.00 and received $36.00 in FS. And I can do the same for Sept. But I don't think after Oct. that I will be able to buy F.S.

Sincerely,

MRS. E. HAND.

SEPTEMBER 7, 1972.

Hon. WALTER MONDALE,
Washington, D.C.

DEAR SIR: To identify myself. My husband was known in Crosby-Ironton. as "Charlie" the Telephone Man. He passed away Sept. 8th 1970. We had four daughters. Minnie. Annie. Evelyn, Fern, who attended school & graduated from high school there except Fern.

I am writing you concerning the increase in social security. Which actually is no increase at all. It was a great shock to me to be informed that the increase would be deducted from my old age assistance.

I have been receiving $115.10 in social security. And $30.00 in old age assistance. Giving me a total of $145.10.

My expenses is rent $80.00. Telephone $7.13, groceries $25.00, personal needs $25.00, insurance $5.00.

I understand that there is just one phase that. Makes this necessary to deduct from old age assistance. Or a veteran's pension.

This makes the most ridiculous joke of something that is so vital to the life line of our elderly. Who are in need.

Respectfully,

Mrs. LYDIA M. TRIERWEILER.

MINNEAPOLIS, MINN.,
August 7, 1972.

Senator W. F. MONDALE,
Old Senate Office Building,
Washington, D.C.

HONORABLE SENATOR W. F. MONDALE: Why when you get a raise in Social Security does housing or "welfare" takes it from you, or if housing leaves your rent, off it comes from welfare. As it stands now I'm worse off than before the Social Security gave the 20% raise. I'm on *A.D.*

Figure up 70.40 and 58.00 leaves 128.00. Have been paying 45.00 rent. Takes most of the $58.00 "stamps." Clothing shoes are so expensive. I don't get a paper, *no TV. No Radio. No Phone.* I can't afford them. Housing offers trips to Duluth, Winona. I can't go they are to expensive. I hope and pray you can stop welfare from taking the 20% off. God Bless you, if you can work out some way to prevent the taking away of the small amounts we get in Social Security.

I thank you most kindly,

Miss CORNELIA M. ELLIOTT.

MINNEAPOLIS, MINN.,
August 8, 1972.

SENATOR MONDALE: Thank you for answering my letter. The raise we will get in S.S. will do some Senior Citizen some good but for me I am not so sure. As I think it will put me just a few dollars over the limit for buying food stamps or our rent will be raised again I am sure. Please do not write to the Mgh. Housing but the last raise we got in SS we had our rent raised. My rent was only raised $3.00 a month but this $36.00 a year would buy me a new dress. And I sure wish I could buy Food Stamps after we get the Oct. raise in SS. But thanks anyway.

Sincerely,

MRS. E. M. HAND.

CAMBRIDGE, MINN.,
September 17, 1972.

SENATOR MONDALE: I am much disappointed with what is taking place with our raise in S.S. My husband is 90 yrs. and a patient at a nursing home. I am 80 and living in a small apt. at public housing. Our S.S. for the two of us will amount to $310.30. I was paying $60.90 to the home in order that he would get some medical assistance. Beginning Oct. 1st I'll be paying $100.30. I am now paying $55.00 rent here and will be raised $11.00. So when I used to have $147.00 left I'll have $136 left if my figures are correct. What is the government doing to us old people? I appreciate what you are trying to do for us.

Sincerely,

ELLEN BIRCH.

Sen. Walter Mondale this week sent a letter to President Nixon urging the federal government to quit taking back "with one hand what we have given with the other." Specifically, Mondale called for release of $130 million authorized by Congress to meet the operating costs of public housing. The delay in releasing such funds has forced local public housing agencies to raise the rent of housing for the elderly.

But the biggest problem is lack of coordination among the agencies that are nibbling away at the elderly. Medicare, Old Age Assistance, the Minneapolis Housing Authority, the U.S. Department of Housing and

Urban Development, state medical assistance, all are more or less operating as if the others didn't exist.

It's a terribly complicated mess, and there's no wonder that the elderly are confused and disappointed when they see their raises eaten up before they can buy an extra can of soup.

CUSHING, MINN.,
September 5, 1972.

Senator WALTER MONDALE.

DEAR SIR: I am enclosing the notice we got from the Morrison County Social Service office, Little Falls, Minn. Our social security checks are, Mr. Oothoudt $90.60, mine $61.90 and we each get $40 from welfare. Now we are advised that our Oct. payment will be reduced in the am't equal to the increased benefits. Senator I just haven't been able to keep up as it is and now to get a cut in our checks. Living is so terrible high, every thing is so very high, we pay taxes, insurance. We have payments.

We don't begin to have what is needed. Mr. Oothoudt is 79 yrs. old. A cripple from arthritis, can not do one thing, with a walker and wheel chair all to gather, for myself I am 69 yrs. and have a heart condition which means we have to hire so much work done and far more expense than one planned or expected. We have a 1961 Ford which is our only means of transportation and the car too needs repairs. Every week I take Mr. Oothoudt into Little Falls for shots for his legs which is added expense, instead of a decrease we need an increase in our checks.

I just cannot make the checks reach, not through no fault of ours. I am behind on my bills. We are two people that just don't like to beg or be on welfare, we have no other income, just our Soc. Sec. checks and welfare. I understand by this enclosed notice it would do us no good to go to our county welfare board about this matter.

I am taking this way in writing you for advice and what can be done, if our soc Sec checks were more in the first place and than a raise but we are in lower paym't of Soc Sec & I just don't know how I can manage—for us we aren't getting no raise give more on Soc Sec checks & taking less on Welfare—I would like to have this notice returned to us.

Thanking you so very much for your time & would appreciate any help you can give us.

Sincerely,

Mrs. V. A. DOTHFUDT.

IMPORTANT NOTICE, AUGUST 31, 1972

If you are receiving a Social Security payment, this Notice is to inform you that your October Public Assistance payment will be reduced in an amount equal to the increased benefit you receive from Social Security.

Public Law 92-336 which increases the Social Security benefits does not provide that these benefits can be passed along to the recipients of Public Assistance.

The County Welfare Board has no authority in this matter and *must* reduce Public Assistance payments in the amount of the Social Security increase.

JAMES A. ATKINSON,
Director, Morrison County Social Services.

ST. PAUL, MINN., *September 15, 1972.*

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

MR. PRESIDENT: I am a 67 year old handicapped widow subsisting on Social Security and a railroad pension. My husband worked for 38 years for the Northern Pacific Railway and paid a high price for what he believed would be our nest egg, our guarantee that we would be comfortable and self-sufficient in our later years. This was to be separate and in addition to Social Security. My husband died at age 51.

When I became old enough to apply for Social Security, I immediately took a 33⅓% cut in my railroad retirement benefits. Now we are to receive a 20% increase in Social Security. Because of this increase, I am to be penalized by a further cut in my railroad retirement benefits. I understand that this raise in Social Security does not have the same effect on other pension plans such as that received by the telephone workers.

Should we who believed our wages were being taken for our own benefit and welfare, now be penalized again? Is this to happen again and again until our hard worked for nest egg is entirely gone?

It is a meager living as is with rising taxes, medical expenses going up all the time and promised rent raises. The 20% increase is eaten up and I will certainly not gain, but lose again!

Sincerely,

Mrs. PEARL LAGERSTEDT.

DULUTH, MINN., *September 23, 1972.*

Hon. WALTER F. MONDALE,
Washington, D.C.

DEAR SIR: With the increase in Social Security we thought we would be able to keep up with the rising cost of grocery, fuel, garbage, and other necessities, but now we get a letter my husband's Old Age Assistance will be cut—maybe entirely—because of the raise in Social Security.

My husband gets a low social security. We sold our home years ago and live in an old trailer on some land we had left.

I am 61 but too ill to work anymore.

We do hope our democratic lawmakers will help us. A person hates to say too much—they might take everything away. I'm sending this clipping from the paper.

We hate charity, but we have worked hard all of our lives and paid our bills.

This social security boost was to help pay for the increase in living. I can't understand what they are trying to do to old people.

I trust you, Mr. Mondale and hope you will try your best to see that they won't cut us off this help.

Sincerely,

Mrs. HAROLD STARK.

KARTH SAYS ELDERLY BEING SHORTCHANGED

(By Lee Egerstrom)

WASHINGTON.—A 20 per cent increase in social security benefits approved by Congress this summer and a 10 per cent increase approved a year ago will mean no increased income for the elderly under several state welfare programs, a Minnesota congressman charged this week.

Rep. Joseph Karth, D-Minn., and fellow members of the House Ways and Means Committee have been besieged by senior citizens wondering what went wrong.

"All too often the Congress has found that when it raised the level of benefits for senior citizens the increase was eliminated by reduced state benefits," he said.

"It is totally contrary to the will of Congress and the will of the people for state legislatures to require their state welfare departments to reduce old age assistance benefits as the federal government raises them."

States that have de-escalating old age assistance benefits pull back state services as federal payments increase. In several states, including Minnesota, senior citizens can actually lose more in state benefits than the federal increase Congress intended to provide.

Karth said Minnesotans have informed him that the additional income from this summer's 20 per cent increase has pushed elderly people into higher income brackets, causing them to lose food stamp and state assistance benefits.

It has also required elderly persons to pay higher rents in federally assisted housing, he said.

"This is contrary to the purpose of the 20 per cent increase," Karth added. "Minnesota, I regret to note, is an unfortunate example of this kind of irresponsible action."

Karth and Rep. Donald Fraser, D-Minn., have introduced legislation with others that would direct both state and federal assistance programs to ignore the new social security hike.

The intent of the new legislation was to improve social security benefits and not offset other state or federal assistance reductions.

The Ways and Means Committee will hold hearings on the legislation next week, and committee members are confident that Congress will hurriedly pass correcting legislation before adjournment sometime this fall.

Aides of Chairman Wilbur Mills, D-Ark., are currently compiling a list of states where the 20 per cent increase is resulting in a reduction of state benefits and increased charges of other federal assistance programs. The list, as the committee checks around the nation, is growing longer.

Most states with old age assistance programs that are a prerequisite for medicaid benefits will jeopardize medicaid payments to senior citizens whose incomes are increased by the hike.

A Minnesota Welfare Department spokesman said his state's program, more liberal than in most states, won't jeopardize the medicaid benefits for most senior citizens on old age assistance.

But he acknowledged that Minnesota, like many states with county-administered old age assistance, will reduce county payments of assistance in ration with the social security increase.

"The unjust part is that persons with incomes high enough so they aren't on old age assistance will in fact get a social security raise," he said. "But persons on old age assistance, who really need the increase, will find that their total income has stayed the same."

Karth said his proposed legislation would require states to maintain current levels of assistance to senior citizens.

This provision would be, in governmentese, a "hold harmless" or "pass through" provision "grandfathering" in state benefits similar to program grants protected in the newly-passed federal revenue sharing bill.

A second part of the Karth legislation would protect the elderly from losing benefits or having increased charges in federally assisted programs.

Karth, who is as outspoken as Chairman Mills, said the senior citizen "is given an increase by one hand and has it taken away by another."

In a slap at Minnesota state legislators, he said that "many states apparently cannot be trusted to pass on the same level of benefits to their senior citizens when federal benefits are raised."

While Karth was unhappy about the effect on the social security increase in his state, the Ways and Means Committee reports that checks with the Department of Health, Education, and Welfare (HEW) would indicate states that do not have medical programs would most adversely affect senior citizens.

RICHFIELD, MINN., *September 25, 1972.*

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

DEAR PRESIDENT NIXON: I am enclosing the column of Robert T. Smith, Minneapolis Tribune, dated September 15, 1972.

As many others are, I am greatly concerned over the plight of the senior citizens in our great country—you will note, John Stenen, referred to in the article, received a $9. a month raise in Social Security benefits about a year ago—then living in public housing his rent went up $5. a month—Medicare cost

rose $1.40 a month—The Old Age Assistance people gave him $5. less a month—they would have eaten the whole $9.00 but for the "pass-through" law that prevented them from taking the first $4 of the raise. You will note the article further states "it didn't prevent the other from taking it, however."

Further—this man ended up paying $2.40 more than the $9 raise for the same benefits.

We are now on the threshold of another raise in the Social Security benefits—please, for goodness sakes, let everyone have the proper compassion for our elderly citizens and let them experience the joy of having a RAISE—people in Government employ get their substantial raises without having it systematically taken away from them—with all the pious attitudes of doing more for Social Security recipients—let those in the position to do so make it possible for them to keep the little extra—in some cases it is perhaps the only joy they have.

Sincerely,

DORA M. KNUDSON.

ST. PAUL, MINN., *September 25, 1972.*

DEAR SENATOR MONDALE: I read in the St. Paul Dispatch of the bill you were introducing to assure that all Social Security recipients received the full benefit of the 20 per cent increase in benefits. I certainly commend you for this.

That same day my mother who is receiving a small monthly allowance of $9.00 from Old Age Assistance, received a letter from their office stating her monthly allowance would cease as of October 1st as her income would otherwise be increased.

I hope you will be successful in getting this legislation passed.

Sincerely,

Mrs. ROBERT O'BRIEN.

PAYNESVILLE, MINN., *September 28, 1972.*

Hon. SENATOR WALTER MONDALE,
Washington. D.C.

DEAR SENATOR: I would like to call your attention how Senior Citizens are being treated now that we get a 20% raise on Social Security. Other benefits are cut off, now, why do you not watch that the other benefits are kept up, we need much in our old age, as we are on a fixed income. Of years back our expenses and living is in this bracket. How do you think we keep going? If we would have an income like you folks high wages, we would not complain at all. Now in my own case I was in the hospital this spring about 3 weeks. Medicare cut me off on some of what they should pay because it was based on 1971 scale. This was a doctor's bill that raised their charges in 1972. But Medicare only paid on 1971 bases, so it cost me an extra $75.00. Now why can the doctor charge more after the scale was set.

See how we get beat! Hope you will look into this matter.

Sincerely,

EDWIN MANZ.

ALBANY, MINN., *September 9, 1972.*

Hon. WALTER MONDALE,
U.S. Senate,
Washington, D.C.

DEAR MR. MONDALE: This is urgent! Unless Congress acts at once, those Senior Citizens on Old Age Assistance who get the 20% increase in Social Security on their October 3rd. check, will have that amount taken off their October 1st. Welfare Check. This is a deplorable situation for our elderly!

Unless the law is changed during this session, the Veterans on pension will also lose this 20% increase on their pension checks in January, 1973.

Any help you can give our Senior Citizens in regard to this, will be greatly appreciated.

My sincere thanks for all you have done for our elderly. Best wishes for your success in the coming election, I am,

Sincerely,

Mrs. WARREN WEBER,
Stearns County Coordinator on Aging.

MINNEAPOLIS, MINN., *August 1972.*

Hon. WALTER F. MONDALE,
U.S. Senate, Old Senate Office Building, Washington, D.C.

DEAR SIR: Will our grants be lowered when we receive our 20% increase in Social Security. They have always taken away before, was wondering if they will now—I hope not.

Also I'm in a Mpls Housing Project for Senior Citizens and I'm paying more than ¼ of my Total Income for Rent. I thought ¼ was the limit. Can anything be done to correct this. Thanking you kindly for your trouble.

I remain,

Miss CORNELIA ELLIOTT.

COON RAPIDS, MINN.,
September 13, 1972.

Mr. MONDALE: Will you help with the bill Don Fraser introduced in Congress to help us keep the small emergency help & our small S.S. raise we'll get Oct. 1st, Anoka Co. welfare wants to cut off my $12 assistance, my State & County Health card (food stamps), snow removal from my roof & drive way in winter. I fell off my roof trying to repair space between chimney block and tile. I hurt my left arm badly. Then last Feb, I fell on Anoka St. & injured my right arm. It ached all last nite. Medicine for my aching arms are very expensive & I need my health card for this. Nixon asked for this cut on the older people (I'm over 72) who can lease afford these cuts. With S.S. raise I'll be getting $156 which isn't enough to keep up home pay high taxes & taxes on my fuel oil light bill & many of Life's necessities. I hope you, Fraser, Frenzel & Humphrey will get busy & pass Fraser's bill so we can keep the little assistance ($12) I get & our small S.S. raise too. I'm writing these other Congressmen. Will you answer the $164 question for me? If the Fed Gov't donates ½ toward my assistance, the State gives ¼ & Anoka Co. donate only ¼ of assistance, why are they allowed to put a lien on my home for the full am't.?

My home is badly in need of repairs; I haven't had a refrigerator for 3 yrs, have no kitchen light or a decent bed to sleep in, they (A.C.V.) knows these facts but won't go over a certain State budget. This budget is so miserably low one can hardly exist on it. It's sub standard living. I have to hitch hike 5 miles to Anoka to get groceries.

Why can't we have a home program here like Sargent Schriber was head of to get people here to go help people, all over the world. I can't think of name of it right now. Why couldn't something like this be organised here to help older Sr. citizens keep their homes repaired and help them in many ways they can't afford to pay for this? This help has to pass and reach us before Oct. 1st.

When an older person needs to buy a home under Federal Housing program what, are some of the requirements to buy one? I'd rather be dead than live here this winter, the house is damp. Plaster or wall board is off ceiling of both bedrooms & heat goes out thru roof. I use too much fuel oil. Have no heat in kitchen so can't use bathroom.

Water pipes in kitchen froze up twice in last two years.

Please work with Frazer's bill, with Humphrey & Frenzel to help us forgotten Sr. citizens keep this little help we get & our S.S. too. Pres. Roosevelt said were all entitled to freedom from want & worry & agree with him.

That was Peace Corps which Sargent Schriver heads. He was asked to give up his job opportunity position as he held two-Govt. jobs and he refused & kept both jobs for a long time.

MINNEAPOLIS, MINN.,
September 20, 1970.

DEAR SENATOR MONDALE: Why does every one write to you, because you at least try to do something about things.

Here's my problem. The 20% increase to old people. Because of it many are forced to pay it right back, plus losing perhaps benefits from old age assistance or medical.

I plead with you to try to do something about it.

My Mother is one, she had security till now knowing her medicines and all her Doctor & Hospital would be taken care of by Medical Assistance. When she went on it she had too, as her savings of around $9,000.00 were all gone. She had liver cirrhosis was tapped around 85 times by Dr. Proshek. Medical records show this. She desperately needs all her medicines, pain pills, ucler & etc. She lives with us and thank God my Husband is good to her, but I only have an upstairs room no bathroom, meaning a commode to take care a necessity. She's on a special diet which means special food, so this totally runs to quite a bit.

We charge her $100.00 now but she was going to give us $125.00 which hardly takes care of her needs. The druggist totaled her acct. it runs around $25.00 or $28.00 a month. So she is to get $152.00 deduct that there's nothing, she was told to drop Minn Blue Cross when assistance took over. Now she doesn't even have that. She has around $225.00 in a saving after my Dad Died. What can she and other do.

Because she is $7.76 over she can not get medicine. I think this very unfair. Please bring this up and do something for these Dear old Senior Cits, and Country folks.

Certainly Congress could do something besides let them worry themselves to death. Ive had to give her nerve pills every day and thank God Im here or I dont know, but what of those that are without any one to love them.

It seems the young get all and old get nothing but bare necessities.

Please ans. somehow.

Sincerely,

Mrs. S. ANDERSON.

SEPTEMBER 18, 1972.

DEAR SENATOR MONDALE: You know I got the letter receiving a increase in Social Security which is real good, but also they raised my rent & food stamps are less.,

Now Saturday I received a notice from the finance Department of Welfare which I'm on Medicare. I was just getting ready to have my teeth extracted on account of when I had the cardiac arrest my mouth was so closed so tight that they broke off all my bottom teeth & my upper are nothing but roots.

Now they say I won't be eligible for Medical assistance & my case will be closed starting Oct. 1, 72 & I have heart medicine which is I suspect & asthma water pills & valium I got to take protein on account of clogging in my blood.

Also certain Medicine from the Dermatologist for my legs that my vein's broke & itch & I have had blood clots & ulcers. I need this medicine badly. If I pay for all this I won't be able to eat. I need boots & shoes so badly for winter. Also I have a bad upper respiratory trouble & Christian Weber describes which at the time is no cure. What are they trying to do to us? We get a little raise & all this comes up. I don't know what to do.

I have to have my medicine. I carry it where ever I go in case if I get short of breath & can't breath.

This raise does not seem to help matters its going to make things worse.

President Nixon should be in some of our shoes. Please tell me what to do.

Thank you so much. God bless you & I hope

we go all the way I mean democratic way in Nov.

Please as soon as possible. I haven't had any rest just worrying what is ahead of us. from Mae E. Nulsen, 2728 Franklin 55406 over apt. 2003.

I'll get $151.10 in Oct. My rent raised 6.00 & less food stamps. I also pay for like aspirin & vaper rub, Listerene & all other medicines except what the Dr. prescribed & it has upset my health.

I'm so nervous which hasn't helped my asthma any.

My medical bill runs pretty high especially the heart medicine. I'll have less money then I ever did to get along on.

Thank you for listening.

Mrs. MAE NULSEN.

SEPTEMBER 26, 1972.

Hon. WALTER MONDALE,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MONDALE: The Minneapolis Senior Worker's Association, a group of profession Social Workers serving the elderly of greater Hennepin County, wish to express our wholehearted support of the current efforts to disregard the recent Social Security increases when computing eligibility for and benefits from other Federal programs.

We can't believe the intent of the recent Social Security increase was to work to the detriment of the poorest and most needy of our population.

Please exercise whatever influence you can to right this injustice being perpetrated against those who built this great Country.

Sincerely,

MINNEAPOLIS SENIOR WORKER'S ASSSOCIATION,
(*Representing over 50 agencies providing services to older adults*).

SEPTEMBER 23, 1972.

DEAR SIR: I think the elderly should be able to buy Food Stamps because of the increase in S.S. lot of people won't be able to buy them.

And on medicare they should get glasses and dentures, also reduced rates on travel like the students get they have these whole life ahead of them.

The unwed mothers get A.C.D. all medical bill paid and care buy food stamps.

Sincerely,

F. A. NIVALA.

CITY OF MINNEAPOLIS,
September 28, 1972.

Hon. WALTER F. MONDALE,
Old Senate Office Building,
Washington, D.C.

MY DEAR MR. MONDALE: The Minneapolis Board of Public Welfare, at its meeting September 22, 1972, unanimously concurred in the attached resolution adopted by the Minneapolis City Council September 22, 1972, urging the Congress of the United States, the Minneapolis Housing Authority and other involved agencies to change any policies which tend to negate the recent increase in Social Security benefits.

Further, the Board of Public Welfare directed its Secretary to communicate this Board action to all U.S. Congressmen from the State of Minnesota and to the members of the Minneapolis Housing Authority.

Sincerely yours,

ROBERT S. ERVIN, *Secretary.*

RESOLUTION

Urging the Congress of the United States, the Housing Authority and other involved agencies to change any policies negating the increases in Social Security benefits.

Whereas, Social Security benefits were recently raised to help keep pace with the higher cost of living; and

Whereas, as a result of these small increases in Social Security the rent in public housing is being raised; and

Whereas, a large number of persons receiving the higher Social Security benefits will lose other benefits such as Medicaid and Aid-to-the-Disabled; and

Now, therefore, Be it Resolved by the City almost exactly the same amount as the income was raised by Social Security; and

Whereas, the end result is that a great number of Social Security recipients will actually lose more than they gained from the recent "increase";

Now, therefore, Be it Resolved by the City Council of the City of Minneapolis:

That the Congress of the United States, the Housing Authority in and for the City of Minneapolis, and any other involved agencies be strongly encouraged to take immediate action to change their policies which would unfairly negate the small increases in Social Security which were intended to keep step with the cost of living.

Be it Further Resolved that a copy of this resolution be sent to each member of the U.S. Congress from the State of Minnesota and to the members of the Minneapolis Housing Authority.

Adopted by the Minneapolis City Council, September 22, 1972.

CATHOLIC CHARITIES OF THE ARCHDIOCESE OF ST. PAUL AND MINNEAPOLIS,
Minneapolis, Minn., September 25, 1972.

Re: Program for aging.

Hon. WALTER MONDALE,
U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR MONDALE: I am writing to urge you to do what you can to assist the elderly Social Security recipient in realizing a real gain in his most recent increase.

Currently, the increase will have an adverse effect on many who are borderline eligible for food stamps, Medicaid and O.A.A. They will also have their rent raised if they reside in subsidized housing.

Please do what you can to enact legislation to prevent this injustice.

Sincerely,

RICHARD A. FLESHER, ACSW,
Coordinator, Program for the Aging.

MINNEAPOLIS INTERNAL MEDICINE ASSOCIATES, P.A.,
Minneapolis, Minn, September 22, 1972.

Senator WALTER MONDALE,
U.S. Senate, Senate Office Building,
Washington, D.C.

DEAR SENATOR MONDALE: Much has been written in the newspapers recently regarding the inequities experienced by our senior citizens as a consequence of a raise in their social security benefits. In our practice we have many such patients. Enclosed is a copy of a letter written on behalf of one such patient. She will be penalized by being deprived of certain benefits and thus this so-called raise turns out to be no raise at all.

I would like to add my voice in protest against this injustice and I hope that the members of the legislature will tackle this prickly problem now and not postpone it until after the elections.

Yours truly,

WILLIAM B. TORP, M.D.

MINNEAPOLIS INTERNAL MEDICINE ASSOCIATES, P.A.,
Minneapolis, Minn., September 21, 1972.

Re: Mrs. William (Ellen) Hall.

HENNEPIN COUNTY WELFARE DEPARTMENT,
Minneapolis, Minn.

DEAR SIR: Mrs. William Hall told me that she recently received a letter from you stating that her medical assistance for drugs will be discontinued as of October 1st. She states that this letter indicated an increase in social security was the reason for this. I do not know the amount of money involved in her increase in social security but I do know that along with this she is also getting an increase in her rent.

Mrs. Hall uses a large amount of medicine each month, the amount of which exceeds the amount of her social security increase.

I respectfully request that you reconsider the patient's case as I think she should be eligible for aid to cover her prescription drugs.

Yours truly,

WILLIAM B. TORP, M.D.

PAYNESVILLE, MINN.,
September 29, 1972.

Senator MONDALE.

DEAR SIR: Please work hard to defeat any bill that will deprive lower income senior citizens of their right to receive low income housing, food stamps, medicare, etc., etc., which they now have.

Thank you,

Respectfully,

Mrs. HORACE SHELDON.

MINNEAPOLIS, MINN.,
September 15, 1972.

Senator WALTER MONDALE,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MONDALE: I am a World War I veteran's widow, which allows me a widow's pension according to my income.

As you are aware, beginning October 3 there is an increase in Social Security which I desperately need in the face of the inflationary cost of living; and naturally have been happily anticipating.

But there is a cloud over the picture, because of the underlying fear that much of that increase will be lost unless the income allowance for veterans widows is increased accordingly.

I will be most grateful if you will please give this matter your attention.

Thank you.

Sincerely,

Mrs. HAZEL E. BRUHN.

STATE OF MINNESOTA, COUNTY OF HENNEPIN

RENT UP $10

Rudy Boeser, being first duly sworn, deposes and says the following:

My name is Rudy Boeser and I live at 3125 Grand Avenue, South Minneapolis, Minnesota. I am 65 years old. I believe I am affected by the recent 20% increase in social security benefits in the following way:

Gross income before increase, $143.00; after increase, $171.00.

Rent before increase, $108.00; after increase, $118.00.

State Medical Assistance Program before increase, yes, all medical bills paid; after increase, none, until I spend down $26.00 per mo.

Estimated medical expenses per month before increase, $63.00; after increase, $63.00.

Net income, before increase, $35.00; after increase, $27.00—net loss, ($8.00).

In addition I have been notified that I will lose my Medical Assistance identification card that assures vendors of medical goods and services that they will be paid. I fear I will have difficulty obtaining some medical goods and services in the future without this identification card.

The social security increase as it now operates will take money away from me, not give me more money. The increase under these circumstances constitutes a taking of my property without due process of law. I therefore request the Social Security Administration cease and desist from taking money from me by giving me this increase.

RUDOLPH F. BOESER.

RENT UP $10

Hilda Sherf, being first duly sworn, deposes and says the following:

My name is Hilda Sherf and I live at 2019 16th Avenue, South Minneapolis, Minnesota. I am 85 years old. I believe I am affected by the recent 20% increase in social security benefits in the following way:

Gross income before increase, $148.00; after increase, $162.00.

Rent, before increase, $33.00; after increase, $36.00.

State Medical Assistance Program, before increase, none, until I spend down $3.00 per mo.; after increase, none, until I spend down $17.00 per mo.

Estimated medical expenses per month, before increase, $18.00; after increase, $18.00.

Net income, before increase, $112.00; after increase, $109.00—net loss ($3.00).

In addition I have been notified that I will lose my Medical Assistance identification card that assures vendors of medical goods and services that they will be paid. I fear I will have difficulty obtaining some medical goods and services in the future without this identification card.

The social security increase as it now operates will take money away from me, not give me more money. The increase under these circumstances constitutes a taking of my property without due process of law. I therefore request the Social Security Administration cease and desist from taking money from me by giving me this increase.

Dated: September 22, 1972.

HILDA N. SHERF.

RENT UP $7

Grace Mulroy, being first duly sworn, deposes and says the following:

My name is Grace Mulroy and I live at 2728 East Franklin Avenue, Minneapolis, Minnesota. I am 62 years old. I believe I am affected by the recent 20% increase in social security benefits in the following way:

Gross income, before increase, $146.20; after increase, $175.00.

Rent, before increase, $33.00; after increase, $40.00.

State Medical Assistance Program, before increase, yes, all medical bills paid; after increase, none, until I spend down $30.00 per mo.

Estimated medical expenses per month, before increase, $40.00; after increase, $41.00.

Net income, before increase, $113.20; after increase, $105.00—net loss, ($8.20).

In addition I have been notified that I will lose my Medical Assistance identification card that assures vendors of medical goods and services that they will be paid. I fear I will have difficulty obtaining some medical goods and services in the future without this identification card.

The social security increase as it now operates will take money away from me, not give me more money. The increase under these circumstances constitutes a taking of my property without due process of law. I therefore request the Social Security Administration cease and desist from taking money from me by giving me this increase.

GRACE L. MULLOY.

Dated: September 22, 1972.

RENT UP $7

Helen Lohmar, being first duly sworn deposes and says the following:

My name is Helen Lomar and I live at 1700 East 22nd Street, Minneapolis, Minnesota. I am 67 years old. I believe I am affected by the recent 20% increase in social security benefits in the following ways:

Gross income, before increase, $148.00; after increase, $185.00.

Rent, before increase, $35.00; after increase, $42.00.

State Medical Assistance Program, before increase, yes, all medical bills paid; after increase, none, until I spend down to $40.00 per mo.

Estimated medical expenses per month, before increase, $38.00; after increase, $38.00.

Net income, before increase, $113.00; after increase, $103.00—net loss ($10.00).

In addition I have been notified that I will lose my Medical Assistance identification card that assures vendors of medical goods and services that they will be paid. I fear I will have difficulty obtaining some medical goods and services in the future without this identification card.

The social security increase as it now operates will take money away from me, not give me more money. The increase under these circumstances constitutes a taking of my property without due process of law. I therefore request the Social Security Administration cease and desist from taking money from me by giving me this increase.

HELEN J. LOHMAR.

Dated: September 22, 1972.

EFFORT TO ASSIST SENIOR CITIZENS

Daphne Krause, being first duly sworn, deposes and says the following:

I am the Executive Director of the Minneapolis Age and Opportunity Center, Inc., located at 1715 Stevens Ave., Minneapolis, Minnesota 55403. Our organization's purpose is to assist Senior Citizens to remain living independently by providing to them medi-supportive services. Our services are presently classified in eleven elements:

Home Delivered Meals Program;
Employment Services;
Homemaker Services;
Chore Services (Handyman);
Transportation Services;
Legal Services;
Counseling Services;
Information and Referral;
Volunteer—Social—Education;
Health Services; and
Advocacy.

Virtually all the Senior Citizens we serve have gross incomes below recognized poverty levels under both State and Federal standards. This being so they have qualified for assistance under various assistance programs including the Federal food stamp program, the State old age assistance program, State and Federal subsidized housing programs, Aid to the Disabled, and Aid to the Blind, and the State medical assistance program.

Many of the poorest Senior Citizens will be adversly affected by the 20% increase in social security benefits the Social Security Administration proposes to force upon them. The eligibility requirements for the above mentioned programs are not the same nor do they dovetail. This being the case the present 20% increase will in many instances make individuals no longer eligible for some programs and reduce benefits from others resulting in a net raise in income of less than 20% or no net change in income at all—a dollar given by one hand, a dollar taken away by another hand—or an actual loss in net income.

Those Senior Citizens receiving State Old Age Assistance grants are finding that the State law requires the amount of the raise in Social Security benefits be deducted from their Old Age Assistance grant starting October 1, 1972. In addition, the $4.00 Senior Citizens were allowed to keep (exempt from State determination of gross income) from their last Social Security raise through the "Pass-Through" bill will also be deducted after December 1972 when the effect of that bill expires. It should be noted that the standard of need of this assistance is now two years old, in spite of the increase in the cost of living.

Because of the Social Security raise Senior Citizens living in Minneapolis Housing and Redevelopment Authority highrises or other subsidized housing are now receiving notices that their rents will be increased by slightly less than one-quarter of the Social Security raise effective October 1, 1972.

There are approximately 4,200 Senior Citizens receiving Food Stamps in Hennepin County. With the Social Security raise approximately 1,400 of those Seniors already on Food Stamps in Hennepin County will find they are no longer eligible.

The State Medical Assistance program is available to Senior Citizens with incomes of less than $145.50 a month for a single person or $202.00 for a couple. Medicare does not cover many of the costs of obtaining health care, and in effect prevents many Senior Citizens from seeking all the health care they need because of its requirement that Senior Citizens pay the first $68.00 of hospital costs and the first $50.00 of doctor's and out-patient costs in any given year and to pay percentages of other costs. For Senior Citizens without the ability to pay these small, but to them significant sums, this becomes a barrier towards obtaining medical care. The result of the social security increase is to make many Senior Citizens now ineligible for medical assistance.

The state administered aid to the blind and aid to the disabled programs have their own requirements. These social security increases will raise the income of some persons so as to make them ineligible for these programs.

A typical Senior Citizen who will actually lose money as a result of the social security increase has the following circumstances. He lives alone in subsidized housing. His previous income (social security only) was $140 per month; his rent was 25% of that or $35.00; he qualified for medical assistance and all his medical bills were paid thereby; his medical expenses were about $23.00 per month. With the 20% social security increase his income will be $168.00; his rent will be $42.00; he will not qualify for medical assistance until he has "spent down" his gross income over a period of time to below $145.00. His net cash situation since he now is "able" to pay all his medical bill is worsened by $2.00.

Aside from the harsh blow this decrease in net income has to Senior Citizens in general, those who lose their medical assistance eligibility will lose their identification cards that enabled them to obtain medical goods and services from vendors without question as to payment. Now many vendors will be wary of providing goods and services knowing the Seniors may not be able to pay and knowing they have no legal recourse if that turns out to be the case.

Since these increases have the effect on some individuals of actually reducing their net incomes and in decreasing the availability of medical assistance to others we feel there is a taking of property without due process of law.

DAPHNE H. KRAUSE.

Dated: September 22, 1972.

Mr. MONDALE. I yield to the distinguished Senator from Massachusetts.

Mr. BROOKE. Mr. President, I associate myself with what the Senator has said.

Mr. President, I am pleased to join Senators MONDALE and HUMPHREY in cosponsoring amendment No. 1675 to H.R. 1, the "Social Security Amendments of 1972."

On June 30, the Congress upheld its obligation to 28 million Americans who had found that social security was not providing them security. We rightly spunoff the social security increase from the measure before us and enacted a 20-percent across-the-board social security benefits increase.

Those who benefited have expressed their gratitude in thousands of letters I have received and I think in the hundreds and thousands of letters that many of my colleagues have received.

Yet many beneficiaries rightly point

out that the Federal Government is taking away with one hand what it is providing with the other.

Elderly beneficiaries who need old-age assistance to supplement their meager social security check, find that their OAA payments are cut back proportionally to this increase. The intent of Congress to provide additional security was thus threatened, but last Friday we headed off this threat with the adoption of Senator CRANSTON's amendment—for those who live in public housing and, as my colleague from Minnesota has just pointed out, who pay rent under the so-called Brooke amendment formula who find that their increased benefits are eroded by upward revision in their rent. Senators will recall that that amendment set a 25-percent limitation on rents, as we found persons who had been paying as much as 50 to 60 percent of their income for rent.

Enlightened legislation was reported by the Committee on Banking, Housing, and Urban Affairs, on which my colleague serves as a very distinguished member and who is very much interested in and has performed a great service in this field, to protect those paying more than 25 percent of their income for rent. But now, social security recipients are being assessed more money as a result of the increase in social security, which certainly is contrary, I think, to the spirit if not the letter of the law.

Mr. MONDALE. Mr. President, we have had many examples of such rent increases where housing authorities have been under heavy financial burdens, partly because the funds appropriated under the Brooke formula have not been released by the Office of Management and Budget to the housing authorities who produce the housing. As a result, the housing authorities rush to raise rents and many of the public housing recipients receive notices increasing their rent before they receive the check increasing the social security. This is the cruelest form of revenue sharing that I have ever heard of, to take money from the poor that way. As the Senator knows, they use the Brooke amendment as an excuse to take the maximum rent rather than the minimum, which is totally wrong.

Mr. BROOKE. The Senator is right. Many charges are made in the mail that I receive, and I am sure the same is true of other Senators in this field, that we are giving with one hand and taking back with the other.

Let me say that I commend the administration for initiating its "rent watch" to prevent landlords from taking advantage of the social security increase. Should not we in the Congress conduct our own rent watch and make sure that local housing authorities do not take advantage of the few extra dollars their elderly tenants are now receiving? The answer is clear: I think that we should.

For veterans, who now receive assistance based on their service to our country, the dilemma is the same. What extra income they receive under social security will be undone by a decrease in their veterans' pensions.

Those who now receive food stamps are threatened with a loss of eligibility for this essential assistance. In effect, they may lose more than they have gained by the increase in social security. So it is a net loss to them rather than a gain, as we had expected when we voted the social security increase.

The amendment proposed by the Senators from Minnesota (Mr. MONDALE and Mr. HUMPHREY), which I am privileged to cosponsor, expands on the earlier amendment of Senator CRANSTON. It simply seeks to carry out the previously expressed intent of Congress to increase the monthly cash incomes of social security beneficiaries. Our amendment proposes to disregard for the purposes computing veterans' benefits, Brooke amendment rent levels, and food stamp eligibility, the individual income derived from the social security increase. That is a simple amendment which I think is clear and should be well understood.

Mr. President, this amendment is consistent with and necessary to carry out our intent to increase the incomes of 28 million Americans. Without this amendment, millions will find the widely acclaimed benefits increase was, in effect, an empty promise. I urge Senators to favorably consider this amendment, and I commend the distinguished Senators from Minnesota (Mr. MONDALE and Mr. HUMPHREY) for proposing it.

Mr. MONDALE. I appreciate the very fine comments of the Senator from Massachusetts. They are most helpful.

Mr. HARTKE. Mr. President, will the Senator from Minnesota yield?

Mr. MONDALE. I yield.

Mr. HARTKE. Is the provision for the veterans still in?

Mr. MONDALE. I will shortly move to modify my amendment to delete that provision because, as the Senator knows, under the leadership of the Senator from Indiana, the Veterans' Committee has reported an alternative measure. With that in mind, I will modify my amendment accordingly.

Mr. HARTKE. I want to pay my respects to the Senator from Minnesota for bringing this up. The only reason the Veterans Committee preferred to work in a different fashion referred to the administration of veterans pensions, where the method by which we will provide is somewhat different.

Let me address myself to the basic concept. The whole reason for the 20-percent increase in social security was to provide more money for those on social security.

Mr. MONDALE. Precisely.

Mr. HARTKE. It was not the intention at this time to penalize anyone. In fact, it was not the intention to put anyone in a worse situation. We were trying to make sure that everyone would be adequately provided for and that we would have the increase in the cost of living also taken care of.

Now here we find a paradoxical situation, which recurs time and time again, because of a worn out welfare system, and a worn out housing approach. The whole system of social programs created in the 1930's are now out of date and worn out. They do not serve their purpose any more. They are not breaking the welfare cycle. Here we see a situation where a social security amendment is being utilized to put these people back further behind than they were before.

I want to congratulate the Senator and all those who have joined in this measure. There will be some opposition to it because they will say we are amending some other law. The law needs a lot more amending than being amended by this amendment, including our housing laws and food stamp laws—and anything else.

What we should do is that those people in charge of these projects should review the situation and come back at the next Congress and give us an up-to-date system which makes those who are presently on welfare, against their wishes, have some dignity.

The trouble with this bill—and I repeat it to the distinguished chairman of the Finance Committee—H.R. 1, is that it does not break the welfare cycle. No wonder people are fed up with it. The people paying the bill, they are mad at it. The people receiving the money under the bill, they are mad at it. That is just about everyone. When everyone is fed up, it is very much time for a change. So I endorse the Senator's amendment and commend him for his efforts.

Mr. MONDALE. I thank the Senator from Indiana for his leadership on this issue.

I now yield to my colleague, Mr. HUMPHREY.

Mr. HUMPHREY. Mr. President, this amendment is simple, elemental justice. The case for it has been stated brilliantly and poignantly by my colleague, Mr. MONDALE, and the Senator from Massachusetts (Mr. BROOKE).

What we did in the interest of social security was to offer with one hand a 20-percent increase and what we believed would be cash benefits for literally hundreds of thousands and millions of Americans. We took out the 20 percent and more by denying them under present rules and regulations benefits which they could get under medicaid, benefits which they could get under public housing, benefits which they could get under food stamp programs.

Congress has no intention of doing that. As has been stated here, this whole series of assistance programs for the needy needs to be reviewed.

Social security comes to people as a right.

It is an insurance program, and that insurance program ought not in any way to diminish the assistance which we give the needy, the sick people, the people that are disabled.

I joined the Senator from California (Mr. CRANSTON) in his amendment which applied to those on old age assistance, to the disabled, the blind, and the deaf, so that benefits that they deserve would be coming to them without having those benefits diluted or removed because of rules and regulations in the fields of medicare, medicaid, housing, and food stamps.

What we are seeking to do here is to help those on social security, as distinguished from those on old age assistance, to see to it that those who are to get the 20-percent increase that was legislated by this Congress will get it and that they will not lose in the process.

Frankly, I got to the point where I

thought, in view of what was happening, that we ought to give people who are on social security a choice as to whether they want the 20-percent increase or whether they want to reject that increase. The fact is that many who would get the 20-percent increase would be much worse off than if they had never received it at all.

My senior colleague has made the case. He has called our attention to several articles and has had them printed in the RECORD, so I shall not ask that it be done.

The New York Times article to which my colleague referred is very revealing as to what the 20-percent increase has done to so many older Americans. The article in the Minneapolis Star reveals a story of hardship and of disillusion that took place in the State of Minnesota when our people thought they had a 20-percent increase in social security and ended up by being worse off.

Mr. MONDALE. Mr. President, in the case of Mrs. Freed, who received a 20-percent increase in social security:

> Her total expenses are going to run at least $42.80 a month more because of that $27 increase in Social Security.
>
> "Why in hell when a person gets to 65 and no good don't they take a person out and shoot him instead of torturing him to death?" she said. "I would if I was running things."

Mr. HUMPHREY. Mr. President, I cannot help feeling that the Senate will overwhelmingly support the amendment. I realize that there is a jurisdictional problem. Some will say that it should have gone to another committee. The public does not care about that. What the public wants is simple justice. The public wants us to do what is right and does not want us to worry about committee jurisdiction.

I compliment my senior colleague on the diligent work he has done with respect to this matter as he has with respect to so many other matters that are related to the needs of our people.

Mr. President, last week I offered my amendment that would exclude the 20-percent social security increase given to recipients of both social security and food stamps from being counted as income when calculating the amount of bonus stamps a recipient can receive. In order to expedite action on this important matter I have joined with my colleague Senator MONDALE in cosponsoring the amendment.

Mr. President, when I was back home in Minnesota, some of my constituents contacted me about the social security increase—an increase that faded away due to rules and regulations that consumed every dollar of increase in social security payments. Here is why:

Rent increased;

Disability and old age payments were dropped;

People became ineligible for food stamps, because they now had too much money;

Some tenants in the public housing and elderly housing were pushed above the maximum incomes;

Medicaid assistance would be lost; and

Veterans pensions reduced.

Mr. President, no matter how you cut it—getting a social security increase for some and then seeing overall benefits reduced for others is wrong and cruel.

The least we can do is to provide that the social security increase will be passed through—without affecting eligibility for other critical programs.

Mr. President, many newspaper articles in recent days have described the predicament of older Americans resulting from this so-called social security increase. These articles clearly show the plight of our elderly. For example, just in Hennepin County alone, 1,269 of the county's 4,359 social security recipients who purchase food stamps will lose the right to purchase these stamps. Another 2,297 elderly persons will pay more for the stamps.

I am aware that the Senate Finance Committe's bill has a social security disregard provision—increasing the benefits to old age, blind, and disabled recipients. I applaud the committee in taking this step. And I also joined with the distinguished Senator from California, Senator CRANSTON, in an amendment that provides for increasing the standard of need for aged recipients of both public assistance and social security.

However, we are faced with a hard, difficult problem. The social security increase goes into effect now—the Senate Finance Committee's bill and the Cranston-Humphrey amendment will come into being at a later date—sometime after the first of next year.

Mr. President, I believe that we simply must act now—to preserve the recipients rights to purchase food stamps, to protect the reality of his social security increase, and to show our faith and trust in elderly Americans.

Some have argued that it is inequitable to have different standards of food stamp purchase prices for social security old age recipients, and other welfare recipients. Mr. President, that is a problem. But, it is a problem that I believe can be solved easily by the Department of Agriculture if they would only use a little imagination and move with speed to meet a serious problem.

The Department of Agriculture can adjust its purchase requirements—it does so all the time. And, we here in the Congress have just given the Department a boost in its food stamps budget. So I say, take some of that money, and make the necessary adjustments to cover the elderly, the blind, and disabled I am talking about here.

Mr. President, I say that we must do this. We should ask ourselves—if we do not do it, then we at least ought to give those social security and old age assistance recipients the right to refuse a social security increase.

After all, it is not their fault that we passed a social security increase. It is not their fault that we are penalizing them.

How ironic it would be—an increase that really is not. An attempt to lift some of the financial burden off the elderly only puts more of a financial burden on them.

I say let us place the burden on the agencies that can and should respond. Let us place the burden in the departments that have the means and ability to solve this problem.

I ask that the Senate support this amendment to allow older Americans to keep their food stamps.

Mr. MONDALE. Mr. President, I am most grateful to my colleague.

Mr. President, I yield to the Senator from Maine and will then yield to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, I compliment the distinguished Senator from Minnesota for offering this amendment. I have listened to the debate. I think the issues have been eloquently and fairly covered. I suspect, from the examples that each of these Senators has brought to the attention of the Senate, as well as the examples which exist in my own State, that what we are talking about are not isolated cases. We are talking about the results of this increase that spreads across the country and hits tens of thousands of elderly people.

Three basic points have been made this morning that bear repeating. First of all, it was the intent of the Congress to increase the income of these elderly people. The increase resulted, in many instances, in a decrease. The second point that needs to be made clear is the point raised by the distinguished junior Senator from Minnesota, namely that these people are given no choice as to whether they will get the benefit of an increase that results in a net increase. I think that is unconscionable.

I would then like to touch upon the other point. It is said that this amendment will be opposed, and I gather that it will be opposed because of the legislative and statutory action and the jurisdictional problems involved.

While we preoccupy ourselves with this problem of legislative neatness and work out all the entangled jurisdictional lines that result from the social security increase, thousands of elderly people will suffer. That was not the intent of Congress. Why do we not act together to straighten out these tangled legal and jurisdictional lines with a view to doing that which was expressed by the Senator from Minnesota. We need to take all possible steps to assure justice for the elderly who have been disillusioned by the action of a generous Congress.

The article in the New York Times to which the Senator referred has this statement:

> "This is a form of psychological deceit practiced upon senior citizens," said C. Christopher Brown, head of the law reform unit of the Baltimore Legal Aid Bureau. "The government is giving with one hand and taking away with the other."

Yesterday I visited briefly in a community center in Buffalo, N.Y., where I spoke with many senior citizens. All of them looked forward to the social security increase which Congress has legislated. Many of them will now be bitterly disillusioned by the consequences of that generous act of the Congress. I say it is the responsibility of Congress to right this injustice which has been unwittingly and unintentionally visited

upon so many thousands of our elderly citizens.

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

Mr. MUSKIE. I yield to the distinguished Senator from Massachusetts.

Mr. BROOKE. Mr. President, we are not talking about welfare recipients. We are talking about people who have worked all of their lives and put aside some little portion of their income as savings in the hope that as they got older they would be able to enjoy some of the necessities of life. They had no idea that we could be in a period of inflation, as we are at present.

What has happened is that as prices have increased, the cost of food, rent, clothing, and other things has escalated, while at the same time the value of a dollar has gone down. So the people who are most affected by this are those who are living on fixed incomes, mainly social security, pensions, and the rest.

So we in Congress recognized that we did not have any way to provide a built-in cost-of-living increase. So we finally came up with a 20-percent increase in social security. These people had every reason to believe that if they got a 20-percent increase in social security, it would mean that they would have a little more money to pay for the increase in rent, food, clothing, and the other things.

These people never really get the luxuries of life, because they have precious few, if any, luxuries of life. They are barely living.

We come along and say, "All right. We will give you a 20-percent increase in social security. However, at the same time we will increase your rent and cut back on the other benefits that you can possibly get." As has been well pointed out time and time again, this results in a net loss rather than in any increase.

I am sure that when the junior Senator from Minnesota suggested that he was even thinking of an amendment which would give them an opportunity to accept or reject the 20-percent increase, he thought it would be a good suggestion, because at least those who would lose by virtue of receiving a 20-percent increase could reject it. That suggestion was not facetious at all. It makes a lot of sense. Unless we correct these inequities, we are compounding the problem for the very people that we have been trying to help by the 20-percent increase. Is that not basically what this is about, no more, and no less?

Mr. MUSKIE. Mr. President, what we have done—unwittingly as I said before—is not to realize that there will be an inflationary pressure that will now explode because of this increase and there will be an increase in the cost of housing and food, against which we were hoping to insulate them by our action. The Senator is so right. I can see that there is not a neat legislative answer to the problem. However, there is an answer, and that answer is the amendment of the Senator from Minnesota.

Mr. BENNETT. Mr. President, will the Senator yield? I have a committee meeting that I am scheduled to attend.

Mr. MUSKIE. Mr. President, I had promised to yield next to the Senator from Minnesota.

Mr. NELSON. That is all right. The Senator may proceed.

Mr. MUSKIE. Mr. President, I yield to the Senator from Utah.

Mr. BENNETT. Mr. President, it seems to have been my day to be Don Quixote. And I know that I will probably get run over again on this amendment. However, I think the RECORD should show that the amendment has a very interesting effect. Even though public housing rent under the present law is increased as a person's income increases, since the rent paid for public housing is determined not by the space a person occupies, but by the relation of income to that value, this amendment provides that if a person is in public housing on September 1, then this social security increase of 20 percent cannot be reduced to reduce the rent, which would be possible under present law. That is very interesting, and I can understand the humanitarian reasons for supporting it.

But if one was not in public housing on September 1, but moved in on September 2, then the present law applies.

Those who were in public housing on September 1 are forever free of any increase in their rent because of an increase in social security; and since there will be automatic increases in social security, there will be no decrease in their rent because of food stamps.

So we are setting aside one group of people in public housing because they were lucky enough to be there on this date and we say, "Your rent cannot be reduced, but if you moved into public housing thereafter, the present law applies and your rent can be reduced."

This has another interesting side effect. There are not enough public housing units to go around for everyone. This is going to say to those lucky people, "You stay in there, no matter how high your income goes, so long as it comes from these two sources you will not be required to leave public housing because your income exceeds the maximum." But the man who was not there that day and his income does exceed that amount, he can be required to move out.

So we will be saying these people who were so fortunate to be in public housing that day will be able to stay there, while others who have not been able to get into public housing, and their need may be much greater, and there is no room, can be kept out.

Mr. President, that is the statement I want to make. I know the amendment will be accepted, but the RECORD should show it is creating an interesting situation for a very fortunate group of individuals, who were fortunate to be in public housing on that date.

Mr. MONDALE. Mr. President, I must say that is not my understanding of the amendment. I have a different understanding of the meaning of the amendment. The amendment states:

(b) Notwithstanding any other provision of law, in the case of any individual who is entitled for any month after August 1972 to a monthly benefit under the insurance program established by title II of the Social Security Act, any part of such benefit which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336, or which results from (and would not be payable but for) any cost-of-living increase in such benefits subsequently occurring pursuant to section 215(i) of the Social Security Act, shall not be considered as income or resources or otherwise taken into account for purposes of determining the eligibility of such individual or his other family or the household in which he or she lives for participation in the food stamp program under the Food Stamp Act of 1964, for surplus agricultural commodities under any Federal program providing for the donation or distribution of such commodities to low-income persons, for admission to or occupancy of low-rent public housing under the United States Housing Act of 1937.

It is clear this amendment applies not to date of occupancy of a public housing unit, but the treatment of money given by way of a social security increase.

Mr. HUMPHREY. If the Senator will yield, and the date of increase in social security. From that time, the 20 percent and cost of living shall not be considered for other public assistance programs provided under the law. That is the point of the amendment.

Mr. MONDALE. In other words, it is not the date of public housing occupancy. That date is in there solely to identify increased social security money that cannot be taxed for public housing rent increases, or to reduce food stamps.

So I disagree with the Senator.

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

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. LONG. Mr. President, it was once by privilege to serve on the Committee on Banking, Housing and Urban Affairs, and to serve on the Subcommittee on Housing. Back at that time I suppose I could be expected to be an expert on housing problems. I regret that was some time ago. It was at least 10 years ago and probably more like 20. This Senator has not had the opportunity to be an expert on housing problems, as are those who serve on the committee. From time to time he protested to the Committee on Banking, Housing and Urban Affairs when they were proposing to act on something that appeared to come under the jurisdiction of the Committee on Finance; and he has protested to the Committee on Labor and Public Welfare when they proposed to go into a matter that appeared to come under the jurisdiction of the Committee on Finance.

In this case, if I had my preference, or as the saying goes, if I had my druthers, I would like to stay out of the jurisdiction of other committees.

In other words, I would say, "If you will get your committee together and your people on the Committee on Banking, Housing and Urban Affairs and agree what you think should be done about a housing problem, for lack of a better answer I will agree to it on the face of it, with the prima facie presentation," such as has been made here. In the case of the Committee on Agriculture, which initiated the food stamp program and would like to get it agreed to on a bill from the Committee on Finance, I would say, "Just tell us what you want

to do about food stamps." If they want to come back on top of our bill, that is all right. "Tell us what your committee wants to do about this, and we will try to cooperate with you. If you want to use the Finance Committee bill to solve that problem, we will cooperate." For lack of a better answer I would say the same thing with respect to the Veterans' Committee, whose jurisdiction once was in the jurisdiction of the Committee on Finance.

Here is our problem, Mr. President. When we undertake to raise the income of people under social security, of course, a great deal of the purpose is to eliminate poverty and to lift people out of need, so they will not find it necessary to seek public welfare assistance, and so they will not find it necessary to seek some of the other need-related programs for the poor.

For example, it was the Senator from Louisiana who proposed to the committee that we should say for all the old people who have been working under social security coverage that they would get at least $200 a month. Just because they were poor all of their working years does not mean they have to be poor all of their lives. Many people live a long life between now and the time that God calls them home and hopefully they would be out of poverty at some point. Hopefully a man and his wife would be able to get $300 a month. Sometime before the good Lord calls them home the grandfather should be able to take the grandmother out to a steak dinner, or in some other area perhaps a lobster dinner or perhaps a chicken dinner, the Senator from Arkansas suggests. The Senator from Arkansas seems to think that is the best of all.

But in any event, provide enough income so that even if someone never did have a job providing good wages, at some point in his retirement years he would be able to live beyond the poverty level and enjoy those things we would like to have for all Americans at a minimum. When we do that we lift people out of poverty, and we do that in this bill.

Included in this bill are people 65 years of age and over. We will move almost all of them out of poverty under this bill, and leave it to the capability of every State in the Union if they want to, with the windfall they will have under their State budgets, to take care of the small proportion that we failed to move out of poverty with this bill. With their windfall that the States will receive when this bill is in operation, there is no reason why any aged person in America should be left in poverty. It costs a lot of money to do that.

But then we get into other problems that arise. For example, here is a family in public housing. We proceed to lift that family up to the point where they are no longer eligible for public housing. But if we are going to disregard their social security increases, they will remain eligible.

When we do that, then we are being asked to disregard the income that those people receive by the additional social security and social security-related benefits to the point where they would remain in the public housing area and would continue to get food stamps, even though they are no longer in poverty.

Up to now, for example, we do have people who cannot get public housing benefits even though they are entitled to them, because there is only so much public housing to go around. There are not enough public housing units to go around, and it is only the relatively fortunate who are able to get public housing.

One of the problems this would tend to create is that of increasing the benefits of the needy and increasing the benefits of the low-income beneficiaries. It would ignore those increases so that those who would be eligible because they do not have that much income could not move into public housing units because those who have more income will stay there, even though their income has been advanced to the point where they no longer need it, by the definition of the law. In other words, we would be asked to disregard the income of these people.

This is a matter that I would cheerfully relinquish to the Committee on Banking, Housing and Urban Affairs, which has the jurisdiction to solve this matter. How would the distinguished Senator from Alabama, chairman of that committee, for example, solve it? If he and his committee can get together, even by a margin of one vote, I, for my part, would be willing to go along with the answer the Senator's committee would suggest.

Would the Senator care to comment?

Mr. SPARKMAN. Mr. President, I was just getting up to say that this is a complicated problem. I do believe that something ought to be done, but just what it ought to be, I do not know. However, let me say that I have had many complaints, and I am sure all Senators have, to the effect that the 20-percent increase in social security really did not help because it was immediately taken away in other charges. It is true that it increases the income measured by dollars, but, as a matter of fact, if I understand it correctly, most of the increases in social security—I think this applies to the 20 percent; certainly it applies to the cost of living—have been put in because the cost of living has gone up, and it does not become an increase in income if immediately these benefits that have been extended to them in other programs are taken away or if the charges are increased.

I do not know what the solution is, but I have had a great many complaints. I have had some people tell me—I am sure they were not correct, but nevertheless they had the feeling—that they would be better off without the 20 percent increase. I do not think that that is correct.

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

Mr. SPARKMAN. Let me just finish.

I am not sure that the Senator from Minnesota has the solution, but I do think there is some good in what he proposes. I just wonder if it could be possible for the manager of the bill to take this amendment to conference and get his experts to try to work out these complications and decide on it in the conference committee.

Mr. LONG. Mr. President, if that is what those on the Banking, Housing and Urban Affairs Committee want us to do, I suppose I will go along with that, but all I want to say is, please understand, Senator, this is a matter in your committee's jurisdiction.

Mr. SPARKMAN. Only in part. That is what I say it is so complicated, because it involves so many different things.

Mr. LONG. I just want to to be understood, if we accept the amendment—and I cannot speak for the Senator from Utah; I think he may be opposed to it—as far as I am concerned, if we agree to the amendment and the Senate goes along with it, that there is at least a mild protest on the part of those of us who do not have jurisdiction of this matter that those who have jurisdiction have not studied it and have not found the answer and are asking us to take it and for us to try to find the answer for them. Ordinarily, as committee chairman, I would oppose having someone else take a matter over which we had jurisdiction and try to find an answer for us.

Mr. SPARKMAN. Let me say, as chairman of the Committee on Banking, Housing and Urban Affairs, that I certainly am not raising the question of jurisdiction. I am not protesting. I think the Finance Committee has jurisdiction more than any other one, because that committee has complete jurisdiction over social security payments and social security benefits.

I repeat, it is complex, it is complicated, but I should think that the very able staff that is available to the Finance Committee and to the House Ways and Means Committee can work out something that will be fair.

Mr. LONG. Let us be clear that, as far as I am concerned, I am willing to go along with the amendment and try to work this matter out in conference between the Senate and the House; but I want to make it clear that this is a housing amendment. If this were introduced as separate legislation, it would not go to the Finance Committee. It would go to the Banking, Housing and Urban Affairs Committee, for a very good reason—that committee has jurisdiction over public housing legislation and over legislation that would provide terms and conditions under which a person would be eligible under the public housing program. If they were to bring out a bill, the Senator from Louisiana probably would not even ask a question. He would probably ask the chairman of that committee what he intended to do, and it would not even be on the record, but in a private conversation, and he would go along with it, because there have been many conferences on this matter. The Senator from Louisiana once served with the Senator on the Housing Subcommittee, long before the Senator served as chairman of the committee, and he knows how fair the Senator from Alabama is on these matters, and he would be happy to accept his judgment.

Mr. SPARKMAN. Mr. President, I would like to say that our committee has brought legislation to the floor from time to time that has dealt with rental payments in public housing. We adopted an amendment, which was sponsored by

the Senator from Massachusetts (Mr. BROOKE) that provided for a payment of not more than 25 percent of the income of those low-income people in public housing. But now comes another phase we do not have jurisdiction over, and that is welfare payments. Undoubtedly, there are others. I did not follow all that the Senator from Minnesota included. That is what has complicated the matter.

I want to make it clear that I shall be very glad to abide by what comes out of the joint conference on this matter, because I know the Senator has experts there to work that matter out, and that it can be worked out by them on a fair basis.

Mr. LONG. I wish I had as much confidence as the Senator has in those of us who would try to work this matter out in conference, but as far as the Senator from Louisiana is concerned, if those who have jurisdiction of this matter seek to do this, I would be willing personally to agree to the amendment and hope that we could work it out. I want it clearly understood that I do not guarantee that we can work it out. I would cheerfully suggest to the Committee on Banking, Housing and Urban Affairs and to the members of it that they ought to assume jurisdiction of this matter and look into is as expeditiously as they can, and try to provide us the best answer that they can to the problems that have been discussed here, because those on the Committee on Banking, Housing and Urban Affairs have jurisdiction that I do respect. I respect the competence, the ability and integrity, and the devotion to public service of those Senators, and their interest in these people.

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

Mr. LONG. I yield.

Mr. MONDALE. I have just heard from the distinguished chairman of the Committee on Banking, Housing and Urban Affairs (Mr. SPARKMAN) and the Senator from Massachusetts (Mr. BROOKE), who is one of the key members on the Housing Subcommittee, on which I serve. I think it is clear that we all believe action must be taken now on this bill.

I do want to say one other thing: I have been around my State a great deal recently, and I have not heard anything that has caused more comment, more resentment, or more bitterness than this problem we are discussing. These social security recipients who are public housing tenants are being preyed upon and their few dollars of social security increase is being cut up. That is what is happening. Senators ought to read the letters. Here is a lady who writes and says:

> I don't get a paper, I don't have television, I can't afford a radio, I don't have a phone, I can't afford any of it . . .

And we are going to say, "Let's take eight bucks from her."

I say we certainly have the ingenuity to act now to help these people, and that if we cannot hold this kind of measure in conference with the House of Representatives, if we cannot keep the respect of decent Americans like that, trying to live off their social security checks in those pathetic circumstances, then I do not know how we explain our situation.

I yield to the Senator from Wisconsin.

Mr. NELSON. First, I ask unanimous consent that my name be added as a cosponsor of the amendment of the Senator from Minnesota.

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

Mr. NELSON. I just want to make one observation: I do not think anyone in either House of Congress has addressed himself more thoughtfully and with more dedication to the problems of children and youth and the problems of the elderly than the Senator from Minnesota (Mr. MONDALE). I want to commend him for his thoughtful proposal here, which seeks to do something about a very serious problem.

Mr. MONDALE. I thank the Senator. I ask unanimous consent that the names of Senators MONTOYA, RANDOLPH, KENNEDY, CHILES, MUSKIE, MCINTYRE, and TUNNEY be added as cosponsors of this amendment.

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

Several Senators addressed the Chair.

Mr. MONDALE. I had promised that I would modify my amendment, and if the Senator from Louisiana will yield me a minute, I will do so.

Mr. LONG. Yes.

Mr. NELSON. Mr. President, did the Senator include my name as a cosponsor?

Mr. MONDALE. I thought the Senator had already asked. I ask unanimous consent that the name of the Senator from Wisconsin again be added as a cosponsor.

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

Mr. MONDALE. Mr. President, I modify my amendment by deleting the language appearing on page 2 between lines 3 and 15, inclusive, dealing with veterans' benefits, and the language appearing on page 3, beginning on line 17 and ending with the period after "1971" on line 21. That is the veterans' pass-through amendment, which we are deleting reluctantly, but because the Veterans' Affairs Committee has acted and has an amendment pending.

Second, I modify my amendment by deleting the language appearing on page 3, beginning with the phrase "or for any other benefits" starting on line 11, and ending at the end of line 16. This is a "catch-all" phrase which might create confusion so I want to take it out.

I modify my amendment to that extent. I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. TUNNEY). The Chair informs the Senator that to modify his amendment requires unanimous consent.

Mr. HUMPHREY. Mr. President, will the Senator yield me 1 minute?

Mr. MONDALE. I yield.

Mr. HUMPHREY. The distinguished Senator from New Hampshire (Mr. COTTON) spoke to me in reference to modifying the amendment on page 3, line 5, by adding the word "or" at the end of the line, so as to make it read "or for surplus agricultural commodities," and so on.

Mr. MONDALE. Yes. I accept that modification, and I ask unanimous consent to modify my amendment accordingly.

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

Mr. MONDALE. Mr. President, I ask for the yeas and nays. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. MONDALE. I withdraw the request.

Mr. President, I move the adoption of my amendment.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. LONG. I yield back the remainder of my time.

Mr. MONDALE. I also ask unanimous consent that the name of the Senator from New York (Mr. JAVITS) be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. Does the Senator from Minnesota yield back the remainder of his time.

Mr. MONDALE. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. TUNNEY). All remaining time having been yielded back, the question is on agreeing to the amendment (No. 1675) of the Senator from Minnesota, as modified.

The amendment, as modified, was agreed to.

Several Senators addressed the Chair.

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

Mr. MONDALE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

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

Mr. KENNEDY. I yield.

Mr. STEVENS. We have an amendment which was to precede the Mondale amendment. I would like to have unanimous consent that ours may follow the Kennedy amendment. I refer to our amendment No. 1676, as modified. I ask unanimous consent that the consideration of that amendment follow the amendment of the Senator from Massachusetts, that we have a half-hour time limit, to be equally divided between the Senator from Louisiana and myself, and that that limitation apply to all amendments, and that no amendment not germane to our amendment be considered.

Mr. LONG. Mr. President, I do not believe we can agree to that at this point, because there may be a proposal to amend the amendment.

Mr. STEVENS. I will be happy to agree to any time limitation, but I want an agreement that we have our amendment follow that of the Senator from Massachusetts.

Mr. LONG. I am happy to agree to

that, but what would the Senator do about amendments to the amendment?

Mr. STEVENS. I would leave it to the Senator from Louisiana.

Mr. LONG. Then I would suggest that there be a half-hour on each amendment to the amendment.

Mr. NELSON. Mr. President, reserving the right to object, I have been standing here for an hour and a half waiting to have a brief colloquy. I object to Senators walking in here and taking up their amendments ahead of me, when I have been waiting an hour and a half. So I ask unanimous consent that my 3- or 4-minute colloquy may precede the request of the Senator from Alaska, at least. I do not care when, but I do not want to wait another 2 hours on top of the time I have been waiting around here.

Mr. LONG. Mr. President, if the Senator has an amendment, can we agree on a time? Does the Senator want to offer it after this amendment?

Mr. NELSON. That is all right with me, but I have been here an hour and a half, and everyone is coming in, in succession, and getting the floor, and getting agreements for consideration of their amendments. I object to that. I want to get the floor a few minutes at some point. It will only take about 4 minutes, and I do not want to spend another 2 hours around here while another amendment is debated waiting for 4 minutes.

Mr. LONG. Will the Senator tell us what amendment he wants to offer, and, if so, ask that that amendment might be considered next?

Mr. NELSON. Yes, I have an amendment on the 20-percent full payment requirement on behalf of those who get health care and are not required to go to the hospital for 3 days. I believe the Senator has looked at that amendment, and has no objection to it.

Mr. LONG. Well, could we gain unanimous consent that the Senator could offer his amendment?

Mr. KENNEDY. Mr. President, I would be glad to—I know the Senator from Wisconsin has been here. I was in here right after the cloture vote, too, when Senator MONDALE had indicated that they had some amendments that were supposed to be agreeable. Then Senator MONDALE was here, and I think all of us were trying to get the floor. But I will be glad to yield.

I have probably three amendments, each cosponsored by 15 or 18 Senators. I would be glad now to let the Senator from Wisconsin and the Senator from Alaska proceed. Since my amendments are related, I would like to take them one after the other, I will be glad to do that and try to gain the floor in 45 minutes or so and then take up those amendments, because they are related, rather than take up one and then proceeding to another Senator's amendment.

If it is acceptable to the membership, I would like to do that, rather than hold up the Senator from Wisconsin and the Senator from Alaska.

Mr. STEVENS. Ours was one of the two amendments to precede the Mondale amendment; but because of something that developed, we stood aside to let Senator MONDALE proceed.

I want an understanding. I understand that the amendment is going to be accepted. I say to the Senator that I have been waiting 3 days to have this amendment called up, and we have worked it out with the manager of the bill. I just want to get in line. I will be happy to arrange any circumstance that the two Senators want to arrange. I think we have an agreement with respect to unanimous consent on time and everything else.

Mr. LONG. I suggest this: I believe that the Senator from Massachusetts has indicated that he would be willing to let us take up the amendment of the Senator from Wisconsin, and we could do that, and then we could agree that after the Kennedy amendment has been disposed of, we could consider the amendment of the Senator from Alaska.

Mr. STEVENS. That is perfectly agreeable to me.

Mr. NELSON. I just do not want to stand here as other agreements are reached and wait here 2 or 3 hours, when I can do something else. I do not mind proceeding after the Senator from Alaska, if we are going to have unanimous-consent agreements.

(At this point Mr. ROTH assumed the chair.)

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

Mr. KENNEDY. I yield to the Senator, without losing my right to the floor.

Mr. TUNNEY. Mr. President, I have noticed that during the course of the day there has been a sign-up for recognition at the Chair, and there are quite a few names of Senators who have signed up, asking to be recognized in a certain order. When I was occupying the chair, I read the list, and the reason why I recognized the Senator from Massachusetts is that his name came up on the list.

If we are going to start asking unanimous consent to be recognized, it would be my hope that we would recognize that other Senators also have a desire to have the Chair's recognition in order to offer amendments, the Senator from California being one of them.

I do not know why the regular order could not be that if Senators have amendments they want to offer, they go to the Chair and indicate to the Chair that they have such a desire, and sign up, and then we can proceed on an orderly basis.

Mr. STEVENS. We relied on the statement made on the floor that we would precede the Mondale amendment, and we did not put our name on the list.

When the Senator from Minnesota told me that a question had been raised about our amendment, we agreed that he should go ahead and that we would eliminate the question. We have now eliminated the question; it is now a noncontroversial amendment.

I did not go to the desk to put my name on a list. I relied on the arrangement we had with the manager of the bill. I just want to see that we get back in order somewhere, in terms of having this amendment called up.

Again, I am willing to enter into any kind of unanimous-consent agreement as to order, but I wish to see that we get back in order. My colleague and I from Alaska, as the chairman of the Finance Committee knows, have been working with him and the staff for at least 3 days on this matter, and it has been worked out.

I am grateful to the Senator from Massachusetts for allowing us to get into this colloquy. I again renew my request. I ask unanimous consent that following the amendments of the Senator from Massachusetts, the amendment of the Senator from Wisconsin be taken up, and that following the Senator from Wisconsin's amendment, our amendment No. 1676 be in order.

Mr. TUNNEY. Mr. President, reserving the right to object—and I probably will not object, because the Senator from Alaska has stated that he had some sort of understanding with the Senator from Minnesota regarding the Senator from Minnesota's amendment—it would seem to me to be far more orderly procedure, if Senators choose to be recognized, to sign up at the desk, and not come in with unanimous-consent requests and move ahead of Senators who have been on the floor since the Senate went into session this morning.

Mr. STEVENS. I have been here every minute since the Senate went into session this morning.

Mr. TUNNEY. I will not object, but I will object in the future.

Mr. STEVENS. I thank the Senator.

Mr. NELSON. Mr. President, I will wait until the end of the bill to call up my amendments.

I should like to make this response to the Senator from California: The rule is that the Senator who is first on the floor is recognized. The list at the desk means absolutely nothing. We cannot run the Senate by having Senators come in here at 9 or 10 in the morning and putting themselves on the list. The first Senator up on the floor is the one to be recognized.

Mr. TUNNEY. I would agree with the Senator on that point. However, when several Senators are seeking recognition at the same time, it seems to me that a Senator who has been on the floor for 4 or 5 hours deserves to be recognized before a Senator who has just come in from lunch.

Mr. NELSON. I was standing there longer than anyone else.

The PRESIDING OFFICER. Will the Senator from Alaska make his request?

Mr. STEVENS. I thought we had an agreement to my unanimous-consent request that following the amendments of the Senator from Massachusetts, the Senator from Wisconsin may call up his amendment.

Mr. KENNEDY. As I mentioned, I would much prefer to let the Senator from Alaska call up his amendment. I understand that his amendment is going to be accepted. I have three amendments which are related to each other, and I would like to consider them one after the other. I would prefer to proceed that way, and I am prepared to wait, if that is agreeable.

Mr. STEVENS. That is a very gracious offer. It is agreeable.

Mr. KENNEDY. Do I correctly under-

stand that it is the intention of the Finance Committee to accept the amendment?

Mr. LONG. It is the intention of the manager of the bill to vote for the Stevens amendment, if I understand the amendment correctly. The Senator said that he had modified it. He has not modified it drastically.

Mr. STEVENS. The modification was checked out with the staff.

Mr. LONG. Then, the answer is "yes."

Mr. KENNEDY. Mr. President, I ask unanimous consent that after the consideration of the amendment of the Senator from Alaska, the Senator from Massachusetts be recognized.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and 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 joint resolution (S.J. Res. 251) to designate the week which begins on the first Sunday in March of each year as "National Beta Club Week," with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H.R. 9676) to authorize the conveyance of certain lands of the United States to the State of Tennessee for the use of the University of Tennessee.

The message further announced that the House had agreed to the amendments of the Senate to the bill (H.R. 14424) to amend the Public Health Service Act to provide for the establishment of a National Institute of Aging, and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed a joint resolution (H.J. Res. 1274) designating October 8–14, 1972, as "Newspaper Week" and October 14, 1972, as "Newspaper Carrier Day," in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled 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 enrolled bill was subsequently signed by the Acting President pro tempore (Mr. Moss).

HOUSE JOINT RESOLUTION REFERRED

The joint resolution (H.J. Res. 1274) designating October 8–14, 1972, as "Newspaper Week" and October 14, 1972, as "Newspaper Carrier Day," was read twice by its title and referred to the Committee on the Judiciary.

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.

AMENDMENT NO. 1676

The PRESIDING OFFICER (Mr. TUNNEY). The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I call up my amendment No. 1676, as modified.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The amendment, as modified, was read, as follows:

SAVINGS PROVISION REGARDING CERTAIN EXPENDITURES FOR SOCIAL SERVICES

SEC. . (a) In the administration of section 1130 of the Social Security Act, the allotment of each State (as determined under subsection (b) of such section) for the fiscal year ending June 30, 1973, shall (notwithstanding any provision of such section 1130) be adjusted so that the amount of such allotment for such year consists of the sum of the following:

(1) the amount of the total expenditures, not to exceed $50,000,000, incurred by the State for services (of the type, and under the programs to which the allotment, as determined under such subsection (b), is applicable) for the period commencing July 1, 1972, and ending on the date of enactment of such section 1130, plus

(2) an amount which bears the same ratio to the allotment of such State (as determined under subsection (b)), but without application of the provisions of this section as the remaining period (as defined in subsection (b)), bears to a period of twelve months. *Provided, however,* That no State shall receive less under this section than the amount to which it would have been entitled otherwise under section 1130 of the Social Security Act.

(b) The term "remaining period" means a twelve-month period reduced by a number of days equal to the number of days in the period commencing July 1, 1972, and ending on the date of enactment of section 1130 of the Social Security Act.

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

Mr. STEVENS. I yield.

Mr. GRAVEL. Mr. President, I ask unanimous consent that after the Senator from Massachusetts finishes his three amendments, I be permitted to call up my three amendments.

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

Mr. STEVENS. Mr. President, the modification we have made in this amendment, which is a proposed amendment to the social services sections pertaining to the revenue-sharing bill, will make certain that the effect of this amendment will not decrease the amounts that have been expended by any State prior to the date of the Social Security Act amendments in the revenue-sharing bill, and at the same time it will protect those States who are entitled to more.

This matter has been discussed with the staff of the Finance Committee, and I am hopeful that the chairman of the committee will be able to accept it.

What this amendment does is this: It says that in terms of the impact of the limitations in the Revenue-Sharing Act on social service, those States that have in fact spent more money than they would be allocated under the bill—the new bill—would be treated fairly, and they would be permitted to obtain 75 percent matching funds for those services up to the date of the new revenue-sharing bill. After that date they will be entitled to a pro rata share of the amount they are entitled to under the population formula. This, we think, is a matter of equity in dealing with a State such as ours in this field. Our State, for instance, has spent in excess of $6 million of the quota preceding adoption of the new act. Our allocation under the new act is $314 million. We would actually owe the social services fund administered by the Department of Health, Education, and Welfare money. We would not be entitled to anything until that accrued indebtedness had been theoretically repaid. We have a limitation in this, that no State will receive in excess of $50 million under this concept, except that no State will be reduced from the amount they are actually entitled to under the new formula.

The Presiding Officer now in the chair, the distinguished Senator from California (Mr. TUNNEY) is from a State that is entitled to more money under the formula than $50 million. That provision in the revised amendment as we have modified it is to protect States such as California and New York, so that their amounts allocated are not reduced by the amount we are seeking to put a limitation on, so that any small State could come in and all of a sudden spend more money. I am hopeful that the chairman will accept this amendment.

Mr. President, I ask unanimous consent that the names of Senators BOGGS, GURNEY, and ROTH be added as cosponsors of this amendment.

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

Mr. STEVENS. I am most pleased that my colleague (Mr. GRAVEL) and I are able to present this amendment.

I yield now to my colleague (Mr. GRAVEL).

Mr. GRAVEL. Mr. President, my colleague, Mr. STEVENS has put the case very well. It is not the intention of the committee or any Member of this body to impose an unfair burden upon any State in the area of social services. But the result of the action taken in the revenue-sharing bill does hurt Alaska. The immediate impact would be to terminate 100-plus programs now in existence and to lay off immediately 2,000 people. I know that is not the intent of the bill, and I am very happy that the chairman of the committee will accept the amendment. I realize that it does no harm to any other State.

Mr. President, I ask unanimous consent to have printed in the RECORD several letters which I have received on this subject.

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

STATE OF ALASKA,
Juneau, Alaska, September 21, 1972.

Hon. MIKE GRAVEL,
U.S Senate, New Senate Office Building, Washington, D.C.

DEAR MIKE: Please be advised that the current understanding in Alaska of the social services provisions of the revenue sharing bill leads us to the conclusion that its impact on social services in this State will be disastrous and amount to destruction of almost one hundred programs throughout the States related to actual current social services needs.

Alaska has not abused the Title IV–A and Title XVI Social Security Act provisions. If any state has done so, the Department of Health, Education, and Welfare can promulgate Federal regulations to correct any program abuse, but it is eminently unfair to sacrifice good programs which are helping people improve their lives as a purely expedient means of also eliminating the bad. Alaska has proceeded in good faith to develop and provide a manageable number of expanded social service programs always in consultation with Health, Education, and Welfare Region X staff to keep within Federal guidelines.

If the present Revenue Sharing Conference Committee provisions are adopted allowing Alaska $6 million plus $3.7 million for social services, this will represent a net loss or cutback of over $16 million in State-provided social services in an immedate, abrupt, and extremely damaging manner. The present utilization level of $22 million for social services would be substituted only with the presently proposed $2 million to the State and $4 million going to local governments under revenue sharing, and $3.7 million to the State for social services. There are no requirements nor indications that the $6 million revenue sharing money on state or local levels would be used for social services. The impacts of the Metcalf Amendment and the Alaska-Hawaii Cost-of-Living Amendment, if accepted by the Conference Committee, are not clear as yet or assured.

Paraded and alleged fiscal relief to this State would be, in fact, only actual fiscal pain and suffering for Alaska. The $6 million would only represent substituted money and the State of Alaska will wind up with a net loss of over $16.25 million in current program funding. Within the limited funds available to Alaska under social services provisions of $3.74 million, current staff matching apparently would come out as well as mandated services under current Federal regulations such as legal services, homemaker services, self-support services, information and referral services as well as other mandated services. The amount made available for Fiscal Year 1972 will barely cover expenditures already made in the first quarter of this year.

I cannot recommend that you support the final passage of the present version of the revenue sharing bill which is so misleading to the public, which again under the guise of being a help to a state actually withdraws aid to, and damages, tens of thousands of Alaskan citizens, closes 100 qualified major social services programs such as day care, family planning, homemaker services, alcoholism rehabilitation projects and scores of other social service programs and creates additional unemployment and suffering for approximately two thousand Alaskans whose jobs will be removed with the proposed action.

As you know, our strong recommendation has been to separate the basic revenue sharing fiscal relief measure from the Social Security social services under Title IV–A and XVI issue. This would have allowed public debate and hearings on the problematical, open-ended aspects of an appropriate ceiling for social services costs. As a minimum, the Governors' Conference position of a ceiling of $3.6 billion with hold harmless at current levels should be provided for the social services portion of the act if the two measures are to be combined.

The Congress should await receipt from the states of information as to the adverse impacts of this harmful measure before enacting it. Already states have been harmed by the veto of the Health, Education, and Welfare appropriations bill. We should not continue a pattern of shutdown of programs for assistance for the health and well-being of citizens actually in need. Please contact Illinois and New York delegations as to steps their state officials plan to take. We stand ready to assist in any way we can. Your strongest opposition to the current effort will be appreciated and in the best interests of Alaskans.

Sincerely,

WILLIAM A. EGAN,
Governor.

STATE OF ALASKA,
Juneau, Alaska, September 25, 1972.

Hon. MIKE GRAVEL,
U.S. Senate,
New Senate Office Building,
Washington, D.C.

MY DEAR SENATOR GRAVEL: The Governor's Commission for the Administration of Justice has noted with deep concern recent action on the part of a Congressional Conference Committee to limit expenditures for social services programs through amendment to the Revenue Sharing Bill now before the Congress. Under the provisions of the Amendment, Alaska would be forced to impose a cutback of over $16 million in social services programs. Many of these programs are providing direct and indirect benefits in areas in which this Commission is vitally concerned. Child care centers, delinquency and child abuse prevention programs, and alcohol and drug abuse programs have all benefited from the funding available through Titles IV and XVI of the Social Security Act. Withdrawal of more than $16 million in Federal funding from these programs will signal their termination. The local and state initiative which led to the orderly and responsible development of the programs will be destroyed and the short and long-range benefits which would have accrued to the criminal justice effort in Alaska will be lost.

The Commission strongly supports any effort to regain the funding necessary to continue these social services programs and urges Alaska's congressional delegation to vigorously seek restoration of these funds.

Very truly yours,

JOHN E. HAVELOCK,
Chairman, Governor's Commission for the Administration of Justice.

NATIONAL COUNCIL ON ALCOHOLISM,
Anchorage, Alaska, September 28, 1972.

Hon. MIKE GRAVEL,
U.S. Senate,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR GRAVEL: I know that you are doing everything possible to assist in the Title IV crisis, but I hope to add some ammunition to your arsenal.

I am aware that you have kept yourself well-informed on the dramatic progress of the National Council on Alcoholism, Alaska Region, in the past eight months, in spite of extremely trying financial handicaps. However, you may not have been properly informed as to the scope of these handicaps.

Our so-called $10,000 "advance" payment, designed to tide us over until program billings began to roll, should have been paid the first of February but did not arrive until the *end of the first week of April*. All other payment of funds due have been constantly delayed in the "bureaucratic jungle" on an average of two months.

Bill Saville has done a yeoman's job of putting together a skilled and trained staff, directing the organization and gearing up to provide the increased services to the community as outlined in our contract, and providing these services on an escalating scale. All the while, he attempted to keep our head above water by obtaining advances on our Community Chest funds, using up a small savings account of the old Anchorage Council, obtaining temporary loans to meet payroll from the Greater Anchorage Area Borough, plus asking our creditors to continue to have faith in our integrity and the integrity of our government that the "snafus" would soon be straightened out and the cash flow would be running smoothly. As of this date, we are still waiting for funds billed for July services.

In other words, all personnel . . . office manager, secretary, counselors, volunteers, etc. . . . have pitched in, doing their own work, and more, to make the transition from a simple office which could provide only a few pieces of literature and a sympathetic ear to the few who were aware of our existence to the present organization of eight people which is providing out-reach counseling upon request for other financially struggling programs . . . public information through the media in news releases, public service announcements, speakers at schools, clubs, churches, a Newsletter, etc. . . . DWI Court School . . . and services to doctors, hospitals, other alcoholism councils and agencies throughout the state . . . to name a few of our major services.

Requests for help have increased fantastically since we have been able to publicize our referral counseling and information services. We have a variety of help resources available to which we could refer people seeking assistance, thus allowing the counselors to select a specific program best suited to the individual. Unfortunately, most of these resources are also dependent upon Title IV and have gone through the same growing pains as we have experienced and will undoubtedly have to close completely.

We are now in an excellent position to carry out our mission efficiently and had even made plans to further expand and refine our services next year . . . only to learn it might all go down the drain.

It seems to me that to scrap the various inter-related integrated alcoholism programs *just after they have really begun to function* and to provide the intended services would be a *waste of public monies of the greatest magnitude*. If any of the programs are allowed to die and are later reinstated—*as they must be*—these programs would, in the main, have to begin from scratch thus duplicating all of the necessary start-up cost and time.

Naturally, I may be accused of bias, since my own job is in jeopardy. However, I have never been out of work for longer than two weeks in my life and I feel certain I could find something in my field in a relatively short time. Therefore, my prime concern is what I consider a waste of my money as a taxpayer and the tremendous social and economic damage this will inflict upon the State of Alaska.

Thank you for your concern and for all of your efforts in our behalf.

Sincerely,

EDWIN G. BEU, Jr.,
Public Information Director.

Hon. TED STEVENS,
U.S. Senate, Old Senate Office Building, Washington, D.C.
Hon. MIKE GRAVEL,
U.S. Senate, New Senate Office Building, Washington, D.C.
Hon. NICK BEGICH,
House of Representatives, Longworth House Office Building, Washington, D.C.:

Effect of social service amendment to the revenue sharing bill will result in a loss of 44 jobs and over one-half million dollars to the city of Anchorage, when conference re-

port is considered. Request you attempt to rectify.

ROBERT E. SHARP,
City Manager.

BRISTOL BAY AREA
DEVELOPMENT CORP., INC.,
September 27, 1972.

Hon. MIKE GRAVEL,
U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR STEVENS: It is indeed frightening to hear of the proposed retroactive cancelling of the Title IV and Title XVI funds for our State of Alaska.

We are deeply concerned in our Bristol Bay region, where we have already suffered a disastrous 1972 commercial fishing season.

Please reconsider within your powers to keep these funds available.

Sincerely,

JOHN J. KNUTSEN,
Regional Director.

ALASKA HOMEMAKER-HOME
HEALTH AIDE SERVICE, INC.,
Juneau, Alaska, September 22, 1972.

Subject: H.R. 16654.

Hon. SENATOR GRAVEL,
U.S. Senate, Senate Office Building, Washington, D.C.

DEAR SENATOR GRAVEL: Will you help Alaska's aging men and women and Alaska's aging men and women and Alaska's children to remain in their own homes with the assistance of Homemaker-Home Health Aides and Home Helpers?

Our Agency, which serves the aging, ill, disabled and children from Metlakatla to Point Barrow has received a thirty-day notice to discontinue service under state contracts that involve Titles IV and XVI.

Discontinuance of service will result in the removal of many aging, and children, from their own homes in the villages to nursing homes and institutions. Also, it will result in unemployment of approximately 200 men and women, chiefly Natives, in the villages.

Our Agency has applied for Title IV and XVI money to match Model Cities money appropriated to us for Senior Citizens services. The loss of the Federal matching funds for Model Cities programs will mean the loss of jobs for about 1,450 men and women in Juneau.

Do all in your power to save service to troubled human beings under these Titles. Certainly our Senators and our Congressmen have a moral obligation to review the agencies that serve under Federal money; but they have an equally important obligation to see that America's aging and children are served with loving care in their own home and that thousands are not unemployed at the beginning of winter.

Thank you.

Sincerely,

DOVE M. KULL, *Director.*

JUNEAU, ALASKA,
September 27, 1972.

Hon. MIKE GRAVEL,
U.S. Senate,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR GRAVEL: As an employee of the local Alcoholic Rehabilitation program, I urge you to do your utmost to fight for Alaska's retention of Title IV and Title XVI funding. The proposed cancellation can only result in grievous social and economic stress for nearly a tenth of Alaska's entire population.

If cancellation cannot be averted, I would plead circumvention at least until Alaska has an opportunity to develop other sources of funding.

Even with present funding, Alaska is in dire need of yet more and BETTER facilities to aid the alcoholics within her borders. To be forced to abandon efforts presently in effect will be disastrous. The social disruption, the human misery which will result is incalculable.

Respectfully,

MELVIN J. MURPHY.

NOME, ALASKA,
October 3, 1972.

Senator MIKE GRAVEL,
U.S. Senate,
Washington, D.C.

Title IV funding slated for rural Alaska was to be controlled by indigenous groups who were utilizing innovative methods to deal with crippling social problems. Over $500,000 was scheduled to impact on alcohol problems, provide badly needed pre-school programs, and to finance native planning efforts in human services. The backlog of health and social services needs remains staggering. Neither the State nor the land claims settlement can finance a program to meet these problems. We urge that funding be allocated on the basis of need rather than population. Your support amendments to that effect is required.

CALEB PUNGOWIYI,
Executive Director, Norton Sound Health Corp.

ANCHORAGE, ALASKA,
September 30, 1972.

Senator MIKE GRAVEL,
Washington, D.C.:

The Greater Anchorage Area Management Group on Drug Abuse is charged by the Borough Assembly with the responsibility of development, implementation, and coordination of all drug and drug related programs within the Anchorage Borough. The Management Group is appalled by the proposed cuts of Title 5 and 16 on the SSA. These cuts mean that needed services in our community will be virtually eliminated. Services which have just recently begun in the area of drug abuse will have to be closed. Additionally services which were being provided to individuals and families which in many ways serve to prevent other sociological and psychological difficulties from becoming drug abuse problems will also have to be discontinued. As a broad based community group which accurately reflect these sentiments of the citizens of the Anchorage community and which is involved and the development of much needed service, implore you to utilize the full resources of your office to prevent the projected discontinuation of vital social services within our community.

JACK RODERICK,
Chairman, Management Group on Drug Abuse.

ANCHORAGE, ALASKA,
September 25, 1972.

Senator MIKE GRAVEL,
Washington, D.C.:

The Alaska Federation of Natives, Inc., on behalf of its constituent regional natives associations, hereby goes on record strongly protesting the inclusion of a distribution system of H.E.W. title 4A and 16 monies on a per capita basis, in revenue sharing bill currently pending before the congressional conference committee.

To prevent a statewide chaos and crucial effect on the recipients of the services of the current and pending contracts under the current title 4A and 16, a concerted effort by all parties concerned to prevent such a bill passing in the conference committee is not only necessary, but a must. The passage of such legislation is contrary to the national goal of improving human needs.

WILLIAM L. HENSLEY,
President, the Alaska Federation of Natives, Inc.

ANCHORAGE, ALASKA,
September 25, 1972.

Senator MIKE GRAVEL,
Washington, D.C.:

Title 4A contracts as of September total 22 million. Free conference revenue sharing bill allocates 3.7 million to Alaska. Over 100 social services programs and 2,000 jobs endangered. Impact on 90 day care centers disastrous. Do something to assure present contracts or funded services to 50,000 are at stake.

The Alaska consortium on early childhood education urge reconsideration of title 4 and 16 funds to Alaska. Reductions will drastically affect many needed programs that serve our bush areas. Bethel population 2,500 and approximately 40 outlying villages will dramatically feel results of negative discussion through elimination or reduction of alcoholism programs, day care centers, preschool programs.

SUSAN TAYLOR,
Director, Children Services Bethel Social Services.

KENAI, ALASKA,
September 22, 1972.

Hon. MIKE GRAVEL,
U.S. Senate
Washington, D.C.:

Rural Cap State Board of Directors recognize that any ceiling on title IV or title XVI Social Security Act funds below present level of state operation would have disastrous effect on social programs in Alaska. It would affect state government, city and local government, native association and private agency who run programs in the areas of day care, social planning alcoholism and social services. Thousand of jobs will be lost if title IV and title XVI funds are limited. It is imperative that you vote against any item to cut back on title IV and title XVI funds purpose in Congress.

ELMER ARMSTRONG,
President,
Rural Cap Board of Directors.

ANCHORAGE, ALASKA,
September 22, 1972.

Senator MIKE GRAVEL,
Washington, D.C.:

We are aware that the free conference committee is about to reach a decision on the revenue sharing bill. If title IVa funds are cut, approximately 1500 to 2000 people will be left unemployed in Alaska, hundreds of thousands will not receive needed care. We urge that this bill not be brought to the floor unless a save harmless clause for a limitation of appropriations that will meet the fiscal obligations that have already been incurred, be included.

BOARD OF TRUSTEES GREATER ANCHORAGE
AREA COMMUNITY ACTION AGENCY

ANCHORAGE, ALASKA,
September 23, 1972.

Senator MIKE GRAVEL,
Washington, D.C.:

Title IVA funds pay salaries of 60 staff here and operation of child care programs in 30 villages for 370 children please don't pass revenue sharing bill without amendment to honor present contracts.

BAXTER WOOD OFFICE OF CHILD DEVELOPMENT ALASKA STATE OPERATIVE SCHOOLS

ANCHORAGE, ALASKA,
September 23, 1972.

Senator MIKE GRAVEL,
Washington, D.C.

The Long amendment to the revenue sharing bill will eliminate $3,593,300 in service to citizens of Anchorage being provided through some 20 agencies including family services to an estimated 1800 individuals plus 4000 families in need of services all services to 4000 alcoholics 12000 dependents will

be curtailed by loss of 56 percent of their funds through combined local state and Federal funds Anchorage is near a comprehensive community service for alcoholics the Alaska Center for Alcohol and addiction studies University of Alaska, Anchorage is totally funded by title 4 this first year best estimate is that there will be an overall reduction of 50 percent in services to families the aged and disabled in the Anchorage area employment of over 150 persons in Anchorage will be affected local cost of $232,900 to gear up may not be recovered we have acted in good faith using available resources to provide needed services we have invested heavily believing that the Federal administration was acting in good faith also we urge you to seek hold harmless relief for Alaska.

A. B. COLYAR, M.D.,
Medical Director Borough Health Department.

ANCHORAGE, ALASKA,
September 25, 1972.

Hon. MIKE GRAVEL,
U.S. Senate,
Washington, D.C.:

Effect of social service amendment to the Revenue Sharing Bill will result in a loss of 44 jobs and over one half million dollars to the city of Anchorage when conference report is considered. request you attempt to rectify.

ROBERT E. SHARP,
City Manager.

ANCHORAGE, ALASKA.
September 25, 1972.

Senator MIKE GRAVEL,
Senate Office Building,
Washington, D.C.:

The Association for Retarded Children of Anchorage objects strenuously to the cutback in title IV funding. The immediate result of discontinuation of these funds will be that fifty adults of all handicapped will be cancelled out of our various rehabilitation programs during the last thirty day period. Twelve handicapped persons were taken off state subsidies and placed in employment in the community. It is reasonable to assume that a portion of the fifty persons discontinued would also be successfully rehabilitated. The proposed cutback will be of little significance in terms saving monies as these people will undoubtably return to state and federal subsidies. In Alaska rehabilitation costs are much higher than in other states. A cutback based on population rather than on actual need shows little consideration for the handicapped.

ASSCIATION FOR RETARDED CHILDREN OF ANCHORAGE.

JUNEAU, ALASKA,
September 27, 1972.

Honorable MIKE GRAVEL,
New Senate Office Building,
Washington, D.C.:

We urge you to continue your efforts toward extending the time frame for use of current funds for titles four and sixteen. A retroactive drastic cut in Alaska's funds will have a destructive impact on the lives of far too many Alaskans.

JUNEAU MENTAL HEALTH ASSOCIATION.

NOME, ALASKA,
September 26, 1972.

MIKE GRAVEL,
U.S. Senator,
Washington, D.C.:

Cutting of title 4 and XVI funds drastically affects the people of our region. You are aware of the passage of the Alaska Native Claims Settlement Act. This was a settlement for lands lost to the United States Government. We hope to use this to create a better economy to alleviate the use of public welfare and other services. We have not reached that point and will not for years. We are in great need of funds cut in title 4 and XVI. We urge you to work toward returning the monies to the fund.

JEROME TRIGG,
President, Bering Straits Native Association.

ANCHORAGE, ALASKA,
September 26, 1972.

Senator MIKE GRAVEL,
Washington, D.C.:

The proposed cut in the appropriation for titles IV and XVI of SSA are terrible. These cuts would have a tremendous effect on the State of Alaska we cannot afford. The loss of 2,000 jobs in an economy as unstable as the one presently existing in Alaska. I ask you to use all of the powers of your office to raise the appropriation to the level of spending for fiscal year 72. To allow the proposed appropriation to be implemented would only hurt the State of Alaska.

G. W. ECKLES,
Coordinator, Special Services Division, GAAB Health Department.

ALASKA HOMEMAKER-HOME HEALTH AIDE SERVICE, INC.,
Juneau, Alaska, September 25, 1972.

Hon. MIKE GRAVEL,
U.S. Senate,
Washington. D.C.

DEAR SENATOR GRAVEL: The proposed amendment to Title III of the Revenue Sharing Bill which seriously curtails funding available for social services under the Title IV and XVI of the Social Security Act will cause Alaska Homemaker-Home Health Aide Service, Inc. to drastically reduce service to the ill, disabled, aging and children of Alaska. With winter coming this reduction of service will be very hard on Alaskan Natives we serve in the villages, as well as the people we employ as Homemakers and Home Helpers.

Our Agency and the people we serve request your efforts in letting our problem be known to your fellow Senators.

Sincerely,

PATRICIA PRENTICE,
Assistant Director.

ANCHORAGE, ALASKA,
September 18, 1972.

Senator MIKE GRAVEL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GRAVEL: As a professional in the field of early childhood education, I appreciate the support you have given to comprehensive child care and hope you continue to support like measures in the future.

Senator Long's proposed amendment to the revenue-sharing bill deeply disturbs me. If families in stress are to become nondependent, nurturing units in which children can thrive, we need to provide a complete range of services. To eliminate some services is to drastically reduce the efficacy of the remaining ones. Please do whatever you can to defeat this amendment.

Sincerely,

LINDA HARVEY.

ALASKA HOMEMAKERS HOME HEALTH AIDE SERVICE, INC.,
Anchorage, Alaska, September 18, 1972.

Hon. MIKE GRAVEL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: The Long amendment, relating to provisions of Social Services, will have extremely detrimental effects on social services in Alaska, and particularly on Alaska Homemaker programs. We urge you to support the concept of the necessity of social services and to vote to ensure the continuation of purchase of services in Alaska.

Sincerely,

MARGARET WOLFE,
Chairman, South Central Advisory Board.

ALASKA HOMEMAKERS HOME HEALTH AIDE SERVICE, INC.,
Anchorage, Alaska, September 18, 1972.

Hon. MIKE GRAVEL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: The Senate version of the Long amendment, proposing a ceiling on Title 4–A and Title 16, will have a detrimental effect on social services in Alaska, and especially on Alaska Homemaker programs. We urge your help in eliminating this ceiling.

Sincerely,

JEANNINE HANES,
Assistant Director.

JUNEAU, ALASKA,
September 18, 1972.

Mr. JAMES L. YOUNG,
Chairman, Federal Inter-Agency Regional Council, Seattle, Wash.

DEAR MR. YOUNG: I am writing to express my concern over the Health, Education, and Welfare revenue sharing bill pending before Congress and the effect it would have on the total Juneau Model Cities program.

As you are aware, this legislation would seriously curtail present funding levels of Title IV–A and of Title XVI of the Social Security Act. The Juneau program depends upon these sources for approximately $500,000, or about ninety percent of the total federal funds generated by our Model Cities Supplemental Fund grant. If the funds are not available, the Model Cities effort in Juneau would be severely crippled and many programs would have to be phased out completely. This could leave the poor and disadvantaged of the area with almost no resources since the OEO-sponsored programs in Alaska, such as Rural Alaska Community Action Program and Legal Aid, have used Model Cities funds to supplement effort they would otherwise be required to expend in Juneau to operate a balanced and equitable program throughout the state.

Because of this potential funding crisis, I am requesting that you immediately call an emergency meeting of the Federal Inter-Agency Council task force concerned with Juneau Model Cities.

I would ask that this task force render whatever technical assistance necessary to reprogram our efforts if Congressional action limits availability of Title IV–A and Title XVI funding. I would further request that the task force assist us in locating alternate sources of funding.

I appreciate your efforts on our behalf, and I will look forward to hearing from you on this matter at your earliest possible convenience.

Sincerely,

JERRY L. MADDEN,
Director, Juneau Model Cities Agency.

ANCHORAGE, ALASKA,
September 26, 1972.

Senator MIKE GRAVEL,
Washington, D.C.

A resolution urging relief for Alaska from reduction of title IV funds by pending Federal legislation.

Whereas, the Federal Revenue Sharing Act reported by the free conference committee will affect Alaska by reducing funds available under title IV and title XVI of the Social Security Act from $24 million to $3.74 million; and

Whereas, the consequences to the greater Anchorage area borough would cause cancellation of 18 contracts totalling $3,593,300; and,

Whereas, this loss of funds will deny benefits to at least 25,000 individuals and deny employment to over 150 persons, many of whom are already employed in the various programs.

Now, therefore, be it resolved that the greater Anchorage area borough assembly

urge the governor to use all possible persuasion with the Alaska Congressional Delegation and Congress to provide relief for Alaska and other States whose family services will be eliminated or drastically cut; and that the governor be urged to communicate with governors of other States similarly affected and join with them in an appeal to Congress.

Be it further resolved that the assembly appeal directly to the Alaska delegation to use all means to assist in obtaining hold harmless provisions to assure Alaska the funding it needs to continue these programs.

Passed and approved by the assembly of the greater Anchorage area borough on this 25th day of September 1972.

BENJAMIN MARSH,
Presiding Officer.

Mr. LONG. Mr. President, I understand the problem involved here, that some States would be adversely affected by the abrupt cut in funds for social services. I want to make it clear that there is in the bill $800 million for child care. I believe that if it needs it, that could be modified to make sure that the States would have that $800 million available to them to use as best they knew how. The bill provides additional relief for the future in the social services area, but this provision here is aimed at what the conference committee on the revenue sharing bill will seek to bring back before the Senate and House of Representatives, assuming that they would be agreed to, so that this amendment would be needed by Alaska and the other States similarly affected.

It does not help Louisiana because we do not have that problem, but I will be glad to cooperate and adopt what the Senator has suggested here.

Mr. STEVENS. We had discussed, through representatives of some of the smaller States, and through members of the Ways and Means Committee in the other body concerning this problem, and were led to believe they would accept this concept to prevent this inequity, for it really would stop the social services program and we would have no assistance whatsoever.

I am indebted to the Senator from New York. I understand that he has got a massive problem and this amendment has modified it so that it does not harm California or New York. It does not give them relief from their major problems, but we are indebted to the chairman of the committee for his approach, and I hope the amendment will survive in the conference.

Mr. JAVITS. Mr. President, I shall not stand in the way of this amendment which, as the Senator from Alaska (Mr. STEVENS) has stated, is a harmless provision which does not affect New York either way, with the modification he has made.

That is true of California. Had the amendment remained not modified, with the $50 million in it, it would have been a material loss to New York—we estimate 10 percent or more of the funds. The same would be true for California and other urbanized States. But we have no desire and have never had any desire to intrude upon the opportunity of the smaller States to enjoy the full benefits of this program.

So I am very much pleased that the Senator from Louisiana (Mr. LONG) is cooperating with the two Senators from Alaska. I want to express my appreciation to the Senator from Alaska (Mr. STEVENS) for accepting the modification which keeps us in the same position we were—although it is not a very good position, I might add.

I also express my appreciation to him for taking the initiative here, on behalf of his own State, but which is so important to all the States in a matter of such great importance to them as well as to us.

Mr. TUNNEY. Mr. President, I associate myself with the remarks of the Senator from New York. I had the same problem with the original draft of the amendment as offered by the distinguished Senator from Alaska. I appreciate the fact that he has modified the amendments so that it will not do violence to any of the other States. It is a good amendment for Alaska as written now, and it does not hurt California.

Mr. JAVITS. Mr. President, I do not wish any implication to be made that I am happy about the division of the money for the social services or the limitation by stating that I am not standing in the way of this amendment for the reasons I have stated.

I wish to make it clear that I still reserve whatever rights I may have to deal with this question in some other context and in some other way, but for the purpose of this amendment and what the Senator from Alaska (Mr. STEVENS) has done, and I think he rightfully asks for, and what the Senator from Louisiana (Mr. LONG) has agreed to, I interpose no objection.

Mr. ROTH. Mr. President, I am pleased to have this opportunity to support and cosponsor the amendment of the senior Senator from Alaska (Mr. STEVENS). While it is necessary to impose some sort of ceiling on social services spending, I consider it grossly unfair to penalize States which have obligated themselves in reliance upon the existing law.

As it is now drafted, the social services spending ceiling in the revenue sharing bill would impose an expenditure limit of $2.5 billion each year, with the money allocated among the States on the basis of population. Essentially, I consider these provisions sound and reasonable. However, at the same time, I believe it is grossly unfair to impose these spending limits retroactively. Many States, including my home State of Delaware, have relied upon the congressional authorizations and obligated themselves beyond their respective population allocations. This has occurred simply because some States were astute enough to recognize the potential of the social services program before some other States.

But as presently drafted, the revenue sharing bill would penalize these States for having taken advantage of a program enacted by Congress, continued by Congress, and expanded by Congress. Although Congress is finally awakening to its responsibility, the spending ceiling in its present form would make these States the scapegoats for congressional inaction. This I cannot accept.

As many of you know, I have supported attempts in the past to impose a ceiling on social services spending; I have, as a matter of fact, led two of those attempts. But in those instances, the proposals would have protected the States that were utilizing the social services program. In not one of those proposals—the $2.5 billion spending ceiling of June 27, the $2.5 billion ceiling of August 10, and $3.15 billion ceiling of September 12—would any State have received less than it did in fiscal year 1972. I personally ensured that these "hold harmless" provisos were contained because I thought Congress should temper action with justice. I believed that in June, and I believe that now.

The amendment of the senior Senator from Alaska would merely reinsert an element of equity—contained in earlier proposals, but absent now—in the social services spending ceiling. Its only effect is to make the ceiling prospective, rather than retroactive, thus allowing State governments to fulfill their contractural obligations. I see no need to elaborate further on the commendable explanation by the senior Senator from Alaska. I would only say that I wholeheartedly support his amendment and I hope that other Senators will do the same.

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

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

The PRESIDING OFFICER (Mr. HUGHES). All time on this amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Alaska (Mr. STEVENS).

The amendment was agreed to.

Mr. STEVENS. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

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

The motion to lay on the table was agreed to.

Mr. BOGGS. Mr. President, I commend the senior Senator from Alaska (Mr. STEVENS) for the initiative he has shown in preparing and introducing this amendment to ease the severe pinch that States such as Alaska and Delaware will feel as a result of the social services ceiling in the Revenue Sharing Act.

I am pleased to join my colleague, Mr. ROTH, and both Senators from Alaska in this effort, which I think deserves the favorable consideration of the Senate on the basis of equity alone.

The Congress has now become well aware—somewhat belatedly, of course—that a ceiling of some sort is necessary on skyrocketing social services spending. I have supported such a ceiling in the past and I think, realistically, we must place a limit on what we can spend on these programs, necessary though they are.

But I do not think the Congress should penalize those States which, acting in good faith, have availed themselves of a program that Congress has authorized, and have entered into firm contracts under that program.

In my own State of Delaware, an abrupt cutback, as would be required by title III of the Revenue Sharing Act,

would be a severe blow to the operation of many ongoing programs.

A few weeks ago, Dr. Herbert M. Baganz, Secretary of the Department of Health and Social Services of the State of Delaware, advised me that Delaware now has firm contracts totaling $30 million and requiring a $22.5 million Federal match. Yet, under title III of the Revenue Sharing Act, Delaware would be restricted to but $6.7 million for fiscal year 1973.

According to Secretary Baganz, actual ongoing expenditures will require some $9.6 million of Federal funds in 1973. If the $6.7 million limitation holds, he continues, Delaware will be forced to immediately cut back by $2.9 million of current spending and cancel or reduce contracts totaling $26.2 million.

The Stevens amendments would restore a needed degree of justice to the effort to control spending on the social services program. It would provide funding for those State programs already under contract from the beginning of the current fiscal year until the date of enactment of the Revenue Sharing Act.

It would, in short, remove the penalty of retroactivity which has been imposed on Delaware and other States by title III of the Revenue Sharing Act. I think simple justice requires that the Senate adopt this amendment; and I again commend the Senator from Alaska for the work he has done on this proposal.

Mr. KENNEDY. Mr. President, under previous agreement, I believe I am to be recognized. However, the distinguished Senator from Alaska (Mr. GRAVEL) has three relatively noncontroversial amendments that will not take a great deal of time. The amendments I intend to call up will take rollcall votes, and I will be glad to yield to him at this time for the consideration of his amendments.

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

AMENDMENT NO. 1674

Mr. GRAVEL. Mr. President, both my colleague from Alaska (Mr. STEVENS) and I thank the Senator from Massachusetts (Mr. KENNEDY) for his graciousness in this regard.

Mr. President, I understand that all three of my amendments are acceptable to the distinguished chairman of the committee, so at this time I call up No. 1674 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment as follows:

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

DETERMINATION (FOR MEDICAID PURPOSES) OF PER CAPITA INCOME OF ALASKA AND HAWAII

SEC. . (a) Section 1905(b) of the Social Security Act is amended by adding, immediately after the first sentence thereof, the following new sentence: "The term 'per capita income', as used in the preceding sentence, means, in the case of any State in which civilian employees of the United States Government receive an allowance under section 5941 of title 5, United States Code, the per capita income of such State (as determined without regard to this sentence) multiplied by a fraction the numerator of which is the per capita income of such State (as determined without regard to this sentence) and the denominator of which is such per capita income plus a per centum thereof equal to the per centum applicable, for the period in which any promulgation under this subsection is being made, in determining the amount of the allowance payable under section 5941 of title 5, United States Code, to Federal employees serving in such State."

(b) The amendment made by subsection (a) shall be applicable to promulgations (under section 1905(b) of the Social Security Act) made after the date of enactment of this Act.

Mr. GRAVEL. Mr. President, I think I can explain this amendment very briefly. It applies to the cost-of-living differential in the payment on the medicaid formula in the States of Alaska and Hawaii. This is nothing more than what the Senate accepted a week ago in the revenue-sharing bill with respect to housing. The cost-of-living differential is something that is generally accepted in legislation.

The cost of this new, calculated formula would be $640,000 for Alaska. Our commissioner of health and social services happens to be in town. And we just computed the cost.

Mr. TALMADGE. Mr. President, I have examined the amendment. I have conferred with the distinguished chairman of the committee and the ranking minority member of the committee.

The amendment would make an exception under the medicaid provision in existing law and would permit a State that now is receiving an allowance under the United States Code for—

The per capita income (as determined without regard to this sentence) multiplied by a fraction the numerator of which is the per capita income of such State (as determined without regard to this sentence and the denominator of which is such per capita income plus a per centum thereof equal to the per centum applicable, for the period in which any promulgation under this subsection is being made, in determining the amount of the allowance payable under section 5941 of title 5, United States Code, to Federal employees serving in such State.

The Finance Committee is perfectly agreeable to taking the amendment to conference to try to get the House to agree to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska (putting the question).

The amendment was agreed to.

AMENDMENT NO. 1695

Mr. GRAVEL. Mr. President, I call up amendment No. 1695.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 938, between lines 12 and 13, insert the following:

STUDY BY SECRETARY AS TO FEASIBILITY OF RELATING BENEFITS UNDER THE SOCIAL SECURITY ACT TO PREVAILING COST OF LIVING IN VARIOUS AREAS

SEC. 522. (a) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") shall conduct a study of the various programs established by and pursuant to the Social Security Act with a view to determining the feasibility of relating the various dollar amounts set forth therein (whether in the form of benefits, deductibles, conditions of eligibility for benefits, or otherwise) to the prevailing cost of living in the various States (and localities within States) in which such programs are operative.

(b) In carrying out such study, the Secretary shall—

(1) develop a comprehensive cost-of-living index which reflects the average cost-of-living for each State as a whole (and not just the urban or other areas therein;

(2) include an evaluation of the effects which would be produced among the various States, including the advantages to recipients, if the benefits (and other dollar amount related criteria) in the Social Security Act were adjusted in accordance with differences in the average cost-of-living in the various States;

(3) give consideration to the feasibility of applying such a cost-of-living adjustment only in those States where the cost-of-living is significantly higher than the cost-of-living in the Nation as a whole; and

(4) analyze existing sources, within the Federal Government, from which data relating to the cost-of-living is available, with a view to determining the need for improved sources of such data, within the Federal Government, under which such data would be made available on a regular basis and in a more analytical, comprehensive, and suitable form.

(c) The Secretary shall complete such study and shall submit to the Congress a full and complete report thereon, together with the recommendations of the Secretary with respect to the matters included in the study, not later than January 1, 1974.

(d) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

Mr. GRAVEL. Mr. President, I modify that amendment so that it is in line with the changes affected in H.R. 1 as of yesterday. At the end of page 1, I add the following language, "at the end of part (B) of title IV, insert the following new section."

The PRESIDING OFFICER. The amendment is so modified.

Mr. GRAVEL. Mr. President, this amendment simply asks that a study be made of the cost of living as it affects the entire United States. We in Alaska are sometimes criticized for asking for something more than other people because of the cost of living we have in Alaska.

This problem is not a unique one that applies to Alaska alone. It is something that we should focus national attention on.

The PRESIDING OFFICER. The Parliamentarian informs the Chair that the amendment is not properly directed. It is placed in a part of the bill that has already been stricken. There is a substitute for it. It is, therefore, not open to amendment.

Mr. GRAVEL. Mr. President, I was under the impression that the modification I just stated to the Chair would have taken care of that problem.

The PRESIDING OFFICER. The Parliamentarian informs the Chair that if the Senator from Alaska modifies his amendment so as to place it at the end of the bill, it would be acceptable.

Mr. GRAVEL. I so modify the amendment.

The PRESIDING OFFICER. The amendment is so modified.

Mr. GRAVEL. Mr. President, that is the intent of the amendment. I understand that the chairman of the committee is in agreement with it.

Mr. TALMADGE. Mr. President, I

have examined the amendment and have conferred with the distinguished chairman and the distinguished ranking member of the Finance Committee.

This amendment simply directs the Secretary of HEW to make a study of the feasibility of relating the social security benefits to the cost of living differentials.

Under those conditions, we are perfectly willing to take the amendment to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska, as modified (putting the question).

The amendment was agreed to.

Mr. GRAVEL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRAVEL. Mr. President, on the prior amendment, amendment No. 1674, I had modified the language but I failed to read or secure a modification. Could I get a ruling from the Chair as to whether that amendment is in order with respect to the stricken portion of the bill?

The modification I would have made was at the top of page 2 of that amendment. I would have added the language, "At the end of title II, add the following new section."

The PRESIDING OFFICER. The amendment is drafted properly.

Mr. GRAVEL. Mr. President, then I need not ask for a modification of the amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAVEL. Mr. President, I thank the Chair.

AMENDMENT NO. 1696

Mr. GRAVEL. Mr. President, I call up amendment No. 1696.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

On page 579, line 24, strike out "and".

On page 580, line 4, strike out the period and insert in lieu thereof "; and".

On page 580, between lines 4 and 5, insert the following new paragraph:

"(5) in the case of Natives of Alaska, shares of stock held in a Regional or a Village Corporation, during the period of twenty years in which such stock is inalienable, as provided in section 7(h) and section 8(c) of the Alaska Native Claims Settlement Act."

On page 699, line 2, strike out "and".

On page 699, line 10, strike out the semicolon and insert in lieu thereof a comma.

On page 699, between lines 10 and 11, insert the following new paragraph:

"(D) in the case of Natives of Alaska, shares of stock held in a Regional or a Village Corporation, during the period of twenty years in which such stock is inalienable, as provided in section 7(h) and section 8(c) of the Alaska Native Claims Settlement Act; and".

Mr. GRAVEL. Mr. President, I modify this amendment because of the changes that occurred in the legislation on yesterday. I modify it on page 2, to strike all of the material from line 8 to the bottom of the page. That would be to strike out lines 8 through 17.

The PRESIDING OFFICER. The amendment is so modified.

Mr. GRAVEL. Mr. President, I will just explain the amendment very briefly. In determining eligibility for payment under H.R. 1, there are certain items excluded in calculating the resources of an individual. We have added one other item to these exclusions. It relates to the ownership of the stock that the natives of Alaska have as a result of the Native Land Claims Settlement. This stock is not transferrable for 20 years. And in point of fact, the stock has no liquid value to the person who holds it. We propose to exclude that stock as a resource to determine eligibility.

Mr. TALMADGE. Mr. President, I understand that the Natives of Alaska receive no income from the ownership of this stock at the present time, but merely hold it for 20 years.

Mr. GRAVEL. The Senator is correct. The Natives cannot receive income from the sale of this stock for the 20 years during which it is inalienable.

Mr. TALMADGE. Mr. President, I have examined the amendment and have conferred with the distinguished chairman and the distinguished ranking minority member of the Finance Committee. This amendment simply exempts from income to the aged, the blind, and the disabled, certain stock held in trust by Alaskan Natives to which they will not have access for a period of some 20 years.

Under those circumstances, we have no objection to the amendment and are perfectly willing to take it to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska (putting the question).

The amendment was agreed to.

Mr. GRAVEL. Mr. President, I thank the Senator from Massachusetts. I indicated that it would take me 5 minutes to dispose of these amendments. I have taken 6 minutes. I thank the Senator.

AMENDMENT NO. 1703

Mr. KENNEDY. Mr. President, I call up amendment No. 1703.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. KENNEDY. Before getting into these amendments, I want to indicate my high regard for many of the excellent provisions of H.R. 1 in the area of health care. The extension of medicare to the disabled under medicare and the coverage of drugs for the chronically ill are great steps forward, and respond to particular glaring needs.

There are also excellent provisions in the bill aimed at controlling costs and assuring quality of care under medicare. The public disclosure provisions throughout title II will also help assure quality.

I commend the committee on these provisions, as well as on the clarification of nursing home benefits and waiver of beneficiary liability in certain situations. I could name a long list of excellent provisions as well.

My purpose today is to raise some basic policy issues in the medicaid area which I feel the entire Senate should vote on.

Mr. President, I offer this first amendment, No. 1703, on behalf of myself, Mr. MOSS, Mr. PERCY, Mr. BROOKE, Mr. CRANSTON, Mr. HART, Mr. HUMPHREY, Mr. JAVITS, and Mr. TUNNEY.

The legislative clerk read as follows:

On page 348, strike out lines 4 through 8.

Mr. KENNEDY. Mr. President, if I might have the attention of the Senator from Georgia, I intend to talk about two amendments that I hope the Senate will agree to. These are to strike section 230 and section 231, both of which are related. The question here revolves around the development of comprehensive health programs for the medically needy. Hopefully we will get to the consideration of one or both of these amendments shortly.

Mr. President, both amendments merely return to existing law.

Current law requires that the States develop a comprehensive medicaid program by July 1, 1977. Each year States were required to move toward that goal.

Section 230 of H.R. 1 would strike the requirement that States move toward the development of comprehensive health programs. I think it is important that we continue to have the States across the length and breadth of this country move ahead on the development of comprehensive medicaid programs.

The amendment I just sent to the desk would return to existing law and assure continuing progress toward the development of comprehensive programs. The related amendment concerns section 231 and would also merely return to existing law. This would assure a maintenance of effort on the part of the States who would only be permitted to cut back on services after meeting conditions designed to assure the State made every effort by efficient management to stretch Federal and State dollars and to cover the critical range of services.

Neither of these amendments require any additional expenditures of resources. It is my understanding from reading their report that the Committee on Finance does not believe that the several States are going to cut back their medicaid services. What we would be doing here is to go back to the existing language which would permit the States to cut back, but only after there is a utilization review by the Secretary of Health, Education, and Welfare.

So what we would do with both amendments is to go back to existing law. Neither of these amendments, if adopted, would require any additional expenditures. The acceptance of both amendments would assure that the States continue to move in the direction of developing comprehensive medicaid programs. It would also assure a maintenance of State effort in the medicaid program and would only permit a reduction of services for the State after a finding by a management or utilization review board.

I would hope that both amendments would be accepted by the committee. I think they are important. I think they are essential in the march toward providing more comprehensive health care for the American people.

Finally, we are attempting to relieve some of the financial burdens on the States. Title III frees up $1 billion, and the revenue-sharing bill would return even more money.

Both amendments are important and move toward the goal of achieving com-

prehensive health care for the American people.

One last note on the proposal to strike section 231: We have to realize that when the States have had the option of cutting back on their medicaid programs, a number of them have taken advantage of that option. These States have been successfully brought to court and blocked from cutting back because of the existing law. Many people believe that if we strike out one section that requires maintenance of State efforts, a number of States would cut back, as 12 States tried to do; there would then be a serious reduction in the range of services available under medicaid.

Mr. President, I would be interested in the reaction to these amendments.

Mr. TALMADGE. Mr. President, I will rise in opposition to the pending amendment. I understand the pending amendment is amendment 1703, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. TALMADGE. Mr. President, when Congress voted the medicaid bill back in the 1960's, in that bill we mandated certain services to become effective by 1975. Growth of the proposal was progressive and became more and more expensive each year. It must be recalled that the Medicaid program is a joint program financed by the States and by the Federal Government. It does not come under social security provisions. It is a matching program whereby the Federal Government matches the States in accordance with a certain formula. A number of years ago we had hearings with Governors of the respective States. They said they were unable to balance the budget; that the mandate of Congress was requiring so much in the way of medical services that they could not provide the services; they did not have the resources to do so; that their legislatures were rebelling about raising new taxes, and they did not have adequate funds to do so.

I remember particularly the State of New Mexico and others that complained bitterly about Congress putting them in a strait-jacket and requiring the States to do things they had no particular desire to do.

It will be recalled that we never did go to conference with the House on the welfare reform bill in 1970. The House conferees refused to go to conference with the Senate in the last days of a dying session. But this year, in H.R. 1, the House sent us the identical provisions that the Senate Finance Committee had agreed to some 2 years ago. They sent to us the identical provisions that the U.S. Senate agreed to some years ago.

The question which this body must decide is simply this: Does the Senate of the United States want to require the 50 sovereign States to maintain programs at the expense of those States that the State Governors and the State legislatures might not want to maintain for themselves?

Any medical program, of course, is vastly popular with the people. No Governor, no legislator of the 50 States, would like to curtail and restrict health care and medical programs if that could possibly be avoided, but the States are crying for help. They are crying for aid. This year we passed a 5-year revenue sharing bill, providing more than $30 billion, on the theory that the States, the municipalities, and the county governments did not have the revenue to carry on programs they are carrying on at the present time.

So why should we, under those conditions, come in and mandate the States to do something that the States themselves do not want to do? That is simply put, but that is the issue facing the Senate at the present time, and it is a matter of such grave importance that it will be necessary to have a yea and nay vote on this particular amendment.

I, therefore, suggest the absence of a quorum, and notify the attachés to request that enough Senators come to the floor in order to have the yeas and nays ordered.

Mr. KENNEDY. Mr. President, will the Senator withhold that request?

Mr. TALMADGE. I will withhold that request temporarily.

Mr. KENNEDY. I would like to direct the attention of the Senator to page 201 of the report. It refers to section 230 of the bill, but it is under section 1093(e). It reads:

> Section 1903(e) of the Medicaid statute requires that each State make "a satisfactory showing that it is making efforts in the direction of broadening the scope of the care and services made available under the plan and in the direction of liberalizing the eligibility requirements for medical assistance.

All we are asking is that the States do continue existing law, which was a recognition by and a finding of the Congress that what we were really attempting to do was work in partnership with the States to establish health services in the medicaid and medicare field.

That has been part of the act until this year. The Congress is either interested in developing a comprehensive program for health services or it is not.

So I ask the Senator what he finds objectionable. I would be interested in learning why it is so objectionable to him when it was accepted in the past. Why was it not objected to in the past? I would be interested in knowing why the Senator finds objectionable the words "a satisfactory showing that it is making efforts in the direction of broadening the scope of care and services."

Mr. TALMADGE. As the Senator knows, this is a Federal statute that mandates the States to do certain things. It requires them to increase their programs of aid for medicaid year by year, getting more expensive with each succeeding year. Originally there was a target date that this must be done by 1975. In 1969 Congress postponed it from 1975 to 1977.

The problem involved here is that we are requiring the States to do more than they have the revenue to do, and the committee thought we ought not to mandate the States to do things that they themselves do not desire to do. I read from a portion of the committee report:

> The committee has been concerned with the burden of the medicaid program on State finances.

I will point out that when this program was originally adopted, the estimated cost was $238 million above the existing cost at that time, and in 1 year's time that was the exact cost increase—but for six States only. My recollection is that the Department of Health, Education, and Welfare underestimated the cost of this program, and that has concerned the Senate Finance Committee.

I continue reading from the report:

> The expansion of the medicaid program and liberalization of eligibility requirements for medical assistance which is required by section 1903(e) could increase this burden and may result in States either cutting back on other programs or their considering dropping medicaid.

After we passed this program we found some States were so irresponsible that they actually permitted families with incomes of $6,000 a year to get free medical treatment. If my memory serves me correctly, the States of New York and California were two of them. We found that burden was so excessive and such a drain on the Federal Treasury that it was necessary for Congress to step in and to set some ceiling on such an open-ended authorization.

I continue reading from the report:

> The committee agrees with the action of the House repealing section 1903(e). When the operations of the State medicaid programs have been substantially improved and there is assurance that program extensions will not merely result in other medical costs inflation, the question of expansion of the program can then be reconsidered.

The medicaid cost, I will point out to the Senator, for the fiscal year 1973 is $5 billion on the part of the Federal Government and $4 billion on the part of the State governments, making a total cost of $9 billion a year; and if these programs continue to increase in cost, that will be just a drop in the bucket compared to what it will be in 1977.

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

Mr. TALMADGE. I yield.

Mr. KENNEDY. Could the Senator tell us what he thinks the cost of this amendment is? There is no financial cost either in this amendment, which repeals section 230, or section 231. The committee's proposal to remove that requirement will not result in large-scale cutbacks.

We all agree that the cost of medicaid is exceedingly large, but I do not see why the Senator thinks that is affected by these amendments. That certainly does not apply to either one of these amendments. The only requirement would be the development of a plan under section 230. The committee does not believe that the removal of the maintenance of effort requirement will result in large-scale cutbacks in expenditures. I want to make sure that what the Finance Committee says is written in the law.

The Senator from Georgia can talk all afternoon about the increased costs of medicaid and medicare. We are not talking about the increased costs. We are talking about the conclusions of the Finance Committee. My next amendment is closely related to this one, but it assures that there are not any further cutbacks.

That is why I ask the Senator from Georgia why we are talking about in-

creased costs when neither of these amendments will result in increased costs.

Admittedly we will not achieve a fully effective and equitable health program unless we enact a national health insurance. But all we are asking under the amendment introduced here is that we continue toward the goal that has been a part of this health care system up to this year by requesting the States to meet the deadline of 1977 with respect to the provision of comprehensive services. If that is too soon, I would be glad to modify it to the year 1979, or 1980. I think it is just important that we continue in the direction we are moving and not retrench.

But I fail to see, in either of the two amendments I am talking about as to section 230 and 231, why these amendments will cost the Government any additional money. I find the case to be quite the contrary.

Mr. TALMADGE. There is no way to put a firm dollar cost on what the future will bring. What this amendment addresses itself to is the fact that the States would be mandated both by Federal law and HEW regulations to improve their medical services under medicaid each year, to make it more and more costly. All we need do to consider the future is see what has happened in the past.

If my memory serves me correctly, when they came before the Finance Committee to testify on the cost of medicaid for the first year, the figure was some $200 million to $400 million, above the then current costs as an estimate. Mr. President, the first year alone, we found they were off base. Now we have seen that figure progressively increase year after year. The original cost was trivial compared to the cost for this fiscal year. The cost for this fiscal year, on the Federal level, is $5 billion. The cost for this fiscal year on the State level is $4 billion. The combined total of the two is $9 billion, and if we continue to require the States to provide more medicaid than they can finance, the cost will escalate still further, and instead of coming in and asking us to pass a $30 billion revenue-sharing bill, the next revenue-sharing bill may be $60 billion, $90 billion, $100 billion, or no one knows what.

The issue, to me, is very fundamental. The U.S. Government ought not to pass a law compelling States to do things in providing functions for their citizens that the legislatures of the States themselves do not want to provide. That is what this issue is all about.

We have had Governors come before our body and testify that they cannot finance these provisions: "The legislature will not finance these provisions, for God's sake, give us some relief."

That is what the Senate Finance Committee, on two separate occasions, has provided. That is what the Senate, by an overwhelming vote, in 1970, voted. That is what the Ways and Means Committee in 1972 voted. That is what the House of Representatives in 1972 has voted. That is what we are asking the Senate to vote on right now, not to compel the States to do it. They say they cannot afford it, and do not want to do it. That is what this issue is all about.

I suggest the absence of a quorum.

Mr. KENNEDY. Mr. President, will the Senator withhold that?

Mr. TALMADGE. I withdraw it.

Mr. KENNEDY. Mr. President, the point that I think has been missed in this discussion is the fact that what we have done here in Congress and in the Senate in the passage of medicare and medicaid has increased the demand for services without increasing the supply. The point of the Senator from Georgia is well taken about the even increasing cost of medical services, but the only way we will ever get a handle on that, I believe, is to have a comprehensive health security act that, for the first time, will put a ceiling on the cost of health services. That is what we really have to do. That is what we really need.

All we are asking, in these two amendments, is that while Congress considers that legislation, the States not go out and cut back on services for people who are poor, disabled, disadvantaged, old, lame, and blind. That is what we are talking about. All we are asking here in section 231 is that the States do not cut back any farther. We are not mandating that they increase it. We are just saying, "Don't cut back any farther." And it is the conclusion of the Committee on Finance, at least they believe, it is their judgment, the most of the States will not cut back.

I say if it is their judgment that the States will not cut back, we ought to make sure they do not cut back on these services for people who are in desperate need.

The only other requirement under section 230 is that we develop a comprehensive plan and program of health services for the poor people, that we establish that as a goal.

That was recognized as a principle and a concept back in 1969. If it is not a good idea to mandate the States in 1972, why was it a good idea in 1969? If this argument about States rights is good in 1972, why was it not good in 1969?

We know about the whole question of the crisis in health. This is something that our health committee has been interested in and concerned about for some period of time. But you do not get around trying to meet the crisis in health by cutting down on services to the poor and disadvantaged people of this country. If we want to do something about it, we should try to do something about the profits of the health insurance companies which are escalating.

To hear the talk on the floor of the Senate this afternoon, it sounds like all our problems have been put on our backs by the poor and disadvantaged people of this country and that they are the ones who are exploiting us. But we had better realize now that the ones who have really been reaming the taxpayers are the insurance companies, and that is what we ought to be doing something about, and not cutting back on the services to the poor and disadvantaged.

Mr. TALMADGE. Mr. President, just a brief reply, and then I shall suggest the absence of a quorum.

The entire matter of public health is one of the things that the Congress of the United States must deal with next year, and it will be one of the highest priority items. The Ways and Means Committee has already held some public hearings in this field. Chairman MILLS of that committee has announced that it will be one of the highest priority items of the next session of Congress. I agree with that. It will be one of the highest priority items of the Senate Finance Committee, and of the Congress, next year.

All of the States have had problems with this matter. In 1969, the Senator's own State of Massachusetts had to consider a $120 million bond issue to meet the cost of medicaid and the welfare operating deficit. And Massachusetts was not an isolated case. All the States have had the same problem, and that is the reason why they have asked the Finance Committee, the Ways and Means Committee, and Congress to give them some relief.

The Ways and Means Committee has responded in the affirmative. The House of Representatives has responded in the affirmative. The Senate Finance Committee, on two separate occasions, has responded in the affirmative. And just 2 years ago, this body, by an overwhelming vote, responded in the affirmative.

We ought not to be mandating States to do more and more when they cannot do what they are undertaking at the present time, and come up here to this body on bended knee, begging for a $30 billion revenue-sharing program, which we have given them simply because they cannot carry out the functions of Government that we have already assigned and requested that they do.

Under those conditions, it seems absolutely intolerable to me that the U.S. Senate will say, "Yes, we know you are broke. We are broke, too. Our budgetary deficit for 4 years has been over $100 billion. The taxpayers are crying for relief; they cannot pay the taxes. But even under those conditions, we are going to make you do more and more and more," instead of letting the 50 States say for themselves what they want to do.

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

Mr. TALMADGE. I yield.

Mr. MOSS. Is it not true that the Kennedy amendments do not call for any more efforts from the States; they simply restrain the States from cutting back?

Mr. TALMADGE. The existing law that the Senate Finance Committee repealed, the Ways and Means Committee repealed, the House repealed, and the Senate repealed 2 years ago, requires them to do more and more and more and more, and we are seeking to repeal the law that requires them to do more and more.

Mr. MOSS. I understand, from reading the amendments and listening to the Senator from Massachusetts, that the purpose of this is simply to inhibit the States from cutting back on their efforts, repealing the requirement of mainte-

nance and the maintenance of effort; and it seems to me it would be ill-timed now to repeal any requirement on the States, especially as the Senator from Georgia, as did the Senator from Massachusetts, has pointed out that this body and the House of Representatives will be debating further a health care and health maintenance bill next year. Certainly, we ought to await that, to see whether we are going to repeal what is required now.

Mr. TALMADGE. The Senator is addressing himself to another amendment of the Senator from Massachusetts which is at the desk and is not the pending business. The pending business is amendment No. 1703, to which the Senator from Georgia has addressed his remarks, and that is a provision in the medicaid bill that makes States do more and more and more sucessively each year, until the target date 1977.

Mr. MOSS. Does the Senator from Georgia have any estimate as to the cost of the amendments? I think the Senator from Massachusetts has been talking about two amendments.

Mr. TALMADGE. I responded to that earlier, to the Senator from Massachusetts. There is no way to estimate the cost, because we do not know what will be required. We do not know what the HEW regulations will be.

But we know that the cost to date has been going up at such a fantastic rate that the cost to the Federal Government this year is $5 billion and the cost to the State governments this year is $4 billion, for a combined cost of $9 billion for fiscal 1973 only.

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

Mr. TALMADGE. I yield.

Mr. KENNEDY. The point of the Senator from Utah is that there is no clear cost in the two amendments we are considering, if we follow the conclusions of the Finance Committee on 230.

The Finance Committee has concluded that the States are not going to cut back. So there really is not a cost factor.

With respect to the second amendment, No. 231, the conclusion of the Finance Committee is that the States are not going to cut back their programs. We want to write that into law.

I am curious why the Senator from Georgia, rather than talking about increasing costs of medicare and medicaid, as a whole, talks as if there are cost implications to either of these amendments.

Mr. TALMADGE. This amendment does not address itself to medicare in any manner whatever. Nothing the Senator from Georgia has said relates to medicare. This is the medicaid program entirely.

There is no way of estimating the cost, because it will depend upon the zeal of HEW in compelling the States, year after year, to progressively increase the cost. That is why the Finance Committee, the Ways and Means Committee, the House of Representatives, and the U.S. Senate have heretofore taken action in this regard—to mandate HEW, "Please don't go out and make these States spend more money that they don't have." If this provision of the Finance Committee is agreed to, HEW cannot go out and mandate the respective States to spend more and more and more each year. That is what the States have requested us to do. That is what the Senate has done. That is what the Finance Committee has done. That is what the House has done. That is what the Ways and Means Committee has done. They have responded to the pleas of the 50 States: "Please save us from having to spend more money that HEW bureaucrats are making us spend."

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

Mr. TALMADGE. I yield.

Mr. MOSS. Presumably, if people are getting medical care, they have some need for the medical care. Are we compelling States to squander, to throw away, medical care?

Mr. TALMADGE. HEW has been doing that. They have been compelling and mandating States to spend money they do not have to spend, money that the legislatures do not want to spend, money that the governors do not want to spend. HEW is saying, "But you must."

Mr. MOSS. But what about the little fellow who has a liver ailment or a crooked back or some other disease and needs help and cannot get medical help? We say, "We will take it out on you and let the States save the money."

Mr. TALMADGE. Every indigent citizen in America is covered at the present time under medicaid. We are now spending $9 billion a year on medicaid.

Mr. MOSS. I would still like to know how all the medical service is wasted, then, if there is no illness that it was directed toward.

Mr. TALMADGE. Before the Senator came into the Chamber, I stated that New York State was at one point mandating free medicine to families earning $6,000 a year. The Finance Committee had to step in and correct that. What we are trying to do now is to protect the States from spending money they do not want to spend; and HEW bureaucrats have been roaming the country and making them spend it, whether they like it or not.

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

Mr. TALMADGE. I yield.

Mr. LONG. I ask the Senator if this type of situation does not seem to be the problem: We put a program into effect that provided that we would match the States at the Federal level, so that States could provide a generous program of medical care for people, even those not eligible for welfare cash payments. Then the States, seeing this generous Federal matching, went ahead and put on people, as New York did, who were making more than $6,000 a year. Having done that, they run into court decisions and into great numbers of applications for benefits that they never anticipated. So we find the costs bankrupting them on their share. The Federal Government is matching them; but those who would provide the greater benefit would like to assume that the finances of the Federal Government are limitless, that all we need do is run off more money on the printing presses to pay for these programs.

Those who would proceed on that assumption then find that the State, having been overly generous and having attracted far more business than they thought they were going to attract, cannot put up their end; they are broke. Meanwhile, they are confronted with a provision in the law that requires that every year they provide even more services than the year before.

Mr. TALMADGE. The Senator is eminently correct.

Mr. LONG. The only thing that makes any sense at all is that, having been generous far beyond one's own ability to be generous, a State whose services are far more liberal than the other should cut back toward the common level. Instead, we have a provision in the law so that, having been generous to the extent of being absolutely foolhardy, the State cannot come back to the point of common sense and get their program back within costs.

Various welfare administrators have approached the Senator from Louisiana and have said, "What can you do to protect us against this billions of dollars of further increases in the cost of medicaid?"

One of the things we can do is to give the States the authority and the power to back away from some of the unjustified generosity they could not afford in the first instance. There are all kinds of ways that a State could reduce the cost of the program back to something they could afford.

If we are not going to pay for it, the option should be left to the State, so that they can reduce some of the generous benefits.

With regard to the idea of going ahead and spending on the theory that the Federal Government can pay for everything, I should tell the Senate I am on notice that if the bill includes the spending which the Senate has already put in and it reaches the President's desk, he will probably have to veto it because it so greatly exceeds what the President estimated the bill would cost when he sent it down here to begin with.

Mr. TALMADGE. The Senator from Louisiana has stated it superbly. In 1966, the first year, the medicaid program cost $1 billion. The second year it cost $2.5 billion. The third year it was $3.7 billion. The fourth year $4.3 billion. The fifth year $5.4 billion. Next year $6 billion. It has been compounding at the rate of more than 20 percent a year. We know that compounding interest escalates rapidly when we compound it at the rate of 20 percent a year.

Mr. LONG. The provision the Senator from Massachusetts seeks to keep in the law, that provision that says notwithstanding the fact that the State may already be broke they have to have an ever more elaborate program. It goes up and up.

Mr. TALMADGE. More and more and more. That is the tenor of it.

Mr. LONG. It goes ever upward and onward higher and higher——

Mr. TALMADGE. Exactly.

Mr. LONG (continuing). Hoping that the State might survive until 1977, at which point we might have some money left to keep it pyramiding.

Mr. TALMADGE. No matter higher prices, no matter what, let it go higher

and higher. That is what it would mean.

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

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, finally and briefly, if we are to follow the line of argument urged on us by the Senators from Louisiana and Georgia, we will not have more and more; we will have less and less. We should recognize that at least 50 percent of the cost of medicaid programs is financed by the Federal Government. What we have been attempting to do under medicaid is work toward Medicaid programs that provide minimum standards of good health care in every State, so that it would not depend on being born in Georgia, in Alabama, or in Massachusetts. Why should the accident of birth determine whether one can be treated for sickness or illness? We want to work toward a basic standard for everyone. The only thing we are talking about, so far as these two amendments are concerned, is that we are not going to set aside this goal, or cut back any further than where we are now.

Mr. CRANSTON. Mr. President, I ask unanimous consent that John Steinberg of my staff may have the privilege of the floor throughout the consideration of H.R. 1 today.

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

Mr. LONG. Mr. President, we on the committee recognize that there are additional costs involved in medicaid and we will have to find ways to provide more health care for people. We know that. The Senator has his health insurance ideas which would cost far more than what has been recommended—several times more. But even health insurance that this Senator would recommend would increase the cost $3 billion at the minimum over what we have in the bill now. This is about a $20 billion bill now, I think. We know that the cost of medical programs will increase in the next Congress. The chairman of the Ways and Means Committee has announced that it will be a priority item with them to be considered in that committee, and his members expect to fashion a proposal in the health care area which will provide for more health care.

We on the Finance Committee expect that we will be recommending legislation providing for additional health care. But this is not the answer, to pass an act of Congress to force the States to bankrupt themselves. If we are going to provide——

Mr. KENNEDY. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. In 1 minute—if we are going to provide proper health care for people, we should provide it and provide funds ourselves here to pay for it. It is no answer to pass an act of Congress requiring the States to go into bankruptcy because the people refuse to put more taxes on themselves.

I would think we will undoubtedly find other ways for providing more health care and paying for it next year. But the Senator from Massachusetts does not provide for that. All he provides for is to force the States to bankrupt themselves and that is something that should not be forced on the States of this Union by an act of Congress.

I am happy now to yield to the Senator from Massachusetts.

Mr. KENNEDY. I am wondering what provision the Senator is talking about. He is not talking about the two amendments I have been discussing about bankrupting the country, because I have drawn upon the conclusions of the committee, contained within its report on the bill. And it has been the conclusion that there should not be any significant cutback in services. So, obviously, he is not talking about my two amendments.

Mr. LONG. The Senator has several amendments here. I think probably the Senator is referring to the one not presently pending. We are talking about amendment No. 1703. That is the one that would threaten to bankrupt the States. The Senate and the House and both committees on both sides, having studied it, decided we should not require the States to provide more benefits next year than they provided this year, more benefits the following year than they provided the previous year, and so on.

Mr. KENNEDY. The Senator is not talking about my amendments. All mine apply to is the development of a comprehensive plan for services, but there is no requirement placed on any State. All it does is, it reverts back to the language of the act put in in 1969 requiring the States to develop the plans and programs.

Mr. LONG. Under section 1903(e), which is what we are talking about, HEW has required the States to move ever onward and upward with benefit requirements. That is the section the Senator would retain as is.

Mr. KENNEDY. It says a satisfactory showing, that is, making an effort. There is no requirement that they do more than make a satisfactory showing. It has existed in the act up until this year, just a satisfactory showing.

Mr. LONG. HEW, under that provision, says:

> What are you doing? Give us a satisfactory showing that you are moving ever onward and upward, that it is a more expensive program.

That is what 1903(e) is being used to say. So far as they are concerned, it is not a satisfactory showing you are thinking about, but a satisfactory showing that you are spending more money and providing more services to the people than you had the year before. So it is that provision in the law which HEW is relying on to force the States as a condition of receiving any Federal matching funds to make a satisfactory showing that they are spending more money this year than last.

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

The PRESIDING OFFICER. (Mr. ROTH). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. 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. KENNEDY. Mr. President, as I understand the parliamentary situation, the yeas and nays have been ordered on the amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Mr. President, I am prepared to vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mrs. EDWARDS), 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), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Virginia (Mr. SPONG), are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE), is absent on official business.

On this vote, the Senator from Rhode Island (Mr. PELL) is paired with the Senator from Louisiana (Mrs. EDWARDS).

If present and voting, the Senator from Rhode Island would vote "yea" and the Senator from Louisiana would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Delaware (Mr. BOGGS), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), 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 Delaware (Mr. BOGGS) and the Senator from Texas (Mr. TOWER) would each vote "nay."

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Oregon would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 33, nays 45, as follows:

[No. 524 Leg.]

YEAS—33

Aiken	Hughes	Ribicoff
Bayh	Humphrey	Saxbe
Beall	Jackson	Schweiker
Brooke	Javits	Scott
Burdick	Kennedy	Stafford
Case	Mathias	Stevens
Cooper	Mondale	Stevenson
Cranston	Moss	Taft
Gravel	Muskie	Tunney
Hart	Pastore	Weicker
Hartke	Percy	Williams

NAYS—45

Allen	Brock	Chiles
Anderson	Buckley	Cook
Bellmon	Byrd, Harry F., Jr.	Cotton
Bennett	Cannon	Dole
Bible		Dominick

Ervin	Jordan, Idaho	Randolph
Fannin	Long	Roth
Fong	Magnuson	Smith
Fulbright	Mansfield	Sparkman
Gambrell	McClellan	Stennis
Griffin	Miller	Symington
Gurney	Montoya	Talmadge
Hansen	Nelson	Thurmond
Hruska	Packwood	Young
Inouye	Pearson	
Jordan, N.C.	Proxmire	

NOT VOTING—22

Allott	Eastland	McIntyre
Baker	Edwards	Metcalf
Bentsen	Goldwater	Mundt
Boggs	Harris	Pell
Byrd, Robert C.	Hatfield	Spong
Church	Hollings	Tower
Curtis	McGee	
Eagleton	McGovern	

So Mr. KENNEDY's amendment (No. 1703) was rejected.

Mr. KENNEDY. Mr. President, I send to the desk an amendment, on behalf of myself and Senators MOSS, PERCY, BROOKE, CRANSTON, HART, HUMPHREY, JAVITS, and TUNNEY.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

On page 348, strike out lines 20 through 22.

The language proposed to be stricken out is as follows:

REPEAL OF SECTION 1902(D) OF MEDICAID

SEC. 231. Section 1902(d) of the Social Security Act is repealed.

Mr. KENNEDY. Mr. President, I ask unanimous consent that minority counsel from the Labor and Public Welfare Committee, Mr. Cutler, be permitted the privilege of the floor.

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

Mr. KENNEDY. Mr. President, for the benefit of Members of the Senate, I do not think this amendment will take very much time. I intend to take only 3 or 4 minutes. We have had an opportunity to talk about this amendment with the chairman of the Finance Committee and also with the Senator from Georgia during his absence from the debate on the previous amendment. There are just a couple of points I would like to make at this time.

First of all, the amendment really does not cost anything at all. The thrust of the amendment is to require that the States not cut back on providing services that they are already providing, and, as reflected in the committee's report on page 245, the Finance Committee does not feel that there will be a reduction of services by States under medicaid. I read the language of the committee report:

The committee does not expect that removal of the maintenance of effort requirement will result in large-scale cut-backs in benefits under the Medicaid program.

All this amendment tries to do is to take that idea and make sure that the effort will be maintained. We are not writing anything new. The provision has been in effect since 1969. All we are trying to do is go back to the existing law, which is to require that the maintenance of effort be maintained and that we do not get the kind of large-scale withdrawal which I fear will come to hundreds of thousands of persons, most in need of health services.

The Finance Committee does not think there will be a significant withdrawal, but it is really to guard against the possibility of States withdrawing that we have offered this amendment.

Finally, let me say that if a State is able to demonstrate to the Secretary of Health, Education, and Welfare that, as a result of utilization review, that there will be an undue burden on it, it will be able to receive the waiver for which it would have been eligible under the act as previously drawn. So this proposal provides definite flexibility for those States that feel the kind of program that has been developed is particularly burdensome to them. They will be able to have studies made and go to the Secretary of Health, Education, and Welfare and be granted a waiver. But the thrust of this amendment is to assure that there will not be further cutbacks by the States in the range of services that are being provided.

It seems to me it is important that we continue these efforts, particularly when we recognize that approximately $1 billion is being returned to the States under title III of the bill, and also that resources will be returned to the States under the revenue-sharing program, and health care certainly is one of the areas of priority under that program.

So I hope the amendment is adopted.

I ask unanimous consent that the Senator from Connecticut (Mr. RIBICOFF) be added as a cosponsor.

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

Mr. LONG. Mr. President, the amendment the Senator is offering was offered before the Senate in 1970, and the Senate voted against the amendment of the Senator from Massachusetts in 1970, and I think it would do so now for reasons I would like to explain.

As the Senator has so well said, we do not anticipate that the States will make significant cutbacks in their medicaid program, but we have seen situations when Senators from certain States come to us pleading for relief to help the State's fiscal situation. For example, a Governor of a State might think it desirable to provide particular benefits and raise the eligibility requirements so that people making $10,000 or $12,000 could enjoy the benefits of medicaid. And when they do those things, far more people than they anticipated come in asking for the benefits, and then the State finds they cannot afford it.

Without the maintenance of effort provision we could say, "Simply cut back on your generosity," and everything would be fine.

It was the Senator from Louisiana who started this maintenance of effort thing. In years gone by, I used to advocate a $5 or $10 increase in grandma's old-age pension check, and then the State would economize and only pass half of it through to them. So this Senator formulated the theory that when the Federal Government would make an increase we would require a maintenance of effort, so that we could guarantee the people would get the benefit.

Then that procedure was, you might say, perfected by the Department of HEW by what is now known as the maintenance of effort provision, which works out in some instances as Congress never intended—so much so that one would wonder whether we had our sanity when we passed it.

A situation occurred in the State of New Mexico, and we had to pass a law to allow them to retreat, the only alternative being that the Federal Government pay for an unwise decision on the part of the State from which the State would like to retreat.

The same thing happened in the State of Tennessee, where the very liberal former Senator from that State, Mr. Gore, himself had to come before Congress and plead for us to relieve Tennessee from the generosity which they could not afford to continue.

If we are going to make them continue for all time to come to maintain an effort and a burden once they assume it, then it inhibits and prevents the Governor from doing something for the benefit of his people which he believes would be a good idea, for fear that he will not be able to keep it up.

All the welfare administrators are telling us right now that they are very fearful of what will happen to their States' budgets when we pass this bill, because they will be under pressure to make large numbers of aged and disabled people eligible for medicaid who are not eligible today, because we have expanded the cash benefits program for those people.

They say they are going to be confronted with a real fiscal crunch, you might say, and they want to know where the help is going to come from to pay for it. Undoubtedly the help will come from here.

We in Congress will provide a more generous set of benefits in terms of health care next year than this year. That will be one of the main items of consideration in the next Congress.

The most inexpensive thing along that line that I know of is one that is being proposed by me. It would cost about $3 billion extra. The Senator from Massachusetts has a proposal that would cost about $50 billion extra. Others have proposals varying in between. In any event, we are going to provide for a lot of additional health care next year, somewhere between $3 billion and $50 billion worth of it, and, if a State needs some help to carry this burden, we will provide it.

But meanwhile, if the States find they have been more generous than they can afford, and cannot keep it up, why should they not be permitted to cut back somewhat in what they were providing, especially when a court decision or a decision of HEW makes them provide benefits for more people than they felt they would have to provide for?

I yield to the Senator from Utah.

Mr. BENNETT. Mr. President, I am glad the Senator mentioned New Mexico, because there is another chapter in the New Mexico story which I think this amendment would affect.

The New Mexico doctors organized a review organization, and reviewed all the medicaid cases, and they discovered that about 20 percent of the service provided

were either unnecessary or could be provided more economically. Under this amendment, they would have to go on throwing money out when, as a matter of fact, they might not have the need, and the Governor would not be allowed to save the money that the review made possible. This saving was not going to hurt anyone.

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

Mr. BENNETT. I yield.

Mr. KENNEDY. The Senator is not talking about my amendment. The Senator has completely misinterpreted and misconstrued it, and is not referring to my amendment at all.

Of course they would be able to save money or resources by any kind of investigation which showed error or fraud. Of course they would. The Senator distorts the thrust of the amendment by his explanation.

Mr. BENNETT. If maintenance of effort means spending the same amount of money, and that is the way I understand it, then I do not see how the Governor could save the money. He has got to spend it on medicaid, even though he does not have the demand for services that he thought he had before the matter was reviewed.

Mr. LONG. That is a part of the problem. Under careful professional standards review, as called for in the amendment developed by the Senator from Utah—which I think is a tribute to the statesmanship of the Senator from Utah where the State of New Mexico used the approach recommended in this amendment and carried out a proper review, so that they could provide more medical service and better service at less cost—in New Mexico they did exactly that. By using the kind of review the Senator from Utah (Mr. BENNETT) had been recommending, they thoroughly reviewed what they were doing, and they were able to save lives and provide better, higher quality health care, and save money all at the same time.

Now, under the amendment of the Senator from Massachusetts, they would be required to go ahead and spend the money even though they do not need to. In other words, if they find they can save money and provide better service to these people all at the same time, they have to go spend the money anyway. That is an utterly ridiculous fiasco, I say to the Senator as the man who started this whole maintenance-of-effort thing to begin with. That was initially my amendment, to require that they have a maintenance of effort. At that time, we passed the Long provision so that, when we would provide more benefits at the Federal level, the States would not retrench at their level to offset the additional Federal generosity.

I say, as the one who originally sponsored that proposal, that it is an utterly ridiculous result when you take it to the point that when a State finds that by good administration and careful review of patient care, and they can give better care at less cost, that they can save money and save lives at the same time, the money must be wasted anyway.

When the States find they can save money by good administration and careful review, on the one hand, and it results in providing better care and savings at the same time, to require them to pour money down a rathole, so to speak, is an utterly ridiculous result, and I hope, Mr. President, that the Senate will not reverse its previous decision.

The Senate voted on this on a previous occasion, and voted that in a situation of this sort, the States could make some reductions.

We are going to provide, as I say, a lot more money for medical care next year, and we are going to look at the problems the States have in trying to finance what they are doing because of the expanded rolls we make necessary under this bill. But I would hope the Senate would not require the States to spend money, under the theory of maintaining of effort, that might not be appropriate in some situations.

Mr. KENNEDY. Mr. President, we are not expanding any rolls by this amendment. We are not increasing any costs. All you have to do is read through the report of the Finance Committee, where they indicated:

> We do not expect that the removal of the maintenance of effort requirement will result in cutbacks in benefits.

If they do not believe it will result in cutbacks in benefits, why not just write that into the legislation? It is in there now.

It is important that the Senate understand where we are with respect to this amendment. The last amendment was to provide professional planning for future services by the States under medicaid. This amendment is just a maintenance of State effort by the States, with escape procedures which can be available to the States that are able to make a good case for the use of that particular provision. I hope the Senate will accept the amendment.

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

The yeas and nays were ordered.

Mr. LONG. Mr. President, the principal result of the Senator's amendment would be that the States would be denied the flexibility that some of them will need to make some changes in their programs to meet temporary pressures of cost and other considerations that might occur. I suppose the best example as to what occasioned the committee position, which the Senator seeks to strike, is a situation in New Mexico, where the State found it necessary for a short period of time to cut back somewhat in benefits in one area or another, so as to meet the financial pressure on the program. Once they got their adjustments made, they were able to restore the same level of benefits they had before. In fact, they not only restored it but also moved to an even larger level of benefits for the people.

Senator Anderson was an early sponsor of the medicare program, back in the days when it used to be called the King-Anderson bill.

We are seeking to preserve the same flexibility New Mexico had to resort to.

I have heard no one contend that any State expects any major cutback or reduction in any of the things they are doing, but they do need flexibility in their program to take care of the crises that may arise from time to time, until we can provide more help to them.

Mr. KENNEDY. Mr. President, it is important that we realize that half the money we are talking about in the Medicaid program comes from the Federal Government. We are trying to establish some rather basic and fundamental services. Once they are established, we want to make sure that they will not be cut back.

Under this provision, we are going to find—contrary to the findings of the Finance Committee—children, women, and others under medicaid who are receiving doctors' services, hospital services, and other services this year who will not receive them next year. That is the plain truth.

We are trying to insure that those who are getting the services now will be able to continue to receive those services.

The women, the children, the blind, the disabled, all those who are receiving these services, should not lose them next year;

Mr. President, I am prepared to vote at this time.

Mr. LONG. Mr. President, as a political matter, the States are not going to deny health care they are providing to the aged, the blind, and the disabled, unless the pressure on the States is such that they must make some adjustment.

This amendment was offered back in 1970, and was rejected by a vote of 18 to 44.

Senators might like to have their memories refreshed as to how they voted when they had the same question before them in 1970, just 2 years ago. The following Senators voted in favor of the amendment: Messrs. BAYH, BROOKE, CASE, CRANSTON, HARRIS, HARTKE, HUGHES, JACKSON, JAVITS, KENNEDY, MATHIAS, MCGOVERN, MONDALE, MOSS, RIBICOFF, SCHWEIKER, SCOTT, and WILLIAMS of New Jersey.

Voting against this proposal, as I propose to vote on this occasion, were the following Senators: Messrs. AIKEN, ALLEN, ALLOTT, BAKER, BELLMON, BIBLE, BOGGS, HARRY F. BYRD, JR., ROBERT C. BYRD, CANNON, COOK, COOPER, CURTIS, DOLE, Ellender, FANNIN, GRIFFIN, HANSEN, Holland, HRUSKA, JORDAN of North Carolina, JORDAN of Idaho, LONG, MAGNUSON, MANSFIELD, MCINTYRE, METCALF, MILLER, NELSON, PACKWOOD, PEARSON, PELL, PERCY, Prouty, PROXMIRE, RANDOLPH, SMITH, SPARKMAN, SPONG, STEVENS, SYMINGTON, TALMADGE, THURMOND, and Williams of Delaware.

There were 38 not voting.

Mr. President, I ask unanimous consent that the rollcall vote be printed in the RECORD.

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

[No. 453 Leg.]

YEAS—18

Bayh, Brooke, Case, Cranston, Harris, Hartke, Hughes, Jackson, Javits, Kennedy, Mathias, McGovern, Mondale, Moss, Ribicoff, Schweiker, Scott, Williams, N.J.

NAYS—44

Aiken, Allen, Allott, Baker, Bellmon, Bible, Boggs, Byrd, Va., Byrd, W. Va., Cannon, Cook, Cooper, Curtis, Dole, Ellender.

Fannin, Griffin, Hansen, Holland, Hruska, Jordan, N.C., Jordan, Idaho, Long, Magnuson, Mansfield, McIntyre, Metcalf, Miller, Nelson, Packwood.

Pearson, Pell, Percy, Prouty, Proxmire, Randolph, Smith, Sparkman, Spong, Stevenson, Symington, Talmadge, Thurmond, Williams, Del.

NOT VOTING—38

Anderson, Bennett, Burdick, Church, Cotton, Dodd, Dominick, Eagleton, Eastland, Ervin, Fong, Fulbright, Goldwater.

Goodell, Gore, Gravel, Gurney, Hart, Hatfield, Hollings, Inouye, McCarthy, McClellan, McGee, Montoya, Mundt.

Murphy, Muskie, Pastore, Russell, Saxbe, Stennis, Stevens, Tower, Tydings, Yarborough, Young, N. Dak., Young, Ohio.

Mr. LONG. I would think, Mr. President, that Senators would be well advised to remain consistent and decline to agree to this amendment, just as the Senate declined to agree to it in 1970. I think there is even more logic to recommend against it now than there was then.

Mr. KENNEDY. Mr. President, it should be a part of the record that of the 12 States that tried to get out of this program, none of them had tried to get out prior to the vote in 1970. They tried to get out subsequently. That is additional information, and that should be weighed in each Senator's final judgment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the Senator from Connecticut (Mr. RIBICOFF). If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. MANSFIELD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Virginia (Mr. SPONG), 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.

On this vote, the Senator from Rhode Island (Mr. PELL) is paired with the Senator from Louisiana (Mrs. EDWARDS).

If present and voting, the Senator from Rhode Island would vote "yea" and the Senator from Louisiana would vote "nay."

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

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Delaware (Mr. BOGGS), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), 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 Kansas (Mr. DOLE) is detained on official business.

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

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Oregon would vote "yea" and the Senator from Nebraska would vote "nay."

Also, if present and voting, the Senator from Kansas (Mr. DOLE) would vote "nay."

The result was announced—yeas 33, nays 40, as follows:

[No. 525 Leg.]

YEAS—33

Aiken	Hughes	Percy
Bayh	Inouye	Saxbe
Beall	Jackson	Schweiker
Brooke	Javits	Scott
Burdick	Kennedy	Smith
Case	Magnuson	Stafford
Cooper	Mathias	Stevens
Cranston	Mondale	Taft
Griffin	Moss	Tunney
Hart	Muskie	Weicker
Hartke	Pastore	Williams

NAYS—40

Allen	Ervin	Montoya
Anderson	Fannin	Nelson
Bellmon	Fong	Packwood
Bennett	Fulbright	Pearson
Bible	Gambrell	Proxmire
Brock	Gravel	Randolph
Buckley	Gurney	Roth
Byrd, Harry F., Jr.	Hansen	Sparkman
	Hruska	Stevenson
Cannon	Jordan, N.C.	Symington
Chiles	Jordan, Idaho	Talmadge
Cook	Long	Thurmond
Cotton	McClellan	Young
Dominick	Miller	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield against.

NOT VOTING—26

Allott	Eastland	McIntyre
Baker	Edwards	Metcalf
Bentsen	Goldwater	Mundt
Boggs	Harris	Pell
Byrd, Robert C.	Hatfield	Ribicoff
Church	Hollings	Spong
Curtis	Humphrey	Stennis
Dole	McGee	Tower
Eagleton	McGovern	

So Mr. KENNEDY's amendment was rejected.

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

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

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

The amendment reads as follows:

On page 467, strike out lines 15 through 17, and insert in lieu thereof the following:

(b)(1) Subject to the provisions of paragraph (2), the amendments made by this section shall be effective with respect to services furnished after June 30, 1973.

(2) The Secretary is authorized and directed to conduct a full and complete study to determine the advisability of inclusion of chiropractor services under Medicare and to postpone the effective date of the amendments made by this section upon a finding that such services should not be so included.

Mr. KENNEDY. Mr. President, I do not expect to take too much time on the amendment. It is not very complicated. It is important that we have it discussed here this afternoon.

In the pending legislation, chiropractors are included as eligible providers under medicare. My amendment would leave chiropractors eligible. However, it would require that there be a study made of chiropractic and that it be done by an independent body and be completed by June 30 of next year, and that the study be available to the Secretary of HEW so that he will be able to use it to develop regulations as a result of the study if he deems it necessary.

This amendment is important. I urge you to agree to the amendment.

Mr. President, today there are hundreds of thousands of American citizens being treated by chiropractors. They are being treated for a variety of different diseases. During hearings before our Health Subcommittee we have seen many instances in which people who have had various illnesses, initially go to a chiropractor and only later go to a physician. In too many instances, their sicknesses have advanced to the point where the patients died.

Mr. President, I have included in my more complete statement some examples reported in the Reader's Digest and in some of the medical journals concerning treatment of illnesses beyond the scope of their training by chiropractors.

I draw attention to page 3107 of the hearings of the Finance Committee on H.R. 1. That page reproduces a chiropractic research chart. It lists all the various kinds of diseases that chiropractors feel qualified to treat. Included in these is anemia. They then list the percentage accepted for treatment, the percentage that are well or much improved, the percentage that are slightly improved, the percentage that are same, and the percentage that are worse.

For anemia, they have 81.5 percent reported well or much improved.

For gall bladder disorders, they list 80.9 percent being well or much improved.

They even treat high blood pressure. For high blood pressure they list 88.2 percent being well or much improved. For low blood pressure they list 73.6 percent being well or much improved.

For migraine headaches, they list 86.6 percent being well or much improved.

For ulcers they list 80.2 percent being well or much improved.

We know that under the provisions of the legislation all that is required is a

high school diploma and 18 months of training in addition to that. They can then go out and treat, as they do, many of our senior citizens and others for a wide variety of different illnesses and diseases.

Mr. President, I have before me one of the textbooks that is printed for the Parker School, by the Parker Chiropractor Research Foundation. And in the textbook they give the kinds of procedures that should be followed and the kind of things that should be said by the chiropractor when patients are treated.

They list the things that one must say to patients during the first 10 visits.

On the first adjustment, a chiropractor is supposed to say: "Your spine is certainly rigid, but that adjustment took well."

On the second adjustment, the chiropractor is supposed to say: "What is better"?

Then if the patient states that nothing is better and restates his trouble, he should say, "Yes, I know; that is on your patient record card, but the adjustment took so well yesterday some improvement should have been noticed. Think hard now—is not something better?" If a patient tells him of conditions that are better, say, "Wonderful. Great. Good for you. I am proud of you. I appreciate your getting well." It states that one should give patients: First, attention; second, acceptance; third, approval; and fourth, recognition.

On the third adjustment, the chiropractor is supposed to say: "What is better? Your eyes are brighter."

On the fourth adjustment, the chiropractor is supposed to say: "What is better? I hope you are feeling as good as you look."

On the fifth adjustment, the chiropractor is supposed to say: "What is better? You are getting a spring in your step."

He is also supposed to give the patient a "twin scale" pamphlet for someone else.

On the sixth adjustment, a chiropractor is supposed to say: "What is better? You are getting in fighting trim."

On the seventh adjustment, the chiropractor is supposed to say: "What is better? Your body and mind are getting more rest in each hour that you sleep than ever before."

On the eighth adjustment, the chiropractor is supposed to say: "What is better? Did you know you will live longer as a result of these adjustments?"

Then they are supposed to give them a 5-day "inner cheap diet" if indicated.

On the ninth adjustment, a chiropractor is supposed to say: "What is better? Did you know you will have fewer colds, sore throats, et cetera, as a result of these adjustments?"

On the 10th and final adjustment, the chiropractor is supposed to say, "What is better? Did you know you will do better work during the time you are having these adjustments?"

Then the book continues to go into the procedures concerning how to get compensation; or as the book puts it, "collect examination fee."

It tells the chiropractor how to collect. That section reads:

a. "That will be $27.50 for today. Will that be cash or check?" or

"That will be $27.50 for today, Mrs. Jones. Do you prefer to pay by cash or check?" or

"Mrs. Jones, that will be $27.50 for today. Do you have your own checkbook or would you like one of our counter checks?"

Under (c) on that page it says: "Don't look up."

Then it gives the reasons for collecting on the first visit. They are as follows:

a. Determine ability of patient to pay.
b. Hold the patient.
c. Establish habit pattern.
d. Just good business.

It then lists as an additional reason for collecting on a cash basis. "Patients who pay cash get better results."

Mr. President, then, later on, they have a section which shows a one-a-day plan for building a $25,000 a year practice. It gives a list about how many X-rays the chiropractor should give; what the income will be based on the number of X-rays, the treatment, and the rest.

This really is not a laughing matter. The amendment that is proposed here is a very modest amendment. All we are requiring is that a study be made by an independent agency, hopefully by the National Academy of Sciences; that this be made available to the Secretary of HEW; that he consult it if he wishes and draft regulations.

I think we have a responsibility in the Senate when we establish programs in the whole area of quality health care to assure that programs we do pass are going to be meaningful and helpful to the American people.

I am certain there are some practices the chiropractor can perform to relieve pain and suffering in individuals, but from the documents which have been submitted to the Finance Committee we can see they go far beyond the type of diseases and illnesses and disorders that should be treated by them. There are signs and symptoms here, such as anemia, high blood pressure, and ulcers, that can signal the beginning of cancer and many other diseases.

I think we should have the kind of skilled practitioners who have gone through courses of study and met requirements in the respective States in performing those services.

Mr. President, I hope the Senate will agree to the amendment.

Mr. LONG. Mr. President, the committee did not have an opportunity to consider the amendment of the Senator from Massachusetts in regard to chiropractors. The committee amendment simply takes the view that it is the duty of the State to decide what it wants to do about this matter—if they want to license chiropractors, certain chiropractic services can be made available. The chiropractors are not entirely satisfied with it, but they would rather have it than the Kennedy amendment.

The Senator makes a strong and eloquent argument. I would leave it to the judgment of the Senate as to what they would like to do about this matter. Personally, I am willing to abide by the judgment of the Senate.

I know that some Senators are more decided about the chiropractor amendment than are others. This would postpone the date when the provisions that affect chiropractors would go into effect. I would be willing to abide by the judgment of the Senate in this matter.

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

Mr. LONG. I am happy to yield the floor.

Mr. MILLER. Mr. President, can the Senator from Massachusetts tell us whether or not he has read the committee report language on page 253 of the report?

Mr. KENNEDY. Yes, I have.

Mr. MILLER. I would like to read a part of the language in the committee report because I heard the Senator make some comments which I do not believe would be responsive to the language of the Committee on Finance in the report on this section. The language in the committee report was most carefully drafted by the staff of the Committee on Finance and it constitutes important legislative history for the section of the bill the Senator's amendment refers to.

This would be used by the Department of Health, Education, and Welfare in its regulations to implement the section.

I wish to read very important language in the committee report, which is legislative history. The language is about the middle of the second paragraph under "Coverage of Chiropractic Services Under Medicare" on page 253.

The committee believes that at least uniform minimum standards of the following kinds should underlie licensure: satisfactory evidence of preliminary education equal to the requirements for graduation from an accredited high school or other secondary school; a diploma issued by a college of chiropractic approved by the State's chiropractic examiners and where the practitioner has satisfied the requirements for graduation including the completion of a course of study covering a period of not less than three school years of six months each year in actual continuous attendance covering adequate courses of study in the subjects of anatomy, physiology, symptomatology and diagnosis, hygiene and sanitation, chemistry, histology, pathology, and principles and practice of chiropractic, including clinical instruction in vertebral palpation, nerve tracing and adjusting; and passage of an examination prescribed by the State's chiropractic examiners covering said subjects. Moreover, the committee does not intend that the practice of operative surgery, osteopathy, or administering or prescription of any drug or medicine included in materia medica should be covered by the practice of chiropractic. Such standards would also be applicable to coverage of chiropractic services under medicaid.

I suggest that all of this language is what the committee intended to be included in the regulations to be promulgated by the Department. I am quite confident there are a good many States that will not be able to meet these requirements at the present time. It would be hoped they would raise their standards so they could meet them. I would guess they would meet them rather rapidly with the incentive that they are not going to be covered unless they meet them. I believe the committee did a pretty careful job of setting standards to be included in the regulations; otherwise I do

not think the committee would have gotten the provision the Senator seeks to amend.

Mr. KENNEDY. Mr. President, just above the language the Senator from Iowa read there is this statement:

> The Committee on Finance believes, however, that further study of chiropractic services is not required to support coverage of the services of chiropractors under the supplementary medical insurance program.

Mr. President, I believe the point raised by the Senator from Maryland that I had intended by my amendment to continue the provisions of the Senate bill, but to have an independent study done that hopefully would be done objectively, by a group such as the National Academy of Sciences, to report before June 30, 1973. The Secretary be authorized upon the completion of the study to draft regulations to reflect the findings. I think we would get the kind of comprehensive study that should be done. I think this provides the kind of protection for the people who use chiropractors that is necessary. I believe this would be the most prudent way to proceed.

I would like to ask a question of the Senator from Louisiana. As I understand it, there are two States that do not have licensing procedures for chiropractors. I understand that Louisiana is one such State. I did not have the opportunity to mention that to the Senator.

Mr. LONG. Mr. President, as I understand it, we in Louisiana can be completely neutral about the matter. We do not license chiropractors in Louisiana.

I think the chiropractors actually erected a sign on one of the main highways in Louisiana reading something like this: "Louisiana, shame, the only State that does not license chiropractors." Apparently that did not change their minds; they do not license them yet. The State medical society there strongly opposes it. Its members have contended, as the Senator probably knows—and, incidentally, the Senator from Massachusetts at this moment is taking a position on something which is one of the few things that I think he would be strongly supported on by the American Medical Association; they might even forgive him for his national health insurance bill.

It is contended by some people that there are patients who ought to be going to doctors, because they really have cancers or have terminal diseases, but, instead, are going to chiropractors who tell them they can help them by straightening their spines when, according to the doctors, it is not going to do any good. It is a hard-fought issue in Louisiana, but Louisiana is not directly affected by this proposal, because we do not have licensed chiropractors in Louisiana.

Mr. HART. Mr. President, I have had the opportunity to listen to the Senator from Massachusetts and, with others, was amused by the excerpts he read from some manual on how to greet patients and how to collect fees. It is unnerving to realize that a school of chiropractic instruct its students how to collect fees. But it would not surprise me in the least if they had gotten their basic text from medical schools, perhaps from some form of a department of economics of the AMA. People go to all kinds of doctors—M.D.'s, O.D.'s and chiropractors. Some patients benefit. Some find that there is no change in their conditions. And others die.

If chiropractors overprescribe, they are not the only kind of doctors in this country who overprescribe. If chiropractors join together in organizing a drug repackaging firm and then write prescriptions on their trade name, they have learned this from some of the medical doctors. We are not doing anything here to correct these practices which we know have been engaged in by certain doctors.

As far as I am aware, the licensing procedure in the State of Michigan is adequate to insure that doctors of medicine, M.D.'s, doctors of osteopathy, doctors of chiropractic, and so on, have met established examination requirements.

Licenses are issued after examination in each of these fields. Occasionally we hear of incompetent performance by a licensee, but this is true of M.D.'s and O.D.'s, as well as chiropractors.

There are weaknesses in all of these licensing boards of examination, as malpractice recoveries confirm. But there just happen to be a great many people in this country who feel that treatment by a chiropractor is of benefit to them. I must acknowledge a personal bias in this. My father was one of those people. My father was not an uninformed person. He did elect to go to a chiropractor when certain symptoms, including, if you will, head colds, bothered him. With other symptoms, he went to our family physician. If he had needed surgery, he would have gone to a surgeon. I would not want, by any vote or silence on my part, to suggest that I think his judgment now is to be questioned. He was in the care of a medical doctor when he expired, not a chiropractor, and I do not blame medical doctors for that, but I know my father did benefit from certain treatment from "Doc" Mac Nealis. He was a chiropractor and he was a good one.

I think nothing we say here should suggest that they are all bad, any more than any passing reference I have made to M.D.'s should be interpreted as indicating I feel that they are all bad, either, just because some of them engage in practices which I think are reprehensible, such as oversubscribing, owning pharmacies, being incorporators and participants of drug repackaging firms. Many Americans know that benefit, satisfaction, and relief have resulted from chiropractic treatment. I am one who has been thus benefited.

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

Mr. HART. I yield.

Mr. CANNON. I must say I listened with great interest to the Senator's comments. With respect to regulation and qualification in my own State, chiropractors are regulated. We have a Chiropractic Licensing Board, and it is determined by the legislature of our State as to how they qualify and how they are regulated. They do so. They license them to do business and to do certain things.

The question raised in my mind is whether we should set up a standard separate and apart from the States.

I listened with interest to the reading from the almanac from the Parker School by the Senator from Massachusetts. It reminded me of a medical school that used to advertise over the radio from Mexico and it beamed all over the Southwest ready cures. I note that they have a big building down in Texas, so I am not at all sure that it might be related to it. But I also noted, in examining the book, that the first edition of it was back in 1951. This is 21 years ago, so I think perhaps the procedures may have been changed or modified over that period of time.

My point is, I myself find it very difficult to explain to some why they are not covered under Federal legislation when the States see fit to license and regulate them. If Louisiana does not see fit to do so, obviously that is the prerogative of the State of Louisiana. I venture to say that Michigan probably does license and regulate them very closely. So it may be difficult to explain to one's constituents.

Mr. HART. I thank the Senator from Nevada. He is quite correst in stating the situation that applies as far as I know in Michigan. He voices the same concern and uneasiness I had. I did want to express my position.

Mr. KENNEDY. Mr. President, there is not a single scientific study available to any Member of the Congress or to the American people that would show the benefits of chiropractic. There may have been individuals who benefited and got relief from pain under certain circumstances. But should we include chiropractors under the medicare program and let them go ahead and treat for anemia, for example? Anemia can be one of the first indications of cancer, and we know of case upon case of people who have gone to chiropractors because of pains and other illnesses, and were treated by them and then, by the time they showed up in hospitals, had terminal illnesses and cancer. To think that we in the U.S. Senate are going to be able to sanction that kind of treatment when we know of these cases.

There is not one bit of scientific evidence, not one, to support chiropractic theory. I rise to ask anyone here who can to contradict that statement. There are none. And particularly not concerning their competence to treat the kinds of illnesses identified on page 3107, which include high blood pressure, gall bladder disorders, general weakness, ulcers, stomach disorders, nervousness. Chiropractors feel that they can treat those diseases. By including them under this program, we are insuring that they will be reimbursed by the Federal Government for doing so.

All my amendment proposes is to obtain an independent judgment, have independent scientific information assembled and made available to the Secretary of HEW, and for him, on the basis of that independent study done by the Academy of Sciences or some other scientific group that will be truly independent, to develop the kind of regulations to govern this program. That is all we are asking. We are not even attempting to strike chiropractors from the program. We will let them in. We will be guided by the judgment of an inde-

pendent study group, and I think we will be fulfilling our responsibility to the people.

I do not question that there are those who have back problems or pains who have had that pain and suffering relieved to some extent by chiropractors. I am not questioning that. But we would, by including them in Medicare, be endorsing them from the Federal point of view, and reimbursing them for a wide range of services, when there is no scientific evidence, either as a part of this record or elsewhere, which would indicate they are particularly competent to handle them.

I refer the Senate to page 3108 of the hearings, the chart entitled "Chart of Effects of Spinal Misalignments." They show the whole spinal column, with arrows going off to different sections. On manipulation of the first lumbar vertebra, they say they can relieve colitis, dysentery, constipation, diarrhea, and hernias. That is their statement.

It is interesting to note that one of the first signs of cancer of the colon can be diarrhea. But chiropractors feel, if a person comes in to them for treatment, that by manipulating the first lumbar vertebra, they can do something about it, when that person could have cancer of the colon.

That is not scientific evidence, to me. All I am saying is, let us get some independent judgments on this question. I am prepared, as our amendment says, to take any independent group and let them make the recommendation, so that we will know. If that independent study group comes forward and says, on the basis of extensive scientific work, they ought to be qualified to do it, at least we will have independent judgment and study as a basis for that. We do not have that now, and I think it is important, when we talk about providing benefits under this program, that this body understands that.

Mr. BURDICK. Mr. President, will the Senator yield to me?

Mr. KENNEDY. I yield.

Mr. BURDICK. As the Senator knows, many States, I think the great majority of them, have authorized the practice of chiropractic in their States. I have talked with a great many workingmen, I recall postal workers in particular, and they seem to swear by the treatment, and they want it.

The question I ask the Senator is, could they not be given that freedom of choice?

Mr. KENNEDY. I believe they should be given freedom of choice to be able to go and receive that treatment. But I do not think that the Federal Government should reimburse chiropractors for the kinds of treatment which are clearly out of the area of their training, experience, and background, until more evidence is available

We are really interested in this issue in terms of the total health care crisis. When a person goes to a doctor, he goes by good faith, because he knows the doctor and has confidence in him, and puts himself completely in the hands of that doctor.

I do not believe we ought to permit chiropractors to be treating illnesses of the colon, the gall bladder, the throat, the heart, and other illnesses that they are not trained for. I do not feel that we are justified in providing taxpayers' funds to compensate them for that.

Mr. BURDICK. Does the testimony show there is any great deal of treatment by chiropractors of the things the Senator has referred to? It is my understanding that the great bulk of their treatment is for back injuries, where they seem to do some good. Is the Senator talking about exceptional cases or general cases?

Mr. KENNEDY. Let me say at the outset that our Health Committee has not done an extensive study. The information we have been able to gather, since we found out this was part of the bill, was on the basis of studies done by various groups. Some of those studies have been done by doctors, who have a different view about it, quite naturally. That is why I believe that our approach of just saying, "Let us get an independent group to collect the information, do the study, and make the recommendations," makes sense, because I cannot assure the Senator from North Dakota that our Health Committee has done it.

What I have been saying is that the chiropractors themselves believe they can treat many kinds of illnesses. I can give the example of a tumor of the eye of a child at the UCLA Medical School, that a chiropractor tried to treat, and the parents thought the chiropractor could. The matter was delayed too long; they could have removed the eye earlier and saved the life of the child, but after the delay, the child died of cancer.

Other examples where patients have been treated for tuberculosis with diets, and then, after the patient had wasted to some 80 pounds and was brought into the hospital, he died.

I am not suggesting that there are not chiropractors in this country who are remarkably well trained and can provide relief of pain in some cases, and I think that is marvelous and that is good. But I would like to distinguish between compensating them for those functions and for treating individuals for high blood pressure.

Mr. BAYH. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I yield.

Mr. BAYH. I listened with great concern to the quotations from that pamphlet, which I think pointed out one thing: There probably are some very poorly qualified chiropractors.

My personal experience in the Indiana Legislature, where we established licensing procedures, was that there were some chiropractors who performed a service and some who did not.

The matter that concerns me, that I would like to address to my friend from Massachusetts, is as to the content of this unbiased scientific panel. Who does the Senator envision would be sitting on that panel to compile the evidence?

Mr. KENNEDY. The amendment does not specify the Academy of Sciences, but I would hope it would be an independent group like the Academy of Sciences, in which I have confidence.

Any group that would be able to give us as clear and unbiased a view as possible.

Mr. BAYH. The thing that concerns the Senator from Indiana is this: Cancer and other conditions have been alluded to, and there are good examples where some chiropractors are not well enough trained and they perhaps unintentionally misrepresent their capacity to heal. I, for one, would not want to be recorded as not feeling that there are some chiropractors who can provide significant service to patients who have certain types of ailments.

My concern is that, whether it is the Academy of Science or whatever, the panel that is relied upon to make this report will be comprised of doctors; and I have yet to find one doctor who thought one chiropractor had the capacity to provide any healing qualities. If that is the case, then I do not know how in the world the Senator from Massachusetts is going to reach the goal which in good conscience he wants to reach.

There are not going to be any chiropractors on the panel, are there?

Mr. KENNEDY. Quite frankly, I think it can be an independent board of scientists and trained personnel. I do not thing it has to include chiropractors or physicians. I think it can be very knowledgeable people generally, scientists and others, in the health area who draw together the various information that is available. I feel absolutely confident that the Academy of Sciences or other nonpartisan groups could develop this.

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

Mr. KENNEDY. I yield.

Mr. LONG. Mr. President, I say to the Senator that a number of us feel that this is a matter we would like to have the Senate vote on. I think the Senator has made his case very well. Those who have some doubts about the matter have expressed their doubts. So far as I am concerned, I will do whatever the Senate decides.

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

Mr. KENNEDY. I yield.

Mr. TAFT. I note on page 467, with regard to section 273, that there is a limitation with respect to the authorization under which the Secretary of HEW can prescribe standards for the purpose of the section. Also, there is a limitation that it shall be "only with respect to treatment by means of manual manipulation of the spine which he is legally authorized to perform by the State or a jurisdiction in which such treatment is provided."

The question I have for the Senator from Massachusetts is whether the Secretary of HEW does not already have, under this rulemaking power, the authority to go out and get such evidence or such expert opinion as he needs to prescribe the minimum standards involved. I see no reason why the amendment is necessary in order to get the standard.

The only purpose of the amendment, it seems to me, is to put this entire matter off for another year. It has been considered many times before, and the com-

mittee has finally decided—I think correctly—to go the route of saying that anything the States licenses and anything that meets the minimum standard that the Secretary authorizes should be given the freedom of choice, as the Senator from North Dakota has mentioned.

INTERNAL SECURITY ACT OF 1954—REQUEST FOR DISCHARGE OF A COMMITTEE

Mr. THURMOND. Mr. President, I ask unanimous consent that the Committee on Armed Services be discharged from consideration of S. 4029, a bill to amend section 4 of the Internal Security Act of 1950, and that it be re-referred to the Committee on the Judiciary, since it more appropriately falls within the purview of that committee's jurisdiction.

Mr. KENNEDY. Mr. President, reserving the right to object, does that have to do with legal services? I object. If the Senator wants to discuss it, I will be glad to do so.

Mr. THURMOND. I will discuss it with the Senator, and I will read the bill, if necessary.

Mr. KENNEDY. Mr. President, I have the floor, and I am not prepared to yield.

Mr. THURMOND. I will be glad to show it to the Senator.

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. MILLER. Mr. President, will the Senator from Massachusetts yield for a question?

Mr. KENNEDY. I yield.

Mr. MILLER. Would it be possible to reach an agreement on this matter by amending the amendment by putting a period at the end of the word "Medicare," and thus have the study made, but in effect reserve to Congress the power to postpone any further coverage?

What I am getting at is that what we are doing here is to say that licensure to the States shall prevail. I think it is going pretty far to have the Secretary of Health, Education, and Welfare supersede that.

I am suggesting that Congress shall determine whether or not it ought to be postponed or superseded, and let the Secretary make the study that the amendment calls for, and then leave it to Congress to decide what it wants to do about the study.

Mr. KENNEDY. Mr. President, this argument was made on other occasions. Obviously what would be most useful would be if we had the report developed and had hearings and then enacted the legislation. But we have established a precedent. We did so recently in the DES amendment, S. 2818, where we permitted the FDA to do a study and report back, and they were to make a finding as to whether they would ban the implanting the synthetic hormone DES in cattle. We passed an HEW appropriations bill last evening to permit the Secretary extraordinary discretion to be able to cut 10 percent on all the HEW appropriations without legislative action.

This is a troublesome matter. I can give assurance to the Senator from Iowa that if we can move ahead on this amendment, our health subcommittee will take a hard look at this matter, with the result of this study, and make recommendations to the Senate on the basis of the study as well. We will not just be satisfied with the Secretary doing so. I am prepared to let the Secretary draft the recommendations and follow those recommendations. I give assurance to the Senator from Iowa that we will review this information and make recommendations very shortly after the study becomes available.

Mr. MILLER. I appreciate that offer, but I am still not sure that it meets the problem I have; because the Senator's amendment, without change, in effect lets the Secretary supersede the licensure of all the States. All I am saying is that if the Senator would agree to modify his amendment by not giving the power to the Secretary, and have the study made, and after the study is made he can go through these hearings and let Congress decide whether or not it wants to supersede these State licensure proceedings, I think it would be much more in accord with the realities that are now present.

Undoubtedly, literally thousands of people find it impossible to understand why, when the State has provided for licensure, when the bill provides for a very narrow area of service, Congress lets the Secretary of Health, Education, and Welfare supersede that.

I think we could satisfy almost everybody here if the Senator would have the study made, and if the study is sufficiently persuasive, then let Congress act on it, rather than do it beforehand and give the Secretary all that power.

Mr. KENNEDY. I ask that the amendment be accepted.

The PRESIDING OFFICER (Mr. ROTH). The question is on agreeing to the amendment of the Senator from Massachusetts (Mr. KENNEDY).

The noes appear——

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

The yeas and nays were ordered.

Mr. COOPER. Mr. President, I have no special ability to make a decision about chiropractors. This kind of study has been made ever since chiropractic came into existence and the medical associations have always found, in their view, that chiropractic had no value or, if any, very little.

Thus, if we have another study made, even if done by the American Medical Association, I am sure they will find the same thing. But, again, I go on the findings of the judgment of thousands and thousands of people that they have received some help from chiropractic. That is the judgment of thousands of people, else they would not be practicing today or be licensed in the respective States.

This debate has been going on for years. I recall in 1928, when I was a member of the State Legislature of Kentucky, I was one of the sponsors of a bill which permitted their licensing. So, year after year, we have gone through this kind of debate.

For myself, I believe that the committee has reached a position which leaves it to the States in a narrow field and that to postpone it I do not think will accomplish anything.

I hope that the Senator's amendment will be rejected.

Mr. KENNEDY. Mr. President, H.R. 1, now pending before the Senate, contains a provision which would make 15,000 to 17,000 chiropractors in this country eligible providers under medicare. The costs of providing such services would be, according to the Department of Health, Education, and Welfare, at least $100 million, or $5,000 per year per chiropractor.

A great deal of controversy has surrounded the role of the Federal Government in paying for chiropractic services on behalf of the beneficiaries of Federal health insurance programs. Attempts have been made since 1965 to include chiropractic services under medicare. Chiropractors are currently reimbursed on a matching basis under medicaid programs in 18 States. Despite this, I believe the Senate has an obligation to both the public treasury and the public health in determining, on the basis of scientific evidence, which providers should be eligible for Federal health insurance payment.

Chiropractic is an art, based upon the theory that all human disease is fundamentally due in part or in whole to interference with the transmission of nerve impulses, arising from the pressure of displaced vertebrae on nerve roots as they emerge from the spinal column. Chiropractic theory maintains that conditions as diverse as deafness, hives, diarrhea, migraine, and heart disease can be treated through spinal manipulation. No scientific evidence exists to attest to the validity of such a theory.

In addition to lack of proven effectiveness, chiropractors may have the detrimental impact of delaying medical diagnosis of an illness beyond the point it can be treated. Symptoms such as backache or diarrhea can often be the first indication of diseases as serious as cancer. A delay in the diagnosis of such illnesses could be fatal. In addition, vigorous spinal manipulation can result in spinal fractures in elderly persons with brittle bones, and aggravation of preexisting conditions such as a ruptured spinal disc.

According to a recent Reader's Digest article, one New York chiropractor attempted to treat a tuberculosis patient with diet alone. When the patient had finally wasted away to 80 pounds, he was sent to a hospital where he died a few days later. The chiropractor involved was convicted of manslaughter in 1964.

In a similar case in California, a chiropractor attempted to treat a tumor in the eye of an 8-year-old girl, despite the fact that the diagnosis had been made at a medical center. The girl's distraught parents, in attempting to save her eye, sought the services of the chiropractor who assured them he could treat the tumor. By the time they realized that his treatment was ineffective, the tumor had

progressed to the point where it was too late for medical treatment. The girl died shortly afterwards. The chiropractor was finally convicted, in 1968, of second degree murder.

Mr. Creed Black, then Assistant Secretary for Legislation, Department of Health, Education, and Welfare, sent a letter to the Honorable WILBUR D. MILLS, chairman of the Committee on Ways and Means in the House of Representatives, dated November 11, 1969. In that letter he outlines his concerns about the inclusion of chiropractic under the medicare program. I would like to ask unanimous consent that the letter be included in the RECORD at this point.

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

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C.

Hon. WILBUR D. MILLS,
Chairman, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: At the current hearings of your Committee on social security and welfare proposals, representatives of the two national chiropractic associations urged the coverage of chiropractic services under the supplementary medical insurance part of the Medicare program and requested that Chiropractic's White Paper be entered into the record. Since this paper was prepared in response to a report by the Department of Health, Education, and Welfare on *Independent Practitioners Under Medicare*, I herewith submit copies of the Department's report and an analysis of the Chiropractic White Paper and request that, if such action has not already been taken, these documents be included in the printed record of the hearings.

As you know, the Department's study was prepared at the request of the Congress and submitted in December 1968, by the former Secretary of Health, Education, and Welfare. Secretary Finch has reviewed it and concurs with the findings and recommendations.

In the over-all conduct of the study, which was concerned with nine other disciplines in addition to chiropractic, the Department had continuing advice from an ad hoc consultant group which included knowledgeable Medicare beneficiaries as well as persons of high standing in the health sciences. The consultants recognized the manipulative skills of chiropractors and the fact that their treatment can provide relief for patients with certain conditions. However, they were gravely concerned by the scope of diseases and conditions treated with these techniques. They came to the following conclusions:

1. Chiropractic theory and practice is based upon the role of the subluxation as a casual factor in disease, the "spinal analysis" as a diagnostic technique, and the "spinal adjustment" as a therapeutic measure. None of these has been demonstrated to be valid through acceptable, scientifically controlled research.

2. Restriction of chiropractic services to "musculoskeletal," conditions, with which they are commonly associated in the public mind, or to spinal analysis and adjustment, would in effect be no restriction at all, since according to chiropractic theory the spinal subluxation has a central role in all departures from a state of good health, and all diseases and conditions therefore involves the spinal column.

3. Exclusion of specific diseases from the scope of chiropractic practice would be similarly ineffective because its effectiveness would depend upon accurate diagnosis, and diagnosis is deemphasized in chropractic theory.

4. In addition to the deemphasis of diagnosis, the quality of chiropractic education and supervised clinical experience is inadequate to prepare chiropractic practitioners to perform an adequate differential diagnosis and to institute appropriate therapy or refer patients to the appropriate source of therapy.

5. Although chiropractors state that they refer patients, the all-inclusive scope of their practice, as evidenced by the numerous disease categories they treat, indicates that chiropractors recognize very little need for referrals. Appropriate referrals are further rendered impractical by the isolation of chiropractic from other health care resources to which they should logically make referrals.

6. Because of these factors, State licensure laws are ineffective in assuring the health and safety of recipients of chiropractic services.

In view of these conclusions, the consultants could not determine that there was a "need" for chiropractic services and strongly recommended that these services not be covered under the Medicare program.

Sincerely yours,

CREED C. BLACK,
Assistant Secretary for Legislation.

Mr. KENNEDY. Mr. President, a great deal more well documented concern about the efficacy and safety of chiropractic services exists. For example, a 1968 report of consultants to the Department of Health, Education, and Welfare, stated:

Chiropractic theory and practice are not based upon the body of basic knowledge relating to health, disease, and health care that has been widely accepted by the scientific community. Moreover, irrespective of its theory, the scope and quality of chiropractic education do not prepare the practitioner to make an adequate diagnosis and provide appropriate treatment. Therefore, it is recommended that chiropractic services not be covered in the medicare program.

In addition, I would like to read from the report of the National Advisory Commission on Health Manpower:

Chiropractic education and training are appallingly inadequate as has been well documented by both independent and chiropractic studies. There are currently 12 schools of chiropractic recognized by the two chiropractic associations, but none is accredited by an agency and recognized by the National Commission on accrediting or the United States Office of Education, and no school has full accreditation even by the American Chiropractic Association or the International Chiropractic Association. The facilities of these schools are poorly qualified, and the ratio of faculty to students is extremely low. Admission requirements, although also low, are dubiously enforced. A study of actual admission applications shows the chiropractic schools do not observe their own admission rules and admit students with less than a high school education and questionable credentials.

Mr. President, I would like to offer an amendment to H.R. 1, which would require that a study be done, to be completed by June 30, 1973, by an independent body such as the National Academy of Science under the aegis of the Secretary of Health, Education, and Welfare, intended to ascertain the validity of chiropractic theory and the effectiveness of chiropractic treatment. Furthermore, the amendment would authorize the Secretary of Health, Education, and Welfare to restrict the reimbursable activities of chiropractors, or to eliminate them altogether, if the study thus warrants such restriction.

Mr. President, I think the Senate has an obligation to take safeguards such as this before putting Federal sanction on the services of health professionals by including them as eligible providers in Federal health insurance programs.

The PRESIDING OFFICER (Mr. ROTH). The question is on agreeing to the amendment of the Senator from Massachusetts (Mr. KENNEDY).

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 Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mrs. EDWARDS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), the Senator from Virginia (Mr. SPONG), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Wisconsin (Mr. NELSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from North Carolina (Mr. ERVIN), and the Senator from Georgia (Mr. TALMADGE) 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 Louisiana (Mrs. EDWARDS), the Senator from Rhode Island (Mr. PELL), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Connecticut (Mr. RIBICOFF) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Delaware (Mr. BOGGS), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), 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 Kansas (Mr. DOLE) is detained on official business.

If present and voting, the Senator from Delaware (Mr. BOGGS), the Senator from Nebraska (Mr. CURTIS), and the Senator from Oregon (Mr. HATFIELD) would each vote "nay."

Also, if present and voting, the Senator from Kansas (Mr. DOLE) would vote "nay."

The result was announced—yeas 6, nays 66, as follows:

[No. 526 Leg.]

YEAS—6

Bellmon	Kennedy	Stevens
Dominick	Saxbe	Symington

NAYS—66

Aiken	Brock	Cannon
Allen	Brooke	Case
Anderson	Buckley	Chiles
Bayh	Burdick	Cook
Beall	Byrd, Harry F., Jr.	Cooper
Bennett	Byrd, Robert C.	Cotton
Bible		Cranston

Fannin	Long	Roth
Fong	Magnuson	Schweiker
Gambrell	Mansfield	Scott
Gravel	Mathias	Smith
Griffin	McClellan	Sparkman
Gurney	Miller	Stafford
Hansen	Mondale	Stennis
Hart	Montoya	Stevenson
Hartke	Moss	Taft
Hruska	Muskie	Thurmond
Hughes	Packwood	Tunney
Inouye	Pastore	Weicker
Jackson	Pearson	Williams
Javits	Percy	Young
Jordan, N.C.	Proxmire	
Jordan, Idaho	Randolph	

NOT VOTING—28

Allott	Ervin	Metcalf
Baker	Fulbright	Mundt
Bentsen	Goldwater	Nelson
Boggs	Harris	Pell
Church	Hatfield	Ribicoff
Curtis	Hollings	Spong
Dole	Humphrey	Talmadge
Eagleton	McGee	Tower
Eastland	McGovern	
Edwards	McIntyre	

So Mr. KENNEDY's amendment was rejected.

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 bill (H.R. 2118) for the relief of Amos E. Norby.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 16593) making appropriations for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MAHON, Mr. SIKES, Mr. WHITTEN, Mr. FLOOD, Mr. ADDABBO, Mr. MCFALL, Mr. FLYNT, Mr. MINSHALL, Mr. RHODES, Mr. DAVIS of Wisconsin, Mr. WYMAN, and Mr. BOW were appointed managers on the part of the House at the conference.

The message further announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 15657) to strengthen and improve the Older Americans Act of 1965, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PERKINS, Mr. BRADEMAS, Mrs. MINK, Mr. QUIE, and Mr. HANSEN of Idaho were appointed managers on the part of the House at the conference.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 11773) to amend section 389 of the Revised Statutes of the United States relating to the District of Columbia to exclude the personnel records, home addresses, and telephone numbers of the officers and members of the Metropolitan Police Department of the District of Columbia from the records open to public inspection; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. JACOBS, Mr. CABELL, Mr. STUCKEY, Mr. NELSEN, and Mr. BROYHILL of Virginia were appointed managers on the part of the House at the conference.

MESSAGE FROM THE HOUSE—ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills and joint resolutions:

H.R. 3817. An act to amend titles 10, 32, and 37, United States Code, to authorize the establishment of a National Guard for the Virgin Islands;

H.R. 6318. An act to declare that certain federally owned lands shall be held by the United States in trust for the Burns Indian Colony, Oreg., and for other purposes;

H.R. 10243. An act 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;

H.R. 11629. An act for the relief of Cpl. Bobby R. Mullins;

H.R. 11948. An act 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;

H.J. Res. 1211. Joint resolution to amend the joint resolution providing for membership and participation by the United States in the South Pacific Commission; and

H.J. Res. 1257. Joint resolution to authorize an appropriation for the annual contributions by the United States for the support of the International Agency for Research on Cancer.

The enrolled bills and joint resolutions were subsequently signed by the Acting President pro tempore (Mr. Moss).

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. KENNEDY. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER (Mr. STEVENS). The clerk will report the amendment.

The second assistant legislative clerk proceeded to state the amendment.

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

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

The amendment is as follows:

Beginning on page 232, line 16, strike out through page 233, line 14.

On page 968, line 11, beginning with "and" strike out all before the quotation marks on line 17.

Mr. KENNEDY. Mr. President, this amendment is offered on behalf of myself and Senators MOSS, PERCY, BROOKE, CRANSTON, HART, HUMPHREY, JAVITS, and TUNNEY.

Mr. President, H.R. 1 makes some 3.5 million new people eligible for the welfare program; but these same people will not all be included under the medicaid program. I think this is a dangerous precedent to establish.

My amendment would give these 3.5 million Americans medicaid coverage at a total expense of $2.6 billion—$1.4 to the Federal grant, $1.2 to the States.

This is an expensive provision. However, the alternative is a dilemma in which people in one State will receive medicaid benefit and yet the people in a neighboring State, with the same problems, would only get welfare help and would not be eligible for medicaid.

This causes a dilemma. And I know that it has been trouble some to the members of the Finance Committee. However, I would be interested in the reaction of the Senator from Louisiana concerning this particular problem. I think it is unique and would set a dangerous precedent. I know that if a person is on welfare, he needs medicare. And after providing these kinds of resources to individuals for welfare—and these resources will be eaten up by the requirements to pay adidtional health bills because, tragically, it is generally the poor that have the greatest number of health ailments.

I am interested in the reaction of the Senator from Louisiana on this problem. I think it is a dangerous precedent to be established and a troublesome one, and it will provide a great sense of inequity to a great many people where a person living on one side of the street gets welfare and medicaid and the person living on the other side of the street is not eligible for medicaid.

As I said, I would be interested in the opinion of the Senator from Louisiana.

Mr. LONG. Mr. President, this problem arises because in the bill the committee makes a lot more people eligible for benefits; by providing a $50 disregard of social security income from the income that is considered for welfare purposes, and by providing additional benefits under the welfare program for the aged.

So by virtue of raising the standards and the benefits the committee makes a lot of additional people eligible for cash benefits and that, in turn, makes a lot of additional people eligible for medicaid benefits.

If the States were to cover all these new people under medicaid it would require the additional expenditure of about $2.6 billion in medicaid expenditures. Recognizing the fact the States do not have the $1.2 billion, nor can we afford in this bill the $1.4 billion which would be added as an expense on the Federal end, the committee would simply say that where an aged person spent a certain amount of money, referred to as a "spend down," he would become eligible for the medicaid benefits, but States would not be required to provide medicaid benefits without a spend down for those newly eligible under the law.

We would like to see medicaid benefits extended to these people, but it costs a great deal of money and we do not know

where the States would find it. The States do not know where they are going to find it, even with the revenue sharing we have voted on.

We think we have provided about the best we can for now, but we do recognize this is part of the health problem we should be looking at next year, when we hope to find ways to finance and provide the health care that would be indicated for these people. We would like to provide these additional benefits to these people as much as the Senator from Massachusetts would. At this time we do not have the answer. We are satisfied that next year, or at least during the next Congress, we will be able to provide the answer.

For example, if the Kennedy bill for health insurance were to pass, there is no question they would be provided for under national health insurance. If something substantial but much less than the Kennedy bill would provide should pass, presumably this is one of the things it would want to provide for. It is one of the higher order of priorities. So I think a bill that would pass that would provide several billion dollars in the health area would include this, but if we added it on the floor at this time I do not think it would survive in conference.

Frankly, this bill now has more benefits than we may be able to persuade the House to agree to. I am on notice if the bill goes to the President as it is now the President, even with all the conflicts resolved, would be advised to veto it on the grounds that the Government cannot afford what we have in the bill now.

I hope the Senator would not press for this amendment now but bring this up with the health matters he will be pursuing in the next Congress.

Mr. KENNEDY. Mr. President, I appreciate the sentiments expressed by the distinguished Senator from Louisiana. As he well knows, the 3.5 million people who will benefit now as a result of this bill, the aged, blind, disabled, crippled individuals, the ones really unable to work, they are the ones with the greatest health needs. While we on the one hand provide some assistance to these individuals, I feel we will be taking away from them with the increased health benefits. I am mindful of the votes we have seen this afternoon by the Senate just trying to maintain the existing programs which are in effect in the States. The Senate expressed its will. This would require additional resources both on the State and Federal levels. I am mindful of the expressions of the Senate on these additional expenses, so I will not press for a vote. I am encouraged by the response that the chairman of the Committee on Finance has given to us. This is a matter of high priority in the next session of Congress, that no matter what health bill comes from the Committee on Finance, these 3.5 million people that will not benefit from the health bill will be in a priority position. Regardless of what bill comes out, I would appreciate the opportunity to work with the chairman of the Committee on Finance to make sure we will be able to assure health relief to 3.5 million people that are probably as deserving as any people in this country.

With those assurances from the chairman, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 1623

Mr. HARTKE. Mr. President, I send amendment No. 1623, as modified, to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 189, following line 19, insert the following new section:

ADDITIONAL DROPOUT YEARS

SEC. 151. (a) Section 215(b) (2) (A) of the Social Security Act is amended by inserting ", and further reduced by one additional year for each 15 years of coverage of such individual (as determined under the last sentence of subsection (a) without regard to the 30-year limitation contained therein)" immediately after "reduced by five".

(b) The amendment made by subsection (a) shall be effective for purposes of computing or recomputing, effective for months after December 1972, the average monthly wage of an insured individual who was born after January 1, 1910, and—

(1) who becomes entitled to benefits under section 202(a) or section 223 of such Act after December 1972;

(2) who dies after December 1972; or

(3) who was entitled to benefits under section 223 of such Act for December 1972.

Mr. COOK. Mr. President, will the Senator yield to me for 30 seconds?

Mr. HARTKE. I yield.

Mr. COOK. Mr. President, I ask unanimous consent that Mrs. Kay McElroy of my staff be allowed the privilege of the floor during the debate and vote on this matter.

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

Mr. HARTKE. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. HARTKE. Mr. President, I ask unanimous consent that the Senator from Pennsylvania (Mr. SCHWEIKER) be added as a cosponsor of the amendment.

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

Mr. HARTKE. Mr. President, this amendment will correct a major injustice in the social security law. Under present law, a worker's social security benefits are determined on the basis of his average social security taxable income between 1951 and the year he is eligible for benefits. Each worker is able to delete his 5 lowest income years before figuring his average—the average which determines the size of his benefits during his years of retirement. Most workers, of course, delete the first 5 years of their employment when their wages were much lower than at present.

But this dropout provision which removes these early, very low income years is restrictive and is most unfair for those hundreds of thousands of workers who may be laid off before they are eligible for social security benefits. In this time of rising unemployment, if a man is laid off because his plant closes, it may be almost impossible for him to find new employment at his previous, often highly skilled rate of pay.

In addition, the present provisions for dropping years of low earnings conflict with an increasing number of private pension plans. For example, if a worker is able to receive the benefits of his company's pension plan after 30 years of service and decides to retire at age 55, by the time he is eligible to receive the social security benefits he has earned for 30 years of covered work and 30 years of paying into the fund, he will have to average in 10 years of zero income—thus substantially reducing his monthly social security benefits. This conflict between the provisions of the Social Security Act and private pension plans is placing beneficiaries in a difficult dilemma, reducing mobility in the work force, and causing workers to sacrifice benefit payments they have earned.

The amendment I offer today provides 1 additional dropout year for every 15 years that a person has worked in an occupation covered by social security. Thus, a person who has worked 30 years could drop out 2 years in addition to the 5 now allowed him. Incidentally, this is identical to a provision in the House-passed version of H.R. 1.

Mr. President, this amendment will remove the penalties from which a worker suffers when he is laid off before he is 65 and cannot get commensurate employment because of his age or because he elects to participate in his company's pension plan.

It is clear that the present dropout law works an injustice on those who retire or who become disabled before they attain eligibility for old age insurance benefits. For example, the retirement of an employee for a disability which does not qualify as such by social security standards, may not only deprive the employee of current income, but reduces the amount of his old age insurance benefits by diminishing his average monthly wage. In addition to the adverse effects upon the disabled, a dropping-out of periods of low or no earnings penalizes those employees who have a right to retire voluntarily before they are 65.

The built-in penalty for workers who retire before they can receive social security benefits goes against the present-day trend toward earlier and earlier retirement. This penalty also tends to decrease job opportunities at a time when this Nation should be more concerned with increasing job opportunities. When we contemplate today's ever-increasing emphasis by industry upon automation and utilization of new technology—toward more reliance upon machine rather than man—the need for increasing employment opportunities becomes more urgent.

The failure to drop out periods of low or no earnings is also unfair for another reason. A worker who contributes to the fund for fewer years but delays retirement until age 65 can receive a higher social security benefit than a worker who has paid more into the fund but who retires earlier. I think this is one of the unfair sections of the Social Security Act and I think it flies in the face of today's realities.

Mr. President, I do not believe that workers who have added immeasurably to this country's economic growth and industrial preeminence should be penalized because they choose to take full advantage of private pension plans before they become eligible for social security benefits, nor do I think workers who are thrown out of work because of economic adversity or technological change should be penalized.

I want to point out that in this bill we have provided for people who are in some of the lowest income brackets of America's industrial society. We have provided some social justice for those people. The Hartke amendment makes adjustments for those people who have made their full contribution, as members of a working society.

Estimates made at the time the House of Representatives included the Hartke approach in H.R. 1 indicated that $17 million in additional payments would be made in the first full year of operation of the Hartke amendment.

The fact of it is that probably it should have been as I originally prefer the original Hartke approach of allowing one additional dropout year for each 10 years of covered employment. But in order to conform with the House language, I think it is no more than right that the Senate should at least provide for one additional dropout year for each 15 years of covered employment.

The Hartke amendment will have an eminently fair result. I hope the Senate can work its will and adopt this provision.

Mr. LONG. Mr. President, this amendment would cost about $1.2 billion on an average annual basis, and would mean that the provision would not be in conference. This provision is already in the House bill, and it was one of the House provisions that we thought claimed the lowest priority.

The Senator is not offering a means to finance his amendment; he is offering an amendment already in the House bill, and when the Committee on Finance undertook to strike that benefit from the bill, we put in its place other benefits, such as maintenance drugs for the aged, a $200 minimum benefit for people who have worked in the program for more than 30 years—and all of those benefits might have to come out if this amendment is agreed to.

We had hoped to have some of those amendments agreed to in conference, but there is one thing we know, and that is that the House of Representatives absolutely will not, and no one in this body has the power to make them, or has any chance to make them, take an amendment that is not financed. So to adopt this amendment means the provision would no longer be in conference, and there would then be no financing left for the drug amendment, the minimum retirement benefit of $200 that people would otherwise have had been made available to them, the liberalizing of the retirement test, which the Senate passed by an almost unanimous vote—all of those provisions, we in the Senate should not make people think we voted to do those things for them, when we know they are not financed and that the House will not consider a measure of this sort that is not financed.

If we leave out this provision, which the committee felt to be one of the lower priority benefits provided by the House, it will mean we can negotiate with the House as between benefits the Senate provided and benefits the House provided. Otherwise, Mr. President, this benefit has been nailed down, and would no longer be subject to conference, and that would mean the other benefits would have to come out.

I wonder if the Senator would be willing to move to strike from the bill the provisions which he thinks claim a lower priority than this one? For example, perhaps he feels we should delete the provision which says that people, if they retire after 30 years of social security, would get $200 a month. Or perhaps the provision that would pay for maintenance drugs which the aged require regularly?

Mr. President, I do not think the Senate ought to vote for benefits without the financing to pay for them on the social security program, knowing in their hearts that these benefits are not going to happen, because the House will simply not accept them. We know that the House will send Representatives WILBUR MILLS, JOHN BYRNES, and the members of that Ways and Means Committee to conference with us, and that not one of those people will budge from the proposition that if a proposal is not financed it is not going to go into the social security law. And they have to run every 2 years. If they can impose that kind of discipline on themselves, they are going to impose it on us, when we have to run every 6 years.

So I say that if we put this item in, it would claim higher priority than other items such as the amendment to enable people to retire on a $200 a month social security check when they reach age 65. Those items would have to go, because we would be voting to nail into this bill this item which the House put in which, in my judgment, rates a lower priority.

Mr. President, I am sorry I cannot vote for the Senator's proposal. Standing alone, I would be for it, just as I would be for almost every other benefit proposed here. The eyeglasses, the hearing aids, the arch supports, the foot massages—any of it would be fine with this Senator in and of itself, if we had the money to pay for it. But to vote for one of these items under these conditions, knowing that we would be depriving the Senate conferees of the opportunity to gain consideration of other matters that in our opinion claim a higher priority, I think is a very misleading thing to do to the American people, and just should not be done.

Mr. President, the committee brought to the Senate a responsible bill, that paid, under social security and medicare, for the benefits it added. But the Senate has added to this bill almost $3 billion of proposed new benefits that are not financed, and the only way that any part of that $3 billion can be added to the bill is to trade off by taking out something the House has put in on their side. But the bill as it stands right now already contains, in the social security and medicare areas alone, about $3 billion worth of benefits that are not financed, and we know that they cannot prevail in conference because there is no tax to pay for it to begin with.

And then to vote this amendment, to put back in what we regard as a lower priority item, means that the higher priority items we thought we voted for cannot be added in conference, because we do not have the negotiating power to discuss them.

This, Mr. President, as social security benefits go, is one of those that is less equitable than some we have voted for already. For example, it treats people with 29 years the same as people who have 15 years of employment. It gives 2 additional dropout years for 30 years of coverage, but only 1 additional dropout year for 29 years of coverage.

As benefits to the merits, in my judgment, it claims a lower priority than those items we have voted; and to adopt the amendment just means that when you voted for the drug amendment and the $200 special minimum under social security by this amendment you will be voting not to finance them. The House will not accept them. You want to take the benefit of the House bill that most of us think would claim a lower priority in terms of that which we could afford and that which we would like to provide the American people.

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

Mr. LONG. I yield.

Mr. HANSEN. Is this not like making a lot of campaign promises one knows he cannot keep?

Mr. LONG. I am not going to pass judgment on others; but for me to vote for this amendment would be the same as a politician promising something to a lot of old people. A businessman says, "How are we going to pay for that?" And you whisper to him, "Don't worry. That is just for conversation purposes. We are not going to do anything for the old people."

That is the way it tends to work out when you vote to add all these benefits without putting any tax in to pay for them, and then vote to keep the benefits the House provided, which they did finance. We would not be able to discuss this in conference. All we could talk about would be the Senate's fiscal irresponsibility. The House would not take it.

Here is the kind of thing that happens in conference—and you would be surprised how firm those men can be when they know they are right. They say:

We sent you a bill that provided for billions of benefits, and we paid for every nickel of it by voting additional taxes. We fellows have to run this year, every one of us. We run every two years. How about you great states-

men? Only one-third of you are running this year. What did you do? You proceeded to load this thing down with billions more of benefits, and you didn't have enough courage to pay for all those benefits.

We'll make you this proposition: The small amount that you found the courage to take out, give us back half of it; and out of the billions that you put in here on a Santa Claus basis, give it all away and don't put a nickel of tax on to pay for any of it. You can spend that small amount you financed however you want to spend it, and that's all.

The result is that, in due course, after you argue about it for a while, you take what the House conferees say, because you have no other choice available to you.

Basically, what voting for this amendment amounts is to unfinance $1.2 billion of benefits for which the Senate has voted. The Senate has already voted for about $3 billion of benefits it did not finance in the social security area alone.

Now the Senate is being asked, by this amendment, to unfinance $1.2 billion for which it did vote. The Senate can do that, if it wishes, but I am not going to deceive the American people by telling them that I voted for a benefit when I voted to take it out.

If the Senator wants to put a tax on to pay for this, I would be willing to consider his amendment and consider voting for it. Without the tax to pay for it, he is unfinancing that for which the Senate voted.

Mr. HARTKE. Mr. President, as always, it is delightful to hear the chairman as he proceeds to pontificate about his great concern for fiscal responsibility. I watched him on the floor of the Senate ask for a 20-percent increase in social security, and he did not even ask for a penny of additional funds.

The social security tax is the most regressive form of taxation the Government levies today on the poor people of America, and I do not see the Senator from Louisiana decrying that type of operation.

The Senator from Louisiana says it is going to cost $1.2 billion. I am going to put into the RECORD at this time, from page 9 of the House report, the dollar cost for the House-passed measure which is identical to the Hartke amendment. It is $17 million, not $1.2 billion. There is no evidence to the contrary. It is $17 million of additional benefits. For the first full year. I ask unanimous consent to have the House estimate printed in the RECORD.

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

Dollar payments.—$17 million in additional benefits would be paid in the first full year.

Mr. HARTKE. In addition, I ask unanimous consent to have printed in the RECORD the "Additional Dropout Years" explanation on page 45 of that report.

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

ADDITIONAL DROPOUT YEARS

Under the present law, social security benefits for a worker and his family are generally based on the worker's average monthly earnings in covered work over a period equivalent to the time elapsing after 1950 and up to the year in which he reaches age 65 (62 for a woman), becomes disabled, or dies. (Another provision of the bill would change the ending point for men to age 62.) Up to 5 years in which earnings are lowest are excluded from the computation of the worker's average monthly earnings. This five-year dropout provision helps to lessen the effect that periods of unemployment, illness, and low earnings can have on benefit amounts.

Your committee's bill would provide an additional dropout year for each 15 years of coverage that a worker has. (A year of coverage would be defined as it would be under the new special minimum provision.) The effect of the additional dropout would be to give additional protection against the lowering of average monthly earnings of long-term contributors to the program. In addition, the higher benefits that will result from increases in the upper limit on earnings counted under the program will be more quickly available for these long-term contributors because fewer years when lower ceilings were in effect would be included in figuring average monthly earnings.

The provision would be effective for workers who attain age 62 after 1971 and become entitled to old age or disability benefits or die after 1971 and to workers who attain age 62 after 1971 who were entitled to disability benefits for December 1971. About $17 million in additional benefits would be paid in the first full year.

Mr. HARTKE. One statement about the merits: The Senator from Louisiana said he was going to talk about the merits, and I thought we were finally going to make some headway. Then he said it was deceitful on the part of legislators to go ahead and vote this type of fiscally irresponsible act and mislead the American people. That is calling the House of Representatives deceitful. They voted for it. They voted for this measure.

Mr. LONG. They financed it. They put a tax on. The Senator is trying to unfinance this measure.

Mr. HARTKE. I have the floor, and I will be glad to yield later for a question or for conversation. I know the Senator can outshout me, and I will never try to outshout my chairman, nor go ahead and deal around, as they say, with the nonmerits of the proposition.

The point is that we are not in an adversary position. I hope the Finance Committee would soon come to that understanding. We are in the position of being responsible legislators, to do what is right for the American people. We are not in a fight with the President of the United States. We are not in a fight with the House of Representatives. What we are supposed to do is what we think is right.

The old story is, "I don't know what course other men may take, but as far as I'm concerned, I just want to do what I think is right." If this amendment is right, we should vote for it. If this amendment is wrong, we should not vote for it.

I am willing to finance these measures. I listened to the former Senator from Delaware, who has been succeeded in office by the present presiding officer.

I listened to Senator Williams talk about what we had to do in 1965 and we charged the poor working man until we built the surplus to an astounding figure. We had to increase the benefits because the accumulation of the surplus in the social security fund had become such a staggering amount. Every other department of Government wanted to raid the trust fund. We paid for everything under the sun. Talk about fiscal responsibility, let some of the people yelling about fiscal responsibility on social security deal with the other measures but do not take it out on the working people. Why make them, with the most regressive form of taxation, pay the bill for part of the Government's financing. We have such an accumulation in the trust fund that $17 million is a minor amount. To tell the truth, with the existing accumulated surplus, we would have to spend $6 million every hour of the day, 24 hours a day, for 365 days a year to spend the surplus.

In other words, this amendment, according to the House report, will take out of that surplus the equivalent of less than 3 hours. The Senator from Louisiana knows that. I do not think it is right to go ahead with a regressive form of taxation.

Now, what are the merits? Simply that a person who retires today is faced with a rather unfortunate choice. After the age of 65, he is supposed to retire. But with 30 years' service he can get his private pension benefit. Often at 55. We recognize that many of these people are retired before they draw social security. They do not have a job. They are out of work.

According to a report by HEW, the Social Security Administration, the Office of Research and Statistics, about one in every four are entitled to pensions before they reach 65. Page 22. About 50 percent who currently receive social security benefits are entitled to pensions at 62. Page 27.

The merits are all in favor of the amendment. Talk about low priority. I do not understand how anyone can say it is a low priority for a man to go ahead and say he cannot take his pension benefit simply because the law says that if he does he will be penalized. There are many instances in which workers are laid off.

We worry about providing some opportunity for this man to take care of his needs and to have his income and his social security check somewhat in relation to the final income he receives as an individual. So we discount the first years.

The Senator from Louisiana made only one argument concerning the merits of the Hartke amendment. He said there was a discrepancy to give the same benefits to one who had an additional 15 years coverage as to me with 29.

If he wants to talk about that on the merits, then I say he should modify my amendment and should resubmit my original amendment which gave an additional dropout year for each 10 years which would remove that inequity. So the Senator is arguing in the wrong direction. I think the Senate should do what is right for its people. For $17 million, I think this is a pretty good operation to go ahead and provide a little bit of equity for the people who are retiring.

I wish the Senator from Louisiana had addressed himself to the merits, because I do not see any discussion about how to deal with the man who loses a job at 55.

What is he going to do because of those years not covered? Give him a zero income over the year when he needs it most, and discourage him from going ahead and providing for his pension plan? We seem to have pension plans going in one direction and social security going in another.

That is the tragedy of this bill, as I said earlier today, that the social security system and the welfare system are still geared to the 1930's. We are now in the 1970's and we should be dealing with the last third of this century, at a minimum dealing with 1976 upcoming. Instead of arguing on the floor of the Senate as to what item has priority for equity for the aged, we should be saying to the aged, "You do not have long to live in this world, so we are going to give you a chance for decency, honesty, and respect. We are going to give you a chance to go ahead and have what is right."

If it is right for the House of Representatives to pass this and right for the Senate to pass it, it would be a solid recommendation to the President that this is something we would like to do just because it is the right thing to do.

Mr. BENNETT. Mr. President, would the Senator turn that around?

Mr. HARTKE. I am not going to turn it around. If the Senator wants to turn it around, I would like to hear it.

Mr. BENNETT. I would say that the Senator has argued that since the House passed it, the Senate should pass it, and then you would have to take the position that since the House did not pass these other benefits, we have no right to pass it.

Mr. HARTKE. That is a negative argument. I do not think that is true. I do not say that the House did everything that was right, but I think they did what is right here. The Hartke amendment deals with a real need for those people who want to retire. The argument cannot be made simply because the Senate did some things, the House should not do it, or vice versa. I would hope that I would not be in a position where we take the position that adversary operations are the position of the Senate versus the House. We are in this thing together.

Many people are discouraged. Many people who are discouraged the most and feel that society has done the least to provide equity for them, are those that are old. That is what we are dealing with here. The shameful thing is that we have not dealt with this problem earlier.

The Hartke amendment would close a great inequity in the present social security system. It is not expensive. It is only $17 million, so far as overall operations are concerned. So if the Senator from Louisiana is fearful of that, I will be glad to make whatever adjustment the actuary says is necessary to accomplish the financing.

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

Mr. HARTKE. Just a minute—just a minute—let me finish first—we have consistently financed it to the extent that we have accumulated this gross surplus.

Even the President, who has never been noted for his great generosity in the field of social security benefits, came forth with the statement that he thought the surplus we have accumulated should not be continued in its present fashion. But that is not the argument before us now, because the simple fact is that the chairman of the committee has no argument on the merits against this proposition and therefore had to resort to the financing argument. Since we are willing to agree to the financing of this amendment, this means that the amendment should be adopted, and I would hope that the chairman of the committee would see his way clear to support of this amendment.

Mr. LONG. Mr. President, the Senator says his amendment will cost $17 million for the first year. The reason for this is that all those on the rolls now would not get any benefits, that they would have to go without, that the benefits would only be prospective, for future retirees. This is what the House suggested and put in their bill and sent to us.

Here it is, on page 130 of the House report. According to the actuaries, as these people retire and we have the full impact of this matter on the social security fund, it would cost 0.19 percent of payroll, which would round out to about two-tenths of 1 percent of payroll. The taxable payroll in the Nation is about $600 billion. So, if we multiply that out, it works out to $1,200,000,000 a year. And that is what the House put in the bill, on the average, as a tax to pay for that.

Mr. President, I have voted for amendments, as have other Senators here, when we knew that the social security fund was financially on a very conservative basis, and that we could finance benefits.

We were able to do that until we agreed to the Church amendment. When we did that, we took advantage of every assumption we could on a reasonable basis to finance the 20 percent across-the-board social security increase. And those who did that responsibly knew that from that time forward we could not pull any more rabbits out of the hat, so to speak, relying on future increases in tax revenues, as the Senator from Indiana is seeking to do today. From that time forward any additional benefits would have to be paid for by additional tax at the time.

Mr. President, this amendment seeks to pull a rabbit out of the hat when there is not any rabbit there and there is not even any bunting there. I suppose the Senator could pretend it is a rabbit, but it is not there. And all that this amendment means is that we would be "unfinancing" or "definancing" or taking away the financing with this amendment the money that would provide for the other things we have voted for.

The Committee on Finance recommended additional benefits such as raising the earnings limit. We recommended providing additional benefits for people who worked 30 years and retired with a very low social security check.

We recommended maintenance drugs for the aged. We recommended additional assistance for widows and others. And having done so, we put in the tax to pay for it.

The Senator from Indiana wants to "unfinance" that which the Senate Finance Committee proceeded to finance. We on the committee do not like to mislead these poor people who are aged into thinking that they are going to get something they will not get, even if someone else wants to do so. And we do not want this amendment.

If the Senator from Indiana wants this amendment, he ought to be willing to put $1.2 billion tax on the people of this country to pay for it. Then we would have a proposition that can be considered on its merit. If the Senate agrees with the merits of his additional provisions, fine. However, even so, it would tend to deny favorable consideration of the other things in the bill because the House might not want to go further.

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

Mr. LONG. I yield to the Senator from Utah.

Mr. BENNETT. Mr. President, does the Senator from Louisiana remember that the day before yesterday we added $5 billion worth of benefits without taxes? We are now $5 billion in the red as far as the current consideration of the bill is concerned. And there is not the $1.2 billion that has been suggested.

Mr. LONG. Mr. President, I would think that in the social security area there has been added about $3 billion on a long-range basis. In addition to that, the Senate in the public welfare area has added additional billions of dollars to the bill—I know the committee did—for the benefit of the aged, which would federalize the program for the aged with additional benefits and fiscal relief for the States. We paid for additional billions of dollars in the welfare section.

Those matters can be considered, because that is not part of the social security program, where it is well understood by the Senate and the House that we have not seen fit to depart from a procedure by which we would finance that to provide for the American people.

Mr. President, I hope the amendment is rejected.

Mr. SCHWEIKER. The determining factor in the amount of an individual's social security retirement benefits is the average of his social security covered earnings between 1951 and the year he reaches 65. "Dropout years" refers to a mechanism whereby he can factor out—or "drop out"—his years with the lowest covered earnings before calculating that average.

The theory behind dropout years is that one's retirement benefits should not be dragged down simply because the social security tax base was at a lower level in past years than in the later working years. For instance, the current social security base is $9,000, while in 1951 it was only $3,600.

Current law therefore allows for the five lowest covered earning years to be dropped out.

But early retirement—that is at age 60 instead of 65—is becoming increasingly common—both because of forced layoff and because of improved provisions in private pension plans. Under this situation, the 5 dropout year rule becomes highly inequitable. The 5 zero income years between ages 60–65 must still be included in the averaging procedure in order to receive full benefits, and all dropout years are therefore used up on those

years. The early retiree, then, has no opportunity to drop out preretirement low covered income years, while the age 65 retiree does, despite the fact that both may have identical long-term associations with the work force.

The inequities are further increased by the fact that current law requires women to compute their average only up to age 62, while men must figure up to age 65.

The House version of H.R. 1 equalized the computation age at 62 for both men and women, and granted an additional 1 dropout year for each 15 years of covered employment. Thus, an early retiree with 30 years employment could drop out his 2 zero income years between ages 60–62—1 for 15 formula—and disregard his 3 zero income years between ages 62–65, and still have 5 dropout years to apply to his preretirement income.

The Senate version of H.R. 1, as reported, also equalized the computation age of 62, but provided no additional dropout years. Thus, under the Senate version the early retiree is still penalized for 2 zero income years.

I have long supported efforts to provide relief to workers who retire or may lose their jobs later in life, prior to age of eligibility under social security. Even though they may have made continuous maximum payments into the Social Security Trust Act throughout their working career, the latter years of unemployment will be calculated into the formula determining their benefits, the result of which will be a decrease in their social security benefits to which they might otherwise be entitled if they had been eligible at the time of severance from work.

The Hartke amendment will rectify this problem by allowing workers additional dropout years for long-time connection with the work force and provide social equity to those workers. This provision is already in the House-passed bill and is a balance to the provision in both the Senate and the House bills which provide social adequacy to those workers at the lower-income levels who will receive a higher minimum benefit than before.

I urge the support of the additional drop-out years amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana as modified. 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 Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

On this vote, the Senator from Connecticut (Mr. RIBICOFF) is paired with the Senator from Louisiana (Mrs. EDWARDS).

If present and voting, the Senator from Connecticut would vote "yea" and the Senator from Louisiana would vote "nay."

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Delaware (Mr. BOGGS), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

On this vote, the Senator from Delaware (Mr. BOGGS) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Delaware would vote "yea" and the Senator from Nebraska would vote "nay."

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Texas (Mr. TOWER). If present and voting, the Senator from Oregon would vote "yea," and the Senator from Texas (Mr. TOWER) would vote "nay."

The result was announced—yeas 29, nays 48, as follows:

[No. 527 Leg.]

YEAS—29

Bayh	Javits	Schweiker
Beall	Kennedy	Scott
Brooke	Magnuson	Smith
Case	Mathias	Spong
Gravel	Mondale	Stevens
Hart	Muskie	Stevenson
Hartke	Packwood	Symington
Hughes	Pastore	Tunney
Inouye	Percy	Williams
Jackson	Randolph	

NAYS—48

Aiken	Cranston	Montoya
Allen	Dole	Moss
Anderson	Dominick	Nelson
Bellmon	Ervin	Pearson
Bennett	Fannin	Proxmire
Bible	Fong	Roth
Brock	Gambrell	Saxbe
Buckley	Griffin	Sparkman
Burdick	Gurney	Stafford
Byrd, Harry F., Jr.	Hansen	Stennis
	Hruska	Taft
Byrd, Robert C.	Jordan, N.C.	Talmadge
Cannon	Jordan, Idaho	Thurmond
Chiles	Long	Weicker
Cook	Mansfield	Young
Cooper	McClellan	
Cotton	Miller	

NOT VOTING—23

Allott	Edwards	McGovern
Baker	Fulbright	McIntyre
Bentsen	Goldwater	Metcalf
Boggs	Harris	Mundt
Church	Hatfield	Pell
Curtis	Hollings	Ribicoff
Eagleton	Humphrey	Tower
Eastland	McGee	

So Mr. HARTKE's amendment (No. 1623) as modified, was rejected.

Mr. HARTKE. Mr. President, I call up my amendment No. 1550, as modified, and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read the amendment, as follows:

On page 189, between lines 19 and 20, insert the following new section:

PRESERVATION OF RIGHTS TO CHILD'S INSURANCE BENEFITS OF INDIVIDUALS SERVING IN THE ARMED FORCES

SEC. 151. (a) Section 202(d)(7) of the Social Security Act is amended by adding after subparagraph (D) thereof (as added by section 115(a) of this Act) the following new subparagraph:

"(E) In determining, for purposes of this subsection, the age of any child who has been discharged or released from active duty as a member of the armed forces (as defined in section 101(4) of title 10, United States Code) after having performed such active duty for a period of not less than 30 consecutive days nor more than three years which commenced prior to the date such child attained age 22, such child's age shall be deemed to be his actual age minus the number of days in such period."

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

The yeas and nays were ordered.

Mr. HARTKE. Mr. President, I ask unanimous consent that Mr. Guy McMichel, from the Veterans Committee, be permitted the privilege of the floor during the debate.

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

Mr. HARTKE. Mr. President, section 402(d)(1)(B) of the Social Security Act authorizes the benefits to natural or adopted children of a parent covered by social security where the parent is either dead, disabled, or retired. The amount of the benefits is one-half of the parent's basic benefit if the parent is retired or disabled; three-fourths of the benefit if the parent is dead. Thus, if a parent is retired or disabled, benefits would be between $35 and $140 per month depending upon the salary level of the parent's job, the length of time covered, and where the family is large, the size of the family. If the parent is dead, benefits would be between $45 and $210 per month. Such benefits were originally available only to children under the age of 18 but a few years ago the provision was amended to permit benefits to flow to full-time students over the age of 18, but below the age of 22.

The difficulty with the existing law is that it discriminates against persons who served in the Armed Forces between the ages of 18 and 22. Their benefits are reduced by the time they spent in service.

Only 40 percent of Vietnam-era veterans are currently making use of their GI bill benefits, as compared with the 50 percent who utilized those benefits after World War II and the 45 percent after the Korean conflict.

Perhaps the most important reason for the poor rate of participation is the lack of adequate funds. Existing GI bill benefits are, by themselves, inadequate and do not provide sufficient support for tuition, fees, and living expenses. Section 1681 of title 38, United States Code, provides that the educational assistance allowance for a veteran is designed to

"meet in part the expenses of his subsistence, tuition, fees, supplies, books, equipment, and other educational costs," money provided through the Social Security Act would help fill the gap that currently exists.

To correct this injustice, the pending Hartke amendment proposes that, for the purpose of determining education benefits under social security for a dependent who has served in the Armed Forces, the period of his active duty up to 3 years which was commenced prior to the date he reached age 22 shall be deducted from his actual age. Such a change will put him on an equal basis with the nonveteran in terms of social security benefits received.

Mr. President, the current GI bill does not cover the full cost of education and training for our returning veterans. Indeed, the current pattern of GI bill use appears to be inverse to need. People who attended college before service, use the GI bill three times as often as those who enter the service with only a high school diploma; only 10 percent of high school dropouts take advantage of their GI bill benefits.

The inequity of the draft system had a more profound impact upon persons from low-income families. It is interesting to note that, while families in the upper 25 percent income bracket produce 48 percent of the undergraduates, families in the bottom quarter contribute only 7 percent; the third quartile adds but 17 percent to the total. Service figures, on the other hand, show a much higher number of men from lower-income groups being drafted. These men often lack the family support and orientation to take post-high school education. They return from service to their country at an even greater disadvantage than those who remain at home. If they also happen to be children of retired, deceased, or disabled parents, they can expect little support from their families in pursuing higher education. Certainly, the lack of supplementary family support must be considered a factor in the low utilization of GI bill benefits.

Indeed, the lack of family support is the reason for the original enactment of the Social Security Act education provision. I believe the men who serve their country, should stand on an equal basis with those who did not serve and hence were eligible for social security benefits.

Mr. President, the pending amendment will allow veterans to receive social security education benefits if they are from families of retired, deceased, or disabled parents. In other words, the 2 or 3 years they spent in the service will not count against them with respect to entitlement to these benefits.

The cost of this amendment is estimated at approximately $55 million a year, but if this sum is the difference between the veteran being able to effectively utilize his Federal education benefits or his being sentenced to a lifetime dead-end job, then I say this is an investment we must make.

Mr. President, the American Legion, the Veterans of Foreign Wars, and the National Association of Collegiate Veterans endorse the amendment, and I ask unanimous consent that their endorsements may be printed in the RECORD.

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

THE AMERICAN LEGION,
October 2, 1972.

Hon. VANCE HARTKE,
Chairman, Senate Committee on Veterans Affairs, Washington, D.C.:

The American Legion believes that when young men and women are required to enter the Armed Forces for extended periods of service, it is in the nation's interest for the federal government, as part of their rehabilitation and readjustment to civilian life, to provide special programs of educational benefits, and thus restore to them opportunities lost because of their service in time of war or national emergency.

On this basis we strongly support your proposed amendment (No. 1550) to H.R. 1, the Social Security Amendments of 1972.

HERALD E. STRINGER,
Director, National Legislative Commission.

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Washington, D.C., October 2, 1972.

Hon. VANCE HARTKE,
Chairman, Committee on Veterans' Affairs, Washington, D.C.

MY DEAR MR. CHAIRMAN: The Veterans of Foreign Wars is extremely pleased that you propose to offer an amendment to H.R. 1, an Act to amend the Social Security Act, which will have an enormous favorable effect on veterans who are entitled to GI Bill educational assistance as the result of their service in the Armed Forces during the Vietnam era.

Presently, social security benefits are paid to children up to the age of 22, if their parent is dead. For persons who served in the Armed Forces between the ages of 18 and 22, however, social security benefits to which they are entitled are reduced by the time spent in the Armed Forces.

Because of the high cost of education, including books, tuition, and other expenses, it is mandatory that these young veterans receive all possible assistance to help them make a successful readjustment to civil life.

Your amendment will take care of the present inequity whereby time in the Armed Forces actually discriminates against such persons if they are entitled to social security benefits because of the death of a parent. It is noted that your amendment has a maximum of three years which may be deducted, which will take care of those citizens who have been inducted into the Armed Forces and made the extra sacrifice in behalf of us all during this Vietnam war. At the same time the veteran will not be penalized for having served and will be placed in the same status as those who did not serve in the Armed Forces.

Your amendment, therefore, has the full support of the Veterans of Foreign Wars. You are to be commended for offering this amendment, and the Veterans of Foreign Wars urges its approval by the full Senate.

With kind personal regards, I am
Sincerely,

FRANCIS W. STOVER,
Director, National Legislative Service.

NATIONAL ASSOCIATION OF
COLLEGIATE VETERANS,
Washington, D.C., October 2, 1972.

Hon. VANCE HARTKE,
Chairman,
Committee on Veterans' Affairs,
Washington, D.C.

MY DEAR MR. CHAIRMAN: The National Association of Collegiate Veterans believes that the amendment which you are offering to the Social Security Act will be of major importance to Vietnam-era veterans seeking to further their education. Many of us were drafted because we were from lower income families. Particularly hard hit were sons and daughters of families of persons retired, deceased or disabled.

We feel that your amendment, which would recognize a veteran's service in the Armed Forces rather than penalize him, will make the GI Bill more meaningful to many young veterans. The high cost of education has made it difficult for veterans to return to school. This has been aggravated by the difficult employment market of the past several years, which has made part-time jobs hard to obtain. Particularly burdened is the son or daughter of a retired, deceased or disabled person, whose earnings must go to assist his family.

Therefore, we wholeheartedly support your amendment, which would make such a veteran eligible for Social Security Act benefits for a period of time equivalent to the amount of time he was in the service. If these men and women use this unique educational opportunity, which you and your Committee—as well as the members of the Senate, have done so much to further—then we will be in a better position to effectively compete in American society.

Sincerely yours,

JAMES M. MAYER,
President.

Mr. HARTKE. Mr. President, I ask unanimous consent that the Senator from California (Mr. CRANSTON) be added as a cosponsor of the amendment.

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

Mr. HARTKE. Mr. President, I also ask unanimous consent that the Senator from North Dakota (Mr. BURDICK) be added as a cosponsor.

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

Mr. HARTKE. Mr. President, I ask unanimous consent that I may yield to the Senator from New Jersey (Mr. CASE) without losing my right to the floor.

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

Mr. CASE. Mr. President, I ask unanimous consent to allow Nancy Amidei, staff director of the Select Committee on Nutrition and Human Needs, the privileges of the floor during the debate on H.R. 1.

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

The question is on agreeing to the amendment of the Senator from Indiana. Who yields time?

Mr. LONG. Mr. President, this amendment, as I understand it, would say that if a person has been in the military service, he would continue to get the children's social security benefits that are paid to children over 18 who are in school. He would be paid even though by virtue of his military service, he may have passed the age at which these children's benefits would have been available to him. Benefits after age 18 are paid to a child who is going to school, on the theory that he is still a dependent up through age 21.

The problem that this amendment creates is that this person, by virtue of going into the military service, is also entitled to GI benefits, and it would seem, at a minimum, that he ought to take one or the other; he should not have both. We provide very generous benefits through veterans' legislation,

and I have always favored that, and I think most Senators have. So where a person has veteran's benefits, and he is not over the age of 21, I do not see why he should have both. I would think he should be required to choose between them.

That being the case, Mr. President, I feel that the amendment, in the fashion that it was offered, should not be agreed to. Although I suppose that if one were offered whereby he would have the privilege of having the social security benefits, if he elected to receive them and found them more useful to him than the veterans' benefits, there would be good logic to support it.

But under the circumstances, Mr. President, since the amendment provides that he could have both benefits, it is really not a good amendment.

Mr. BENNETT. Mr. President, will the Senator yield for a question?

Mr. LONG. I yield for a question.

Mr. BENNETT. Under the amendment that was offered by the Senator from Indiana, could a returned veteran stay in school for 15 years?

Mr. LONG. I do not think so. As I understand the amendment, we would add to age 22 the number of years a person had been in the military, and I believe the limit would be not more than 3 years, so he would draw social security benefits up until he is 25. Now a person ceases to draw the benefits for children at age 22, if he goes to school.

The problem here is that while, as far as I am concerned, I would have no objection to his drawing the child's benefits until he gets to be age 25, were it not for the fact that we have a GI program; a GI program which presumably provides more liberal benefits on the theory that he has served in the service, and recognizes that he would be an adult. We provide a generous training program, and with generous educational benefits for veterans, and I certainly want it to be generous. We provide good educational benefits for former servicemen, and I would think, Mr. President, that a person should have the one benefit and not the two.

Therefore, Mr. President, I shall vote against the amendment.

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

Mr. HARTKE. Mr. President, just for clarification, in response to the question of the Senator from Utah. If, for example, a person is not a veteran and a parent dies, educational benefits will be paid up to the time that person is 22 years of age.

If he goes into the military service at the age of 18 for 2 years, and then goes to school, he can draw educational benefits under the GI bill. These are not intended to be and never have been fully adequate. And during that period he can also draw social security benefits, while he is under the age of 22. But if the same person undertook a 4-year enlistment at the age of 18, or came out of high school at 19 and entered the service for 3 years, then that person would have forfeited the benefits available under the social security law.

In other words, what we say to that person who voluntarily enlisted or who is drafted, is, "Mister, we are going to give a privilege to that person who stays home, we are going to give him an educational benefit under the social security law, but if you go into the military service, we will take it away from you."

This is a common practice, I will say that. Every Member of Congress, for example, is entitled to count his military service as Government service toward retirement. I do not think we have any hesitancy to claim those years. We add on those years for ourselves. But to that young man, we say, "If your father and source of support dies, and you are not in the service and are a full-time student, we are going to provide an income for you up to the age of 22. But if you are foolish enough to go and join Uncle Sam's service, don't worry, we will take it away from you."

That does not make good sense. It makes no sense at all. Let us provide at least equality of treatment to the veteran for up to 3 years.

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

Mr. HARTKE. I am glad to yield.

Mr. CANNON. Is the Senator from Louisiana correct when he says that if the amendment were passed, the veteran would be eligible for dual benefits, one under social security and the other under the GI bill, for the period he is in the service?

Mr. HARTKE. No, let me explain it. What happens at the present time is that if you have a covered deceased individual, if the parent dies, if the child is a full-time student, he can receive social security benefits up to the time he is 22.

Mr. CANNON. That is correct.

Mr. HARTKE. It does not make any difference what his situation is. Under the Hartke amendment, if he goes into military service from the age of 18 until the age of 22, and then becomes a full-time student, he would receive his social security benefits and could draw GI benefits. He could draw them both.

Mr. CANNON. And under the Senator's amendment, if he got out of the military when he was 22 and went to school for 3 more years, he would be eligible to draw the GI educational benefits as well as the social security benefits; is that correct?

Mr. HARTKE. That is exactly right, and that is exactly what the person who comes out under the age of 22 does under the present law. In other words, under the present law, when he comes out, he draws dual benefits.

The GI bill was never meant to be exclusive financing for the individual. As a matter of fact, it is usually below the full cost of an education. The person who does not have parents to look to for any help with his educational benefits turns to social security, that in a way takes the parents' place.

That is the reason we raised the cutoff age to 22. We said it was unfair to penalize that person because he had lost his parents. It is unfair to say to him, "Simply because of that, even though you are going to school and have no earning capacity, we will deny you an education."

The Hartke amendment provides that the same benefit to the person who serves those years in the military.

Mr. CANNON. I understand. What the Senator is really saying is, he is entitled to dual compensation.

We have a dual compensation act that we passed prohibiting that under certain circumstances for people who have been in the military and in Government service. What the Senator is saying is, he would permit him to draw social security benefits, which were intended to substitute in the place of a parent——

Mr. HARTKE. That is right.

Mr. CANNON. So that a youngster could go to school up to the age of 22, and the Senator would give him that and also let him draw the compensation that we have provided under the GI bill, so that a man who has been in the service can go on and get his education. The Senator is really permitting him to do both.

Mr. HARTKE. Mr. President, as an example, let me make this assumption: If a person has a parent who dies, and he goes to school until the age of 22, he can draw those social security benefits for the full time he is in school. Then, if he wants to, at the age of 22, 23, or 25, he can draw full educational benefits. There is nothing to keep him from drawing those.

When we deal with the question of veterans, as is shown in the veteran's law itself, section 1681 of title 38 of the United States Code provides that the educational assistance allowance for a veteran is designed "to meet the expenses of assistance, tuition, and so forth."

In all equity to the veteran, what you are doing in this situation is encouraging people not to participate in military service. If you do not participate in military service, you are going to receive the full benefits; but if you do, we are going to penalize you. You are going to receive the GI benefits, but you will not receive the benefits you would receive in the other payment.

Mr. JORDAN of North Carolina. Mr. President, will the Senator yield?

Mr. HARTKE. I yield.

Mr. JORDAN of North Carolina. If he did not go into the military service, he would not have any military benefits, anyhow.

Mr. HARTKE. That is true.

Mr. JORDAN of North Carolina. So he would be drawing double compensation, under the Senator's amendment, any way we look at it.

Mr. HARTKE. I am not denying that he is going to receive two pay checks; but one can do that today if he gets out of the military service at the age of 20.

Mr. JORDAN of North Carolina. Why does the Senator want to add another one, then?

Mr. HARTKE. I think it is rather preposterous to say to a man in the military service for 2 years, from 18 to 20, that he can draw double compensation for the next 2 years, but if he stays in for 4 years, he cannot.

Mr. JORDAN of North Carolina. He does not start drawing compensation, anyway, until he gets out of the service. He has to go to school.

Mr. HARTKE. If he enlists or is drafted at age 18 and comes out at age 20 and his father is dead, he can get his GI bill and draw his social security benefits for 2 years. But if he enlists for 4 years, from 18 to 22, and is past the age of 22, he gets no paycheck under social security.

Mr. JORDAN of North Carolina. But he gets the GI bill, also.

Mr. HARTKE. He gets that under any circumstances.

Mr. JORDAN of North Carolina. At any rate, he is still drawing double compensation.

Mr. HARTKE. All I am saying is that the man who is drafted at 18 and stays until he is 20 is drawing double compensation.

Mr. JORDAN of North Carolina. The Senator is talking about 4 years. The man is still compensated and is taken care of under the GI bill.

Mr. HARTKE. Every veteran is taken care of under the GI bill.

Mr. HARTKE. Every veteran is taken care of under the GI bill.

The point is that we are dealing with a situation of those who are orphans, in effect. We are dealing with those children whose parents are disabled or died. We are not dealing with the rank and file social security beneficiary. We are not dealing with those people who are drawing social security and have children.

Mr. JORDAN of North Carolina. A man who has been in the service 4 years is sort of past the orphan stage. He is a little past that stage. He is a man; he has been in the Army for 4 years.

Mr. HARTKE. Let me see if I can make it a little more clear. I did not have that easy a time going through school, but I had my parents backing me all the way. This is true in a majority of cases. But take a young man whose father died and who enlists for 4 years at the age of 18. After he comes out, he decides he wants to go to school. The GI bill pays part of his expenses .

Mr. JORDAN of North Carolina. That is correct.

Mr. HARTKE. If he had a parent, the parent would probably help pick up the difference. But this young man, because he went into the service at 18 and enlisted for 4 years, has no parental payments to look to in order to help him financially. So you are saying to him, "I'm sorry, mister. You were foolish enough to stay in the military service during those years. If you had waited and enlisted when you were 22, you would have had all that money and could have gone to school and come back and got the additional GI benefits."

Mr. JORDAN of North Carolina. In the first place, he does not have to enlist.

Mr. HARTKE. But you do not have to have military service, either.

Mr. JORDAN of North Carolina. I think the Senator is adding one compensation onto another. I am afraid this is overlapping benefits, which I think would be wrong. I am strongly in support of the GI benefits and have voted for every one and voted to liberalize them on many occasions.

Mr. HARTKE. I think it is a shame to say that you are going to treat those people who are in effect both orphans and veterans worse than you do a person who has his parents living and who is a nonveteran.

Mr. LONG. Mr. President, the Senator did not give the committee the opportunity to act on this It was not submitted to us, even though he is a member of the committee. Therefore, as the manager of the bill, I am not prepared to discuss the amendment in detail. I have tried to find out what it is about while the Senator was talking about it. I think I have some idea of what this is all about.

Mr. HARTKE. Mr. President, will the Senator yield in order to correct a statement of error?

Mr. LONG. Did the Senator offer this amendment in committee?

Mr. HARTKE. It is part of the minority views, and I did submit it on February 17, 1972. It is addressed to the chief counsel, Tom Vail. I have a copy of the letter and a copy of the amendment. If the staff did not give it to the Senator to read, it is not my fault.

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

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

FEBRUARY 17, 1972.

Mr. TOM VAIL,
Chief Counsel, U.S. Senate, Committee on Finance, Washington, D.C.

DEAR TOM: I am enclosing a copy of an amendment to H.R. 1 and supporting materials related thereto which Senator Hartke plans to introduce shortly. It is my understanding that he has introduced a similar amendment in 1969 or 1970.

I wonder if I might get your reaction to this amendment after you have had time to study it.

Sincerely,

HOWARD MARLOWE,
Legislative Assistant to Vance Hartke, U.S. Senator.

AMENDMENT TO SECTION 402(d)(1)(B) OF THE SOCIAL SECURITY ACT

STATUTORY LANGUAGE

Section 402(d)(1)(B) of the Social Security Act is hereby amended to read "at the time such application was filed . . . was a full-time student and had not attained the age of 22, except that veterans of military service in the Armed Forces of the U. S. with other than a dishonorable discharge who have ended their service after August 4, 1964, and have served more than 180 days on active duty or have been discharged because of a service connected disability, and have not received more than a high school education or G.E.D. equivalency degree shall be eligible for assistance regardless of their age while they are full-time students at educational or training institutions for a period of up to 36 months."

SOCIAL SECURITY: AN IMPORTANT NEW WAY TO AID VIETNAM ERA VETERANS

(A Statement in Support of an Amendment to the Social Security Act.)

This amendment to the Childrens' Benefit provisions of the Social Security Act would encourage all covered Vietnam veterans, regardless of their age, to return to school by paying them benefits for a period equal to their GI Bill entitlement, up to 36 months.

Unlike the veterans of past wars, those who served during the Vietnam Era have come home to apathy—not admiration. Instead of respect for the dirty and thankless task they have done, they are often viewed suspiciously because they have served. They know this, and they are angry. Tired of rules, double talk, and empty words, they are turned off by the system.

Currently, the so-called Childrens' Benefits under Social Security represent only one more form of discrimination against veterans. Benefits are provided to full-time students of deceased, retired or disabled parents if the children are between the ages of 18–22. Veterans, of course, suffer because, for most of them, time spent in service reduces the benefits available.

The proposed amendment would give veterans a better deal, and it would also help raise GI Bill wage rates above the present 30%—compared with 50%, after World War II and 45% after Korea.

GI Bill benefits, alone, are often inadequate to support veterans at most institutions, but the combination of the GI Bill and Social Security would provide a satisfactory amount. GI Bill benefits are $175 per month per single veteran and Social Security benefits would add from $35 to $210 per month extra, depending on the salary of the parent's job, the length of time covered, whether the parent is retired or disabled, or deceased, and possibly, the size of the family.

There are currently 610,802 Vietnam Era veterans engaged in full-time education and training under the GI Bill. If veterans utilize Social Security benefits at the same rate as the general population (10%), then the cost of the amendment for the first year (calculated at a cost of $900 per veteran) would be something less than $54,972,000. In any case, we owe it to the veterans to make the effort.

EXPLANATION

Section 402(d)(1)(B) of the Social Security Act describes the benefits available to (natural or adopted) children of a parent covered by Social Security where the parent is either dead, disabled, or retired. The amount of the benefits is ½ of the parent's basic benefit if the parent is retired or disabled; ¾ of the benefit if the parent is dead. Thus, if a parent is retired or disabled, benefits would be between $35 and $140 per month depending upon salary levels of the parent's jobs, the length of time covered, and where the family is large, the size of the family. If the parent is dead, benefits would be between $45 and $210 per month. Such benefits were originally available only to children under the age of 18, but a few years ago the provision was amended to permit benefits to flow to full-time students over the age of 18, but below the age of 22.

The difficulty with the existing law is that it discriminates against persons who served in the Armed Forces between the ages 18 and 22. Their benefits are reduced by the time they spent in service. The amendment being proposed is intended to remedy this problem and to encourage more veterans to continue their education by offering them additional resources.

Only 30% of Vietnam era veterans are currently making use of their GI Bill benefits, in contrast with the 50% who utilized those benefits after World War II and the 45% after the Korean conflict. Moreover, those veterans with some previous college experience are twice as likely to go back to school after service than those with only a high school education.

There are many reasons for the poor rate of participation, but one of the most important is the lack of money. GI Bill benefits are, by themselves, inadequate and do not provide adequate support for tuition, fees and living expenses. Money provided through the Social Security Act would help fill the gap.

The amendment is focused on those whose need is the greatest, but are least likely to undertake further schooling—those with no more than a high school education. All such veterans who have been discharged during the Vietnam Era (subsequent to August 4,

1964), have other than a dishonorable discharge and have served more than 180 days on active duty or been discharged due to a service-connected disability would be eligible if one of their parents was covered by Social Security and is disabled, dead or retired.

The total annual cost of the amendment is somewhat difficult to calculate because Social Security statistics do not separate out veterans as a distinct category. However, an estimate can be made.

There are currently 610,802 Vietnam Era veterans engaged in full-time education and training under the GI bill. If these veterans utilize Social Security benefits at the same rate as the general population (10%), then the cost of the amendment for the first year (calculated at a cost of $900 per veteran) would be something less than $54,972,000. How much less depends upon the number of veterans already utilizing Social Security. Unfortunately, the number is not known.

COMPUTATION

There are, according to the 1970 census, 4,110,000 students between 18–21 in full-time educational programs.

402,000 students are currently receiving childrens' benefits.

4110	.1 402.0	approximately
	610.802	Vietnam Era vets in full-time education and training programs
	.1	
	61080.2	
	$900	
$54,972,000		Total annual cost—number of vets now getting benefits.

Mr. LONG. If the Senator offered that in committee, then I have a very bad memory, because I was there. I was there throughout the consideration of this measure. I was there every day except one, and I will be glad to review the record, but I believe the Senator will find that he did not offer it that day. I do not recall any amendment such as this being offered. If any member of the Finance Committee does remember it, I wish he would correct me. I do not recall this amendment being offered.

I do not know of some correspondence the Senator may have had with some member of the staff; but, so far as I know, this amendment was never offered to the committee. We had no opportunity to vote on it or talk about it in the committee room. I did not know what this amendment was until it was called up today.

This amendment has to do with the problem that Senator Ribicoff has referred to from time to time. We have so many different programs that are supposed to help poor people or to keep people out of poverty that if you were to eliminate the overlapping benefits by which people get double dips, triple dips, and quadruple dips, and put them all in one consistent program, you would have more money than you need to lift everybody in America out of poverty. It is only because you have a hodge-podge of programs, many of which relate to each other in ways that were never considered in advance, then you find that you are spending a great deal more money than it would take to lift everybody out of poverty.

When we get into that, one of the principal examples would be veterans' benefits. We provide a higher level of veterans' benefits than other people. I never knew, until the Senator brought this amendment up, that a young man can go into military service at age 18 and come out of military service at age 20 and that, in addition to receiving his $175 GI bill of rights payment to go to school, can also receive a $60 social security payment. This is on the theory that he is still a child and therefore is dependent upon his parents, even though he is pretty much of a man who has been in the Army for two years. Apparently, on this theory he is still on mama's apron strings, even though he came out as a decorated hero. So that when he comes out at age 20 after going in at age 18, and comes out like Audie Murphy, having killed 550 of the enemy on the field of battle, a decorated veteran, with the Medal of Honor, he is still entitled to be treated as a child and receive a $60 a month payment under the social security law, on the theory that he is still dependent upon his family for support, even though he has proved to be one of the Nation's great heroes.

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

Mr. LONG. I yield.

Mr. BENNETT. He may also be married and the father of two or three children.

Mr. LONG. Yes. By that time he may very well be married and have his own family to support, and still he is regarded as dependent on mama; and since papa has passed away, this person can draw the benefit as though he is a child, still dependent upon his parents for support.

I did not know it but I know it now. That is the law. But I believe it is an unintended benefit. I do not believe anyone ever thought about this when it came to pass. Now the Senator says we are discriminating against people 23 and 24 years old because they cannot do the same thing, because they cannot proceed on the theory that they are still hanging on mama's apron strings, even though they may be married, a combat veteran, a hero of the Nation, with decorations from their country, being paid $175 a month on the GI bill of rights to go to school and then, in addition, we must still treat them as children and let them draw the child's benefit, on the theory that they are still dependent upon mama and papa for support.

It would make more sense if, when this fellow, at 20, having left the service, and being entitled to draw $175 a month under the GI bill of rights, could not draw the $60 under the social security program for the child's benefit. But, that is not before us. If we wanted to say that there is inequity here, the way to solve it would be to say that a man, a veteran, entitled to the more generous benefits of the GI bill of rights, would not draw the child's benefit because we are caring for him more generously under another program.

But now the Senator would go beyond that and extend the child's benefit up to the age of 25. We provided that if a child wanted to go to school, then the child's benefit would continue after the age of 18 up to the age of 22, on the theory that he was still dependent upon mamma and papa while he was still going to school. If he did not go to school, then he would lose the child's benefit, even at the age of 18.

Now the Senator would extend the child's social security benefit to the age of 25 which he would receive in addition to the GI benefits. His net benefit would then be $235 a month by treating him as a child as well as treating him as a veteran.

Mr. PERCY. Did we not just increase GI benefits? Certainly the right way to do this in order to have adequate GI benefits for educational purposes would be to charge it against that account rather than doing it this way?

Mr. LONG. Do it either way, so far as I am concerned. Under social security, do it for everyone, do it for the GI's and do it for everyone. But these overlapping systems, these double tips that people resent, the gimmicks and the angles, so that if someone does not get it he says "I never heard of it" and then the first thing you know everybody wants some other gimmick for himself. "When you do it for this man, you must do it for me," in view of the fact that here is an unintended gimmick that tends to discriminate against someone else who did not have that particular pattern, so we have to give it to him or to someone else who will say "Give it to me."

It would make far better sense to provide it across the board, rather than to start this kind of thing which benefits only a minuscule number but now sets a pattern to bring in somebody else—goodness knows who—who will say that they are being discriminated against because they only got the first bite of the apple and not the second and, therefore, they should have the double benefit. This could lead to all sorts of unintended benefits and all sorts of unintended consequences, it would seem to me.

Mr. BENNETT. Is not the theory of the $60 social security benefit that this person is dependent, dependent on the social security entitlement of his dead father, and it is not that he needs it, it is just that he is a dependent? Who can say that a man with $175 a month is a dependent child. It seems to me a thing full of contradictions.

Mr. LONG. Theoretically he is dependent. But he is a veteran of the war and is still presumed to be a dependent.

Mr. President, I point out that, under the able leadership of the Senator from Indiana, we have recently passed a bill raising the GI bill benefits from $175 a month up to $245 a month. I salute the Senator for his leadership in providing this additional benefit. At least, it is across the board for all GI's.

But in addition to the $245 a month, he would have a special facet of GI beneficiaries who would get the extra $60 a month in social security, being treated as a child, even though they were 25 years of age. I would submit that that is not the way that we should do it.

Mr. President, I move that the amendment be laid on the table.

The PRESIDING OFFICER (Mr. PROXMIRE). The question is on the mo-

tion of the Senator from Louisiana (Mr. LONG) that the amendment of the Senator from Indiana be laid on the table.

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

There was not a sufficient second.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana (Mr. LONG) to lay on the table the amendment of the Senator from Indiana (Mr. HARTKE).

On this question, the yeas and nays have been ordered. The motion is not debatable and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

On this vote, the Senator from Louisiana (Mrs. EDWARDS) is paired with the Senator from Rhode Island (Mr. PELL).

If present and voting, the Senator from Louisiana would vote "yea" and the Senator from Rhode Island would vote "nay."

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

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Delaware (Mr. BOGGS), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), 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 Alaska (Mr. STEVENS) is detained on official business.

If present and voting, the Senator from Delaware (Mr. BOGGS) would vote "yea."

On this vote, the Senator from Nebraska (Mr. CURTIS) is paired with the Senator from Alaska (Mr. STEVENS). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Alaska would vote "nay."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from Texas would vote "yea" and the Senator from Oregon would vote "nay."

The result was announced—yeas 51, nays 24, as follows:

[No. 528 Leg.]

YEAS—51

Anderson	Fong	Packwood
Beall	Gambrell	Pearson
Bellmon	Griffin	Proxmire
Bennett	Gurney	Randolph
Bible	Hansen	Roth
Brock	Hruska	Saxbe
Buckley	Inouye	Sparkman
Byrd, Harry F., Jr.	Javits	Spong
Byrd, Robert C.	Jordan, N.C.	Stennis
Cannon	Jordan, Idaho	Stevenson
Chiles	Long	Symington
Cooper	Magnuson	Taft
Cotton	Mansfield	Talmadge
Dole	McClellan	Tunney
Dominick	Miller	Weicker
Ervin	Montoya	Young
Fannin	Muskie	
	Nelson	

NAYS—24

Aiken	Gravel	Pastore
Allen	Hart	Percy
Bayh	Hartke	Schweiker
Brooke	Hughes	Scott
Burdick	Jackson	Smith
Case	Mathias	Stafford
Cook	Mondale	Thurmond
Cranston	Moss	Williams

NOT VOTING—25

Allott	Fulbright	McIntyre
Baker	Goldwater	Metcalf
Bentsen	Harris	Mundt
Boggs	Hatfield	Pell
Church	Hollings	Ribicoff
Curtis	Humphrey	Stevens
Eagleton	Kennedy	Tower
Eastland	McGee	
Edwards	McGovern	

So the motion to table the Hartke amendment (No. 1550) was agreed to.

RECLAMATION PROJECT AUTHORIZATION ACT OF 1972

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 520.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 520) to authorize the construction, operation, and maintenance of the closed basin division, San Luis Valley project, Colorado, and for other purposes, which was to strike out all after the enacting clause, and insert:

That this Act shall be known as the Reclamation Project Authorization Act of 1972.

TITLE I

CLOSED BASIN DIVISION, SAN LUIS VALLEY PROJECT, COLORADO

SEC. 101. The Secretary of the Interior is authorized to construct, operate, and maintain the closed basin division, San Luis Valley project, Colorado, including channel rectification of the Rio Grande between the uppermost point of discharge into the river of waters salvaged by the project, and the Colorado-New Mexico State line, so as to provide for the carriage of water so salvaged without flooding of surrounding lands, to minimize losses of waters through evaporation, transpiration, and seepage, and to provide a conduit for the reception of waters salvaged by drainage projects undertaken in the San Luis Valley below Alamosa, Colorado, in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), and as otherwise provided in this Act, for the principal purposes of salvaging, regulating, and furnishing water from the closed basin area of Colorado; transporting such water into the Rio Grande; making water available for fulfilling the United States obligation to the United States of Mexico in accordance with the treaty dated May 21, 1906 (34 Stat. 2953); furnishing irrigation water, industrial water, and municipal water supplies to water deficient areas of Colorado, New Mexico, and Texas through direct diversion and exchange of water; establishing the Mishak National Wildlife Refuge and furnishing a water supply for the operation of the Mishak National Wildlife Refuge and the Alamosa National Wildlife Refuge and for conservation and development of other fish and wildlife resources; providing outdoor recreational opportunities; augmenting the flow of the Rio Grande; and other useful purposes, in substantial accordance with the engineering plans set out in the report of the Secretary of the Interior on this project: *Provided*, That no wells of the project, other than observation wells, shall be permitted to penetrate the aquiclude, or first confining clay layer.

(b) Construction of the project may be undertaken in such units or stages as in the determination of the Secretary will best serve project requirements and meet water needs: *Provided*, That construction of each of the successive units or stages after stage 1 of said project shall be undertaken only with the consent of the Colorado Water Conservation Board and the Rio Grande Water Conservation District of the State of Colorado.

(c) The closed basin division, San Luis Valley project, Colorado, shall be operated in such manner that the delivery of water to the river and return flows of water will not cause the Rio Grande system to be in violation of water quality standards promulgated pursuant to the Water Quality Act of 1965 (79 Stat. 903).

SEC. 102. (a) Prior to commencement of construction of any part of the project, except channel rectification, there shall be incorporated into the project plans a control system of observation wells, which shall be designed to provide positive identification of any fluctuations in the water table of the area surounding the project attributable to operation of the project or any part thereof. Such control system, or so much thereof as is necessary to provide such positive identification with respect to any stage of the project, shall be installed concurrently with such stage of the project.

(b) The Secretary shall operate project facilities in a manner that will not cause the water table available for any irrigation or domestic wells in existence prior to the construction of the project to drop more than two feet and in a manner that will not cause reduction of artesian flows in existence prior to the construction of the project.

SEC. 103. There is hereby established an operating committee consisting of one member appointed by the Secretary, one member appointed by the Colorado Water Conservation Board, and one member appointed by the Rio Grande Water Conservation District, which is authorized to determine from time to time whether the requirements of section 102 of this Act are being complied with. The committee shall inform the Secretary if the operation of the project fails to meet the requirements of section 102 or adversely affects the beneficial use of water in the Rio Grande Basin in Colorado as defined in article I(c) of the Rio Grande compact (53 Stat. 785). Upon receipt of such information the Secretary shall modify, curtail, or suspend operation of the project to the extent necessary to comply with such requirements or eliminate such adverse effect.

SEC. 104. (a) Except as hereinafter provided, project costs shall be nonreimbursable.

(b) After the project or any phase thereof has been constructed and is operational, the Secretary shall make water available in the following listed order of priority:

(1) To assist in making the annual delivery of water at the gaging station on the Rio Grande near Lobatos, Colorado, as required by article III of the Rio Grande compact: *Provided*, That the total amount of water delivered for this purpose shall not exceed an aggregate of six hundred thousand acre-feet for any period of ten consecutive years reckoned in continuing progressive series beginning with the first day of January next succeeding the year in which the Secretary determined that the project authorized by this Act is operational.

(2) To maintain the Alamosa National Wildlife Refuge and the Mishak National Wildlife Refuge: *Provided*, That the amount of water delivered to the Alamosa National Wildlife Refuge shall not exceed five thousand three hundred acre-feet annually, and the water delivered to the Mishak National Wildlife Refuge shall not exceed twelve thousand five hundred acre-feet annually.

(3) To apply to the reduction and elimination of any accumulated deficit in deliveries by Colorado as is determined to exist by the Rio Grande Compact Commission under article VI of the Rio Grande compact at the end of the compact water years in which the Secretary first determines the project to be operational.

(4) For irrigation or other beneficial uses in Colorado: *Provided*, That no water shall be delivered until agreements between the United States and water users in Colorado, or the Rio Grande Water Conservation District acting for them, have been executed providing for the repayment of such costs as in the opinion of the Secretary are appropriate and within the ability of the users to pay.

SEC. 105. Construction of the project shall not be started until the State of Colorado agrees that it will, as its participation in the project, convey to the United States easements and rights-of-way over lands owned by the State that are needed for wells, channels, laterals, and wildlife refuge areas, as identified in the project plan. Acquisition of privately owned land shall, where possible and consistent with the development of the project, be restricted to easements and rights-of-way in order to minimize the removal of land from local tax rolls.

SEC. 106. Conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the closed basin division of the San Luis Valley project works authorized by this Act shall be in accordance with the provisions of the Federal Water Project Recreation Act (70 Stat. 213).

SEC. 107. The Secretary is authorized to transfer to the State of Colorado or to any qualified agency or political subdivision of the State, or to a water users' organization, responsibility for the care, operation, and maintenance of the project works, or any part thereof. The agency or organization assuming such obligation shall obligate itself to operate the project works in accordance with regulations prescribed by the Secretary.

SEC. 108. Nothing contained in this Act shall be construed to abrogate, amend, modify, or be in conflict with any provisions of the Rio Grande compact; or to shift any legal burden of delivery from the Rio Grande or the Conejos River to the closed basin.

SEC. 109. There is hereby authorized to be appropriated for construction of the closed basin division of the San Luis Valley project the sum of $18,246,000 (April 1972 prices), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuation in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein, and such additional sums as may be required for operation and maintenance of the project.

TITLE II

BRANTLEY PROJECT, PECOS RIVER BASIN, NEW MEXICO

SEC. 201. The Secretary of the Interior is authorized to construct, operate, and maintain the Brantley project, Pecos River Basin, New Mexico, in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and the provisions of this Act and the plan set out in the report of the Secretary on this project, with such modification of, omissions from, or additions to the works, as the Secretary may find proper and necessary for the purposes of irrigation, flood control, fish and wildlife and recreation, and for the elimination of the hazards of failure of McMilland and Avalon Dams: *Provided*, That the Secretary of the Interior shall operate the existing Alamogordo Dam and Reservoir unit: *And provided further*, That the Secretary of the Interior shall familiarize himself with the water rights of appropriators of water from the Pecos River and shall promulgate criteria for the operation of the Brantley project and other irrigation storage projects on the Pecos River in the State of New Mexico that will preclude any detrimental effect on water rights in the Pecos River so that appropriators of water will not be adversely and unreasonably affected by such operations.

SEC. 202. The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the Brantley project shall be in accordance with the provisions of the Federal Water Project Recreation Act (79 Stat. 213).

SEC. 203. Nothing in this Act shall be construed to alter, amend, repeal, modify, or be in conflict with the provisions of the Pecos River Compact, 1948, consented to by the Congress in the Act of June 9, 1949 (63 Stat. 159).

SEC. 204. The costs allocated to flood control and the safety of dams purposes of the project shall be nonreimbursable and nonreturnable. The repayment of costs allocated to recreation and fish and wildlife enhancement shall be in accordance with the provisions of the Federal Water Project Recreation Act (79 Stat. 213).

SEC. 205. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the Brantley project shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction on the project is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from date of issue.

SEC. 206. There is hereby authorized to be appropriated for construction of the Brantley project the sum of $45,605,000 (based on July 1971 prices), plus or minus such amounts, if any, as may be justified by reason of changes in construction costs as indicated by engineering cost indexes applicable to the types of construction involved and, in addition thereto, sums as may be required for operation and maintenance of the project.

TITLE III

SALMON FALLS DIVISION, UPPER SNAKE RIVER PROJECT, IDAHO

SEC. 301. For the primary purposes of providing irrigation water supplies and the enhancement of fish and wildlife resources, and other purposes, the Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), is authorized to construct, operate, and maintain the Salmon Falls division, Upper Snake River project, Idaho. The principal works of the divisions shall consist of the Milner pumping plant, the Milner-Salmon Falls Canal, relift pumping stations, water distribution facilities, wells to provide supplemental water, drainage facilites, and related works. The wells to provide supplemental water, authorized by this Act, shall be so located that the irrigation water produced therefrom can be delivered to the lands of the Salmon Falls division without the requirement for water rights exchange agreements between the Salmon River Canal Company and the North Side Canal Company of Jerome, Idaho.

SEC. 302. Any exchanges of water which may be required in connection with the operation of the division authorized by this title shall be made in conformity with applicable State law and shall in no way jeopardize, diminish, or otherwise alter contractual rights and obligations now in existence or water rights acquired under State law, and shall be without prejudice to, but in enjoyment of, the rights of the appropriator participating in the exchange as a use under his original appropriation. Existing water users shall bear no additional costs as a consequence of any exchange in their service area.

SEC. 303. Irrigation repayment contracts shall provide, with respect to any contract unit, for repayment of the irrigation construction costs assigned to the irrigators for repayment over a period of not more than fifty years, exclusive of any development period authorized by law. Construction costs allocated to irrigation beyond the ability of irrigators to repay shall be charged to and returned to the reclamation fund in accordance with the provisions of section 2 of the Act of June 14, 1966 (80 Stat. 200), as amended by section 6 of the Act of September 7, 1966 (80 Stat. 707).

SEC. 304. The provision of lands, facilities, and project modifications which furnish fish and wildlife benefits in connection with the Salmon Falls division shall be in accordance with the Federal Water Project Recreation Act (79 Stat. 213).

SEC. 305. Power and energy required for irrigation water pumping for the Salmon Falls division shall be made available by the Secretary from the Federal Columbia River power system at charges determined by him.

SEC. 306. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the Salmon Falls division shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction on the division is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for fifteen years from date of issue.

SEC. 307. For a period of ten years from the date of enactment of this Act, no water from the project authorized by this Act shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949 (63 Stat. 1051; 7 U.S.C. 1421), or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301 (b)(10) of the Agricultural Adjustment Act of 1938 (62 Stat. 1251; 7 U.S.C. 1301), as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

SEC. 308. There is hereby authorized to be appropriated for construction of the works herein authorized and for the acquisition of the necessary land and rights the sum of $62,258,000 (January 1972 prices), plus or

minus such amounts, if any, as may be required by reason of changes in the cost of construction work of the types involved therein as shown by engineering cost indexes. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of said division.

TITLE IV

O'NEILL UNIT, PICK-SLOAN MISSOURI BASIN PROGRAM, NEBRASKA

SEC. 401. The O'Neill unit, heretofore authorized as an integral part of the Pick-Sloan Missouri Basin program by the Act of August 21, 1954 (68 Stat. 757), is hereby reauthorized as a unit of that project for the purposes of providing irrigation water for seventy-seven thousand acres of land, flood control, fish and wildlife conservation and development, public outdoor recreation, and for other purposes. The construction, operation, and maintenance of the O'Neill unit shall be subject to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto). The principal features of the unit shall include Norden Dam and Reservoir, related canals, a pumping plant, distribution systems, and other necessary works needed to effect the aforesaid purposes.

SEC. 402. The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the O'Neill unit shall be in accordance with provisions of the Federal Water Project Recreation Act (79 Stat. 213).

SEC. 403. The O'Neill unit shall be integrated physically and financially with the other Federal works constructed under the comprehensive plan approved by section 9 of the Flood Control Act of December 22, 1944, as amended and supplemented.

SEC. 404. The interest rate used for purposes of computing interest during construction and interest on the unpaid balance of the capital costs allocated to interest-bearing features of the project shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable to the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from date of issue.

SEC. 405. For a period of ten years from the date of enactment of this Act, no water from the project authorized by this Act shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949 (63 Stat. 1051; 7 U.S.C. 1421 note), or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301(b)(10) of the Agricultural Adjustment Act of 1938 (62 Stat. 1251; 7 U.S.C. 1301), as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

SEC. 406. There is hereby authorized to be appropriated for construction of the O'Neill unit as authorized in this Act the sum of $113,300,000 (based upon January 1972 prices), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction involved herein. There are also authorized to be appropriated such additional sums as may be required for operation and maintenance of the unit.

TITLE V

NORTH LOUP DIVISION, PICK-SLOAN MISSOURI BASIN PROGRAM, NEBRASKA

SEC. 501. The North Loup division heretofore authorized as an integral part of the Missouri River Basin project by section 9 of the Flood Control Act of December 22, 1944, as amended and supplemented, is hereby reauthorized as a unit of that project for the purposes of providing irrigation water for fifty-three thousand acres of land, enhancement of outdoor recreation opportunities, conservation and development of fish and wildlife resources, and for other purposes. The principal features of the North Loup division shall include Calamus and Davis Ceek Dams and Reservoirs, Kent diversion works; irrigation canals; pumping facilities; associated irrigation distribution and drainage works; facilities for public outdoor recreation and fish and wildlife developments; and other necessary works and facilities to effect its purposes.

SEC. 502. The interest rate used for purposes of computing interest during construction and interest on the unpaid balance of the capital costs allocated to interest-bearing features of the project shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from date of issue.

SEC. 503. The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the North Loup division shall be in accordance with provisions of the Federal Water Project Recreation Act (79 Stat. 213).

SEC. 504. The North Loup division shall be integrated, physically and financially, with the other Federal works in the Missouri Basin constructed or authorized to be constructed under the comprehensive plans approved by section 9 of the Act of December 22, 1944 (58 Stat. 891), as amended and supplemented.

SEC. 505. The North Loup division shall be so constructed and operated that no water shall be diverted from either the Calamus or the North Loup Rivers for any use by the division during the months of July and August each year; and no water shall be diverted from said rivers during the month of September each year whenever during said month there is sufficient water available in the division storage reservoirs to deliver the design capacity of the canals receiving water from said reservoirs.

SEC. 506. For a period of ten years from the date of enactment of this Act, no water from the project authorized by this Act shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949 (63 Stat. 1051; 7 U.S.C. 1421 note), or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301(b)(10) of the Agricultural Adjustment Act of 1938 (62 Stat. 1251; 7 U.S.C. 1301), as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

SEC. 507. There is hereby authorized to be appropriated for construction of the North Loup division as authorized in this Act the sum of $79,500,000 (based upon January 1972 prices), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering costs indexes applicable to the types of construction involved herein. There are also authorized to be appropriated such additional sums as may be required for operation and maintenance of the division.

And amend the title so as to read: "An act to authorize the Secretary of the Interior to construct, operate, and maintain various Federal reclamation projects, and for other purposes."

Mr. JACKSON. Mr. President, in the course of this Congress, the Senate passed bills which would authorize the Secretary of the Interior to construct, operate, and maintain five reclamation projects. The bills were as follows:

S. 520, to authorize the San Luis Valley project, Colorado, passed the Senate July 19, 1972;

S. 50, to authorize the Brantley project, New Mexico, passed the Senate on March 30, 1972;

S. 432, to authorize the Salmon Falls Division, Upper Snake River project, Idaho, passed the Senate on June 28, 1971;

S. 353, to authorize the O'Neill unit, Pick-Sloan Missouri Basin program, Nebraska, passed the Senate on September 14, 1972; and

S. 2350, to authorize the North Loup Division, Pick-Sloan Missouri Basin program, Nebraska, passed the Senate on September 14, 1972.

The House of Representatives, on September 27, 1972, passed H.R. 16012 which included the authorization of all five projects. Subsequently, the House amended S. 520 to contain the language of the House bill and returned it to the Senate.

The House language is similar to that of the Senate bill, with the following exceptions:

DIFFERENCES BETWEEN THE SENATE BILL AND THE HOUSE BILL

Closed Basin Division, San Luis Valley Project, Colorado:

First. The House added a subsection insuring that the project will not contribute to violation of water quality standards.

Second. The House omitted subsection 3(a) of the Senate bill making Colorado uses of water salvaged in the closed basin senior to the compact uses, but inserted language in another section having similar intent which protects the closed basin—the basin of origin—from the imposition of any legal burden to deliver water to the downstream States.

Third. The House added a proviso establishing maximum annual deliveries of water for the Alamosa and Mishak National Wildlife Refuges.

Brantley project, New Mexico:

First. The House added language protecting the rights of existing Pecos River water users.

Second. The House updated the amount of appropriations authorized for construction of the project to reflect current price levels.

Salmon Falls division, Upper Snake River project, Idaho:

First. The House added language prohibiting exchanges of water with the North Side Canal Co. in place of a section in the Senate bill protecting the existing users if an exchange is made.

Second. The House added a provision limited the production of surplus crops.

Third. The House updated the amount of appropriations authorized for construction of the project to reflect current price levels.

O'Neill unit, Pick-Sloan Missouri Basin program, Nebraska:

First. The House omitted language re-

quiring operation of Norden Dam to insure downstream flows for ecological and environmental purposes.

Second. The House updated the amount of appropriations authorized for construction of the unit to reflect current price levels.

North Loup division, Pick-Sloan Missouri Basin program, Nebraska:

First. The House updated the amount of appropriations authorized for construction of the division to reflect current price levels.

Mr. President, none of the differences between the Senate-passed measures and the House measure adversely affects the viability of the projects or the intent of the Senate in acting on the Senate bills.

Mr. BELLMON. Mr. President, S. 520—the Reclamation Project Authorization Act—which we now have before us, authorizes the construction of five projects with a total capital investment of nearly $320 million.

It is not my intent to oppose this particular bill, nor to attack any of the specific projects which it authorizes, but I do feel compelled to bring to the attention of the Senate a matter which deserves the attention of the Congress at the earliest possible time: A complete review and redirection of the various Federal programs for development of water resources.

All of the major water development programs, including those of the Corps of Engineers, the Department of Agriculture, and the Department of Interior, have policy aspects, which in my mind, are highly questionable. In my service on the Interior Committee, however, I have had more opportunity to observe the reclamation program and my remarks, therefore, deal primarily with it.

The Interior Committee has considered many project proposals, including those authorized in S. 520, which were found to meet all of the existing criteria of feasibility and all the requirements of law for repayment. These projects have been reported favorably and passed by the Senate. Most of them will probably be constructed.

These projects, I repeat, meet all existing criteria and requirements. Yet, if the real benefits which some of them will produce are compared with the true costs to the Federal Government—not in the form of complex economic analyses, but in simple descriptive terms—they would make little sense, and I doubt that a majority of the Members of the Senate would support them.

The body of law and policy which establishes criteria and repayment requirements for reclamation projects has evolved over many decades. Incremental changes have been made which did not consider the relationship among the many functions of a large complex multipurpose project, and which did not consider other Federal programs. The result is an incredibly complex set of rules which are devoid of logic, which distort planning and which obscure the decisions Congress must finally make. True costs and benefits are impossible to ascertain because of the complexities of feasibility criteria and because of claimed project benefits which are both difficult to justify and impossible to prove.

In the committee hearing on one of the projects included in S. 520, the Department of Interior statement said:

> Repayment of irrigation and recreation costs would total about $72,100,000 or nearly 99 percent of the total project and assigned costs.

In a legalistic sense that statement is correct. The true fact is, however, that most of the "repayment" is made from the sale of power generated at dams, many of which were constructed years ago by another agency, and which are in no way associated with this particular project. The real beneficiaries—which is posed reclamation project—will repay only about $14 million, or about 19 percent of the project cost. The rest of the so-called "repayment" comes from the revenue of power generated at government built hydroelectric dams. This is not repayment, since the power revenues would otherwise come into the Federal treasury. It amounts to earmarking of power revenues for subsidizing irrigation.

Mr. President, it must be further pointed out that the portion of the costs of a reclamation project repaid by irrigation beneficiaries is made over a period of 60 years with no interest charge. The matter of interest-free loans for irrigation investment poses particular difficulties, because it can and does distort sound economic and financial planning. Since farmers, who must bear the cost of annual operating expenses on irrigation projects, have limited capacity to pay, project planners concern themselves with reducing operating costs. But neither farmers nor planners are concerned with the annual cost of the Treasury's investment, since no interest is charged against the project.

The tendency, then, is to design more sophisticated projects which reduce annual operating costs, but at the same time normally increase initial outlay and total cost of the project. Heavy capital investments are made by the Government in order to achieve relatively small savings in annual operating costs to the landowners, and the real subsidy is made greater than necessary over the life of the project.

The use of this investment by the landowners is free, but the U.S. Treasury is paying billions of dollars in interest every year on our huge national debt.

To demonstrate the full impact of this policy we can use as examples two of the projects included in S. 520.

The O'Neill Unit in Nebraska carries an initial capital investment of $113,000,000 on 77,000 acres—probably double the real value of the land. The irrigation portions of the project require no interest repayment, even though the Government must borrow the money at interest to build the project. At a 6-percent interest rate over the 50-year repayment schedule, the Government's interest cost on this project will be $513 million, or an additional per acre cost of more than $6,600. Thus the real cost of the O'Neill project, including interest, is $626 million—$7,900 per acre—of which the landowner beneficiaries will repay perhaps $25 million. The other $600 million is direct Federal subsidy.

On the Salmon Falls irrigation project in Idaho, the initial cost of construction is estimated at $62 million. Again, the repayment is without interest; and using the same criteria as used on the O'Neill project, the interest costs absorbed by the Federal Treasury amount to $223 million.

Since the landowners in the project are expected to repay only about 28 percent of the initial construction cost and none of the interest costs, the Federal subsidy then amounts to over $267 million dollars. The project includes irrigation for some 64,000 acres, so the per acre subsidy amounts more than $4,000, or seven to eight times the likely value of the land.

Mr. President, again I wish to point out that I am citing these facts not for the purpose of criticizing these particular projects. Basically they are little different from others which have been approved by Congress over the years using the same justification and the same formulas.

Nor I do not intend to totally condemn the concept of subsidizing water resource development. I am urging that the subsidies which are made be related to the Federal objectives in each project proposal, and that the subsidies be set forth in a way which permits decisionmakers to evaluate them against the projects' benefits.

The financial aspect of the reclamation program is only one of many water resource policies which need examination. Cost sharing and subsidy policies are outdated on nearly all aspects of water resource programs in light of society's modern needs and priorities. Our limited Federal investments in water resources are not being applied to the most urgent and fruitful developments.

There are equally serious policy questions concerning the responsiveness of the existing activities of the water resource agencies to the needs of the States; the means of measuring costs and benefits of proposals; and, perhaps most important, the lack of coordination between Federal efforts in water quality control and the traditional water resource planning and management programs.

These problems will not be resolved simply by selecting the correct discount rate for economic analysis. What is required is a fundamental review of the valid, modern needs for Federal involvement in water resources management followed by restructuring of all of the programs to effectively meet those needs.

For example, we should seriously question the justification for irrigation projects—the purpose of which is to bring new lands into production, or to increase the productivity of agricultural lands—when we already have surplus production capacity. Sixty million acres of farm lands were taken out of production this year under the Federal set-aside program at a cost to the Federal Treasury of $4 billion. Can we justify subsidizing programs which increase our production capacity and forces still more acres out of production at still higher costs to the Government?

The Congress, by the act of September 26, 1968 (82 Stat. 868), established the National Water Commission to make just

such a fundamental review. The Commission's report will be available early in the next Congress. I am hopeful that it will provide a basis of findings and recommendations which can support congressional restructuring of the water programs.

I intend to urge the Interior Committee to act promptly on the Commission's report. I hope that the other committees which have jurisdictional interests in the water resource programs will also give serious and prompt attention to the report.

In the interim, I urge my colleagues to give careful consideration to the individual proposals for water resource projects which come before the Senate. These projects should be evaluated on their individual merits. The real Federal investment should be described, and the real benefits of the projects should be examined and laid before the Congress in plain language and with simple arithmetic.

Mr. President, I move that the Senate concur in the amendment of the House to S. 520.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

AUTHORIZATION OF ADDITIONS TO THE SITKA NATIONAL MONUMENT, ALASKA

Mr. BIBLE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1497.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 1497) to authorize certain additions to the Sitka National Monument in the State of Alaska, and for other purposes", which were on page 1, lines 9 and 10, strike out "purchase with donated or appointed funds," and insert "purchase,".

On page 2, line 9, after "donation." insert "Notwithstanding any other provision of law, the Secretary may erect permanent improvements on lands acquired by him from the State of Alaska for the purposes of this Act."

Mr. BIBLE. Mr. President, the House adopted two amendments to S. 1497. One amendment deletes the reference to donated or appropriated funds. The other amendment authorizes the Secretary of the Interior to construct permanent improvements on lands on which he might hold less than a fee interest. Present Alaska State law precludes the conveyance of fee title, and existing rulings of the Department of Justice preclude the construction of permanent improvements on any lands in which the United States has less than a fee interest, unless specifically excepted by act of Congress. However, it is expected that this problem will resolve itself if the commitment to seek legislative action to donate the State lands is approved.

Therefore, Mr. President, I move that the Senate concur in the amendments of the House to S. 1497.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada.

The motion was agreed to.

DESIGNATION OF CERTAIN LANDS IN THE LASSEN VOLCANIC NATIONAL PARK, CALIF., AS WILDERNESS

Mr. BIBLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 10655, to designate certain lands in the Lassen Volcanic National Park, Calif., as wilderness, and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

There being no objection, the Senate proceeded to consider the bill, which, by unanimous consent, was read twice by title.

Mr. BIBLE. Mr. President, on October 2 the Senate passed S. 667, which is identical to this bill.

I ask that the Senate pass H.R. 10655.

The PRESIDING OFFICER. The bill is open to amendment.

If there be no amendment to be offered, the question is on the third reading of the bill.

The bill was ordered to be read a third time, and was passed.

PROGRAM

Mr. SCOTT. Mr. President, I would like to ask the distinguished majority leader what the program for the remainder of the evening and for tomorrow.

Mr. MANSFIELD. Mr. President, it is the intention of the joint leadership to do everything in its power to adjourn a week from Saturday. The Senate has been informed there will be no session this Saturday. It is the hope of the joint leadership that we will stay in session this evening until the pending bill is disposed of one way or the other.

TIME LIMITATION ON ROLLCALL VOTES

Mr. President, I ask unanimous consent that from now on rollcalls be limited to 10 minutes.

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

Mr. MANSFIELD. On behalf of the joint leadership, I ask all Senators who have amendments to offer to consider a possible limitation of time and words to the end that we might be able to accomplish what we think the Senate wants to do today, and that is to finish this legislation tonight.

Mr. SCOTT. Mr. President, I agree and I hope Senators who can bring themselves to do it would be willing in some instances, if possible, to agree to voice votes or votes by division, rather than a record vote on every proposal made. We are coming close to 500 votes, not counting automatic quorum calls this session. We will soon reach a figure of 100 votes more than ever occasioned in this Senate since the beginning of the Republic. If the Founding Fathers could do so well with about 40 votes, I do not know why we have to have 500 and some. I call attention to the fact that we do not have to agree to the yeas and nays on all votes. We could get into a situation where it would extend beyond the limit of human perseverance.

I wish to ask the distinguished majority leader about the housing resolution extension.

Mr. MANSFIELD. The distinguished Senator from Alabama (Mr. SPARKMAN) is in the Chamber. Could he give us information in that regard?

Mr. SPARKMAN. I would say this. I have been negotiating with the Senator from Massachusetts (Mr. KENNEDY) who has proposed to offer an amendment, which I have done my best to try to prevent. We have not terminated the negotiations, but I am hopeful I am going to be able to talk him out of it.

I feel that this bill as we reported it from the committee should be passed and passed quickly.

Our committee was unanimous in supporting the idea of no substantive amendments; those necessary extensions with two items other than extensions, one for $150 million for public housing in order to shore up these housing authorities throughout the country—many of them are nearing bankruptcy—and $250 million for urban renewal, primarily for the purpose of taking care of disaster areas and to replace some funds that already have been used for that purpose.

Those are the only things in the bill we are reasonably certain the House will accept in that bill when it goes over. If other amendments are added to it I see no hope.

Mr. SCOTT. Mr. President, in thanking the distinguished majority leader I would like to note that the reason we are not meeting Saturday is due to the expectation that we would finish this bill yesterday or today. It is our sincere hope that Senators will give us all the aid they can. If they give us aid we will give them future comfort.

Mr. MANSFIELD. Plus the fact we have been putting in very long days. The average this week has been 12 hours a day, in addition to our other duties, and we think the Senate has been working splendidly; that it is entitled to a day of rest, contemplation, and resuscitation. I join the distinguished Republican leader in urging that membership not to always ask for rollcall votes because in many instances the issue can be decided on voice votes.

Mr. SCOTT. We hope that on Saturday Senators will be able to engage in omphaloskepsis, or the contemplation of one's navel. We no longer have a separate Naval Affairs Committee.

FEDERAL ENVIRONMENTAL PESTICIDE CONTROL ACT—CONFERENCE REPORT

Mr. ALLEN. Mr. President, I submit a report of the committee of conference on H.R. 10729, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. PROXMIRE). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R.

10729) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by 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 this day at p.34040).

Mr. ALLEN. Mr. President, I ask unanimous consent that the printing of the report as a Senate report be waived.

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

Mr. ALLEN. Mr. President, I ask unanimous consent that Mr. Harker Stanton, Mr. Forrest Reese of the Agriculture and Forestry Committee, and Leonard Bickwit of the Committee on Commerce be allowed to remain in the Chamber during the consideration of the report.

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

Mr. ALLEN. Mr. President, this conference report was agreed to by all conferees on the part of the Senate and House. There were at least 51 points of difference. The House receded from its disagreement to 32 of these differences. The Senate receded from 7. The remainder were compromised, generally in line with the Senate amendment.

The Senate provision on mandatory licensing of test data was retained with minor modifications. The Senate receded with respect to its disclosure provisions, but the House receded with respect to judicial review of the Administrator's disclosure decisions. The Senate had to yield on its provision banning exports, but the House yielded on the Senate's provision with respect to notification to foreign governments with respect to pesticides banned in the United States. The House indemnity provision was modified to prohibit indemnities to manufacturers who continue to produce a pesticide without timely notification to the Administrator of facts which would require cancellation. The Senate provision for citizen suits against the Administrator is not included in the conference report, but the judicial review provisions are generally in line with the Senate amendment, and persons adversely affected and who have been parties to the proceedings would be entitled to judicial review.

Mr. President, this is a good report, and I hope it will be agreed to.

I ask unanimous consent at this time that there be inserted in the RECORD a digest of the differences between the two Houses and the manner and method by which those differences were settled.

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

SENATE COMMITTEE ON AGRICULTURE AND FORESTRY

(Differences between the Senate amendment to H.R. 10729 and the conference substitute therefor)

1. *Senate amendment.* Deletes "pesticide" from "certified pesticide applicator" in section 2(e) and elsewhere (and similar titles) to avoid confusion with certified public accountants.

Conference substitute. Same.

2. *Senate amendment.* Permits an employee to apply pesticides on his employer's land as a private applicator under section 2(e)(2).

Conference substitute. Same.

3. *Senate amendment.* Gives EPA discretion as to the necessity for the physical presence of a certified applicator.

Conference substitute. Same. (section 2(e)(4))

4. *Senate amendment.* Gives the Administrator discretion as to which provisions of section 2(q)(1) (definition of misbranded) or section 7 (registration of establishments) shall be applicable to any class of device.

Conference substitute. Same. (sections 2(h), 2(q)(1), and 25(c)(4))

5. *Senate amendment.* Changes the registration criteria from "substantial" to "unreasonable" adverse effects on the environment and change the definition slightly, without making any change in substance.

Conference substitute. Same. (sections 2(x) and 2(bb) and elsewhere throughout the bill)

6. *Senate amendment.* Defines "imminent hazard" to include a situation involving hazard to survival of endangered species.

Conference substitute. Same, except that it specifies an "unreasonable" hazard. (section 2(l))

7. *Senate amendment.* Defines "ingredient statement" to require all pesticides to show the name and percentage of each active ingredient and the total percentage of inert ingredients.

Conference substitute. Same. (section 2(n))

8. *Senate amendment.* Requires the establishment registration number to be shown on the label (rather than on accompanying labeling).

Conference substitute. Same. (section 2(q)(1)(D))

9. *Senate amendment.* Classifies a pesticide as misbranded if "when used in accordance with the requirements of the Act or commonly recognized practice" it causes unreasonable adverse effects on the environment.

Conference substitute. Makes such effects cause for denial or cancellation of registration, but would not subject manufacturer to criminal penalties for misbranding in such case. (sections 3(c)(5)(D) and 6(b))

10. *Senate amendment.* Excludes nontoxic, vitamin-hormone products not intended for pest destruction from the definition of "plant regulator".

Conference substitute. Same. (section 2(v))

11. *Senate amendment.* Defines "establishment" as a place where pesticides or devices are produced or held for distribution or sale. This would make it clear that a farmer who mixed two pesticides in his spreaders or sprayer would not be required to register as an establishment.

Conference substitute. Same. (section 2(dd))

12. *Senate amendment.* Specifically requires the Administrator to request all test data not in his possession that he needs to make his decision on registraton.

Conference substitute. Not specifically required.

13. *Senate amendment.* Provides for mandatory licensing of test data.

Conference substitute. Same, with some modifications from Senate provision. (section 3(c)(1)(D))

14. *Senate amendment.* Strikes out the requirement for making data available to the public within thirty days after registration and instead—

(A) prohibits the disclosure of information or data received or sent pertaining to applications for registration until thirty days prior to registration (or at registration if an emergency or the public health requires that registration not be delayed), and requires such data to be made available to the public at that time. If the Administrator determined during such thirty-day period on the basis of substantial new evidence or evaluations of data earlier received that the pesticide did not meet the requirements for registration he would have to give the applicant notice of that fact within such period, thereby initiating denial of registration proceedings.

(B) requires written communications between the Administrator and any person to be made available to the public upon identifiable request and at reasonable cost; but only subject to such conditions as will not unreasonably interfere with administration of the Act, paragraph (A) above, or the prohibition against disclosure described in section 10(c). *Conference substitute.* Does not adopt this amendment.

15. *Senate amendment.* Makes the prohibition against making lack of essentiality more definite by changing it to read "Where two pesticides meet the requirements of this paragraph, one should not be registered in preference to the other."

Conference substitute. Includes both House and Senate provisions on this subject. (section 3(c)(5)(C))

16. *Senate amendment.* Gives the Administrator discretion to give an applicant more than thirty days to make corrections.

Conference substitute. Same. (section 3(c)(6))

17. *Senate amendment.* Permits "other interested persons with the concurrence of the registrant" to contest the denial, cancellation, or suspension of registration, or a change in classification, where the registrant fails to do so.

Conference substitute, Same. (sections 3(c)(6), 3(d)(2), 6(a)(1), 6(b), and 6(b)(4))

18. *Senate amendment.* Authorizes the Administrator to require pesticide packaging and labeling for restricted use to be clearly distinguishable from packaging and labeling for general use.

Conference substitute. Same. (section 3(d)(1)(A))

19. *Senate amendment.* Makes restricted classification depend in part on the hazards involved in the use of a pesticide "in accordance with a commonly recognized practice".

Conference substitute. Same. (section 3(d)(1)(B) and (C))

20. *Senate amendment.* Subjects restricted use regulations to judicial review.

Conference substitute. Same. (section 3(d)(1)(C)(ii))

21. *Senate amendment.* Specifically subjects a change in classification to judicial review.

Conference substitute. Same. (section 3(d)(2))

22. *Senate amendment.* Makes registration prima facie evidence of compliance as long as no cancellation proceedings are in effect.

Conference substitute. Same. (section 3(f)(2))

23. *Senate amendment.* Makes it clear that EPA can withdraw its approval of a state certification plan.

Conference substitute. Same. (section 4(a) and (b))

24. *Senate amendment.* Allows the Administrator to permit states to issue experimental use permits.

Conference substitute. Same. (section 5(f))

25. *Senate amendment.* Allows the Administrator to permit continued sale or use of a pesticide whose registration is cancelled where not inconsistent with the purposes of the Act.

Conference substitute. Same (sections 6(a)(1), 12(a)(1)(A), and 12(a)(2)(K))

26. *Senate amendment.* Restores the existing cancellation criteria, permits the Administrator to initiate cancellation proceedings either by cancellation notice or hearing notice.

Conference substitute. Substantially the same. (section 6(b))

27. *Senate amendment.* Provides for initiation of change in classification proceedings as an alternative to cancellation proceedings when registration is suspended.

Conference substitute. Same. (section 6 (c) (1))

28. *Senate amendment.* Provides for hearings on suspensions except in emergency situations.

Conference substitute. Same. (section 6 (c))

29. *Senate amendment.* Provides for judicial review for suspensions (as generally in other cases) in the district court where there has been no hearing, in the court of appeals where there has been a hearing. (House did not provide for an administrative hearing on suspension and therefore provided for judicial review only in the district court.) Under Senate provision, court stay of a suspension order would be effective until final decision with respect to cancellation or change in classification. Under House provision, a new suspension order could be entered as soon as the court ruled that the original order had been ruled not in accordance with legal procedures.

Conference substitute. Same as Senate. (section 6(c))

30. *Senate amendment.* Provides submission of all scientific questions "at the outset of the hearing" to prevent delays through additional references while the hearing is proceeding.

Conference substitute. Provides for submission "at any time before the hearing record is closed", and conditions such submission on concurrence of a party and the Hearing Examiner. (section 6(d))

31. *Senate amendment.* Specifically prohibits any member of a scientific advisory committee from having a financial or other conflict of interest with respect to any matter considered by the committee.

Conference substitute. Same. (section 6 (d))

32. *Senate amendment.* Provides for entry by EPA of any place where pesticides or devices are held for distribution or sale (as well as manufacturing establishments).

Conference substitute. Same, but limits it to entry for purpose of inspecting and obtaining samples. (section 9(a))

33. *Senate amendment.* Describes an illegal pesticide as one "which is adulterated, misbranded, not registered (in the case of a pesticide), or otherwise in violation of this Act".

Conference substitute. Same. (section 9 (b))

34. *Senate amendment.* Specifically provides for certification of facts to Attorney General with respect to institution of proceedings for civil penalties.

Conference substitute. Same. (section 9 (c))

35. *Senate amendment.* Provides more liberal disclosure policies with respect to trade secrets and other confidential information.

Conference substitute. Adopts House provision. (sections 10(a) and (b))

36. *Senate amendment.* Provides for judicial review of the Administrator's decision to release information which the applicant or registrant believes to be protected from disclosure.

Conference substitute. Same. (section 10 (c))

37. *Senate amendment.* Prohibits exportation of pesticides which would result in unreasonable adverse effects on the environment of the United States.

Conference substitute. Omits this provision.

38. *Senate amendment.* Prohibits tests on human beings without adequately informing them and obtaining their voluntary participation.

Conference substitute. Same. (section 12 (a) (2) (P))

39. *Senate amendment.* Provides civil and criminal penalties for wrongdoers for which penalties were inadvertently omitted from House bill.

Conference substitute. Same. (sections 14 (a) (2) and 14(b) (2))

40. *Senate amendment.* Omits provision for indemnities.

Conference substitute. Contains House provision for indemnities, except that indemnities would be denied a manufacturer who withheld essential information showing that his pesticide should not be registered. (section 15)

41. *Senate amendment.* Provides judicial review for "any person who will be adversely affected" rather than "any party at interest."

Conference substitute. Same, except that it is further limited to persons who had been parties. (section 16(b))

42. *Senate amendment.* Provides for citizen suits against Administrator.

Conference substitute. Omits this provision.

43. *Senate amendment.* Provides for notice to foreign governments whenever a registration or suspension becomes effective or whenever a registration, cancellation, or suspension ceases to be effective.

Conference substitute. Same. (section 17 (b))

44. *Senate amendment.* Provides for quality control screening of imported agricultural commodities for pesticide residues.

Conference substitute. Omits this provision.

45. *Senate amendment.* Permits the Administrator (rather than the President by executive order in emergency conditions) to exempt federal or state agenices.

Conference substitute. Permits the Administrator to exempt only in emergency conditions. (section 18)

46. *Senate amendment.* Requires the Administrator to solicit the views of the Secretary of Agriculture before publishing regulations.

Conference substitute. Same. (section 21)

47. *Senate amendment.* Authorizes the Administrator to utilize the cooperative state extension services in providing information to farmers.

Conference substitute. Same, but "in cooperation with the Secretary of Agriculture." (section 23(c))

48. *Senate amendment.* Makes it clear that a state may provide registration to meet special local needs (subject to disapproval by the Administrator).

Conference substitute. Same. (section 24(c))

49. *Senate amendment.* Extends the appropriation authority for the Act one year to fiscal 1975 and limits to specific amounts.

Conference substitute. Extends to 1975 but without specific amounts. (section 27)

50. *Senate amendment.* Prohibits EPA from charging fees, other than reasonable registration fees.

Conference substitute. Omits this provision, but statement of managers states intent that no fees be charged. (section 27)

51. *Senate amendment.* Makes penalties effective only after the Administrator has taken such action as may be necessary to permit compliance (as well as having issued regulations).

Conference substitute. Same. (section 4(d) of the amending bill)

Mr. ALLEN. Mr. President, I yield to the Senator from Iowa (Mr. MILLER).

Mr. MILLER. Mr. President, I would like to say that the conference report represents the very best that we could arrive at. There were some sharp differences between the House and the Senate conferees over some rather fundamental differences. However, I believe that this is a very supportable bill. It does not go into certain elements that the Senate had desired. On the other hand, it does go into cerain elements that the Senate did desire. The same thing can be said about the House position.

One of the most difficult areas to be negotiated here had to do with test data use in submitting an application for a certificate. I believe the protection afforded the owner of test data represents an adequate protection, and while I understand that some people who own test data do not wish to have it made available under any circumstances at all, this position would constitute a considerable cost to the Government, and a proper reimbursement approach seemed to be in order.

What we have provided in this particular conference report has been a procedure whereby, through the use of the courts, the owner of the test data can, if he is not satisfied with the award made by the EPA, try to obtain additional amounts of money representing the just compensation due him, and in the meantime he will have the added protection of being able to receive the amount of the award made by the EPA.

I think this is about the best protection that could be afforded to the owner of test data.

I want to commend particularly the Senator from Alabama for the outstanding work his subcommittee did on this bill.

Mr. ALLEN. I thank the Senator from Iowa.

I yield now to the Senator from Wisconsin (Mr. NELSON).

Mr. NELSON. Mr. President, the bill that the Senate sent to the conference under the leadership of the distinguished Senator from Alabama (Mr. ALLEN) is a far superior bill to the bill that came out of the conference.

I recognize the problem that the Senate conferees had, and there is no doubt that, if they were going to get a bill, they had to compromise. No doubt they got the best bill they could get.

The House bill, when it originally came to the Senate, contained an indemnification provision to pay manufacturers for losses suffered whenever a pesticide is removed from the marketplace because it is hazardous. Wisely, the Senate Committee on Agriculture and Forestry removed that indemnification provision. In the Senate bill which we passed 71 to 0 on September 26 it did not appear. The representatives of the administration supported the amendment of Senator HART and myself to delete the provision for indemnification in the Senate Agriculture Committee. In fact, in response to questions from the distinguished Senator from Alabama (Mr. ALLEN), Mr. David Dominick, representing the Environmental Protection Agency, said:

1. H.R. 10729 provides for the indemnification of persons suffering as a result of owning a pesticide whose registration is subject to suspension followed by a final order of cancellation. The administration bill had no such provision. We believe that this is a bad

precedent and the provision particularly as worded in the House bill is unwise.

I just want to call the attention of the Senate to the fact that a very serious precedent is being established in this bill. There are literally thousands of products in the marketplace which are dangerous. As they are proven by evidence to be dangerous and are removed from the marketplace, each manufacturer will be asking for indemnification from the public citing the precedent of this pesticides bill.

Take the example of cyclamates. The bill that came over from the House indemnifies the users of cyclamates in the production of soft drinks. If that bill should pass in this body as it did in the House, there are estimates that the manufacturers of soft drinks will be entitled to indemnification for economic losses that may range from somewhere around $100 million to $500 million. In addition, a number of food additives are going to be found to be carcinogenic and they are going to have to be removed from the marketplace under the provisions of the Delaney law. Every single one of the manufacturers of these additives is going to ask the Congress for indemnification.

I do not understand why the public should indemnify a manufacturer who put a dangerous product into the marketplace. When the public discovers it is dangerous why should the public then have to pay for the losses on the product a manufacturer has in stock at the time he is ordered to take it out of the marketplace? That is absolutely preposterous and indefensible.

The same principle also applies to prescription drugs. Every single year prescription drugs are being removed from the marketplace because they are found to be unsafe. Upjohn's Panelba and other fixed combination drugs were selling at a rate of about $5 million a year. Then they were removed from the marketplace at the recommendation of the National Research Council of the National Academy of Sciences.

We are going to have thousands and thousands of drugs removed from the marketplace because they are found to be hazardous. We are going to have each manufacturer say to the taxpayers, "Pay us the losses that have resulted as a consequence of our manufacturing and putting into the marketplace a hazardous drug. We think we are entitled to be indemnified." And in addition to the prescription drugs, all of the over-the-counter drugs are presently being reviewed by the FDA.

So we are establishing a precedent in this legislation that may be tremendously expensive.

As a matter of fact, almost $1 billion worth of pesticides were sold last year. As we closely examine these pesticides and find that some of them are hazardous, the manufacturers are going to come in under this provision, and they are going to ask the public to pay for the losses they have suffered on products they have manufactured without adequately testing them in the first place.

Mr. NELSON. I yield.

Mr. BUCKLEY. Did the FDA ever come up with a finding that cyclamates were safe in the first instance?

Mr. NELSON. There was never any specific investigation of safety. The cyclamates, if my memory is correct, were among those 500 products that were classified on the GRAS list as generally recognized as safe a number of years ago.

Mr. BUCKLEY. I think it would spell out some source of difference if a governmental agency gives instructions to release the substance, and thus encourages or at least does not act to prevent the manufacture. That places the manufacturer operating on the side of no danger; but the Federal agency might be in a different category from these other types of manufacturers of over-the-counter drugs, where there was never any implied approval at a governmental level.

Mr. NELSON. No, I do not think I would agree with the distinguished Senator from New York. Over-the-counter drugs have just been thrown into the marketplace and used over the years without the manufacturer proving that they were safe. The law did not require any proof of safety of over-the-counter drugs. The law did not even require proof of safety as to prescription drugs until 1938. That still does not mean that when the manufacturer puts a dangerous drug into the marketplace we should indemnify him from economic loss. Regardless of what the law is—he manufactured it, he marketed it, and it was his unsafe product. Why should the public have to pay for it?

Mr. BUCKLEY. I agree. It was at his risk. But I was asking specifically whether the cyclamate situation was in a different category, where some agency of the Government may have said at some point, "We have no objection, we find no objection to the marketing of this specific product."

Mr. NELSON. I think that the Senator is correct in that there is a slight distinction. But from my own viewpoint, it is not a distinction that justifies indemnification.

It is true that a group of scientists took a look at the existing literature and saw that some products had been used over a long period of time. On the basis of this literature survey and without any tests, it was concluded that some of these products were generally recognized as safe. Then evidence began to be developed over the years, and some of them have been demonstrated not to be safe.

In the cyclamate case, the Food and Drug Administration has now taken the position, I believe, that they do not object to indemnification in that specific case. What they are also saying, I guess, is that the cyclamate case does not set a precedent as to the rest of the GRAS list.

But I still think the principle must be firmly established that the manufacturer of a product which is inherently dangerous is the one who is responsible for paying his own losses when the Government says, "That is a dangerous product you have put into the marketplace, and therefore you must remove it." Whatever losses occur when a dangerous substance is removed from the marketplace should not be paid for by the taxpayer, any more than General Motors, Ford, Chrysler, or American Motors should be indemnified by the public for putting a car into the marketplace and suddenly discovering at a later date that it is a defective "lemon."

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

The PRESIDING OFFICER. The Senate will be in order.

Mr. NELSON. When the automakers discover that there is a difficulty in one of their automobiles, they do not come here and say to Congress, "We put an unsafe vehicle into the marketplace and it is costing us a lot of money to take it out of the marketplace, will you indemnify us?"

However, that is the precedent that may be set with this provision in this pesticide bill.

Mr. BUCKLEY. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. HART. Mr. President, I have listened with attention, and I think agreement, to the Senator from Wisconsin, that if we had our "druthers" we would have either no indemnity for any manufacturer or a more tightly drawn indemnification section as it relates to the manufacturers.

It is because of the presence of this one aspect in this conference report that I could not quarrel with those who resolved what is really a judgment question as to whether the advances which are clearly contained in the bill are sufficient to justify the regression which is involved in the indemnity clause.

What has emerged, as I see it, is something of a mixed bag, consisting of quite a few pluses as compared to existing law and one rather substantial minus. On balance I believe our action is sound. The pluses will undoubtedly give this country a great many public health benefits. For the first time pesticides will be subject to regulation through the control of the use of the chemical, rather than merely the manufacturer and labeling of the product. Moreover, procedures for banning pesticides will be greatly streamlined, thus facilitating control of harmful effects before these become widespread. Additional protection has been extended to farmworkers to prevent their exposure to involuntary risks from experimental tests involving pesticides, and coverage of the act will now extend to intrastate manufacture, distribution and use of potentially harmful pesticides. While additional pluses were sought, these constitute a very substantial improvement over the situation under existing law.

The minus involves the indemnity provision, which was included in the House bill but stricken by the Senate. After considerable discussion of this provision in conference a compromise was reached which in my view eliminates some, but certainly not all, of the problems associated with indemnities. The provision is limited to losses incurred by reason of suspensions of dangerous pesticides which pose "imminent hazards" to the public. Such suspensions have occurred under existing law only three times since

its inception. Another limitation eliminates payments to those who have produced harmful pesticides without informing the Environmental Protection Agency of dangers of which they are aware.

The provision nonetheless would allow recovery of indemnity payments in many cases where in my view they are not justified. I fear the provision will to some extent curb incentives by the chemical industry to police itself and may result in unhealthy budgetary pressures on the Administrator when he decides whether or not to suspend a registration.

Balancing these pluses and minuses is of course a question of judgment on which reasonable men may differ. It is my judgment at this time that the gains in this bill outweigh the losses and that enactment is in the public interest. I would have to admit to some uncertainty in this evaluation and would hardly quarrel with those who balance the interests differently. That uncertainty results in large part from an inability to predict what would happen in the next and succeeding Congresses with respect to proposed pesticide legislation were we not to act at this time.

Let me close by congratulating the distinguished chairman of the Agriculture Committee (Mr. TALMADGE) and the distinguished chairman of the Subcommittee on Agricultural Research (Mr. ALLEN) who can be proud of shaping the major features of this legislation. While of course I would have hoped that the bill before us today would have more closely resembled the Senate-passed version, I do believe that what has emerged from conference worthwhile.

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

Mr. ROBERT C. BYRD. Mr. President, would the distinguished manager of the conference report indicate whether he expects to be on this conference report much longer, and, if so, could we get a time limitation?

Mr. ALLEN. Mr. President, I will say to the distinguished Senator from West Virginia, the assistant majority leader, that I did not think it would take more than 2 or 3 minutes when we first started. I would have liked to say something in response to what the Senator from Wisconsin said, which was somewhat of an unfavorable nature, but would have replied in even more detail to the remarks of the Senator from Michigan (Mr. HART), which have been more favorable, and I want to pay tribute to him and his spirit of compromise for the open mind with which he went into the deliberations of the conference committee.

I do not care to add anything further, and would not even press for a rollcall vote.

Mr. TUNNEY. Mr. President, I would like to have 90 seconds for a question.

Mr. ROBERT C. BYRD. Could we get a time limitation? As the majority leader has said, it is the intention to complete H.R. 1 tonight, and while conference reports are important, they could go over until tomorrow, but if we let H.R. 1 go over until tomorrow, the Lord only knows how many more amendments will come out of the woodwork.

Mr. ALLEN. I would be willing to agree to a 5-minute limitation.

Several Senators addressed the Chair.

Mr. DOLE. Mr. President, reserving the right to object, we have two sides of the aisle here.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time on the conference report be limited to 5 minutes, to be equally divided between the Senator from Alabama——

Mr. DOLE. I am one of the conferees.

Mr. ROBERT C. BYRD. The Senator from Kansas.

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

Mr. TUNNEY. Mr. President, will the Senator yield for a question?

Mr. ALLEN. I yield.

Mr. TUNNEY. The Senator from Alabama knows that the Senator from California had an amendment in the bill as it passed the Senate which would have provided for greater inspection of foreign commodities coming into the country. I note that as the bill came from conference, my amendment was stripped from the bill.

I feel that my amendment was a very important one, in that American farmers should not have to subscribe to a greater degree of care for the health of American citizens than do foreign farmers who send their commodities into this country.

I am curious to know why the conferees apparently felt that foreign farmers should have to subscribe to a less intense degree of scrutiny of their commodities than American farmers do.

Mr. ALLEN. I thank the distinguished Senator from California for raising this question.

Certainly his amendment was part of the Senate bill. That is one of the few Senate provisions that did bite the dust in the conference committee deliberation. One reason was that the amendment agreed to in the Senate, where we have no germaneness rule, would not have been germane under the House rules, and a point of order could have been made at that point.

The second reason why it was withdrawn, or the Senate receded to the House position, was the import-export situation regarding farm products. The United States exports some $8 billion in agricultural products, not counting the wheat recently sold to Russia and China. We import some $6 billion worth of goods. The provision that the Senator was advocating would have caused retaliation on the part of other countries.

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

Mr. ALLEN. I ask unanimous consent that I may have 2 additional minutes.

The PRESIDING OFFICER. The time of the Senator from Alabama has expired, under the unanimous-consent agreement.

Mr. ALLEN. I ask unanimous consent that I may have 2 additional minutes.

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

Mr. ALLEN. So the fear of retaliation, plus the adamant attitude of the House, both as to the provision and to its germaneness, did result in the dropping of the very excellent amendment offered by the distinguished Senator from California.

Mr. TUNNEY. I thank the Senator from Alabama for characterizing the amendment as excellent.

It was my understanding, in addition—I have just heard this in the last few minutes—that the administration lobbied very heavily against the amendment I offered. I was wondering whether the distinguished Senator has any knowledge of those activities.

Mr. ALLEN. I have no knowledge of any such activity.

Mr. TUNNEY. It seems to me that the sufferers are the American farmers, and it seems to me a great shame that the products of Americans farmers should have to subscribe to a stiffer test than the products of foreign farmers.

Mr. ALLEN. I say to the Senator from California that if he will offer this amendment in the form of a bill, we will see that he gets an early hearing before the subcommittee on which I serve.

Mr. TUNNEY. I thank the Senator.

The PRESIDING OFFICER. The Senator from Kansas has 2½ minutes.

Mr. DOLE. Mr. President, I rise in support of the conference report.

As one of the conferees, and having some interest in the bill, I can say, as the Senator from Michigan said earlier, that there were a number of difficult issues to be resolved.

There was not full satisfaction on the part of the Senate conferees with the indemnity provision. I think many of us felt that it should have been restricted to producers and perhaps retailers and not manufacturers. I believe the question essentially became whether we would have a pesticide bill or break up in disagreement over one issue. In fact, that issue finally was resolved.

So when we look at the entire bill and look at the great work done by the Senator from Alabama and others who held very extensive hearings, in my opinion it is a step forward. If there are some imperfections, they can be resolved in the next session of Congress, as can the amendment referred to by the distinguished Senator from California.

Issues were compromised, as is true in any conference. The issues of citizens' suits, disclosure of data, and payment for data were resolved not to our entire satisfaction; but I believe the question became, in the minds of the conferees, Should there be a bill this year? I felt that in good faith the conferees on the Senate side felt that this bill would be much better than no bill at all, even with some imperfections.

I rise in support of the bill. I think it is a good effort, and I am happy to associate with all those in the Committee on Agriculture and Forestry and the Committee on Commerce in arriving at what I believe is a good beginning.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

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. HARTKE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 467, line 18, insert the following new section and renumber subsequent sections accordingly:

COVERAGE OF PSYCHOLOGISTS' SERVICES

SEC. 274. (a) Section 1861(r) of the Social Security Act is amended (1) by striking out "or (4)" and inserting in lieu thereof "(4)" and (2) by inserting before the period at the end thereof the following: ", or (5) a psychologist holding a doctoral degree, licensed or certified as such by a State, but only for purposes of section 1861(s)(1) and section 1861(s)(2)(A) and only with respect to functions which he is legally authorized to perform as such by the State in which he performs them."

(b) The amendment made by subsection (a) shall apply only with respect to services performed on or after the date of the enactment of this Act.

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

Mr. HARTKE. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—after having consulted with the distinguished Senator and the distinguished ranking minority member of the committee—that there be a 20-minute time limitation on this amendment, to be equally divided between the Senator from Indiana (Mr. HARTKE) and the Senator from Utah (Mr. BENNETT).

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

Mr. HARTKE. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were not ordered.

The PRESIDING OFFICER. Who yields time?

Mr. HARTKE. Mr. President, the amendment I have just offered is cosponsored by the Senator from Michigan (Mr. HART) and the Senator from California (Mr. CRANSTON).

Mr. President, medicare contains several built-in limitations which restrict the patterns of care and availability of services for individuals suffering from mental, psychoneurotic, and personality disorders.

While there are provisions for treatment for such difficulties under part B of medicare, they must either be provided by a doctor of medicine or by a doctor of osteopathy or as an incident to their services.

The result of this limitation has been to restrict psychological services to the point where less than 1 percent of the patients served by psychologists are over 65 years of age.

The pending Hartke amendment which has been cosponsored by Senators CRANSTON and HART puts psychologists on an equal footing with psychiatrists for the purpose of providing mental health services for the elderly under medicare.

Mr. President, health is a right and proper health care should be provided to all regardless of age, area of residence, or income. Those in need of health services should have a right to choose from licensed professionals functioning within the scope of their practice. Any legislative limitation which precludes this privilege of free selection is not in the best interest of the patient, prevents innovative approaches to treatment, and is often poor economics.

If any group were to be singled out for having emotional problems concomitant with conditions often outside their control, the poor and aged fit this category.

Psychologists have the training, credentials, and controls to function as independent practitioners to supply this public need. Psychologists are now licensed or certified to function independently as providers of mental health services in 46 States and the District of Columbia. In fact, this very Congress passed the act to license psychologists for independent practice in Washington, D.C.

All laws that have been passed that regulate the practice of psychologists call for a minimum of a doctorate from a recognized university, internship in an approved setting, and postdoctoral training. We have every evidence to believe that our controls over the profession are sufficient to insure our continued functioning as an independent provider of health benefits.

The effectiveness of the control over our profession and the ethical functioning of psychologists are reflected in the fact that while the cost of malpractice insurance for most medical specialties has continued to rise to astronomical heights as the public has sought redress through the courts—the cost for malpractice insurance for psychologists has continued to decline. At present, a private practicing psychologist can receive professional liability insurance in the amount of $300,000 to $900,000 per year for a cost of $40 per year. In the 15 years that psychologists have had malpractice insurance, there has not been one case that has gone to court.

There is significant evidence that suggests that early intervention in the treatment of mental health disorders reduces overall costs of medical expenses. Studies by Cummings and Follett at Kaiser-Permanente—the group health care plan in California—clearly show that early intervention and utilization of psychotherapeutic services tend to reduce overall medical costs. In this connection, it is probable that many aged people are seeing physicians for a variety of physical ailments which really reflect their need for someone to talk to, someone to listen to them, someone who will give them interest and concern, and many dollars are being spent for purported medical care of diseases that might be treated less expensively and more productively as mental health problems.

Psychology has established itself as an independent health profession through its training, public acceptance of its services, and through statutory regulations. Extensive training leading to the Ph. D. degree and experience at hospitals, clinics, and other service facilities has qualified psychologists to provide direct services to the public. Psychologists practice without medical certification, direction, or supervision according to professional practice statutes in 46 States and the District of Columbia. In the remaining four States, psychologists practice without medical direction or supervision using voluntary controls.

State legislatures have recognized the inequities in private insurance contracts which have denied the claims of policyholders for the diagnosis and treatment of mental, psychoneurotic, and personality disorders when the policyholder was attended by a psychologist. Eleven States have enacted laws which require insurance carriers to reimburse their policyholders for the diagnosis and treatment of nervous and mental disorders whether the services are rendered by a psychologist of a psychiatrist. Those 11 States are California, Colorado, Kentucky, Maryland, Michigan, Montana, New Jersey, New York, Oklahoma, Utah, and Washington. To my knowledge, this has not resulted in any additional premiums to the policyholders or exceptional increases in utilization. These laws have been well received by the public. Several insurance carriers—Prudential, Occidental Life, and Massachusetts Mutual—recognizing this inequity, have voluntarily included psychology as a qualified provider of service as a physician for the purposes of their contract for the treatment of mental disorders. Continuing the practice of requiring that mental health services for the recipients of medicare be provided only by psychiatrists causes an unnecessary hardship on the beneficiaries of medicare and creates an artificial shortage of qualified providers of service for nervous and mental conditions. Failure to include psychological services without medical referral, produces a condition of featherbedding physicians' fees. The cost of certification and recertification by doctors of medicine or osteopathy only can require an extra visit to the doctor and produce another fee chargeable to the medicare program.

Utilization control must occur through peer review mechanisms rather than through the source of referral. The profession of psychology has established its own peer review mechanism which is accepted by the health insurance industry. H.R. 1, itself, provides controls through mechanisms such as the professional standards review organization.

For the reasons cited, I ask that H.R. 1 be amended so that psychologists will be listed as physicians for the providing of diagnostic and treatment services for mental, psychoneurotic, and personality disorders as well as for the diagnosis and treatment of mental retardation, vocational rehabilitative services, and child care services.

Mr. President, I ask unanimous consent that a table depicting some of the characteristics of psychology laws in the United States be printed in the RECORD.

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

SOME CHARACTERISTICS OF PSYCHOLOGY LAWS, AUGUST 1972

[L=Licensing law; N=46 States and District of Columbia, and 6 Provinces.]

State or Province	Year of original approval	Coverage	Type of definition [1]	Educ. requirement [2]	Exper. requirement (years) [2]	Exam. mandatory [2]	Number of board members; terms in years	Waiver period ends	Reciprocity [10]	Ethics [11]	Priv. communication	Sociol. [12]
Alabama (L)	1963	Practice of psychologists	S (P)	Doctoral	0	No	5–5	Oct. 1, 1965	Yes A	Yes	Yes	No.
Alaska (L)	1967	Practice of psychology	S (P)	do	1	Yes	3–3	Jan. 1, 1968	Yes A	No	Yes	Yes.
Alberta	1960	Psychologist	"O"	Master's	0	No	8–1	Apr. 11, 1962	No	No	No	No.
Arizona	1965	do	"O"	Doctoral	0	Yes [3]	5–5	None	No	No	Yes	Yes.
Arkansas (L)	1955	do	S (P)	do	1	Yes	5–5	July 1, 1957	Yes	Yes	Yes	No.
		Psychological examiner		Master's	0	Yes						
California	1957	Psychologist	S (P)	Doctoral	2 [4]	No	8–4	Nov. 1, 1961	Yes A	No	Yes [13]	Yes.
Colorado (L)	1961	Psychology	S	do	2 P	Yes	5–3	July 1, 1963	Yes A	Yes	Yes	Yes.
Connecticut	1945	Psychologist	S	do	1 P	Yes	5–5	June 24, 1969	Yes A	No	Yes	No.
Delaware	1962	do	S (P)	do	1 [5]	Yes	5–5	June 11, 1964	Yes A	Yes	Yes	No.
District of Columbia (L)	1971	Practice of psychology	S (P)	do	2 [4]	Yes	7	Apr. 8, 1972	Yes A	No	Yes	No.
Florida (L)	1961	do	S	do	2 [4]	Yes	5–4	June 22, 1961	Yes A	No	Yes	Yes.
Georgia (L)	1951	Practice of applied psych	S	do	1	No	5–5	May 1, 1953	Yes	No	Yes	No.
Hawaii (L)	1967	Practice of psychology	S (P)	do	0	Yes	7–3	June 8, 1968	Yes A	No	No	Yes.
Idaho (L)	1963	do	S (P)	do	2 P	No	3–3	July 1, 1964	Yes	Yes	Yes	Yes.
Illinois	1963	Psychologist	S	do	2	Yes	5–5	Aug. 15, 1971	Yes	Yes	Yes	Yes.
Indiana	1969	Psych't in private practice	S	do	3 P	Yes	5–3	July 1, 1972	Yes A	No	Yes	Yes.
		Psychologist, basic			0	Yes		Dec. 31, 1969				
Kansas	1967	Psychologist	S	do	2	Yes [3]	7–3	July 1, 1969, (July 1, 1970 for veterans).	Yes	Yes	Yes	Yes.
Kentucky (L)	1948	Practice of psychology	S	do	1	Yes	5–4	July 1, 1965	Yes	Yes	Yes	Yes.
Louisiana	1964	Psychologist	S (P)	do	2 P	Yes	5–3	July 1, 1966	Yes A [14]	No	Yes	No.
Maine (L)	1953	do	S (P)	do	2	Yes	5–5	Oct. 1, 1968	Yes	Yes	Yes	No.
		Psychological examiner		Master's	1	Yes						
Manitoba	1966	Psychologist	None	Doctoral	0	Yes	7–2	Dec. 31, 1972	Yes	No	No	No.
Maryland	1957	do	S	do	2 [4]	Yes	5–3	Dec. 31, 1959	Yes	Yes	Yes [13]	No.
Massachusetts (L)	1971	Practice of psychology	S (P)	do	2 [4]	Yes	5–5	Jan. 1, 1974	Yes A	Yes	No	No.
Michigan	1959	Consulting psychologist	S	do	3	Yes	7–7	Aug. 1, 1961	Yes A	No	Yes	Yes.
		Psychologist		do	1	No						
		Psych. examiner or tech		Master's	1	No						
Minnesota	1951	Certified consulting psych't	None	Doctoral	3 P	Yes	7–7	July 5, 1964	Yes	No	No	No.
		Certified psychologist		Doct. or MA	1	Yes		Apr. 23, 1953				
Mississippi	1966	Psychologist	S	Doctoral	1	No	5–3	July 1, 1967	Yes A	Yes	Yes	Yes.
Montana (L)	1971	Practice of psychology	S (P)	do	2 P	Yes	3–3	Jan. 1, 1973	Yes A	Yes	Yes	Yes.
Nebraska (L)	1967	do	S (P)	do	0	Yes	5–5	Jan. 1, 1971	Yes	No	Yes	Yes.
Nevada	1963	Psychologist	S (P)	do	1 P	Yes	5–4	July 1, 1964	Yes	No	Yes	Yes.
New Brunswick	1967	do	"O"	do	1	Yes	5–1	June 1, 1971	Yes A	No	No	No.
New Hampshire	1957	do	"O"	do	2	Yes	3–3	July 1, 1959	Yes A	No	Yes	No.
New Jersey (L)	1966	Practice of psychology	S (P)	do	2 [4]	Yes	7–3	Jan. 1, 1968	Yes A	No	Yes	No.
New Mexico	1963	Psychologist	S	do	2 P	Yes	5–3	Dec. 31, 1964	Yes A	No	Yes	Yes.
New York	1956	do	S (P) [6]	do	2	Yes	7–3	July 1, 1959 (July 1, 1960, for veterans).	Yes A [14]	No	Yes [13]	No.
North Carolina (L)	1967	do	S (P)	do	2 P	Yes	5–3	July 1, 1969	Yes A	Yes	Yes	Yes.
		Psychological examiner		Master's	0	Yes						
North Dakota	1967	Psychologist	S	Doctoral	0	Yes	5–3	July 1, 1968	Yes A	Yes	No	No.
Ohio (L)	1972	Practice of psychology [17]	S (P)	do	2 [4]	Yes	[18] 7–5	Nov. 21, 1972	Yes A	No	Yes	Yes.
Oklahoma (L)	1965	do	S	do	2	Yes	5–3	June 28, 1966	Yes	Yes	Yes	Yes.
Ontario	1960	Psychologist	"O"	do	1	Yes	5–5	June 11, 1966	Yes A	No	No	No.
Oregon	1963	do	S (P)	do	2 P	Yes	5–3	June 30, 1965	Yes A	Yes	Yes	Yes.
Pennsylvania (L)	1972	Practice of psychology	S	do	2 P	Yes	7–3	May 23, 1974	Yes A	Yes	Yes	No.
				Master's	4 P							
Quebec	1962	Psychologist	S	Doct. or MA	0	No	8–1	None	Yes A	No	No	No.
Rhode Island	1969	do	S	Doctoral	2 [4]	Yes	3–3	Dec. 31, 1970	Yes A [14]	No	No	No.
Saskatchewan	1962	Registered psychologist	"O"	do	0	No	5–2	Dec. 31, 1966	Yes	No	No	No.
South Carolina (L)	1968	Practice of psychology	S (P)	do	0	No	7–5	Mar. 21, 1969	Yes A	Yes	No	Yes.
Tennessee (L)	1953	Psychologist	S (P)	do	1 [7]	Yes	5–5	July 1, 1955	Yes A	Yes	Yes	No.
		Psychological examiner		Master's	0	Yes						
Texas (L)	1969	Psychologist	"O"	Doctoral	2 [4]	Yes	6–3	Dec. 31, 1970	Yes A	No	No	Yes.
Utah	1959	do	S	do	2	Yes	5–5	Dec. 31, 1962	Yes	Yes	Yes	Yes.
Virginia (L)	1946	Practice of psychology	S (P)	do	2 P [8]	Yes	5–5	July 1, 1967	Yes A [15]	Yes	Yes [16]	Yes.
Washington	1955	Psychologist	S (P)	do	1 P	Yes	5–3	June 10, 1966	Yes A	No	Yes	Yes.
West Virginia (L)	1970	Practice of psychology	S (P)	do	2 P	Yes	5–3	Nov. 7, 1970	Yes A	No	No	Yes.
				Master's	8 P	Yes						
Wisconsin (L)	1969	do	S (P)	Doctoral	1	No	3–3	July 1, 1970	Yes A	Yes	No	Yes.
Wyoming	1965	Psychologist	S	do	0	Yes	5–3	Dec. 31, 1965	Yes A	No	Yes	No.

[1] "S" means a specific definition; (P) means that psychotherapy is included (N=25); "O" means a circular definition—a person is a psychologist when he calls himself one and does psychological work.

[2] These 3 columns all refer to post-grandfather provisions; nor do they reflect the requirements under reciprocal endorsement provisions. "P" means post-doctoral (or post-master's in the case of West Virginia). In connection with the examination, "No" is shown if the examining board has any authority in the law to waive it.

[3] The examination under the Arizona law is unassembled, consisting of an evaluation of credentials submitted by the applicant. In Kansas, the examination may be either assembled or unassembled.

[4] 1 of the 2 years must be post-doctoral.

[5] 2 years of experience are required if the field is clinical psychology.

[6] The definition in New York's law is circular; there is a specific definition, including psychotherapy, in the regulations (of the commissioner of education).

[7] The 1 year of experience is required if the field is clinical psychology; no experience requirement otherwise.

[8] Clinical psychologists must have completed an internship or practicum of at least 1 year.

[9] Omitted again this year are the 1-time columns headed "Medical Disclaimer," "Fees," and "Residence Required." With the exception of Alberta, Indiana, Saskatchewan, and Wisconsin, all the laws contain a medical disclaimer provision. With respect to fees, it has not been possible to maintain current and accurate data. Residence is such an individual matter that the previous column was misleading.

[10] "Reciprocity" means endorsement of another State or province certification or licensure, if standards are no lower, to waive the examination. "A" means the examination may be waived for Diplomates of the American Board of Professional Psychology (N=37). In neither instance, however, is the decision to waive the examination a mandatory one; the examining board has the option.

[11] A "Yes" here means a reference to the APA Code of Ethics in the law (N=23), either specifically or by implication (e.g., "code of ethics of a national psychological association"). All laws of course, make some reference to unethical or unprofessional conduct as a reason for refusal or revocation, and regulations often cite the APA Code. It is not possible in many States to make a reference in law to nongovernmental bodies, such as the APA.

[12] Provision for exemption of the sociologically-trained social psychologist, in accordance with national agreement between APA and the American Sociological Association in 1959. (N=28)

[13] Privilege granted to psychologists' clients in legislation other than the psychology law.

[14] If ABPP diploma was granted by examination; "grandfather" diplomates must take the State examinations.

[15] Waiver of examination for clinical psychologists possible only for holder of ABPP Diploma in clinical psychology.

[16] Clients of licensed clinical psychologists have the privilege.

[17] Includes a separate license for private practice of school psychology for persons with a master's degree in school psychology.

[18] 1 board member is a lay member.

SOME CHARACTERISTICS OF NONSTATUTORY PSYCHOLOGY PROVISIONS

State or province	Year adopted	Coverage	Education requirement [2]	Experience requirement (years) [2]	Examination mandatory [2]	Reciprocity
British Columbia	1964	Certified psych't	Doctoral	2	Yes	Yes A.
Iowa	1963	do	do	2	No	Yes A.
Missouri	1958	Psychologist	do	1	No	Yes.
South Dakota	1961	Psych't. specialist [4]	do	2	No	Yes.
		Psychologist	Master's	5	No	Yes.
Vermont	1966	Certified psych't	Doctoral	1	Yes	Yes.
			Master's	3	Yes	Yes.

[1] Nonstatutory certification programs are administered by the State or provincial psychological association.
[2] These 3 columns all are in terms of post-grandfather provisions, and they do not reflect requirements under reciprocal endorsement provisions. "P" means post-doctoral.
[3] "Reciprocity" means endorsement of another State's certificate or license, if standards are not lower, to waive the examination. "A" means that the examination may be waived for holders of the Diploma from the American Board of Professional Psychology.
[4] Specialties are clinical, counseling, or industrial psychology.

Mr. HARTKE. Mr. President, I further ask unanimous consent that a statement by Dr. Jack G. Wiggins, a member of the Board of Governors of the Council for the Advancement of Psychological Professions and Sciences, before the Senate Finance Committee in February of this year, be printed in the RECORD.

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

TESTIMONY OF DR. JACK G. WIGGINS

Mr. Chairman and Members of the Committee:

My name is Dr. Jack G. Wiggins. I am a psychologist from Cleveland, Ohio and am a member of the Board of Governors of the Council for the Advancement of Psychological Professions and Sciences (CAPPS), and serve on its Executive Committee. One of the objectives of the Council is to insure that there are an adequate number of psychologists available to serve the health and mental health needs of the public and to insure that the public has ready access to psychological services.

In addition, I am Chairman of the Committee on Health Insurance of the American Psychological Association though I am not at present speaking for the APA, which organization will submit statement to the committee consonant with our testimony today. The American Psychological Association has 32,000 members and represents both the science and the profession of psychology. About 15,000 of our members are supplying mental health services directly to the public. The remainder of the membership have teaching positions in universities and medical schools, are conducting research, or serve in an administrative capacity. The APA Committee on Health Insurance strives to assure that high quality mental treatment services are available to the public through their insurance contracts. One of the major objectives of this committee is to remove from health insurance contracts those provisions which interfere with mental health treatment or availability of services. We share this objective in common with the Council (CAPPS).

Medicare contains some built in limitations which restrict the patterns of care and availability of services for individuals suffering from mental, psychoneurotic or personality disorders. While there are provisions for the diagnosis and treatment of mental, psychoneurotic and personality disorders under Part B, they must either be provided by a doctor of medicine or a doctor of osteopathy or incident to his services. The result of these provisions has been to restrict the delivery of mental health services to the point that less then 1% of the patients served by psychologists are 65 years of age or over. In effect, this has excluded the diagnostic and treatment service of psychology to recipients of medicare benefits. The intent of HR 1, according to the House Ways and Means Committee, is to make fullest use of public health personnel. I quote Page 107, Union Calendar No. 86:

"Your committee believes that failure to make the fullest use of competent health personnel is of particular concern because of the shortage of such personnel."

HR 1 does not provide remedy of this shortcoming of the original Medicare Act. Therefore, we are requesting HR 1 amend its definition of the term "physician" to include services of a psychologist for the diagnosis and treatment of mental, psychoneurotic and personality disorders as well as for the providing of diagnostic and treatment services for the mentally retarded, vocational rehabilitative services and child care counseling.

Psychology has established itself as an independent health profession through its training, public acceptance of its services provided and through statutory regulations. Our training leading to the Ph.D. degree and experience at hospitals, clinics and other service facilities has qualified psychologists to provide direct services to the public. Psychologists practice without medical certification, direction or supervision according to professional practice statutes in 44 states and the District of Columbia. In the remaining 6 states, psychologists practice without medical direction or supervision using voluntary controls. The problem in the existing legislation was pointed out eloquently by Senator Harris of Oklahoma in his comments on the Senate floor on November 23, 1967, when the Senate voted to amend the Social Security Act Amendments of 1965 regarding Medicare:

"The present defects in existing legislation arise from the fact that two independent but equally well-qualified professions, psychiatry and clinical psychology, offer similar and frequently identical services to the public. However, present regulations require that the services of clinical psychologists be reimbursed only if included in a physician's bill or as part of the charges of a clinic directed by a physician. This restriction denies the patient direct access to the many qualified clinical psychologists who are independent practitioners and unaffiliated with clinics or private physicians."

State legislatures have recognized the inequities in private insurance contracts which have denied the claims of policyholders for the policyholder was attended by a psychoneurotic and personality disorders when the diagnosis and treatment of mental, psychologist. Ten states have now enacted laws which require insurance carriers to reimburse their policyholders for the diagnosis and treatment of nervous and mental disorders whether the services are rendered by a psychologist or a psychiatrist. To our knowledge, this has not resulted in any additional premiums to the policyholders or exceptional increases in utilization. These laws have been well received by the public. Several insurance carriers, recognizing this inequity, have voluntarily included psychology as a qualified provider of service as a physician for the purposes of their contract for the treatment of nervous and mental disorders. Please include such companies as Prudential, Occidental, Liberty Mutual, and Massachusetts Mutual. The Aetna Life & Casualty Insurance Company has included psychologists as qualified physicians under the mental health benefits for its federal employees contract. Another form of similar recognition of psychological services was initiated by the Civilian Health and Medical Program for Uniformed Servicemen (CHAMPUS) in July, 1970. Mr. Vernon McKenzie, Special Assistant to the Asst. Secretary for Health and the Environment of DOD, stated before the Senate Post Office and Civil Service Committee on November 23, 1971 that the inclusion of psychological services without medical referral has been well received by the dependents of military servicemen.

At the inception of Medicare, there was considerable concern about overutilization of services and it was felt that one of the cost control factors would be that all services would be at the direction or incident to a physician's services. The experience of private insurance carriers in regard to inclusion of psychological services for the treatment of nervous and mental disorders has indicated that this provision has not materially affected their cost experience. Therefore, we believe that continuing the practice of requiring mental health services for the recipients of Medicare be provided only by psychiatrists causes an unnecessary hardship on the beneficiaries of Medicare and creates unnecessary artificial shortage of qualified providers of service for nervous and mental conditions. In fact, failure to include psychological service without medical referral, in effect, produces a condition of "featherbedding" physician's fees. The cost of certification and recertification by doctors of medicine or osteopathy only can require an extra visit to the doctor and produce another fee chargeable to the Medicare program.

However, the reality is that because of the cumbersome reimbursement procedure, psychological services are little used and the treatment of the mentally ill becomes a private preserve of organized medicine. In addition to these potential costs it must be noted that by reducing the number of providers of services arbitrarily, you create an inflationary imbalance between supply and demand for services. The present restriction upon the availability of psychological services is such an inflationary procedure because it reduces the access of the public to qualified providers of service. This is totally unacceptable to the profession of psychology. We concur with the American Psychiatric Association that this results in unnecessary delays in treatment which in the long run may be more costly and damaging to the patient. The American Psychiatric Association in their testimony submitted to the House Ways & Means Committee on National Health Insurance in November, 1971 stated as follows:

"With reference to the psychiatric services that should be covered, the APA Board of Trustees stressed its opposition to any provision whereby psychiatric care would be covered under insurance only when such care is received upon referral by the family physician or general practitioner. We based this opposition on the grounds that such a provision is not compatible with early detection of psychiatric illness and easy access to psychiatric care. Experience indicates the necessity for direct accessibility of the patient to such care and for multiple mechanisms of referral. Self-referral, frequently upon the suggestion of the foreman, teacher, or clergy, or referral by a community agency frequently leads to early diagnosis and treatment, and may prevent or reduce the disability that might otherwise occur."

Furthermore, several studies including those of Drs. Cummings and Follette and the Group Health Association of Washington, D.C. have demonstrated that medical utilization tends to decrease if adequate counseling services are included in health insurance plans. If I may, Mr. Chairman, without unduly burdening the record of these hearings, I would like to introduce, at this point in my remarks, these studies for the record.

To summarize these studies, they demonstrate that short-term intervention and psychotherapeutic counseling not only reduce diagnostic, X-ray, and laboratory studies but also reduce the incident of hospitalization. Thus, the cost of additional counseling services would be more than offset by the reduction of costs of hospitalization and unnecessary laboratory and X-ray studies. This has been clearly demonstrated in Health Maintenance Organization. The cost savings in the Health Maintenance Organizations concept tend to be the result of reductions in hospitalization utilization. We wish to point out that psychological services tend to be outpatient based rather then hospital based services. Thus, the diagnostic and counseling services of psychology could serve as a deterrent to overutilization of medical services which are already in short supply and hospital beds of which there is a chronic shortage. Our crises intervention studies show that the prompt effective counseling with people tends to reduce the number of people entering mental hospitals, as well.

We believe that utilization control must occur through peer review mechanisms rather than through the source of referral. The profession of psychology has established its own peer review mechanism which is accepted by the health insurance industry.

For the reasons ctied, we ask that HR–1 be amended so that psychologists will be listed as physicians for the purpose of providing diagnostic and treatment services for mental, psychoneurotic and personality disorders as well as for the diagnosis and treatment of mental retardation, vocational rehabilitative services, and child care services.

Thank you very much.

Mr. HARTKE. Mr. President, the Hartke amendment accomplishes the following purposes:

First, it assures the aged of quality care. The Hartke amendment improves access by the aged to care by doctoral-level psychologists. The interests of social security beneficiaries are well protected by specific criteria in the amendment which define a psychologist, thus helping to assure high-quality care. As many as six out of 10 medical complaints are instead based on emotional/mental problems which can benefit from prompt psychological attention thus lessening the burden on busy medical personnel and facilities while raising the level of well-being among the aged. Many special problems of the aged are especially amenable to psychological management. For example, problems with self-reliance, communications handicaps, depression, and loneliness. This is also true with those problems of the aged which may be related to disease and injury. For example, heart attack or loss of a limb.

Second, the Hartke amendment recognizes psychology as an independent profession. Clinical psychology has been recognized as an independent profession in public and private programs such as the Aetna Government-wide indemnity plan for Federal employees, the champus program for the military and their dependents, and private programs underwritten by major insurance carriers.

The Senate Committee on Post Office and Civil Service has recommended "the inclusion of mental health care by qualified psychologists within the Federal employees health benefits program" administered by Blue Cross and Blue Shield.

Mr. President, I ask unanimous consent that a section of the committee's report which includes that recommendation be printed in the RECORD.

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

HEALTH INSURANCE COVERAGE

The committee recommends the enactment of a new section in the provisions of title 5 relating to health insurance to authorize the Civil Service Commission to make binding decisions regarding the coverage of health insurance contracts.

Under existing law, the Commission cannot require an insurance carrier to pay a particular claim if the carrier interprets the contract not to cover such a service or supply. Generally, the numerous health insurance contractors pay claims if the Commission requests payment in individual cases; but Blue Cross-Blue Shield does not abide by that gentlemen's agreement.

Section 3 requires that, beginning in 1973, any contract entered into by the Commission with a health insurance carrier must include a provision giving the Commission the final authority to determine what is included within the contract in individual cases.

Recently, numerous Federal employees have registered complaints with the Commission and this committee regarding the practices of Blue Cross-Blue Shield in narrowly interpreting the coverage of its contract and denying payment for reasons which, to the employees, seem without merit. One particular area has been the question of whether mental health services provided by clinical psychologists are covered and the degree of supervision required by a practicing doctor of medicine over a clinical psychologist. Public hearings were held on November 23, 1971, before the Subcommittee on Compensation and Employment Benefits. Testimony presented during that hearing indicated that Blue Cross-Blue Shield is the only insurance carrier of significance which does not cover such mental health services without the certification by a doctor of medicine who supervises the treatment. Although the committee pretends no expertise in the practice of medicine, the evidence disclosed at our hearing seems to indicate that there is little if any benefit derived from the practice of supervision of such service other than the earning of money by doctors of medicine and the avoidance of payment by Blue Cross-Blue Shield.

The committee recommends that in its next contract negotiation with Blue Cross-Blue Shield and other carriers, the Civil Service Commission give particular attention to these two problems—correct contract interpretation by the insurance carriers, and inclusion of mental health care by qualified clinical psychologists within the Federal employees health benefits program.

The committee has also noted a significant number of complaints by Federal employees who have been denied payment or who have received a payment which they consider inadequate. In some cases, these complaints have reached the committee and the Commission. The committee has noticed that on such occasions a careful review of the complaint has almost always led to an adjustment of the claim in favor of the employee. This evidence, while incomplete, tends to support the contention that some insurance carriers are not as careful with other people's money as they should be. The committee recommends that the Commission investigate this problem also.

Mr. HARTKE. Mr. President, these facts indicate recognition that both the psychological-behavioral approach and the psychiatric-medical approach constitute valid separate disciplines with neither requiring "supervision" over the other. The HEW report issued pursuant to Public Law 90–248 entitled "Independent Practitioners Under Medicare" also provides a clear basis for recognizing psychology as an independent profession.

Finally, Mr. President, I would point out that in 1967 the Senate passed an amendment similar to the Hartke amendment defining psychologists as physicians. Regrettably, that amendment was subsequently removed in conference.

HEW has estimated the cost of the Hartke amendment at $300 million per year. That cost does not take into account the fact that the present law requires unnecessary medical supervision and referral. The Hartke amendment would eliminate those unnecessary costs thus lowering the net cost of expanding the services of psychologists for the aged.

Mr. President, I urge my colleagues to give the pending amendment their support.

Mr. BENNETT. Mr. President, there are several substantial and compelling reasons why the proposed amendment should be rejected.

I am glad that my friend from Indiana made it clear that these are not doctors of medicine.

Psychiatrists are physicians so they are prepared, by their training, to treat patients in other ways other than listening to their stories.

Many have expressed concern over the present fragmentation of health care in this country. In general, clinical psychologists today function in organized settings rather than as independent practitioners.

The information I have is that only 7 percent of all psychologists are practicing independently. Under the amendment, there would be the strongest possible economic incentives for clinical psychologists to go into independent fee for service practice. As a matter of fact, with the economic incentives of fee-for-service, it can be readily anticipated that many nonclinical psychologists such as those engaged in research and education and family counseling would succumb to the irresistible siren song of medicare dollars.

If only 1 in 20 older Americans received the services authorized under the amendment, the annual cost to medicare would be $250 million, and if half of them took advantage of that service, the cost would be $2.5 billion.

In a report to the Congress entitled, "Independent Practitioners Under Medicare," it was pointed out by the Department of Health, Education, and Welfare that "many patients over 65 have a combination of physical and psychological problems in which it is especially difficult to separate the treatment of physical

and mental disease." Despite this strong and obvious relationship of physical and mental disease, the proposed amendment would delete the requirement in present law that the services of clinical psychologists must be provided under a plan of care and treatment developed by a physician. It is difficult to understand how the clinical psychologist can undertake care of the patient without knowledge of and availability of the patient's medical history.

Many older people suffer from mental anxiety and depression—problems which are often alleviated through treatment with prescribed drugs. However, clinical psychologists are not licensed to prescribe. Obviously, patients who might be handled more expeditiously under the care of a physician or where the psychologist cooperates with the physician through use of drugs would, in the absence of that coordination, be called back for avoidable and costly unnecessary follow-up visits to the clinical psychologist.

Finally, a most telling argument against the amendment is contained in an editorial in the Journal of Clinical Psychology, written by its editor, Frederick C. Thorne, entitled "The Great Clinical Hangup." I read a few salient quotations from that detailed, self-searching editorial:

> There is a high rate of mobility among clinical psychologists, who tend to shift from one job to another when their professional deficiencies inevitably come to light. . . . The actual dirty work of dealing with patients is being delegated increasingly to psychological technicians and students who are not sufficiently experienced to recognize their inadequacies.

I continue to read from the editorial:

> B. During the first 50 years of clinical psychology (1920–1970) there have been almost as many different theories and schools as there were clinicians. Repeated surveys of the theoretical affiliations of APA division (Am. Psychological Assn. of Clinical Psychologist) 12 members continue to show almost all permutations and combinations of systematic "positions" ranging from behaviorism to Zen Buddhism. The need of individual clinicians to "do their thing" has resulted in inconsistent practices whose invalidity must be obvious.

Mr. President, into that morass and into that thicket of confusion we are asked to plunge the medicare program at the expense of the taxpayers.

Mr. President, I ask unanimous consent that the editorial entitled "The Great Clinical Hangup" appear at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BENNETT. It is quite obvious that there is a great deal of confusion as to the appropriateness and qualifications of clinical psychologists to serve as independent practitioners under medicare. There is no question but that to cover them as independent practitioners at the present time would be an extremely costly experience of uncertain value to older people.

If the service of a clinical psychologist is needed, it can be obtained upon the recommendation of a physician who properly would know the physical condition of the patient before he refers him or her to a clinical psychologist, particularly in the case of an older patient.

For all these reasons, the committee urges that the amendment be rejected.

Mr. President, the Senator from Indiana has commented on the floor about the fact that malpractice insurance for clinical psychologists is much lower than that for practicing physicians.

I do not know how one can obtain a malpractice case by proving that the clinical psychologist injured the person mentally. It is very simple to prove the presence of mental disorder, much easier, on an individual. However, I do not know how one can prove any damage that the clinical psychologist might do. I can realize therefore, that there is practically no chance that there will be malpractice suits brought.

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

Mr. BENNETT. I yield to the Senator from New Mexico.

Mr. ANDERSON. Was this amendment considered in the committee?

Mr. BENNETT. The committee considered this very carefully and rejected it by a rollcall vote.

As I say, the committee recommends that this amendment be rejected by the Senate as it was rejected in the committee.

EXHIBIT 1

THE GREAT CLINICAL HANGUP

(By Frederick C. Thorne, Editor, Journal of Clinical Psychology) (1971)

OUR SAD PREDICAMENT

At a time when societal demands for clinical psychological services are rising geometrically, the field of clinical psychology finds itself oversold and unable to deliver what it traditionally has been expected to provide. Suddenly, as the result of facts uncovered by a host of clinical judgment studies that question the validity and competence of what the average clinical psychologist is doing, clinicians find their very integrity at issue. From within our own ranks, the challenge was thrown in the form of studies of clinical *vs.* statistical predictions whose results seemed to indicate that since the computer always did better than the clinician, the clinician should be thrown in the ash-can.

The cat first got out of the bag with the classical study of Kelly and Fiske (1951) demonstrating that the greatest clinicians and methods hardly could do better than chance in predicting training outcomes. Meehl (1954) and later Sawyer (1966) seemed to be making the clinching argument when they tabulated research investigations comparing the use of clinical vs. actuarial methods of data processing and reported that almost without exception actuarial methods were superior to clinical judgment. Holt (1958, 1970) severely criticized the Meehl-Sawyer conclusions on the grounds that defects of research design and the actual incomparability of many studies in question rendered the Meehl-Sawyer conclusions premature and invalid, since definitive studies on the issue have yet to be done. Unfortunately, Holt's rebuttals seem to get lost in the shuffle, and more hopeful evaluations of the situation such as Korman's (1968) findings concerning the superiority of clinical judgment in the prediction of managerial performance tend to be overlooked. Nevertheless, we cannot evade the fact that much remains to be desired in the area of clinical judgment.

The profession of clinical psychology that started out so hopefully suddenly finds its whole theoretical background, personnel and methodology under severe attack from many sources, both external and internal, as to validity and justification. Several studies indicate that other professionals do not make much use of psychological reports which are filed away, never again to see the light of day. There is a high rate of mobility among clinical psychologists, who tend to shift from one job to another when their professional deficiencies inevitably come to light. There is evidence that many clinicians tend to escape from actual clinical work to higher administrative and teaching jobs where competence is not so readily called into question. The actual dirty work of dealing with patients is being delegated increasingly to psychological technicians and students who are not sufficiently experienced to recognize their inadequacies. Worst of all, psychological practices have become the subject of Congressional investigations and patterns of local rejection as clinical actualities do not live up to pretensions.

Our great hangup stems from the fact that the profession of clinical psychology is stuck with itself at its present embryonic state of evolution. The public has been sold on the idea that all it has to do is to raise the money to secure psychiatrists and psychologists and a long list of social problems will be solved. This expectation simply has not been fulfilled. Psychological science has not achieved a state of development that enables it to provide knowledge and techniques that are as valid and relevant as has been taken for granted. The whole problem is more complex than originally conceived. In the meantime, individual clinicians are struggling to keep their heads above water, are stuck with the deficiencies of their training, and are hung up on something that doesn't really work but which they can't yet afford to abandon because nothing better seems to exist.

PROFESSIONAL INSECURITY AND GUILT

An entirely human reaction to being professionally defrocked and shown to be wanting in competence and clinical judgment has resulted in a wave of soul-searching and hair-tearing on the part of clinicians trying to justify their existence. Doleful predictions are being made that clinical psychology is dead. It is alleged that as many as 40% of APA Division 12 members regret they became clinicians and would not repeat the choice. Many seem to want to abandon the ship completely.

An even more potentially destructive outcome lies in the increasing alienation of pure and applied scientists extending at all levels from the internecine struggles of experimentalists vs. clinicians in the APA to the grass roots of clinical practice. The profession is literally split down the middle by the rift between the "nothing-buts" and the "something mores," with the former group in danger of winning out via their tight control of academic and organizational resources. Clinicians are in real danger of becoming scientific "untouchables," whose activities are regarded as being beyond the pale of pure science and therefore should be legislated out of the profession.

Fortunately, the situation is not as grave as might first appear. Anyone familiar with the development of clinical science must know that its evolution proceeds slowly with entirely predictable pauses and seeming regressions. As was the case with clinical medicine during its great transformation from proprietary schools in 1880 to modern objective medical center practices in 1915, clinical psychology is experiencing growing pains incident to discovering which of its classical theories and methods are valid and which not, and no one should be dismayed to find that most prescientific methods are both illogical and invalid. These are inevitable steps of evolutionary development that had to

be worked through, no matter how painful the results to the egos of practitioners of the "art." Let us waste no more time hung up in soul-searching and rationalizations.

Even more critical is the issue of exactly what psychological science can contribute to human welfare. Miller (1969) assumes the position that psychology has revolutionary potential in two paradigms involving the conflicting objectives of (a) control through behavior modification, and (b) making greater self-development possible by disseminating psychological knowledge where needed. Miller correctly warns against the dangers of a scientific elite authoritatively manipulating populations through control of behavior reinforcements. Behaviorism and behavior therapy both imply authoritatarian control of those incapable of deciding for themselves.

Much more hopeful is the goal of making psychology available to those who need it. The crucial question, however, concerns whether contemporary psychological knowledge has much validity and/or relevancy in its applications. In the traditional "team" approach, psychologists operated in a truncated role, being expected to choose and interpret appropriate tests. In broader roles involving wider aspects of case handling, clinical psychologists are being confronted with much expanded decisions concerning the client's everyday living. Here again, the critical question relates to how much psychology actually has to offer in solving real life problems.

If we consider the two basic problems as involving how to help the client to cope with and modify *inadaptibility* and *disability*, the question becomes one of how psychological knowledge can help the person to get along better. This involves entirely new diagnostic issues of what the person is doing wrong and how to correct it, *i.e.*, how better to run the business of his life in the world. Of course, psychology really does not have much to offer to the solution of many real life problems that involve factors outside the realm of science, and here the psychologist operates only as a consultant with a broader background. Nevertheless, the clinician makes a contribution if he can do even 1% better than the naive layman, particularly in areas in which actuarial solutions are not available.

One way in which the psychological scientist can make a contribution is simply by protecting the client from misguided case handling on the part of ignorant laymen or even incompetent colleagues. In the midst of current waves of discouragement and loss of morale attendant upon learning that many psychological techniques are either obsolete or invalid, we must not lose sight of the fact that we have made a great positive advance simply in learning what does not work and therefore what not to do. A very valuable contribution can be made simply by protecting the client from well-intentioned mishandling.

Most children and many adult clients need reassurance, support and protection from the clinician as basic conditions for case handling, *i.e.*, to have someone to understand them and represent their interests against environmental forces that threaten to overwhelm them. The clinician often has done his job when he merely supports the client through periods of stress until the client can reintegrate his own resources.

Another area in which clinicians need make no apologies relates to the conditions of psychological case handling, where the contributions of Rogers (1942), Truax and Carkhuff (1967), Thorne (1968) and others have differentiated the basic dimensions of facilitative relationships. The last 25 years have witnessed great advances in objectifying the necessary conditions for facilitating clinical processes. But here again, the essential step is to objectify the diagnostic assumptions on which decisions are based. It is not sufficient to depend upon standard rules for case handling (such as in nondirective case handling), because even these involve implied assumptions whose valid applications to specific cases must be established. The basic fact is that all clinical decisions must be based on accurate psychodiagnosis if they are to be valid.

THE INVALIDITY OF THEORIES, SCHOOLS, MODELS AND METHODS

The agonizing birth struggles of any new field inevitably are associated with the disillusioning results of separating the wheat from the chaff. During the first 50 years of clinical psychology (1920–1970), there have been almost as many different theories and schools as there were clinicians. Repeated surveys of the theoretical affiliations of APA Division 12 members continue to show almost all permutations and combinations of systematic "positions", ranging from Behaviorism to Zen Buddhism. The need of individual clinicians to "do their thing" has resulted in inconsistent practices whose invalidity must be obvious. Incidentally, "pure" scientists are not Simon-pure in this respect either; as witness the variety of identifications to which they admit.

Fortunately, operational methods of analysis provide a solution to the dilemma of so many conflicting schools of theory and practice. When the methods and data of each "school" are analyzed operationally, it becomes possible to identify their contributions and limitations.

One outcome of systematic operationism has been the rise of eclecticism, which is surviving a pelting with sticks and stones from those who seem to feel more secure when identified with a more limited position. In our opinion, very few contemporary psychologists understand the position of eclecticism or its true power and potentialities. A variety of half-true and even totally erroneous criticisms of eclecticism are being bandied about in a sort of psychological parlor game by those who do not show much appreciation of the real underlying issues.

Perhaps the most convincing validation of the eclectic position is provided by the statistic concerning how many members of APA Division 12 actually identify themselves as eclectic clinicians. In 1935, practically no one was describing himself as eclectic. By 1970, more than 50% of Division 12 members identify themselves as eclectic. What better criterion than what the majority of recognized clinicians believe?

THE CLINICAL TRAINING HANGUP

Everybody now seems to be admitting that traditional clinical training has not turned out very well and that something must be done about it. The whole training program is hung up on the fact that much of what is being taught is known to be invalid and/or irrelevant at the very time it is being taught! Current curricula in even the best universities consist largely in training the student in invalid or obsolete theories and practices. And the basic science experimentalists are in no position to smirk over this situation, because it is the irrelevance of much of "pure" psychological science that is to blame for the fact that students are given very little that is valid with which to work.

Something is gravely the matter when highly selected intelligent students cannot find much to learn that turns out to be of much value to them. In fact, an increasing number of studies such as those of Carkhuff and Berenson (1967) seem to indicate that with really relevant brief training, novices can do better than professionals encumbered with classical psychological knowledge. Many of us are reaching the conclusion that just the standard liberal arts training may be better preparation for clinical work than the clinical training programs at some universities (I dare not cite which).

Our recommendation is that the whole problem of clinical training could be resolved quickly, simply by using the field of clinical judgment as the ultimate criterion for all clinical training activities. Clinical psychology is clinical judgment is clinical judgment is clinical judgment. The field of clinical judgment provides most of the valid knowledge in clinical psychology—it gives us the indications and contraindications for what we can and cannot do. Although the systematic study of theories and schools is historically important, and it is also necessary to have courses to teach what may be done, the real crux of training is clinical judgment evidence concerning what is valid and relevant in clinical practice.

Unfortunately, the clinical training problem is hung up over commitments to the scientist-clinician paradigm and to various academic vested interests that claim authority in stirring the clinical pot. Actually, nothing is very valid in clinical training programs that does not have demonstrated relevance to case handling outcomes, which are the real payoff in all clinical science. A pox on all the contributors who insist on their prerogatives even though it has yet to be demonstrated that they have anything valid to contribute!

It is regrettable that too many clinical training programs are assigned to the youngest Ph.D.s with insufficient experience to discriminate what is invalid and/or irrelevant in their own training, who go through the motions of teaching the same misinformation that is responsible for their own incompetence.

Both clinical psychology and clinical psychiatry largely have failed to face the implications of what is now known in the field of clinical judgment concerning the relative competence of individual practitioners, *i.e.*, the fact that only a few clinicians are doing valid work and the fact that the average clinician cannot do better than chance in his predictions, no matter how prestigious his academic/professional record may be. Our dire necessity is to discriminate who the valid practitioners are, to study them intensively to discover what cues they are using and what errors they are not making, and then to put these most valid practitioners in the real positions of authority in clinical training and professional organizations. It requires only historical contemplation to recognize how wrong many of the "great" psychologists have been.

THE HANGUP OVER PSYCHODIAGNOSIS

Part of the disillusionment in clinical psychology and psychiatry relates to the uncertain status of diagnostic methods, classification systems and nomenclatures adopted by official organizations that are now somewhat belatedly recognized as being invalid, obsolete or irrelevant. Imagine the consternation of clinicians suddenly confronted with the fact that their trusted diagnostic methods and tests were suddenly demonstrated to have no or only limited value! The historical reasons for the invalidity of classical diagnostic systems are too complicated to review here. Suffice it to state that their shortcomings could have been predicted by those familiar with the evolution of clinical sciences in general.

Unfortunately, the predominant reaction to the defrocking of classical psycho-diagnostics was one of nihilism and rejection of the whole business. First came C. R. Rogers with his pronouncement that diagnosis is not only unnecessary but is actually contraindicated in nondirective case handling. Another clamorous school of dissidents led by T. S. Szasz, whose book *The Myth of Mental Illness* (1961) really shook the foundations of the psychiatric establishment, have mounted a wide-ranging denunciation of the entire classical approach to behavior diagnosis and modification on the grounds that the medical model of mental disease is neither valid nor relevant. Clinical psychologists jumped quickly into the fray led by Marzolf (1947), Adams (1964), Albee (1966), Sarbin (1967) and Sharma (1970). Attacking the establishment has become a con-

temporary fad that is rapidly bringing the whole clinical operation to a standstill.

Another development that militates against psychodiagnosis is the rising influence of the behavior therapists, who adopt an ahistoric approach and proceed to treat symptoms solely as if historic and situational data were irrelevant.

Unfortunately, in the excitement of the fray and in the dregs of disillusionment, little attention is being given to the problem of not throwing out the baby with the bathwater. Thorne (1966) offered a rebuttal of Szasz and the mental illness myth on the grounds that many of his contentions were either invalid or farfetched, and besides most psychiatrists go far beyond the medical model anyway, so why all the contention?

If we can make any predictions at all about the future of clinical psychology and psychiatry, it is that the entire field of psychodiagnosis is long overdue for reevaluation and reworking, starting right from the beginning and building up a more comprehensive system of psychopathology from which more valid psychodiagnosis must naturally stem. We are absolutely confident of the prediction that valid diagnosis constitutes the necessary foundation for valid clinical practice, so that the more quickly we return to fundamentals and develop a really valid psychodiagnosis, the more quickly we will develop more valid case handling in general.

Clinical training programs must concentrate again on the whole issue of psychodiagnosis as inevitably underlying sound clinical judgment. If it takes an entirely new clinical training model to accomplish this, then let us proceed with the greatest possible speed to reorganize our professional schools. Students seem to recognize the issue more acutely than their teachers. It is to be hoped that new training ventures such as the California School of Clinical Psychology will get back to fundamentals and concentrate on the base issue of psychodiagnosis. Personally, I look aghast upon clinical training programs in which the key slots are filled either by anti-clinicians or by diagnostic nihilists. Imagine clinical training programs where the staff is split down the middle concerning the value of diagnosis! Is it any wonder that students find themselves confused and ill-prepared for finding valid bases for clinical decision processes?

Paradoxically, efforts to develop the field of psychodiagnosis largely have collapsed at the very time when they are most needed in the field of psychotherapy. Disillusioned by the inadequacies of tradiitonal psychodiagnosis concerned mostly with classification and chastened by revelations of their own diagnostic inadequacies, too many clinicians have washed their hands completely of psychodiagnosis. This trend was enhanced by the dictum of Carl R. Rogers to the effect that psychodiagnosis is contraindicated and even deleterious for nondirective methods, which can be practiced by novices having no formal diagnostic training whatsoever. Here, again, is an example of a whole field being prematurely abandoned because some of its applications turn out to be invalid.

The key consideration is that every clinical act inevitably must be based on some sort of diagnostic decision, whether implicit or explicit. Every clinical act should have a logical rationale based on the etiological equation of what is to be modified. Even behavior therapy must involve diagnostic decisions as to what and how to modify. Newer concepts of *clinical process diagnosis* greatly expand the area of decisions based on some sort of diagnostic rationales. Once diagnostic decisions have been reached, it is easy to know what to do.

Our basic contention is that we must reconsider the whole field of psychodiagnosis to reestablish its validity and relevance. Rather than being dismayed over the inadequacies of the state of dependable knowledge in clinical psychology during its first 50 years, we must return to the beginnings and discover where the errors are being made. This will be accomplished quickly only through a cooperative project on the part of the whole profession, which must subject all of its theories, methods and practices to rigorous validation and clinical judgment studies which, hopefully, will result in future generations of truly competent clinicians.

INTERDISCIPLINARY CONFLICTS

A large number of clinical psychologists appear to be hung up over issues of interdisciplinary relationships and conflicts. Historically, psychologists gained their entree into clinical fields through two routes. The field of education gave psychometry and assessment its start. The field of psychiatry gave psychologists clinical opportunities, and an uneasy partnership was established following the "team" model, in which clinical psychologists operated in ancillary roles.

For medical and legal reasons, psychiatry always has controlled the mental health field, much to the resentment of individual clinical psychologists, who often claimed equal competence in some areas. Perhaps due to feelings of professional insecurity, many clinical psychologists repeatedly have shown paranoid feelings towards psychiatry in particular and medicine in general, claiming discriminatory practices. However justified such feelings may be in individual cases, the fact remains that clinical psychology and psychiatry should cooperate as partners rather than competitors.

Clinical psychology properly is a basic science to psychiatry. Clinical psychology can contribute research finesse and special skills that psychiatry direly needs. Psychiatry can contribute clinical opportunities and a broad medical background that psychologists direly need. It is undignified and mutually defeating for interdisciplinary conflict to impair the necessity for all clinical sciences to work together in pooling knowledge and skills wherever competence can be demonstrated. We should not allow the unreasoning firebrands to create problems and conflicts that need not exist.

Because I hold both the Ph.D. and M.D. degrees, my own position has been strategic in that I am able to understand the fears, insecurities and genuine concerns of both camps that have led clinical psychology and psychiatry to misunderstand and mistrust each other. I know from my own experience just how important both the experimental-statistical training of psychologists and the broad medical training of psychiatrists can be. In general, many clinical psychologists have been deficient in truly broad clinical experience, and many psychiatrists are deficient in a genuine research orientation. Instead of allowing fears and insecurities to jeopardize a potentially great clinical partnership, both parties need to be very realistic about their own deficiencies and how they can complement each other. Truly mature clinicians in related fields should have no difficulty working together.

The current controversy over the validity of the medical model in psychiatry in which both psychiatrists and psychologists are participating could be largely resolved by cutting through some semantic and theoretical issues causing needless conflict. The basic issues relate to *dangerous inadaptability* and *socio-economic disability*, no matter in what other terms the underlying behavior phenomena may be described. Undoubtedly the medical model of disease validly applies to *some* cases of inadaptibility and disability, and undoubtedly other models apply to other cases. Why all the fuss? Most experienced clinicians, whether in psychology or psychiatry, understand the ramifications of the problem, even though redress usually lags far behind historically. These are matters to resolve cooperatively rather than to create Quixotic conflicts over presumed errors of omission or commission that are actually simply manifestations of the evolutionary development of clinical science at any time and place.

The basic issue is clinical competence no matter how achieved. There are many roads to Rome, and just as many to clinical competence. Let us stop feuding with neighboring professions and start working together to solve the gigantic problems facing us.

THE REAL CLINICAL PAY-OFF

The ultimate objective of all clinical practice is treatment, *i.e.*, what actually can be accomplished on behalf of clients and patients. Although of basic scientific importance in their own right, psychopathology and psychodiagnosis ultimately are validated by their therapeutic outcomes. The answers that the teachers and basic scientists provide ultimately are validated by how well they work in practice.

Unfortunately, many teachers and basic scientists tend to look down on practitioners as being the failures who could not make a go of it in academia or research and who represent a sort of inferior caste. Actually, teachers, researchers and practitioners should coexist in a mutually interdependent partnership, all with equal status, and all contributing to the final result. Many of the most valuable leads for teaching and research have come from practitioners, and it is the practitioners who ultimately can validate the work of the teachers and researchers.

We need to abandon permanently the "one-way street" attitude that regards scientists and teachers as the font of all learning with the practitioners inevitably in pupil roles. However indispensable the teaching and research roles may be, the real clinical pay-off is the ability to practice the "art" competently and validly. Assuming that teachers know how to teach and researchers to do research, it still does not follow that either group automatically has clinical competence.

In the same manner as it is necessary to identify potentially great teachers and researchers and let nothing interfere with their work, so we must set up mechanisms for identifying great practitioners (no matter whether they are great teachers or researchers) and then not interfere with their work.

Instead of becoming neurotically frustrated and/or paralyzed by professional hangups, there are some very positive steps that can be taken to clear the roadblocks and differentiate new pathways toward more valid practices.

1. Let us be completely realistic about the embryonic phase of development of clinical psychological science and not become unstrung by the discovery that most pre-scientific practices inevitably must be invalid.

2. As a preliminary step to more valid clinical practices, all known methods and techniques should be identified, analyzed operationally, classified and evaluated as to validity. What is invalid should be abandoned immediately as obsolete and irrelevant. What is valid should be retained as the foundations of scientific practice.

3. Valid clinical judgment is a precondition for all valid clinical practice. Clinical judgment research and applications should have the highest priority.

4. Let us forego nihilistic reactions of insecurity and guilt upon discovering the extent of our incapacities and get back to fundamentals and study first things first.

5. The bewildering complexity of psychological theories, schools, models and methods must be evaluated as to validity and reliability of contributions, separating the wheat from the chaff, adopting what is valid and rejecting what is invalid.

6. Eclecticism is the most valid foundation for clinical science. Current misconceptions to the contrary, only eclecticism makes possible a genuinely wide spectrum approach to clinical practice.

7. Classical clinical training methods have been notoriously ineffectual. The scientist-

clinician paradigm has been totally effective. Other methods need to be explored.

8. Any return to fundamentals must involve renewed research concern with psychodynamics and psychopathology, which are the basic subjects for all clinical science.

9. Psychodiagnosis is the crux of all valid clinical decisions upon which case handling depends. Let us return to psychodiagnostic fundamentals, enlarge the concept of what diagnosis involves, and develop a far-ranging clinical process diagnosis.

10. Let us eschew interdisciplinary conflicts. Clinical psychology is the basic science to psychiatry, and the two fields must work together in mutual trust and cooperation.

11. The real clinical pay-off of valid psychodiagnostics will be more valid psychological case handling.

12. Every clinician must accept the continuing responsibility for self-evaluation as to clinical judgment.

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

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

The yeas and nays were not ordered.

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

The yeas and nays were not ordered.

Mr. HARTKE. 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.

Mr. HARTKE. Mr. President, reserving the right to object, I have asked for a rollcall vote on this amendment. Unless I get the yeas and nays for a rollcall vote I am going to go for a live quorum.

The PRESIDING OFFICER. Does the Senator object?

Mr. HARTKE. I object unless I have the assurance that I can get a rollcall vote.

The PRESIDING OFFICER. Debate is not in order during the quorum. There has been an objection. The quorum call will continue.

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.

ROLE OF PSYCHOLOGIST UNDER MEDICARE

Mr. CRANSTON. Mr. President, I am pleased to cosponsor with the distinguished Senator from Indiana (Mr. HARTKE) amendment No. 1533 to H.R. 1, which will give full recognition to the role of the psychologist as an independent practitioner under medicare. This amendment will provide for coverage of the services of a psychologist who is licensed or certified in a State and who holds a doctoral degree from a program accredited by the American Psychological Association.

CURRENT MEDICARE PROVISIONS

A substantive deficiency in the medicare system is its failure to recognize the psychologist as an independent practitioner. Current regulations permit direct reimbursement to the psychologist only for diagnostic services and then only when ordered by a physician.

The HEW report to Congress in 1968 entitled "Independent Practitioners under Medicare," outlined clearly the limited extent of participation of psychologists in services covered by medicare:

Currently, the Medicare program covers diagnostic and therapeutic services of qualified clinical psychologists when they are performed as part of the services of a Medicare-approved hospital, extended care facility, or home health agency. Such psychology services may be provided by an employee of the provider or by an independent practitioner through a contractual agreement with the provider. Reimbursement for services must be made to the provider on the basis of reasonable cost.

A psychologist's diagnostic and therapeutic services also may be covered as services "incident" to physicians services. This type of coverage commonly occurs in physician-directed clinics. Reimbursement is made to the physician or to the clinic on the basis of reasonable charges.

In addition, diagnostic psychological testing services of an independent practitioner may be covered as "other diagnostic tests" when performed in accordance with the written order of a physician. Reimbursement for diagnostic services of independently practicing psychologists is based on reasonable charges. Payment may be made directly to the psychologist upon the beneficiary's assignment of payment to him, or the psychologist may bill the beneficiary who then may seek payment from Medicare. Therapeutic services performed by an independently practicing psychologist are not covered.

This current procedure places the psychologist in a position dependent on the supervision of a physician for any service he performs and fails to recognize the major contributions made by psychologists to the provision of mental health care. It also fails to recognize the professionalism of the psychologist and the very high standards of training and practice imposed by the Code of Ethics of the American Psychological Association.

THE ROLE OF THE PSYCHOLOGIST

During the past 25 years, psychology has taken steady and constructive steps to become an independent profession which works closely with, but not under the supervision of, other professions. Standards for graduate educational programs have been set and programs are evaluated for accreditation by the American Psychological Association which is the recognized national accrediting agency. These graduate programs include a year of clinical psychological work in an institution which also is required to meet standards for accreditation established by the APA. The APA has also developed and published a code of ethics governing relations with patients, clients, colleagues, and members of other professions. Violations of the code are grounds for suspension or expulsion from the APA. Close collaboration with other health professions is stated as official APA policy. The APA has also promoted certification and licensing laws for regulation of psychological practice in 46 States and the District of Columbia.

These activities have borne fruit. Recognition of the psychologist as an independent practitioner by insurance companies and by CHAMPUS as well as their licensing and certification in almost all the States is evidence of the status they have achieved as independent mental health professionals. Psy-

chologists serve as superintendents of State mental hospitals, directors of Veterans' Administration mental hygiene clinics, and directors of community mental health centers.

The clinical psychologist who has been licensed and certified has demonstrated his ability to provide high quality diagnostic and therapeutic services to patients. The psychologist also has specialized skills, such as psychodiagnostic testing, specialized treatment techniques such as behavior modification, and a social flexibility that allows him options that sometimes are not available elsewhere. Clinical psychologists have contributed much of the basic research and clinical experience in group psychotherapy and behavior modification.

It would appear that medicare provisions are not in step with the rest of the Nation in not recognizing the psychologist as a practitioner in his own right, but rather requiring him to practice under a physician's plan of treatment.

I recognize the diligence and the intensive examination which the distinguished Senator from Louisiana (Mr. LONG) and the other members of the Finance Committee have devoted to the study of H.R. 1 and of this issue. I was delighted to note that the committee has removed the limitation which required organized settings which provided clinical psychologist services, to be physician directed. This is an important step toward alleviating the severe physician shortage and toward recognizing the competence of professionals other than physicians. However, the committee has not lifted the requirement that services would have to be provided in an organized setting, or, if on an outpatient basis, would have to be provided under a plan of care and treatment established by a physician.

For that reason, I do not believe the Finance Committee's recommendation goes far enough. I do concur with the view that as a matter of policy, a physician should be involved whenever a psychologist provides care in order to insure that the patient's problem is not of a medical/physical nature. But I do not believe that the psychologist's care should be under the physician's direction or control.

I personally would like to see all health care provided in an organized setting, and I think it is interesting to note that currently some 80 percent of psychologists are practicing within an organized setting. This is obviously the preferred mode of practice for psychologists.

I believe an organized setting will foster the use of the team approach to the provision of health care and will result in the greatest utilization of the special skills of each health care member of the team. I believe the patient benefits in receiving total health care, both preventive and therapeutic, at one location, and that the health care personnel who provide for the patient can provide better care by being closely associated with others who are also providing care for the same patient and are in a position to advise each other of relevant factors in treating the patient.

However, the need for mental health services under medicare is great. By severly narrowing the full utilization of the psychologists skills by requiring a physician to supervise treatment, medicare provisions create a heavy burden upon the physician whose skills are already greatly in demand and where there has been a serious shortage of manpower for many years. As a member of the Subcommittee on Health of the Senate Labor and Public Welfare Committee, and as chairman of the Subcommittee on Health and Hospitals of the Veterans' Affairs Committee, I have continually urged that statutory incentives be included in legislation developed by those committees to encourage the development of new types of health personnel and to expand the roles of existing personnel so that the skills of the highly trained scarce professionals will not be underutilized in tasks which could be handled by those who had had specialized training to perform such tasks.

Mr. President, I think it very significant that I have consulted with some very competent physicians including psychiatrists, on this question and have received substantial support for this amendment.

I believe the amendment I have cosponsored will serve to further the more effective use of health manpower skills and at the same time recognize the role the psychologist has earned as an independent practitioner.

I urge the Members of the Senate to support this change in H.R. 1's provisions.

Mr. LONG. 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 amendment of the Senator from Indiana (Mr. HARTKE). 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 Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Virginia (Mr. SPONG), and the Senator from Mississippi (Mr. EASTLAND) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Rhode Island (Mr. PELL), and the Senator from Louisiana (Mrs. EDWARDS) would vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Delaware (Mr. BOGGS), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), 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 Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. HATFIELD), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 18, nays 57, as follows:

[No. 529 Leg.]

YEAS—18

Bayh	Chiles	Long
Brooke	Cranston	Mondale
Burdick	Gravel	Montoya
Byrd, Robert C.	Hart	Schweiker
Cannon	Hartke	Stevens
Case	Javits	Stevenson

NAYS—57

Aiken	Gambrell	Percy
Allen	Gurney	Proxmire
Anderson	Hansen	Randolph
Beall	Hruska	Roth
Bellmon	Hughes	Saxbe
Bennett	Inouye	Scott
Bible	Jackson	Smith
Brock	Jordan, N.C.	Sparkman
Buckley	Jordan, Idaho	Stafford
Byrd, Harry F., Jr.	Magnuson	Stennis
Cook	Mansfield	Symington
Cooper	Mathias	Taft
Cotton	McClellan	Talmadge
Dole	Miller	Thurmond
Dominick	Moss	Tunney
Ervin	Muskie	Weicker
Fannin	Nelson	Williams
Fong	Packwood	Young
Fulbright	Pastore	
	Pearson	

NOT VOTING—25

Allott	Goldwater	McIntyre
Baker	Griffin	Metcalf
Bentsen	Harris	Mundt
Boggs	Hatfield	Pell
Church	Hollings	Ribicoff
Curtis	Humphrey	Spong
Eagleton	Kennedy	Tower
Eastland	McGee	
Edwards	McGovern	

So Mr. HARTKE's amendment was rejected.

Mr. MOSS. Mr. President, I call up an amendment, which has been modified from the printed amendment.

The PRESIDING OFFICER. The amendment will be stated.

Mr. MOSS. Mr. President, I ask unanimous consent to dispense with reading of the amendment.

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

The amendments offered by Mr. Moss for himself Mr. PERCY and Mr. TUNNEY are as follows:

On page 294, line 21, strike out "and".

On page 295, line 11, strike out the period and insert in lieu thereof a semicolon and the following:

"(H) to establish an experimental program to provide day-care services, which consist of such personal care, supervision, and services as the Secretary shall by regulation prescribe, for individuals eligible to enroll in the supplemental medical insurance program established under part B of title XVIII and title 19 of the Social Security Act, in day-care centers which meet such standards as the Secretary shall by regulation establish.

"(I) to establish an experimental program of subsidization of families who agree to care for their dependents who are 65 years of age or older and who would otherwise require, because of physical and mental infirmities, the services of a skilled nursing facility, in their own homes, and to pay such subsidies directly, in the form of grants, to families who are determined (in accordance with regulations prescribed by the Secretary) to be eligible for such subsidization.

"(J) to determine whether payments for psychological and psychiatric services to residents of skilled nursing facilities and intermediate care facilities (which are receiving payments under title XIX of the Social Security Act) are adequate and provide sufficient financial resources to meet the mental health needs of such residents and (upon a finding that such expenditures are inadequate) to recommend programs for adequate psychological and psychiatric assistance to such residents; and

"(K) to develop methods and programs designed to expedite and improve the rehabilitation of patients in skilled nursing facilities or other institutions for long-term health care; and to develop appropriate alternatives to institutional care (in skilled nursing facilities, intermediate care facilities, or similar facilities for long-term health care) for patients in need of rehabilitation or long-term health care (including, but not limited to, the use of day-care, night-care, or full-time care centers, and the use of voluntary cooperative centers which are organized for the care of patients by their relatives)."

Beginning on page 342, strike out lines 3 through 6 and insert in lieu thereof:

(b) The amendment made by subsection (a) and any regulations adopted pursuant to such amendment shall apply with respect to plans of care initiated on or after January 1, 1973, and with respect to admission to extended care facilities and home health plans initiated on or after such date.

Beginning on page 393, line 3, insert "(including an institution located on an Indian reservation within such State)" after "institution".

On page 393, line 8, insert before the period the following: ", and to the extent that the Secretary finds it necessary, he may certify, that an institution located on an Indian reservation within such State qualifies as a skilled nursing facility".

On page 393, line 11, insert "(or by him)" after "him".

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

CERTIFICATION OF INTERMEDIATE CARE FACILITIES LOCATED ON AN INDIAN RESERVATION

SEC. —. Section 1905(c) of the Social Security Act, as added by Public Law 92-223, is amended by adding after the penultimate sentence thereof the following:

"The term 'intermediate care facility' also includes any institution which is located on an Indian reservation within the physical boundaries of a State and is certified by the Secretary as meeting the requirements of clauses (2) and (3) of this subsection and providing the care and services required under clause (1)."

Beginning on page 500, line 3, insert "AND COSTS OF OPERATION OF" after "OF".

On page 500, line 13, strike out "paragraph:" and insert in lieu thereof "paragraphs:".

On page 500, line 11, strike out "'; and'; and" and insert in lieu thereof "a semicolon; and".

On page 501, line 2, strike out the period and insert in lieu thereof "; and".

Beginning on page 373, line 16, strike out "extended care" and insert in lieu thereof "skilled nursing".

On page 387, line 6, strike out "(14); and" insert in lieu thereof "(16);".

On page 387, line 11, beginning with "having" strike out through "facility," on line 13, and insert in lieu thereof "who has any direct or indirect ownership interest of one percent or more in such skilled nursing facility or who is the owner (in whole or in part) of any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by such skilled nursing facility or any of the property or assets of such skilled nursing facility".

On page 388, line 15, strike out "and,".

On page 388, between lines 15 and 16, insert the following new paragraph:

"(14) Unless otherwise submitted in accordance with requirements under the Social Security Act, submit, not later than 120 days after the close of any fiscal year of such skilled nursing facility, effective with respect to accounting periods beginning on or after December 31, 1972, to the Secretary a full and complete certified report disclosing all costs incurred for such fiscal year by such skilled nursing facility; and"; and

(4) by adding at the end of paragraph (16) (as redesignated by paragraph (3) of this subsection) the following new sentence: "Notwithstanding any other provision of law, all information concerning skilled nursing facilities required by this subsection to be filed with the Secretary shall be made available to Federal or State employees for purposes consistent with the effective administration of programs established under titles 18 and 19 of this Act.".

On page 501, between lines 2 and 3, insert the following new paragraph:

(37) Unless otherwise submitted in accordance with requirements under the Social Security Act, effective with accounting periods beginning on or after December 31, 1972, provide (A) that any intermediate care facility receiving payments under such plan must submit, not later than 120 days after the close of any fiscal year of such intermediate care facility, to the State agency a full and complete certified report disclosing all costs incurred for such fiscal year by such intermediate care facility, and (B) that all information concerning an intermediate care facility receiving payments under such plan which is required to be filed with the State agency shall be made available to Federal or State employees for purposes consistent with the effective administration of programs established under titles 18 and 19 of this Act.

Beginning on page 523, line 25, add the following new section:

GRANT PROGRAM FOR TRAINING OF NURSES' AIDES AND ORDERLIES

SEC. 299 G (a) The Secretary of Health, Education, and Welfare is authorized to make grants to public or nonprofit private agencies, institutions, and organizations to assist them in conducting (or establishing and conducting) programs for the training of staff members or nursing homes and for training and retraining of personnel as nurses' aides or orderlies for nursing homes, with special emphasis on in-service training. The Secretary of Health, Education, and Welfare shall enter into arrangements with the Secretary of Labor designed to assure that participants in the work incentive program (established by part C of title IV of the Social Security Act) who desire to work in nursing homes will be encouraged to participate in programs receiving financial assistance through grants made under the preceding sentence.

(b) For the purpose of carrying out the provisions of this section, there is hereby authorized to be appropriated $2,500,000 for the fiscal year ending June 30, 1973, and $5,000,000 for each of the next three fiscal years.

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

Mr. MOSS. I yield.

Mr. LONG. Mr. President, we propose to agree to the Senator's amendment, so I hope he will be brief, so the Senate can move to the next one.

Mr. MOSS. I assure the Senator that I intend to be very brief. The Senator from Illinois (Mr. PERCY) has some brief remarks to make, and that is all it will amount to.

First of all, Mr. President, I ask unanimous consent that the Senator from Connecticut (Mr. RIBICOFF) be shown as a cosponsor of the amendment.

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

Mr. MOSS. Mr. President, I ask unanimous consent that the amendments, which are contained in one document, be considered en bloc.

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

Mr. MOSS. Mr. President, as chairman of the Subcommittee on Long-Term Care of the U.S. Senate Special Committee on Aging, I have conducted 20 hearings on nursing home problems in the last 3 years. Although our report to the Congress based on these hearings is not yet complete there are several recommendations which I intend to offer today as amendments to H.R. 1. I am pleased to have joining with me the distinguished Senator from Illinois, Mr. PERCY and from California, Mr. TUNNEY, who have their own amendments included with mine in this omnibus package.

The purpose of this amendment is to patch up loopholes in the existing law, to test new and important approaches to the problems of long-term care, to prohibit retroactive denials, provide training for nursing home personnel, and to make it possible for nursing homes on Indian reservations to participate in medicare and medicaid. The staff of the Senate Committee on Finance is familiar with these amendments which I believe are noncontroversial.

Taking up my amendments in the order in which they appear in the bill, my first amendment relates to section 222 of the bill with other demonstration projects funded from the Federal hospital insurance trust fund and the Federal supplementary medical insurance trust fund. My first proposal would provide authority for an experimental program of day care for senior citizens under such regulations as the Secretary shall prescribe.

Day care for senior citizens is not a new idea, it was proposed repeatedly by advocates of the elderly at our hearings. I believe that an effective day care program for senior citizens would provide a less expensive alternative to institutionalization.

More and more we are finding that working families are unable to care for their elderly loved ones. Working family members are fearful of leaving their elders in the house alone by day particularly if the seniors are frail or slightly feeble. The fear that seniors may cause harm to themselves if left alone and the lack of suitable alternatives has caused much anxiety and in some cases early institutionalization.

It is very clear to me that a day care center for older Americans is a suitable answer to this problem. The working family could leave their loved one in a protective environment by day and re-

turn them home after working hours to share dinner and the events of the evening with the family.

Most importantly for those who are budget conscious, the day care program would save money as well as prevent premature or unnecessary institutionalization. I am told that day care can be provided for about $3 a day as compared with nursing home care which ranges from $10 to $30 a day.

I had originally proposed the day care concept in the form of S. 3267 which would have been available to all medicare beneficiaries but I believe this concept has to be tested before we enact it on a wider basis. In the interim I hope to be able to study the British "day-hospital" system.

My second amendment authorizes a demonstration project to subsidize the families to care for their elderly in their own homes. This amendment is not intended to lessen the responsibility of family members for their elders. However it is a concept that is being tried by several of our States once again to prohibit early or unnecessary institutionalization.

A program such as would be authorized by this amendment would allow some of the very poor members of society to help maintain their elders in their own homes. This amendment received wide support in our recent hearings on the access of minority groups to nursing homes. At those hearings we learned that nursing homes are an anathema to some minority groups—notably Mexican Americans. Among these minority groups there is a long tradition of caring for parents in the home. Pride and tradition require that the elderly be maintained by the younger family members.

Most of these minority group members rank with the poorest members in our society. Because of language barriers, we were told they found medicaid of limited use—and once again medicaid would only provide care in a nursing home.

It is for these reasons that I ask for this demonstration project. I believe that it is time that the Government took into account the social and cultural differences of our people. I hope this approach can be tested for its feasibility to benefit the low income elderly.

Two more demonstration projects are contained in this omnibus amendment, one to help determine appropriate psychological and psychiatric assistance to the residents of nursing homes, residents to which Senator TUNNEY will speak and another which offers a new approach to rehabilitation which was introduced by Senator PERCY.

My third amendment is an effort to prohibit the onerous practice of "retroactive denials" which describes the situation where new rules are announced for participants in the medicare program in 1972 and are given retroactive effect so that claims paid in 1971 are reevaluated with nursing home providors being required to pay back sums now deemed to have been improvidently granted.

The committee's proposal in section 228 is an effort to prohibit the uncertainty of medicare nursing home coverage by authorizing the Secretary to establish presumptive periods of care. Under this proposal, for example, an individual with a broken hip or other ailment would be "presumed" to be eligible for a certain number of days in a medicare nursing home.

The committee's proposal is only a partial answer to the problem. My amendment would require that all new regulations for the medicare nursing home program to have prospective and not retroactive effect.

My fourth amendment relates to the inability of Indian tribes to provide nursing home care for their needy elders. There are several Indian tribes which would like to provide nursing home care for their people. One facility has been built in Arizona and others have been proposed in New Mexico and in my native State of Utah. In every case there is one insurmountable obstacle. Because Indian reservations are Federal enclaves, States have not been willing to license nursing homes on such reservations. Since State inspectors also certify nursing homes for purposes of medicare and medicaid, inability to get a State license has meant they have been barred from participating in medicare and medicaid.

My amendment addresses this problem and the failure of other agencies to consider the needs of the Indian elderly. It would allow the Secretary of Health, Education, and Welfare to certify nursing homes meeting appropriate standards to participate in medicare and medicaid as skilled nursing homes and as intermediate facilities.

I have no firm cost estimates for this amendment but I do not believe the cost will be substantial given the comparatively limited number of Indian elderly. However, those tribes that seek assistance in providing nursing home care under medicaid or medicare should be assisted.

My fifth amendment is intended to clarify one of the so-called Moss amendments of 1967. My amendments to the Social Security Act of 1967 had the intention of raising nursing home standards and constitute the law upon which HEW is relying for its recent enforcement effort. One of these amendments required anyone with a 10-percent interest or greater in a nursing home to file and disclose such interest with the State.

In recent hearings by my subcommittee it was discovered that nursing home operators were using a variety of techniques to avoid the disclosure requirement. It became impossible for us to find out from disclosure lists submitted to the State the true identity of nursing home owners. Using other records such as corporate directories and State land efforts, my subcommittee learned that a small group of individuals controlled an incredible number of nursing home beds. This conclusion was verified in several States. The public has a right to know who owns these facilities but the information is currently disguised. One technique is to list a 9-percent interest in the name of each of one's children, another is to establish two corporations, one to run the facility and another holding the land in trust.

The Governor's commission on nursing home problems in Maryland recently learned to their chagrin that it was impossible to tell who owned the State's nursing homes. They called for the enactment of my bill S. 2927 which I now propose in amendment form. It also has the support of HEW.

My bill would require that any ownership interest direct or indirect in a nursing home over 1 percent be disclosed to the State including that of an owner—in whole or in part—of any mortgage, deed of trust, note, or other obligation secured—in whole or in part—by the nursing home or any property or assets of such facility.

This information would be made available to appropriate Federal and State employees including members of congressional committees for purposes consistent with the effective administration of programs established under titles 18 and 19 of the law. By action of the Finance Committee in the present bill such data would be required to be filed with the State by owners of intermediate care facilities.

Another part of this same amendment requires that owners of titles 18 and 19 skilled nursing homes file certified financial statements with the Secretary. Almost 90 percent of the nursing facilities in this country are organized for profit. Studies by my subcommittee indicate a lack of accountability. After paying nursing home operators their flat fee under medicaid most States make no effort to ascertain how the money is being used. This allows each individual operator to allocate as much to patient care as he so desires and as much as he pleases to profit.

Even with generally inadequate reimbursement rates some nursing home operators, paradoxically, have been able to make high profits. One operator in Chicago made $185,000 profit on a medicaid income of $400,000 yearly, while spending only 52 cents per patient per day for food.

Other indications such as the Connecticut study which showed an average 44 percent return on investment for the States nursing homes, caused our committee to look further into this question. The committee discovered great reluctance on the part of nursing home administrators to disclose their financial data. Despite several letters over a 6-month period only 20 of 75 nursing homes returned a questionnaire relating to their cost and financial data to help the committee with its inquiry.

Since the taxpayer contributes more than $2 out of every $3 in nursing home revenues the Government has a vested right to this information. Once again this information would be made available to Federal employees for purposes consistent with the effective administration of programs established under titles 18 and 19.

The last amendment in this omnibus package provides training for nurses' aides and orderlies and has been introduced by Senator PERCY. I support this measure as well as the other proposals in this package. This amendment is similar to my bill, S. 3556 which I feel is greatly needed to combat one of the major problems in the field of long-term care—the reliance on untrained person-

nel. Nursing home personnel are for the most part hired literally off the street and paid the minimum wage. It is difficult work and I can understand why there is a turnover rate of 75 percent among nurses' aides. I urge the adoption of all of the amendments in this package.

Mr. TUNNEY. Mr. President, this section of our amendments would require the Secretary of HEW to add to the series of demonstration projects he is required to develop, one which would provide much-needed psychiatric assistance to patients in nursing homes and in other long-term care facilities. This new demonstration project would better enable our long-term care facilities to meet a crying medical need for the elderly, the need for adequate psychiatric care and treatment in nursing homes and on other long-term health care facilities.

There is a severe misunderstanding of the emotional problems of senior citizens. Myths abound, such as: "Senility is a natural stage for the aged" and "emotional disorders of the elderly do not respond to treatment."

Mr. President, it is long past time that the American people and the Federal facilities which serve them reject useless and counterproductive myths such as these.

The overriding questions which remain unanswered properly with regard to long-term care facilities are: What kinds of care and services are required for people who need psychiatric assistance? What kind of facilities will best serve their needs?

This amendment will provide us with the opportunity to answer constructively and effectively those questions.

Many States are emptying their State mental hospitals first of geriatric patients and later of younger patients.

It is argued that these patients are being "returned to the community." In reality, most are being returned to nursing homes. While some persons claim that the elderly who are discharged unconditionally are so discharged for humanitarian reasons, persuasive argument can be offered that the real reason is cost. For example, I have learned that it costs the State of Illinois $550 per patient per month to keep an individual in a State hospital while that same patient can be placed in a nursing home for $230 per month.

Unfortunately, however, the people so discharged are frequently better off in the State hospital than in the nursing home. The staffs of nursing homes are often untrained in the problems of mental health and cannot cope adequately with the problems of the infirmed elderly and the addition of mental patients creates an intolerable burden.

The mental health needs of the infirmed elderly can be demonstrated in a variety of other ways, Mr. President. Suffice it to say at this point that their needs appear to be desperate. Sometimes old houses or hotels are used to house geriatric patients from State hospitals. These facilities need not meet any Federal or State standards—and recent scandalous fires in some of them have demonstrated poignantly the urgency and severity of the matter. And to the extent that the results are in with regard to the community mental health center concept, it is evident that those centers do not serve the needs of the elderly. Regardless of their general merit, only 4 percent of the 250,000 admissions to the community mental health centers in 1969 were over 65.

Mr. President, at least as demonstration projects, I believe very deeply that psychological facilities must be explored further. I urge my colleagues to accept this new demonstration section of H.R. 1.

Mr. RIBICOFF. Mr. President, I am pleased to join with Senator Moss in calling up amendment 1685 to H.R. 1. This legislation, similar to a bill I introduced last February, would establish pilot projects designed to generate alternatives to long-term, institutionalized nursing home care and provide subsidies for families who care for their aged and infirm relatives in their own homes.

This legislation would also establish a grant program for the training of nurse's aides and orderlies for nursing homes.

Over the next 4 years $17.5 million would be authorized for these grants.

Mr. President, in the long time that I have been working in the field of long-term care, my committee has conducted 20 hearings on nursing home problems in the last 3 years. These problems can appropriately be dealt with in this bill, which has to do with medicare and medicaid, and nearly all of our elderly citizens are financed in that way for their care in nursing homes.

Therefore, I strongly urge that these amendments be adopted at this time.

We must begin to look at our entire system in light of increasing evidence that the care provided for our elderly citizens is inadequate, demeaning to human dignity, and a waste of tax dollars.

Nursing homes as they are operated today are a self-perpetrating system that assures that the elderly will have a chronic need for chronic health care. Our extended care institutions all too often reduce our elderly citizens to a state of permanent dependence on the institution, rather than providing varying levels and types of care and services that would encourage the elderly to remain a part of their community.

At least 15 to 20 percent of those elderly citizens presently institutionalized are absolutely misplaced according to the Levinson Gerontological Policy Institute of Brandeis University. In Massachusetts, for example, where intensive studies of nursing home disability evaluations have been made, it was found that only 37 percent of the nursing home residents in the State require full-time skilled nursing care. Fourteen percent needed no institutional care whatsoever for medical reasons. Another 26 percent required minimal supervised living, and 23 percent needed limited or periodic nursing care that might, for some, be provided on a home visit basis.

Approximately, $2 billion is expended annually for nursing home care, one-fourth to one-half of which is now spent for patients who do not, medically, need such care. A more flexible use of funds now narrowly channeled into traditional nursing home settings would encourage the development of more imaginative and innovative forms of care for the elderly.

Our proposal authorizes a series of pilot projects to explore new methods of providing care for the elderly. The purpose of these demonstration programs would be to generate alternatives to long-term, institutionalized nursing home care. Such programs would include maintenance and care services provided in noninstitutional, neighborhood settings; increased use of home health and maintenance care; continuing care at various stages of illness through a coordinated program utilizing acute care hospital facilities, extended care facilities, "day" hospital services and home care; and ongoing community responsibility and involvement in such programs.

These pilot projects would provide field testing of differing solutions in varied demographic and health care delivery areas. Other issues to be explored in field tests would include the administrative issues involved in setting up innovative personal care organizations, definition of the optimal population to be covered, testing of alternate quality control measures, analysis of manpower alternatives, and measurement of cost levels.

The costs of providing adequate care for the elderly are rising dramatically. We cannot continue to waste and misallocate the limited resources we have to devote to this problem. More effective programs must be developed. Working with such programs in action is the only way this can be done.

This proposal would also establish an experimental program of subsidization of families who agree to care for their dependents who are 65 years of age who would otherwise require, because of physical and mental infirmities, the services of a skilled nursing facility, in their own homes.

Mr. PERCY. Mr. President, I rise in support of the pending amendment, which I cosponsor. This comprehensive nursing home package incorporates two of my nursing home amendments.

The first would authorize $17.5 million in Federal grants to public or nonprofit private agencies, institutions, and organizations, to assist them in establishing special training programs for nurses aides and orderlies in nursing homes. The amendment stresses the importance of inservice training, which is generally regarded as highly desirable by health professionals. The grants shall be administered by the Secretary of Health, Education, and Welfare, who shall have the option of carrying out training programs under the auspices of either the Health Services and Mental Health Administration or the Bureau of Health Manpower Education, which forms part of the National Institutes of Health.

The $17.5 million authorized under this amendment shall be allocated in the following way: $2.5 million in fiscal year 1973, and $5 million in each of the next 3 fiscal years.

The need for this legislation became apparent during a series of hearings on nursing homes conducted by the Sub-

committee on Long-Term Care of the Senate Special Committee on Aging. The subcommittee found one of the major problems to be a lack of qualified, trained nurses' aides and orderlies. In hearing after hearing, witnesses impressed upon the subcommittee the importance of these personnel, and their current lack of adequate training.

It is unfortunate that the nursing home personnel who work most closely and directly with the patients bring the least to their jobs in terms of qualifications and training. Aides and orderlies typically have no more than a high school education, and they lack specialized skills. Reports of patient abuse on the part of these personnel are commonplace.

The pay of aides and orderlies is low. In 1970, the average wage was $1.53 an hour. It has not risen much since.

The pay is low and the work is hard. Aides and orderlies must lift, bathe, feed, and console patients who are depressed, lonely, and often demanding.

There is little glamor in this line of work. Nursing homes rank low in prestige as health care institutions, and aides and orderlies fall at the bottom of the health care personnel hierarchy.

The low pay, hard work, and lack of job prestige combine to create a high turnover rate. The turnover rate for employees in the nursing home field as a whole is high—60 percent a year; for aides and orderlies, it is even higher, 75 percent.

With these conditions, it is little wonder that nursing homes cannot or do not attract good help. This is why it is possible, as the Chicago Tribune has reported, for a person to walk into a nursing home with no experience or training whatever, give phoney character references, and find himself working as an aide or orderly within hours, dispensing drugs—about which he knows nothing—and ministering to chronically and gravely ill patients. One home was found hiring its aides through a Chicago skid row hotel, where a maid received kickbacks for sending new employees to the home. This is why individuals so lacking in education and skills as to be unable to find employment elsewhere end up working as aides and orderlies in nursing homes.

In theory, all nursing homes train their aides and orderlies. In fact, although some homes do provide excellent training, many make not the slightest pretense of doing so. This is true despite the fact that, as one study explained—

The difference between a competent and an incompetent aide can mean everything in terms of a patient's adjustment to the nursing home. The intimate and daily nature of the aide's contact with patients makes it inevitable that he or she will have a tremendous effect on the mental and emotional health and, directly or indirectly, on their physical health as well.

The importance of teaching aides how to handle patients properly cannot be overstated, and yet training programs in this area are virtually nonexistent. The Department of Labor trains aides and orderlies, but it trains the bulk of them for hospitals, not nursing homes. Other agencies operate health manpower training programs, but not for nursing home aides and orderlies.

Perhaps the program which comes closest to doing this job is the one initiated recently by President Nixon as part of his eight-point program on nursing homes. One of his proposals authorizes funds for the short-term training of approximately 20,000 nursing home personnel. I am pleased with this initiative on the part of the administration, but it must be recognized that even this program aims primarily at the higher echelon employees—physicians, nurses, administrators, and activity directors—rather than at the aides and orderlies.

Unless we undertake to upgrade the skills of the 215,000 aides and orderlies who work in nursing homes, patients will continue to suffer from inadequate and improper treatment.

In the State of Illinois, there is a modest effort now underway to upgrade the skills of these personnel. That effort goes by the name of the Rehabilitation Education Service—RES—a free service to nursing homes desiring it, and a program which has been in operation now for 14 years.

Because of limited funds, the State is able to provide only two RES teams, who must cover the whole State. Many homes, therefore, do without this service.

It is in the interest of encouraging such ongoing programs to expand, and establishing new programs to upgrade the skills of nurses aides and orderlies in nursing homes, that I offer my amendment.

Mr. President, I am certain my colleagues are well aware of the urgent need to improve nursing home conditions in this country. Anyone who has actually gone into the homes to visit patients can only view this as a matter of the highest priority.

Mr. President, I believe this amendment offers us an excellent opportunity to bring about an improvement in the quality of care given to the old and chronically ill persons who now reside in nursing homes, and I urge its adoption.

Let me now comment on a second amendment of mine that was incorporated into this package.

The need for more rehabilitation programs for elderly nursing home patients became apparent during the hearings on nursing homes held in Chicago in April and September of last year by the Subcommittee on Long-Term Care of the Senate Special Committee on Aging.

We found in those hearings that few efforts are being undertaken to rehabilitate nursing home patients. More often than not, patients enter nursing homes where bona fide rehabilitation programs are nonexistent. Or if they do exist, they consist of little more than bingo games and TV watching. Few opportunities for social and physical activity exist. A scene found all to frequently in nursing homes across the country was vividly portrayed in one of the Chicago Tribune's articles on this subject:

They (nursing home patients) sit in rooms where the paint is peeling from the walls and the windows are covered with grime and they stare.

Conditions vary, of course, but there is substantial evidence to warrant fear that this dismal atmosphere prevails in too many homes.

Entry into a nursing home is invariably a traumatic experience. One of the major reasons the experience is so traumatic is that the patients cannot look forward to being rehabilitated or to recovering from their illnesses. Thus, patients sometimes equate entering a nursing home with walking into a "waiting room to die." If rehabilitation programs were more common and more promising, then nursing home patients could look forward to recovering from their illnesses, and the experience of entering a home could become considerably less traumatic.

It is commonly assumed that if a person is so ill as to necessitate nursing home care, then there can be little hope for ever making him self-sufficient and independent. Unfortunately, it is frequently the patient's attitude toward himself—and most especially that of others toward him—more than his physical condition, which causes his condition to deteriorate. A patient's overpowering sense of uselessness and lack of self-confidence, rather than his physical condition per se, might cause the deterioration in his overall physical and emotional status.

To illustrate what can happen when rehabilitation efforts are undertaken, let me relate a story told to me by the world renowned psychologist, Dr. Karl Menninger, at the hearing held in Chicago last September.

The story concerns 88 aged patients who had been diagnosed as hopelessly senile and psychotic, and placed in a geriatric award at the Topeka State Hospital in Kansas. The patients had been vegetating in the gloomy ward for about 10 years—and one of the patients had been there for 58 years. The situation changed dramatically, however, with the arrival of a young doctor and his team of aides. They transformed the cheerless atmosphere of the ward into one of hope and raised spirits. They did this by bringing in such things as music, television, bird cages, and potted plants. The doctor set up a social program, and the patients responded by beginning to paint and sand furniture, and to work with leather and play bingo. A measure of the patients' improved spirits was found in their construction of a ramp over a difficult flight of stairs, and in the painting of a shuffleboard court on the floor.

Three weeks following the initiation of this program, one patient was discharged and sent home to live with his relatives. A year later, only nine patients were still bedridden, and only six were incontinent. Twelve more returned to live with their families, six left the ward to live by themselves, and four found comfortable nursing home provisions.

Mr. President, this proposal is a very simple one which would not cost a great deal of money. The Secretary of HEW would merely be authorized, in addition to testing the concepts already listed under section 222 of the bill, to develop or demonstrate programs intended to rehabilitate or remotivate elderly nursing

home patients. This proposal does not call for specific authorizations, but rather, it gives the Secretary flexibility in determining appropriate amounts. I believe we could learn a great deal by testing new concepts in this field, and that we might even discover ways to decrease Federal expenditures through developing alternatives to long-term care. I urge adoption of this provision in the comprehensive nursing home amendment as one promising way to better the lives of the elderly.

I urge acceptance of these amendments.

Mr. LONG. Mr. President, the manager of the bill favors the amendments. I hope the Senate will agree to them.

Mr. MOSS. Mr. President, I would like to compliment the staff and the members of the Senate Finance Committee for their constructive work. H.R. 1 contains many long needed reforms including the consolidation of medicare and medicaid standards. It makes sense that there be only one set of Federal standards with which nursing homes have to comply.

It is also important that H.R. 1 incorporates cost related reimbursement as the Federal standard. For too long nursing homes have suffered with inadequate rates. If we continue to insist on higher standards then we must pay for them.

There are many other improvements contained in H.R. 1. Again I compliment those involved.

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from Utah.

The amendments were agreed to.

Mr. LONG. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 581, line 22, before the word "unable" insert "18 years of age or older and"

Mr. LONG. Mr. President, this amendment is necessary to correct an obvious and manifest error in the bill. The committee report correctly reflects the committee's intention. Unfortunately, the bill fails to correctly include the words referred to in the amendment.

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

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. MONDALE. Mr. President, I realize that, based on the order in which we requested to be recognized, I am next. I would like to yield the floor to the Senator from Wisconsin, who has been waiting to propose an amendment.

Mr. NELSON. Mr. President, I think it is about time we followed the rules of the Senate, or changed them. There is no rule that I know of that says the Chair should recognize someone who has put his name on a list at the Chair. The rules are that the Chair recognizes the first person who rises and asks for recognition. I would suggest to the leadership that after all this foolishness all day long, we ought to abolish that list up there and follow the rules.

This has been a charade all day long. I stood here for an hour and a half today, canceled a luncheon appointment, but because I was not on the list, a Senator comes in and he is here 30 seconds and gets recognition.

If that is to be the rule, I am coming over at 9 o'clock every morning and put my name on the list every day, then I will be entitled to walk in when someone else has been waiting 2 hours, and get recognition.

Mr. President, this is sheer nonsense, contrary to the rules and it ought to be stopped.

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

Mr. NELSON. Without relinquishing my right to the floor.

Mr. MONDALE. I agree completely with the Senator from Wisconsin. I was a victim of the same sort of circumstances, and I learned the hard way. Yesterday I stood here as a gentleman for 4 hours, watching people get recognized in front of me, and then I yielded, to be a gentleman, and I got the floor back in an hour and 45 minutes, on a noncontroversial amendment. So I could not agree with the Senator more. And I thought, in the light of my predicament yesterday, the lateness of the hour, and my admiration for the Senator from Wisconsin, this was the best way to do it.

The PRESIDING OFFICER (Mr. CANNON). The Senator from Wisconsin is recognized. Does he desire to offer an amendment?

Mr. NELSON. Mr. President, I would like to have the attention of the distinguished chairman of the Finance Committee in order to propound to him a couple of questions.

For the benefit of the Senators who are here, I shall try to be as brief as possible. I intend to ask for a rollcall on two amendments. The purpose of the two amendments I am going to offer is to raise the money to pay for some of the additional cost of the increased social security benefits in H.R. 1.

The reason I do that is that these are not really wage-related benefits. Over the years, for 30 years, the Advisory Council on Social Security from time to time has suggested that when people who are retired receive substantial benefits of the kind that are included in H.R. 1, we should not tax the current employer and the employee to pay for those benefits.

I am offering two amendments. Both have been considered here before. One is to raise the minimum tax to one-half of the normal tax rate on income that is not subjected to any tax. The other one is to repeal the ADR.

These two proposals together would raise about $42 billion between now and 1980, and would pay almost all of the increased cost required by the provisions of H.R. 1.

I would suggest that everyone, before he votes, ought to take a look at the chart that tells what kind of a tax the 20 percent increase and the additions in H.R. 1 are going to impose upon the workers in this country.

I call attention to one example: The man who is making $12,000 a year is going to have his social security tax increased by 54 percent by 1974. In fact, if you count the total increase since 1971 it totals 75 percent.

Now the worker in the $12,000 wage bracket is not only going to have his tax increased 54 percent, but let me spell it out to you in dollars and percent. His tax is going to be increased $252 between now, today, and 1974, a year and a half from now. That is $21 a month. So when we get through passing this bill, if we are going to load the cost of all these benefits on the current worker and employer we are going to get a tax revolt from the overtaxed worker and employer. These increased benefits are needed and justified but they ought to come out of general funds. For the taxpayer who earns $12,000, it means we are going to raise his taxes $21 a month in a year and a half.

I do not know of anyone in this country with a $12,000 income who has very much money left over if he has a family to support, and when he sees that we have taxed him $21 a month, he is going to be justifiably outraged, and we are going to get a revolt against it. We are asking him and his employer to pay for an increase which ought to come out of the general fund.

I shall speak on that a little further in a moment, but I would like to have a brief colloquy with the distinguished chairman of the committee, the Senator from Louisiana, for the purpose of clarification. I think he is familiar with this. I will go through it very quickly.

It is my understanding that the Senate Finance Committee's provision covering HMO eligibility for medicare requires that prepaid group plans: First, have been in operation for at least 2 years; and second, have a minimum of 25,000 enrollees, not more than one-half of whom are age 65 or over. Exceptions may be made for HMO's in smaller and rural communities: these must have demonstrated, through at least 3 years of successful operation, that they have the capacity to provide health care services of proper quality on a prepaid basis, and have at least 5,000 members. Is that correct?

Mr. LONG. That is correct.

Mr. NELSON. The greater Marshfield Health Plan, in Marshfield, Wis., has been in operation as an HMO for more than 1 year, but the Marshfield Clinic and St. Joseph's Hospital have been providing quality health care in a rural town for more than 60 years, as a group practice with salared physicians. In addition, the Marshfield HMO plan has enrolled more than 13,500 persons in the prepaid plan. Does this mean that the Marshfield HMO would qualify for medicare eligibility under the exceptions provided in the Finance Committee's HMO provisions?

Mr. LONG. It is my understanding that they could and would qualify.

Mr. NELSON. Now I would like to propound another question to the chairman of the Finance Committee.

The Finance Committee authorized demonstration projects—in section 222—to determine an equitable reimbursement formula for medicare coverage of physicians' assistants services, performed independently of supervising doctors.

HEW, the AMA, and physician assistant organizations are now drawing up

standards for training and certification of these personnel, in an effort to unify and define their role and qualifications.

While HEW on one hand is paying out money to train physicians' assistants, medicare, under existing law, cannot reimburse for their services unless they are performed in the immediate presence of a supervising doctor. This precludes coverage for such things as house calls and nursing home visits carried out by physicians' assistants.

There is a controversy over what medicare should pay for such services when performed by physicians' assistants. Doctors are concerned that the reimbursement levels cover the expenses of hiring these paramedical personnel. Others are concerned that doctors will use paramedics to increase doctors' income but cut down doctors' services.

Is it the Finance Committee's intention to request HEW to conduct a wide variety of studies on physician assistant reimbursement levels, ranging from fee-for-service downward, in order to determine what reimbursement levels cover the costs of the employing physicians' assistants, while at the same time, encouraging use of this new manpower resource?

Mr. LONG. More or less, yes. Yes, it is correct.

Mr. NELSON. Mr. President, this amendment eliminates the 20-percent copayment required of those who receive home health care under medicare part B.

Under medicare part A, those receiving home health care, after hospitalization, pay no coinsurance. This amendment would make home health care coverage under medicare consistent for both parts A and B. It is inconsistent to require copayment for the same service that a beneficiary receives at 100-percent coverage under part A.

More importantly, it is one step toward encouraging home health usage instead of more costly institutionalized care.

The Finance Committee has taken another small step toward that end, by authorizing demonstration projects to determine whether the 3-day hospitalization requirement prior to part A eligibility is necessary.

Home health care visits average about $25 a visit. The copayment of $5 per visit for long-term home health care can be a financial burden to many elderly persons living on marginal incomes. In addition, since the same care is covered 100 percent under part A medicare, there is an incentive by the physician to order costly hospitalization under part A, in order to ensure that his patient does not have to pay the coinsurance.

In her study on "Home Health Services in the United States," a report to the Senate Special Committee on Aging, Brahna Trager recommends:

Changes in the system must be made which eliminate entry into home health services through an institutional bed in Part A and which will eliminate coinsurance payment for home health services in Part B.

She further reports:

Utilization of home health services in the medicare insurance system has remained at less than 1 percent of insurance expenditures and appears to be diminishing. Institutional utilization and expenditures are increasing.

A medicare beneficiary will already have paid the $50 deductible required for part B eligibility.

The Bureau of Health Insurance in the Social Security Administration advises me that it approves of this amendment. They also advise that overhead costs of processing and billing for the individual copayments will be removed, at an administrative cost savings. Many of the copayments are never collected, and part B swallows the cost anyway, on top of the billing expense.

The cost of eliminating this copayment is estimated at $3 million by the Social Security Administration—a nominal sum for encouraging ambulatory, less costly, noninstitutional care.

Some 245,000 people received home health services under both medicare parts A and B in calendar year 1971. Total home health medicare costs for that year were $54,984,000, of which $15,824,000 was paid out for medicare part B coverage of home health care. Twenty percent of that figure is $3 million—the cost of this amendment.

The peer review provisions called for in H.R. 1 will insure that such home health services are medically necessary and monitored for quality and utilization.

Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. NELSON. Mr. President, the chairman of the Finance Committee is familiar with this amendment. I will explain it briefly and ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

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

ELIMINATION OF COINSURANCE PAYMENT WITH RESPECT TO HOME HEALTH SERVICES UNDER PART B OF MEDICARE

SEC. —. (a) Section 1833(a)(2) of the Social Security Act is amended by striking out "80 percent" and inserting in lieu thereof "with respect to home health services, 100 percent, and with respect to other services, 80 percent."

(b) The amendment made by subsection (a) shall apply to services furnished by home health agencies in accounting periods beginning after December 31, 1972.

Mr. NELSON. As the Senator knows, there is a 20 percent copayment required for those who receive home health care under medicare part B. Charges for home health care are now as high as $25 for a nurse's visit.

On the other hand, if the doctor sends an eligible patient to the hospital for 3 days and then they come back home and have home health care, there is no required copayment.

This amendment would remove the required copayment for those under medicare part B. The result of this distinction is that frequently doctors feel they have to send their patient to the hospital in order to get the 3 days in, so that they will qualify for service without the copayment because they cannot afford it. That unnecessarily loads the hospital, and those who do not go are getting discriminatory treatment. The purpose of the amendment is to eliminate that discrimination.

I understand that the cost would be in the nature of $3 million a year. Is the Senator willing to accept the amendment?

Mr. LONG. I am willing to take it to conference. Personally, I think the Senator is right.

Mr. NELSON. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 1609

Mr. NELSON. Mr. President, I call up my amendment No. 1609.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the bill insert the following:

TITLE VI—INTERNAL REVENUE CODE AMENDMENTS

SEC. 601. MINIMUM TAX FOR TAX PREFERENCES.

(a) Section 56 of the Internal Revenue Code of 1954 (relating to imposition of the minimum tax for tax preferences) is amended by redesignating subsections (b) and (c) as (d) and (e), respectively, and by striking out subsection (a) and inserting in lieu thereof the following new subsections:

"(a) IN GENERAL.—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of each person, a tax equal to the sum of—

"(1) the tax on such person's category I tax preference income (computed under subsection (b)), and

"(2) the tax on such person's category II tax preference income (computed under subsection (c)).

"(b) CATEGORY I TAX PREFERENCE TAX.—For purposes of subsection (a)(1), the tax on a person's category I tax preference income is 10 percent of the amount (if any) by which—

"(1) the sum of the items of tax preference set forth in paragraphs (2), (3), (4), (5), and (10) of section 57(a) in excess of the category I exemption, is greater than

"(2) the sum of—

"(A) the taxes imposed by this chapter for the taxable year (computed without regard to this part and without regard to the taxes imposed by sections 531 and 541) reduced by the sum of the credits allowable under—

"(i) section 33 (relating to foreign tax credit),

"(ii) section 37 (relating to retirement income),

"(iii) section 38 (relating to investment credit),

"(iv) section 40 (relating to expenses of work incentive program), and

"(v) section 41 (relating to contributions to candidates for public office); and

"(B) the tax carryovers to the taxable year.

For purposes of this subsection, the category I exemption is $30,000 minus the amount of the category II exemption that the taxpayer elects to use.

"(c) CATEGORY II TAX PREFERENCE TAX.—For purposes of subsection (a)(2), the tax on a person's category II tax preference income is—

"(1) in the case of a corporation, 24 percent of the amount (if any) by which the sum of the items of tax preference set forth in paragraphs (6), (7), (8), and (9) of section 57(a) exceeds the taxpayer's category II exemption, and

"(2) in the case of a taxpayer other than a corporation, a tax on the amount (if any) by which the sum of the items of tax preference set forth in paragraphs (6), (7), (8), and (9) of section 57(a) exceeds the taxpayer's category II exemption equal to one-half of the tax which would be imposed under section 1 by treating the amount of such excess as the taxable income for the taxable year.

For purposes of this subsection, the category II exemption is the amount, not exceeding $12,000, that the taxpayer elects (at such time and in such manner as the Secretary or his delegate prescribes by regulations) to use for the taxable year."

(b) Section 56(d) of such Code, as redesignated by subsection (a) (relating to deferral of tax liability in case of certain net operating losses), is amended to read as follows:

"(d) DEFERRAL OF TAX LIABILITY IN CASE OF CERTAIN NET OPERATING LOSSES.—

"(1) IN GENERAL.—If for any taxable year a person—

"(A) has a net operating loss any portion of which (under section 172) remains as a net operating loss carryover to a succeeding taxable year, and

"(B) has items of tax preference taxable under subsection (b) or (c) for the taxable year,

then an amount equal to the lesser of the tax imposed by subsection (a) or 10 percent (or such percent as may be determined under regulations prescribed by the Secretary or his delegate) of the amount of the net operating loss carryover described in subparagraph (A) shall be treated as tax liability not imposed for the taxable year, but as imposed for the succeeding taxable year or years pursuant to paragraph (2).

"(2) YEAR OF LIABILITY.—In any taxable year in which any portion of the net operating loss carryover attributable to the items of tax preference described in paragraph (1)(B) reduces taxable income, the amount of tax liability described in paragraph (1) shall be treated as tax liability imposed in such taxable year in an amount equal to 10 percent (or such percent as may be determined under regulations prescribed by the Secretary or his delegate) of such reduction.

"(3) PRIORITY OF APPLICATION.—For purposes of paragraph (2), if any portion of the net operating loss carryover described in paragraph (1)(A) is not attributable to the items of tax preference described in paragraph (1)(B), such portion shall be considered as being applied in reducing taxable income before such other portion."

(c) Section 56(e) of such Code, as redesignated by subsection (a) (relating to tax carryovers) is amended—

(1) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) the sum of the items of tax preference set forth in paragraphs (2), (3), (4), (5), and (10) of section 57(a) in excess of the category I exemption for the taxable year,"; and

(2) by striking out "subsection (a)" in the last sentence and inserting in lieu thereof "subsection (b)".

(d) Section 58 of such Code (relating to rules for application of the minimum tax) is amended—

(1) by striking out "$30,000 amount specified in section 56 shall be $15,000" in subsection (a) and inserting in lieu thereof "$30,000 and $12,000 amounts specified in section 56 shall be $16,000 and $6,000, respectively";

(2) by striking out "$30,000 amount" in subsections (b) and (c) and inserting in lieu thereof "$30,000 and $12,00 amounts";

(3) by striking "$30,000" in subsection (c) and inserting in lieu thereof "$30,000 or $12,000, as the case may be,";

(4) by striking out subsection (g); and

(5) by adding at the end thereof the following new subsection:

"(h) ELECTION NOT TO CLAIM TAX PREFERENCES.—In the case of an item of tax preference which is a deduction from gross income, the taxpayer may elect to waive the deduction of all or part of such item, and the amount so waived shall not be taken into account for purposes of this part. In the case of an item of tax preference described in section 57(a)(9), the taxpayer may elect to treat all or part of any capital gain as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231, and the amount treated as such gain shall not be taken into account for purposes of this part. An election under this subsection shall be made only at such time and in such manner as is prescribed in regulations promulgated by the Secretary or his delegate, and the making of such elections shall constitute a consent to all terms and conditions as may be set forth in the regulations as to the effect of such election for purposes of this title."

(e) The amendments made by this section shall apply to taxable years beginning after December 31, 1971.

SEC. 602. (a) Notwithstanding any other provision of law, the rate of tax (in the tax schedules in section 1401(a), section 3101(a), and section 3111(a), of the Internal Revenue Code of 1954) shall be reduced so as to cause the total revenues raised by such tax schedules to be reduced, for any calendar year (commencing with the calendar year beginning January 1, 1974), by an amount equal to the amount of the revenues which the Secretary of the Treasury determines, in the case of any calendar year, will be produced by reason of the application of the preceding amendments made by this title. The Secretary shall make the determination required by the preceding sentence, for any calendar year, not later than the close of the month of September of the year immediately preceding such calendar year.

(b) In addition to the moneys authorized by law to be appropriated, for any fiscal year, to the Federal Old-Age and Survivors Insurance Trust Fund, and to the Federal Disability Insurance Trust Fund, there is hereby authorized to be appropriated to each of such funds, an amount equal to the revenues produced for such fiscal year by reason of the amendments made by the preceding sections of this title, apportioned between each of such funds in the same ratio as moneys appropriated thereto under title II of the Social Security Act.

Mr. NELSON. Mr. President, I send to the desk a correcting amendment to amendment 1609.

The PRESIDING OFFICER. The modification will be read.

The assistant legislative clerk proceeded to read the modification.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the modification will be printed in the RECORD.

The modification is as follows:

Strike out line 21 of page 3 of amendment No. 1609 through line 15 of page 4 and substitute the following language:

"(c) CATEGORY II TAX PREFERENCE TAX.—For purposes of subsection (a)(2), the tax on a person's category II tax preference income is an amount equal to one-half of the tax which would be imposed under section 1 (in the case of a taxpayer other than a corporation) or section 11 (in the case of a corporation), computed as if the taxpayer's taxable income for the taxable year were the amount by which the sum of the items of tax preference set forth in paragraphs (6), (7), (8), and (9) of section 57 (a) exceeds the taxpayer's category II exemption. For purposes of this subsection, the category II exemption is the amount, not exceeding $12,000, that the taxpayer elects (at such time and in such manner as the Secretary or his delegate prescribes by regulations) to use for the taxable year."

Mr. NELSON. Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors of the amendment: Senator BAYH, Senator CHURCH, Senator HARRIS, Senator MCINTYRE, and Senator CHILES.

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

Mr. NELSON. Mr. President, as I stated previously, the purpose of these two amendments is to raise the funds to pay the benefits that have been added in H.R. 1. This amendment would raise the minimum tax.

The minimum tax levied in the 1969 act was 10 percent. I am talking about the minimum that we require to be paid on income which is sheltered or privileged, or whatever name one wishes to use. That is the income on which no taxes are paid whatever.

This amendment proposes to require that a minimum tax be paid at the rate of one-half of normal tax, one-half the rate that would be paid if it were received as salary. Moreover, we provide that there is a $12,000 deduction from this sheltered tax before any tax is imposed.

So, for example, if an individual has a salary of $10,000 or $15,000 or $20,000 or $30,000 or $40,000—it does not matter—he pays on his salary his normal tax with his allowed deductions.

Let us assume that one of the items involved in the privileged income is capital gains, and let us assume that he has a capital gains of $24,000 a year. Under my amendment to the minimum tax, there would be no change from the present law whatever, because we allow a $12,000 credit, or deduction, in the first instance. So he can have an income of $20,000, $30,000, or $40,000—whatever it may be—pay his normal tax, as everybody else does, on his salary or on the income which is not sheltered. He can receive a capital gain as high as $24,000, and he pays no increase in taxes under this minimum tax proposal.

However, as to any capital gains in excess of $24,000—let us say it was $10,000 more than that; let us say it was $34,000—what we would say to that last $10,000 is that he would pay a tax on the last $10,000 equivalent to one-half of what he would pay if it were received as ordinary income and he had no other income.

This provision would raise approximately $2 billion. I think that anybody who looks at this minimum tax will agree that it imposes a modest tax im-

position. Therefore, I would hope that the Senate would agree to the amendment.

I yield the floor, for the time being.

FAIR FINANCING OF SOCIAL SECURITY

Mr. MONDALE. Mr. President, I rise to support amendments 1609 and 1610 offered by the distinguished Senator from Wisconsin (Mr. NELSON).

The pending bill, H.R. 1, makes urgently needed improvements in our social security law—improvements which will help our retired and disabled citizens to live in dignity.

Among its most important provisions, the pending bill would:

Increase from $1,680 to $3,000 the amount an elderly person on social security can earn without losing social security benefits;

Increase a widow's benefits from the present 82½ percent of her husband's benefits to a full 100 percent;

Render disabled workers under 65 eligible for medicaid benefits;

Raise minimum social security benefits to $200 a month for low income workers who have been employed at least 30 years;

Extend medicare coverage to urgently needed prescription drugs—so-called "life prescription" drugs—for chronically ill elderly persons who are not hospitalized.

Mr. President, decency demands that we make adequate provision for elderly and disabled citizens. Their welfare should be the concern of all Americans.

But all Americans do not contribute on an equitable basis to our social security program, or to the increased benefits provided under the pending bill. Social security benefits are financed through an unfair and regressive payroll tax. A heavy and disproportionate share is borne by low and moderate income working families.

And the pending bill proposes to increase their burden by $6 billion a year.

The payroll tax is our most rapidly growing Federal tax. It has risen from 10 percent of Federal revenues in 1954, to an estimated 30 percent of Federal revenues this year.

The social security tax rate has been raised 10 times in the last 13 years. And in 1969 social security taxes eclipsed corporate taxes as the second largest source of Federal revenues, after the Federal income tax.

Just last June, in connection with the 20 percent increase in social security benefits, the Congress adopted a social security payroll tax increase of $7 billion. The tax rate was raised from 5.2 percent to 5.5 percent effective next January. And the wage base on which the tax is paid from was raised from the current $9,000 to $10,800 effective in January 1973, and to $12,000 effective a year later.

The pending bill proposes to raise the tax rate still further, to 6 percent effective in January. This amounts to an aggregate 15 percent increase next year.

Under the pending bill, social security taxes paid by employees with incomes of $7,000 will rise from $364 a year in 1972 to $420 in 1973. Social security taxes for employees earning $10,000 a year will rise from $468 in 1972 to $600 in 1973. And social security taxes for employees earning $12,000 a year will rise from $468 a year in 1972 to $648 in 1973.

At the rates proposed in the pending bill, payroll taxes will exceed income taxes in 1973 for families of four with incomes under $13,900.

And the burden of these taxes falls most heavily on those who can least afford them.

Increasing the social security tax rate from 5.5 percent to 6 percent would increase total Federal tax for a family of four earning $4,000 by 9.1 percent. It would increase the tax for a family earning $10,000 by 3.4 percent. But it would increase taxes for a family earning $100,000 by only one-tenth of 1 percent.

And although the burden falls heaviest on low-income families, the burden on moderate income Americans will be great as well. If the pending bill is adopted in its present form, total social security taxes for a wage earner with a $12,000 annual income will increase by $181 in 1972—a 38-percent increase. By 1974 his social security tax would increase by $252—another 16 percent. And in the 4 years from 1971 to 1974 he would absorb a 75-percent increase in social security taxes.

I strongly believe that we must find a more equitable method of financing social security benefits for elderly and disabled Americans.

Dignity for our elderly and disabled is a national concern. A larger share of social security financing should be supported from the broad Federal tax base. And I believe a fair share of the burden should be carried by corporate taxes, which in 1971 received a tax cut which will amount to $74 billion over 10 years.

It may be said that employers presently contribute half of social security taxes. But most economists agree that the employer's half, as well as the employee's, is subtracted from real wages.

Reform of the financing of our social security laws must be a major concern of the Congress as we confront the need for broad tax reform.

But the amendments opposed by the Senator from Wisconsin give us the chance to adopt a partial remedy now.

These amendments would raise roughly $4 billion by closing clearly unjustified tax loopholes. They would reduce the increase in tax rates under the pending bill by three-fourths, to one-tenth of 1 percent. They are not an answer to the problem of financing social security, but they are a beginning.

Amendment 1609 would strengthen the minimum tax on income otherwise exempt from tax under four major tax preferences—gain from employee stock options, bad debt reserves of financial institutions in excess of the amount justified by experience, depletion, and the untaxed half of capital gains.

The present minimum tax on these provisions is a flat 10 percent, with an exemption of $30,000 plus the amount paid in income tax.

This amendment would reduce the exemption to $12,000, and change the tax from a flat 10 percent to half the tax which would be paid on that amount of ordinary income if the taxpayer had no other income. The rate would begin at 7 percent and reach a maximum of 35 percent for those with otherwise tax-exempt preference income of over $112,000 or $212,000 for married couples filing joint returns.

Amendment No. 1609 will raise an estimated $2.1 billion in 1973, $3.1 billion in 1977, and $4.1 billion in 1980.

The second amendment proposed by the Senator from Wisconsin, amendment No. 1610, would repeal the asset depreciation range, adopted in the Revenue Act of 1971.

ADR permits superaccelerated depreciation of assets over only 80 percent of their useful lives. An asset with a Treasury guideline life of 10 years, for example, may be completely depreciated over only 8 years, with no showing that the asset will then require replacement.

Repeal of this unjustified gift of tax revenues will yield $1.8 billion in 1973 and $26 billion between now and 1980.

Mr. President, amendments 1609 and 1610 point the way to fairer financing of our social security system. I urge their adoption by the Senate.

Mr. LONG. Mr. President, if this Government, which is about $40 billion in the red this year, is going to increase the income tax, we should use it to reduce the deficit we have now, rather than to change the whole concept of the social security program. The social security program is based on the theory that those who are working will pay a tax which will provide for their retirement in the future.

The Senator is seeking to use the Robin Hood approach that would tax the well to do more than those who are not well to do, because they are better able to pay for their retirement than those who are less able to pay.

Admittedly, the social security tax is a regressive tax but the benefits paid out are progressive because they are paid out in such a fashion that the person who receives a low income receives a proportionately higher benefit while the person who receives a higher income receives relatively less compared to what he contributed to help support the system.

This amendment would change the whole financing approach and also tend to eliminate discipline and tax-consciousness in the system.

At the present time, when we increase social security benefits, the public knows that they will have to pay for it. All the proposed future beneficiaries will have to pay more taxes to help pay for higher benefits. The Senator would change that concept and would move to the theory that we are going to have more and more social security benefits but do not have to pay for them because we can tax that well-to-do person who is better able to pay. That is a whole new concept which changes the whole basis of social security financing.

The Senator has offered his proposal and I do not believe the Senate wants to agree to it. Even just as a tax measure it is unacceptable because it would impose

a heavy tax increase on many people who are entitled to be heard, to present facts and figures, and to document their case. I do not believe that the Senate would want to prejudice that matter by doing this to them, without according them a hearing, consideration for the arguments which they can marshal, and to consider all the evidence that can be presented to support their position. The Senator is offering a tax increase which we will be thinking about and talking about next year and then voting on. It is premature to do it now.

Because of the lateness of the hour, I am not going to debate the matter further. I think the Senate is ready to vote now. If it is, we will find out. I think I should move to table the Senate's amendment.

Mr. President, I move that the amendment be laid on the table.

Mr. NELSON. Mr. President, will the Senator withhold that for a moment while I respond?

Mr. LONG. The motion is not debatable. I will be glad to withdraw it for a while.

Mr. NELSON. I hope that the Senator will. I wish to respond to it.

Mr. LONG. Can we agree on some time limitation? I will be glad to withhold my motion, due to the lateness of the hour.

The PRESIDING OFFICER (Mr. CANNON). The motion to table is pending. Unless the Senator withdraws it, it is not debatable.

Mr. LONG. Mr. President, I ask unanimous consent that I may withdraw my motion to table so that I might inquire of the Senator from Wisconsin would it be all right with him to limit himself to another 5 minutes.

Mr. NELSON. Ten minutes, and I will probably give back 5 minutes.

Mr. LONG. Mr. President, I ask unanimous consent that there be a 20-minute limit and I propose to surrender back my time, to be equally divided between the Senator from Wisconsin and myself.

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

Mr. NELSON. Mr. President, I should like to point out that the concept of paying for unearned benefits out of the general fund is not new. It has been recommended since 1935. The Committee on Economic Security made this recommendation in principle in 1935.

In recommending a Government contribution the 1938 Advisory Council said:

> Since the Nation as a whole will materially and socially benefit by such a program, it is highly appropriate that the Federal Government should participate in the financing of the system. With the broadening of the scope of the protection afforded, governmental participation in meeting the costs of the program is all the more justified since the existing costs of relief and old-age assistance will be materially affected.

In 1948, the Advisory Council on Social Security made the following statement:

> The Council believes that old-age and survivors insurance should be planned on the assumption that general taxation will eventually share more or less equally with employer and employee contributions in financing future benefit outlays and administrative costs. Under our recommendations, the full rate of benefits will be paid to those who retire during the first two or three decades of operation even though they pay only a fraction of the cost of their benefits. In a social insurance system, it would be inequitable to ask either employers or employees to finance the entire cost of liabilities arising primarily because the act had not been passed earlier than it was. Hence, it is desirable for the Federal Government, as sponsor of the program, to assume at least part of these accrued liabilities based on the prior service of early retirants. A Government contribution would be a recognition of the interest of the Nation as a whole in the welfare of the aged and of widows and children. Such a contribution is particularly appropriate in view of the relief to the general taxpayer which should result from the substitution of social insurance for part of public assistance.

In a minority statement, appended to the reports of the 1971 Advisory Council on Social Security, five Council members expressed the following views:

> There are compelling reasons why a contribution from general revenues should be made to the cash benefits program. In order to make the program fully effective in its early years, full-rate benefits have been and are being paid to people who were already along in years when their work was first covered under the program. That is to say, workers retiring in the early years of the program, generally speaking, get the same benefits as they would get if the program had been in existence and they had been covered under it throughout all of their working life. Only a small part of the actual cost of the benefits being paid to these older people is met by the contributions they and their employers paid. The remainder is paid out of the contributions of current and future workers and their employers. The cost of paying full-rate benefits to older workers is about one-third of the cost of the program. This means that future workers and their employers will pay contributions which are about 50 percent higher than the benefits payable to these future generations. Thus a substantial part of the contributions to the program goes to meet the cost of getting the program started. If this cost were to be met by a Government contribution, all of the contributions paid by future generations of workers and their employers would be available to furnish protection for them. The adoption of a financing policy calling for a general revenue contribution equal to the present employers and employee contribution rates—thus meeting one-third of the cost of the program through general revenues—would make possible an improved social security program without increasing payroll contributions. Such a general revenue contribution could finance nearly a 50-percent benefit increase.

Mr. President, just what are we doing here?

We are asking today's worker and his employer to be taxed to pay for unearned benefits for retired employees when such costs should be borne by the general fund. No one quarrels about increasing the payroll tax to pay for the 20-percent across-the-board increase. That increased tax is from 5.2 to 5.5 percent. However, H.R. 1 benefits require an additional tax increase from 5.5 to 6 percent.

These benefits which are needed and justifiable provide for an increase in the minimum benefits to $200 a month for low income workers employed for 30 years. We have decided as a matter of policy, that long term workers with low earnings will be provided on income of $200 per month and that the current worker will be taxed to pay it. What we are really saying to today's worker is, that "we are going to tax you and your employer to pay for increased retirement benefits for those who have already retired but not contributed to payment of that benefit."

Under this bill we are making disabled workers under 65 eligible for medicare. And that should occur. But I do not think the worker in the plant today should pay for medicare for someone who is retired. We are going to extend medicare coverage to include life prescription drugs for older folks, and I agree with that, but we should not tax the current worker to pay for them. We have increased the widow's cash benefit from 82½ percent to 100 percent of the husband's benefit and I agree with that but we should not tax the worker who is working today to pay for these benefits. The Advisory Council has been suggesting since 1938 that such benefits for retirees ought to be paid out of general funds.

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

Mr. LONG. Mr. President, I move to table the amendment of the Senator from Wisconsin.

Mr. NELSON. Mr. President, have the yeas and nays been asked for?

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 motion of the Senator from Louisiana (Mr. LONG) to lay on the table the amendment of the Senator from Wisconsin.

On this question the yeas and nays have been ordered. The motion is not debatable, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from New Mexico (Mr. ANDERSON), and the Senator from Virginia (Mr. SPONG) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

On this vote, the Senator from Louisiana (Mrs. EDWARDS) is paired with the Senator from Rhode Island (Mr. PELL).

If present and voting, the Senator from Louisiana would vote "yea" and the Senator from Rhode Island would vote "nay."

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

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Delaware (Mr. BOGGS), the Senator from Nebraska (Mr. CUR-

TIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), 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 Nebraska (Mr. CURTIS) would vote "yea."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from Texas would vote "yea" and the Senator from Oregon would vote "nay."

The result was announced—yeas 47, nays 28, as follows:

[No. 530 Leg.]

YEAS—47

Aiken	Fannin	Pastore
Beall	Fong	Pearson
Bellmon	Fulbright	Randolph
Bennett	Gambrell	Roth
Bible	Gurney	Scott
Brock	Hansen	Sparkman
Buckley	Hartke	Stafford
Burdick	Hruska	Stennis
Byrd,	Javits	Stevenson
Harry F., Jr.	Jordan, N.C.	Symington
Cook	Jordan, Idaho	Taft
Cooper	Long	Talmadge
Cotton	McClellan	Thurmond
Dole	Miller	Tunney
Dominick	Montoya	Weicker
Ervin	Packwood	Young

NAYS—28

Allen	Hart	Nelson
Bayh	Hughes	Percy
Brooke	Inouye	Proxmire
Byrd, Robert C.	Jackson	Saxbe
Cannon	Magnuson	Schweiker
Case	Mansfield	Smith
Chiles	Mathias	Stevens
Cranston	Mondale	Williams
Gravel	Moss	
Griffin	Muskie	

NOT VOTING—25

Allott	Edwards	McIntyre
Anderson	Goldwater	Metcalf
Baker	Harris	Mundt
Bentsen	Hatfield	Pell
Boggs	Hollings	Ribicoff
Church	Humphrey	Spong
Curtis	Kennedy	Tower
Eagleton	McGee	
Eastland	McGovern	

So the motion to table the Nelson amendment was agreed to.

AMENDMENT NO. 1610

Mr. NELSON. Mr. President, I call up my amendment No. 1610.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment ordered to be printed in the RECORD is as follows:

At the end of the bill insert the following:

TITLE VI—INTERNAL REVENUE CODE AMENDMENTS

SEC. 601. REPEAL OF ASSET DEPRECIATION RANGE SYSTEM.

(a) Section 167(m) of the Internal Revenue Code of 1954 (relating to the Asset Depreciation Range System) is repealed.

(b) Section 167(a) of such Code (relating to a reasonable allowance for depreciation) is amended by adding at the end thereof the following: "Such reasonable allowance shall be computed, subject to the provisions of Revenue Procedure 62-21 (except for the provisions for the reserve ratio test) as in effect on January 1, 1972, on the basis of the expected useful life of property in the hands of the taxpayer."

(c) The amendment made by subsection (a) shall apply to property placed in service after December 31, 1972. The amendment made by subsection (b) shall apply to taxable years ending after December 31, 1972, but shall not apply to property placed in service by the taxpayer during the calendar year 1971 if an election has been made to have the provisions of section 167(m) of the Internal Revenue Code of 1954 apply to such property.

SEC. 602. (a) Nothwithstanding any other provision of law, the rate of tax (in the tax schedules in section 1401(a), section 3101 (a), and section 3111(a), of the Internal Revenue Code of 1954) shall be reduced so as to cause the total revenues raised by such tax schedules to be reduced, for any calendar year (commencing with the calendar year beginning January 1, 1974), by an amount equal to the amount of the revenues which the Secretary of the Treasury determines, in the case of any calendar year, will be produced by reason of the application of the preceding amendments made by this title. The Secretary shall make the determinations required by the preceding sentence, for any calendar year, not later than the close of the month of September of the year immediately preceding such calendar year.

(b) In addition to the moneys authorized by law to be appropriated, for any fiscal year, to the Federal Old-Age and Survivors Insurance Trust Fund, and to the Federal Disability Insurance Trust Fund, there is hereby authorized to be appropriated to each of such funds an amount equal to the revenues produced for such fiscal year by reason of the amendments made by the preceding sections of this title, apportioned between each of such funds in the same ratio as moneys appropriated thereto under title II of the Social Security Act.

Mr. NELSON. Mr. President, this is my last amendment. I will be very brief because obviously there is not much interest in this body in introducing some equity into the tax structure respecting social security. But I will make this wager: there are not 20 Members of this body who have taken out a chart and looked down the list to see the tax we are imposing upon workers in this country to pay for these benefits, for people who retired in previous years. The benefits are justified. The Advisory Council has been recommending and suggesting for 30 years that some of this money come from the general fund when we grant nonearned benefits to retirees. I am certain that not more than 20 Senators have looked at the tax schedule or they could not vote against these amendments.

I want to see the Member of this body who can go before any group of workers in America, in his district, and tell that worker who is making $12,000 that you came down here this year and that you increased his taxes $21 a month.

If any Senator came onto this floor with a proposal to increase the taxes on a man making $12,000 a year by $21 a month, he would be laughed off the floor of the Senate; and anyone who voted for it would be voted out of the U.S. Senate, and that is what should happen.

What the Senate is saying to that man is that this year he is paying $468 in social security, but a year and a half from now the U.S. Senate, with its vote, is going to make him pay $720 in social security taxes, a $252 increase in a year and a half; a 54-percent increase in his social security tax, just in 2 years; a $21 a month increase in social security taxes, and a 75-percent increase since 1971.

Well, if he does not revolt against those who voted for that he will not revolt against anything, and half of it is to pay for the benefits of people who retired years ago and who did not make the contribution to pay for it.

We all agree the benefits here are justifiable, desirable, and urgently needed. But we should go to the general fund, which is a more equitable tax system, and ask the general fund to pay for it, or pass legislation and pay for it, but not pay for it through the pocketbook of the overloaded working taxpayer in this country.

Have Senators looked at the schedule which shows the inequity in this social security tax schedule? Let us take a look at it. If a worker has an income of $3,000 a year the social security tax is 9.1 percent of his gross income. If he has an income of $7,500 a year it is 4.1 percent. If he has an income of $100,000 it is one-tenth of 1 percent. That is the regressivity built into this system.

So you are going to tell that worker that you are going to load $21 a month on him if he is making $12,000 a year. He has a wife and two children and he cannot make ends meet now, and all of a sudden you hit him with an additional $21 a month. I want to be present when we find the genius in this body who can go before any group of workers in this country and get applause for that marvelous increase. I want to hear his answer when the worker says, here is a man who has $100,000 in income and he computes his tax on that salary. Then, he has $60,000 in capital gains and you allow him to deduct the $31,000 he will pay on his $100,000, if he has a 15 percent deduction, and subtract that from his $60,000 capital gains, so now he has only $30,000. Then, the law provides he can subtract another $30,000. So what does he pay on that $60,000? Zero. It is all privileged untaxed income.

I want to see you stand up, any Member here, and defend that exemption, and tell the worker, "However, we are going to stick you with $21 a month," while the man making that $60,000 in capital gains does not even pay $21 a month on it; he does not even pay $21 a year on it. I want to see any Member here defend that kind of tax system. That is what we are doing here.

I hope every single Member here has to answer out loud to his constituents on that rollcall, and I wager you will because it is a question of ethics, honesty, and fairness with the American people and the American taxpayer.

We sit here allowing millionaires to pay nothing and we load the hard-working man in the factory with regressive, unfair taxes.

I cannot defend that; maybe you can. I hope the story is told all across the Nation. We represent the rich and the powerful. I do not know who represents the poor, but it is not this body.

I give up the floor.

Mr. LONG. Mr. President, the whole approach to the social security program is that you pay taxes for what you are going to get. You pay taxes now and you receive benefits later on. The more you pay in taxes the more you can expect to receive in benefits.

Admittedly, the fellow paying in the highest bracket does not get the benefit of the fellow in the lowest bracket. It is computed so that the fellow in the low bracket gets more benefit for what he pays than the person in the higher wage bracket gets. It is based on the theory if you pay more you are going to get more. That is how we justify tax increases for social securty. We consistently have done that.

In theory and in practice the people paying more overall will get more because they are paying more. We raise the taxes and the benefits too. The additional benefits provided here will be shared in and participated by those paying taxes.

The Senator from Wisconsin made an eloquent argument to the effect that we should tax the wealthy in order to reduce the tax on these future beneficiaries. Of course, that is an appealing argument but it defeats the purpose of social security, and causes one to raise a question, with the Government $40 billion in debt, if we can do it by raising the income tax. That is the tax that has been the principal support of Government. With the Government $40 billion in the red, if you are going to raise that income tax on people should we put that increase of $2 or $3 billion into replacing or reducing the tax of a program that is financing itself or should we put it into the General Treasury where it has been going, trying to reduce that $40 billion deficit we have? Some of us think, whether we like it or not, we may be forced to vote for a tax increase some day as a responsibility to this Nation to pay for defense and other things in the national interest, including public welfare, which is being increased to the tune of many millions of dollars in this bill. So if one wants to think of benefiting the poor, how about the poorest of all, those who would not be getting social security benefits? Why not take some of this money from the very wealthy and use it to help those who would not get any of these benefits, rather than reduce taxes for those who presumably are going to draw from the social security fund everything they put into it?

So, even though I agree with the general philosophy of taxing those best able to pay and providing help to those least able to provide for themselves, that is not what the Senator is doing here. If he did that, he would put money into the general funds to pay people who are not drawing social security benefits because they were not fortunate enough to participate in the program in their earning years.

I suggest that we have an up-and-down vote on the amendment.

Mr. NELSON. Mr. President, I would like to comment briefly on this matter. The distinguished Senator from Louisiana is always so persuasive, even when he is on the wrong side, but I am puzzled, because the distinguished Senator from Louisiana proposed general fund moneys to pay for his catastrophic insurance under the health care program, parts A and B. I want to commend the Senator, who took exactly my position at that time——

Mr. LONG. Mr. President, if the Senator will yield, is he talking about the Hartke amendment or the Long amendment? I proposed a catastrophic illness amendment which would be paid for by raising social security taxes.

Mr. NELSON. Well, I hope that my staff's research has not been inaccurate. Their research indicates that in the course of the Senate Finance Committee's consideration of the Social Security Amendments of 1965, Senator RUSSELL B. LONG proposed an amendment which would substitute a single and much broader system of health care aimed at covering catastrophic costs for the two complementary health care plan—parts A and B—contained in the House-passed bill, and in the legislation as it was finally enacted. Two-thirds of the cost of this program would have been paid from payroll taxes and one-third from general revenues. In a press release describing the amendment the Senator said:

> My plan would also utilize, to a greater extent, general revenue financing. This is in recognition of the fact that workers who will enter the labor force in the future (and their employers) would have to pay at least 40% more in payroll taxes than would be necessary to finance their own costs if the benefits of the presently retired and current workers were paid for wholly under the payroll system.

Mr. LONG. I think, if we can understand each other, at one time I did propose that. I realized I was in error, and if the Senator will look at the 1970 version, I had proposed paying for the whole thing in social security taxes.

Mr. NELSON. Let me say to the Senator I think he was right the first time.

I just conclude by saying that there are two proposals here. One is simply to repeal the ADR. I do not think any businessman, in the privacy of his office, would try to defend having both the ADR and the investment credit and a number of distinguished businessmen have said that publicly. Now we are saying we are willing to load down the low- and middle-income people with a heavy tax, but we will not consider going to the general funds and levying a modest tax on those who can afford to pay and who are being treated preferentially.

I think that says something quite significant about the philosophical bent of the Senate.

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

Mr. NELSON. Mr. President, if I may take one moment, I ask unanimous consent that a statement may be printed in full in the RECORD preceding the debate on the minimum tax, together with some supporting documents, and I also ask unanimous consent that some supporting documents, statistics, and charts, be printed in the RECORD.

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

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

PROPOSAL TO PAY FOR INCREASED SOCIAL SECURITY BENEFITS THROUGH TAX REFORM

Unless Congress comes to its senses, the average American wage-earner will be faced with a monstrous increase in federal taxes. His wages frozen, inflation eating away the purchasing power of his dollar, the American worker can now expect a demoralizing cut in take home pay—almost $200 a year for some people—starting in just a few months.

H.R. 1 as reported by the Senate Finance Committee presents a $6 billion tax bill to the American worker. This tax boast would be in addition to a $7 billion tax bill rise already scheduled to go into effect January 1 to pay for the 20 percent across-the-board social security benefit increase voted by Congress in June. The earlier approved tax increase scheduled to go into effect January 1, 1973, would raise the payroll tax from 5.2 to 5.5%, and the wage base on which the tax is paid will rise from $9,000 to $10,800 with still another wage base increase to $12,000 a year later. The additional $6 billion tax increase approved by the Senate Finance Committee would come entirely from a rise in the tax rate from 5.5% to 6% effective in January. Just the Senate Finance Committee action in increasing benefits in H.R. 1 represents a 10% increase in the social security tax.

For the individual worker, this dramatic increase in the payroll tax means substantial reduction in his take home pay. For example, for a wage-earner with a $12,000 income in wages, his social security tax would increase in one one-year period from 1972 to 1973 by $252—a 54% increase. This wage earner will have undergone a 75% increase in social security taxes in the four-year period from 1971 to 1974.

Mr. President, I ask unanimous consent that table showing the amount of increase in social security taxes from 1972 to 1974 for various levels of wage-earners be inserted in the Record at this time.

Congress must face what is being proposed. Congress can no longer mindlessly approve more and more increases in the payroll tax.

The effective social security tax rate has been raised 10 times in the preceding 12 years.

Small in its first years, the payroll tax has now became one of the largest components of the federal tax system. Social Security taxes are now the second largest source of federal revenue, having passed corporate taxes in fiscal 1969. Indeed it produces more federal revenue than any tax other than the individual income tax.

The payroll tax achieved its present importance in a very short time. It is the most rapidly growing federal tax. In 1950, it produced only 5% of federal revenue. Next year it is scheduled to produce about 30%.

Indeed the most striking feature of the federal tax system over the last ten years has been the drop in the corporate income tax and the precipitous rise in the payroll tax. In the period 1961–72, the corporate income tax declined from 22.5% of federal revenues to 18.0% while the payroll tax rose from 19.1% to 30.0% of federal revenue.

The shift from taxes on corporations to taxes on individuals can be seen in the accompanying table. This gives the percentage of national income raised by different federal taxes—the personal income tax, the social security tax, the corporate income tax, and sales and excise tax. The comparison is between 1961 (before the Kennedy tax cuts) and 1972. The table shows that there is no change between 1961 and 1972 in the share of national income raised by the personal income tax, a significant drop in the corporate tax share, and a large increase in the payroll tax share.

Mr. President, I ask unanimous consent that the table I have been discussing appear in the RECORD at this time.

PERCENT OF NATIONAL[1] INCOME RAISED BY FEDERAL TAXES

	Personal income tax	Social security tax	Corporate income tax	Sales and excise taxes	Total Federal taxes
1961	8.7	3.9	4.6	2.7	20.4
1973	8.6	6.0	3.6	1.8	20.0

[1] National income at full employment.

Since the corporate income tax is one of the most progressive taxes, the net effect these changes is a much more regressive federal tax system. The social security tax is one of the most regressive taxes because the tax is levied on wages up to a given level without exemptions or deductions. The social security tax violates the fundamental principle of sound tax policy; the tax bears no relationship to ability to pay.

Because the burden of the payroll tax is focused on the low- and midde-income worker, increases in the payroll tax in recent years have largely eliminated the tax relief Congress attempted in 1964 and 1969 to extend to these taxpayers. At rates proposed by H.R. 1, the social security payroll tax burden will be larger in 1972 than the income tax burden for the average family of four with an income of $10,900 or less.

It is now proposed that we increase this highly regressive tax even more. Additional increases in the payroll tax would be financially crippling to the middle- and low-income wage earner. Increasing the tax rate from 5.5 to 6 percent would mean for a family of four with one wage earner in the $3,000 or $4,000 tax bracket a 9.1 percent increase in Federal taxes. The following table shows that the proposed increases place a disproportionate tax burden on the low- and middle-income wage earner. I ask unanimous consent that the table be inserted in the CONGRESSIONAL RECORD at this time.

Percentage increase in total Federal taxes paid by increasing the social security tax from 5.5 to 6 percent.

Tax bracket:	
$3,000	9.1
4,000	9.1
5,000	6.7
7,500	4.1
9,000	3.6
10,000	3.4
10,800	3.3
12,500	2.8
15,000	2.2
20,000	1.5
50,000	.4
100,000	.1

The excuse for imposing such a regressive tax so financially crippling to middle and low-income wage-earners is to finance needed and justifiable improvements in the social security and medicare programs. I strongly support these improvements. The problems of American elderly are real and tragic.

One out of every four elderly persons lives in poverty. Sixty percent of this nation's elderly who are living alone are also living in or near poverty. They are three-fifths of a generation who heard a promise made and now see that promise falling short. For them retirement is not a just reward for a life of effort but a sentence of punishment in a constricting cell of poverty. These are some of the improvements in the social security and medicare program contained in H.R. 1:

Raising the minimum benefits to $200 a month for low income workers who have been employed at least 30 years;

Making disabled workers under 65 eligible for medicare;

Extending medicare coverage to certain prescriptions, the so-called "life prescription" drugs used by the chronically ill older persons who are not hospitalized;

Increasing the widows cash benefits from the present 82½% of husband's benefit to a full 100%;

Increasing from $1680 to $3000 the amount an elderly person on social security can earn without loss of any social security benefits.

These are all meritorious, humane and justifiable benefit improvements for the elderly.

But I believe that it is not necessary to levy this dramatic tax increase on the American worker to provide for a just retirement for the elderly American. Our senior citizens deserve a decent retirement income, but it is not fair to place the whole burden on the low and moderate income wage-earner.

I propose that we pay for the social security improvements in H.R. 1 by correcting some of the major distortions and gross injustices that have crept into the federal tax system.

The well-known loopholes of the present system can send the wage-earning, taxpaying householder right up the dining room wall with a fistful of unpaid bills. How can we justify raising this man's tax by 54% when he and we know:

(1) that the tax levied on the wealthy in bold letters is frequently taken away in the small print;

(2) that there are paper paupers who live in mansions and pay no taxes.

I propose that Congress pass two tax reform measures—repeal of the asset depreciation range and strengthening the minimum tax provision—which would raise almost $42 billion between now and 1980. $42 billion would meet about 70% of the cost of the social security program arising from H.R. 1 and automatic increases by 1977. Passage of these tax reform amendments would allow dropping the proposed payroll tax rate increase from 6.0 to 5.6%.

Both the ADR system and the existing minimum tax have been recently considered by the appropriate committees and by Congress—the minimum tax in 1969, and the ADR only last December. They are fully eligible for present consideration.

THE ASSET DEPRECIATION RANGE SYSTEM

The ADR system seeks to encourage investment by permitting corporations to deviate by as much as 20 percent from a true depreciation schedule for certain investments in plant and equipment. It cost the taxpayer some 2.5 billion dollars in revenue in FY 73.

Economically sound investments are made regardless of tax concessions. The ADR allows corporations to relax their strict profitability standards and invest in areas which offer only marginal return. This is clearly not the kind of investment which is likely to build back a strong economy. As James Roche, the chairman of the world's largest corporation, said about tax measures intent to stimulate the purchase of plant and equipment:

"It should be understood that most companies of any size determine their purchase of equipment by the needs of the business and not by any short-term tax advantages."

Our plants are currently operating at substantially less than full capacity; still corporate profits rose to a record annual rate of 93.1 billion last quarter; and unemployment continues at 5.6 percent.

There is thus no good reason for retaining the ADR system. It should be repealed, and the money regained allocated to the elderly.

THE MINIMUM TAX

The minimum tax was enacted in 1969 to insure that wealthy individuals with substantial income from tax loopholes do not escape tax altogether. It imposes a 10 percent tax on the aggregate amount of tax preference income in excess of the sum of $30,000, plus the regular income tax imposed on the taxpayer.

The minimum tax has not been effective. Only $117 million was collected from individuals last year under this add-on tax. A total of 394 people with incomes of over $100,000 paid no Federal income taxes at all. Of the 18,646 who were affected, an effective tax rate of only 4 percent was paid, less than half the percentage paid by the average wage earner.

In the interest of both equity and revenue, the minimum tax obviously needs to be tightened up. This amendment would reduce the exemption from $30,000 to $20,000, and eliminate the regular income tax deduction. It would raise the rate to one-half of the regular income tax rate for certain items of "preference income."

The minimum tax has little impact on productive investment, and no discernible effect on consumer demand.

By enacting these two tax reform measures, Congress can improve the lives of elderly Americans; restore some equity to our tax system; and save the American worker from an additional tax burden.

Of course, what I am proposing is general revenue-financing for some of the increases in benefits for social security or medicare.

H.R. 1 represents the most massive revision of the social security laws that the Congress has ever undertaken. When combined with the 20% social security benefit increase enacted into law July 1 of this year, the bill would increase Federal expenditures by 22 billion. Under these extraordinary circumstances, some form of general revenue financing is called for.

General revenue financing is not without precedent or logic. General revenues are now being used to finance some aspects of the social security program. For example, the special payments being made to people age 72 and over who have not worked long enough in employment covered under social security to qualify for reguar cash benefits are being paid from general revenues. In addition, the cost of providing hospital insurance protection for people who are age 65 and over and who are not eligible for regular social security cash benefits and one-half of the cost of the supplementary medical insurance program are being paid from general revenues.

There has been considerable interest in Congress in providing general revenue contributions for regular social security cash benefits. Several bills have been introduced in the Congress over the years calling for some general revenue financing of cash benefits, generally in connection with proposals for benefit liberalizations. Furthermore, there have been many sugggestions that parts of medicare be financed by general revenue financing. A most interesting example was the suggestion of the distinguished chairman of the Senate Finance Committee.

In the course of the Senate Finance Committee's consideration of the Social Security Amendments of 1965, Senator Russell B. Long proposed an amendment which would substitute a single and much broader system of health care aimed at covering catastrophic costs for the two complementary health care plans (Parts A and B) contained in the House-passed bill, and in the legislation as it was finally enacted. Two-thirds of the cost of this program would have been paid from payroll taxes and one-third from general revenues. In a press release describing the amendment the Senator said:

"My plan would also utilize, to a greater extent, general revenue financing. This is in recognition of the fact that workers who will enter the labor force in the future (and their employers) would have to pay at least

40% more in payroll taxes than would be necessary to finance their own costs if the benefits of the presently retired and current workers were paid for wholly under the payroll system. This 'social' cost of establishing the system, I believe, is more appropriately borne by federal revenue."

Many of the advisory councils that have been appointed to study the social security program have recommended the use of general revenue financing.

In 1935, the Committee on Economic Security, in explaining its plan for contributory annuities, made the following statements in its report to the President:

"The allowance of larger annuities than are warranted by their contributions and the matching contributions of their employers to the workers who are brought into the system at the outset, will involve a cost to the Federal Government which if payments are begun immediately will total approximately $500,000,000 per year. Under the plan suggested, however, no payments will actually be made by the Federal Government until 1965, and will, of course, be greater than they would be if paid as incurred, by the amount of the compound interest on the above sum."

In recommending a Government contribution the 1938 Advisory Council said:

"Since the Nation as a whole will materially and socially benefit by such a program, it is highly appropriate that the Federal Government should participate in the financing of the system. With the broadening of the scope of the protection afforded, governmental particiaption in meeting the costs of the program is all the more justified since the existing costs of relief and old-age assistance will be materially affected."

The Advisory Council of 1948 made the following statement in its report:

"The Council believes that old-age and survivors insurance should be planned on the assumption that general taxation will eventually share more or less equally with employer and employee contributions in financing future benefit outlays and administrative costs. Under our recommendations, the full rate of benefits will be paid to those who retire during the first two or three decades of operation even though they pay only a fraction of the cost of their benefits. In a social insurance system, it would be inequitable to ask either employers or employees to finance the entire cost of liabilities arising primarily because the act had not been passed earlier than it was. Hence, it is desirable for the Federal Government, as sponsor of the program to assume at least part of these accrued liabilities based on the prior service of early retirants. A Government contribution would be a recognition of the interest of the National as a whole in the welfare of the aged and of widows and children. Such a contribution is particularly appropriate in view of the relief to the general taxpayer which should result from the substitution of social insurance for part of public assistance."

The 1971 Advisory Council on Social Security, although it did not recommend the use of general revenue financing for the cash benefits of the social security program, it did recommend their use for the medicare program. In a minority statement included with the Council's report, five members of the thirteen member Council recommended that one-third of the cost of the cash benefits program should be paid from general revenues.

Mr. President, I ask unanimous consent that the views of the 1971 Advisory Council on Social Security appear in the Record at this time.

In recommending a Government contribution for the Medicare program, the 1971 Advisory Council on Social Security stated:

"The combined Medicare program should be financed with a general-revenue contribution equal to one-third of total program costs, with such share being lower than one-third at first and gradually increasing over a period of years to the one-third level.

"The Council believes that the cost of health insurance protection for workers who pay contributions that are less than the value of their benefit protection, should be met in part by the Nation as a whole through general revenues. If this cost is not met through general revenues, the regular worker and his employer, particularly the higher-paid regular worker, will be paying contributions in excess of the value of his protection in order to subsidize those who do not pay their own way.

"If there were no Medicare program, it is likely that the cost to the Government of necessary health care for the aged would be substantially increased, and these increased costs would have to be borne by all income-taxpayers. Since the Nation as a whole benefits from the Medicare program, the saving in general revenues that comes about from having such a program should be used at least in part to finance health insurance protection for those whose contributions do not cover the full cost of their protection."

In a minority statement, appended to the Reports of the 1971 Advisory Council on Social Security, five Council members expressed the following views:

"There are compelling reasons why a contribution from general revenues should be made to the cash benefits program. In order to make the program fully effective in its early years, full-rate benefits have been and are being paid to people who were already along in years when their work was first covered under the program. That is to say, workers retiring in the early years of the program, generally speaking, get the same benefits as they would get if the program had been in existence and they had been covered under it throughout all of their working life. Only a small part of the actual cost of the benefits being paid to these older people is met by the contributions they and their employers paid. The remainder is paid out of the contributions of current and future workers and their employers. The cost of paying full-rate benefits to older workers is about one-third of the cost of the program. This means that future workers and their employers will pay contributions which are about 50 percent higher than the benefits payable to these future generations. Thus a substantial part of the contributions to the program goes to meet the cost of getting the program started. If this cost were to be met by a Government contribution, all of the contributions paid by future generations of workers and their employers would be available to furnish protection for them. The adoption of a financing policy calling for a general revenue contribution equal to the present employers and employee contribution rates—thus meeting one-third of the cost of the program through general revenues—would make possible an improved social security program without increasing payroll contributions. Such a general revenue contribution could finance nearly a 50-percent benefit increase."

It seems clear to me that the "social" aspects of the social security program—such as, the weighting in the benefit formula in favor of low-income workers, a high minimum benefit, and the payment of full-rate benefits to people who were already old, or in their middle years, at the time their work was first covered under the program—should be financed through general revenues instead of through payroll contributions because society as a whole benefits from these aspects of the program. Only in this way, we will be able to ensure a decent retirement for elderly Americans without placing an unfair burden on the present working generation of Americans.

SENATOR NELSON'S PROPOSAL TO PAY FOR INCREASED SOCIAL SECURITY BENEFITS THROUGH TAX REFORM

Senator Nelson has introduced two tax reform amendments to H.R. 1 in order to offer an alternative method of financing some of the necessary and justifiable improvements made by H.R. 1 in the social security and medicare programs.

Problem: H.R. 1, by providing for necessary improvements in social security, would impose an onerous increase in federal taxes on the average wage earner. For example, social security taxes for a wage earner with a $12,000 income in wages would increase in one year by $180—a 38% increase. In 1974 his social security tax would have increased by $252—a 54% increase. This wage earner will have undergone a 75% increase in social security taxes in the 4-year period from 1971 to 1974. Following is the amount and percentage of increase in social security taxes for selected wage earners from *1972 to 1974:*

Wages	*Amount of Increase*	*Percentage of Increase*
$5,000	$40	15
$7,000	56	15
$9,000	72	15
$10,000	132	28
$12,000	252	54

Solution: I propose that Congress pass two tax reform amendments—repeal of the assets depreciation range (Amendment #1610) and strengthening the minimum tax provision (Amendment #1609) which would raise about $42 billion between now and 1980. Passage of these tax reform amendments would allow dropping the proposed payroll tax rate increase from 6.0 to 5.6%

This would involve general revenue-financing for some of the increases in benefits for social security and medicare contained in H.R. 1. General revenue financing has been recommended by many of the advisory councils that have been appointed to study the social security program.

Conclusion: The "social" aspects of the social security program—such as, the weighting in the benefit formula in favor of low-income workers, a high minimum benefit, making disabled workers under 65 eligible for medicare, and extending medical coverage for certain prescription drugs as proposed by H.R. 1—should be financed through general revenues instead of through payroll contributions because society as a whole benefits from these aspects of the program. Only in this way will we be able to ensure a decent retirement for elderly Americans without placing an unfair burden on the present working generation.

NELSON AMENDMENT TO STRENGTHEN THE MINIMUM TAX

A. MINIMUM TAX

Congress enacted the minimum tax in an attempt to obtain some tax contribution from wealthy individuals who had previously escaped income taxation on all or most of their income.

B. MINIMUM TAX FAILS

Under the present minimum income tax, it is very easy for a taxpayer to avoid paying any minimum tax or to pay a very small amount of minimum tax. For example, a taxpayer filing a joint return with a regular income of $100,000 and preference capital gain income of $50,000, who happens to have itemized deductions of 15 percent and two exemptions, would pay no tax on his preference income.

C. THE EXTENT OF THE FAILURE

In 1970, 106 individuals with adjusted gross income exceeding $200,000 paid no federal income tax. Three individuals with incomes in excess of $1 million paid no federal income tax. The effective rate on individual income subject to the minimum tax is 4 percent instead of the statutory rate of 10 percent.

D. PROPOSED AMENDMENT

The proposed amendment would make three major changes in the tax treatment of the four major tax preference items—stock options, bad debts, depletion, and capital gain—of the minimum tax. First, it would repeal the provision of existing law that allows regular income taxes to be deducted from these tax preference items. Second, it would lower the present $30,000 exemption to $12,000. Finally, it would increase the minimum tax rate from 10 percent to 50 percent of the regular income tax rate that would otherwise apply. The tax treatment of the other items of tax preference in the minimum tax provision would not be changed.

This amendment would save the Federal Treasury $1.9 billion in 1973 and $21.8 billion between now and 1980. The savings to the Treasury for the rest of the decade would be:

[In billions]

Year:	*Savings to Treasury*
1973	$1.9
1974	2.1
1975	2.3
1976	2.5
1977	2.8
1978	3.1
1979	3.4
1980	3.7

TABLE I.—1972-74 SOCIAL SECURITY TAXES, EMPLOYER AND EMPLOYEE (EACH), LAW PRIOR TO CHURCH AMENDMENT, LAW AFTER CHURCH AMENDMENT, AND FINANCE COMMITTEE REPORTED BILL

	Prior to Church amendment			After Church amendment			Finance Committee bill		
	1972 [1]	1973 [2]	1974 [3]	1972 [1]	1973 [2]	1974 [3]	1972 [1]	1973 [2]	1974 [3]
Wages:									
$5,000	$260	$282.50	$282.50	$260	$275	$275	$260	$300	$300
$7,000	364	395.50	395.00	364	385	385	364	420	420
$9,000	468	508.50	508.50	468	495	495	468	540	540
$10,000	468	508.50	508.50	468	550	550	468	600	600
$12,000	468	508.50	508.50	468	594	660	468	648	720

[1] Tax rates apply to annual earnings up to $9,000.
[2] Tax rates apply to annual earnings up to $10,000.
[3] Tax rates apply to annual earnings up to $12,000.

AMOUNT AND PERCENTAGE OF INCREASE IN SOCIAL SECURITY TAXES, EMPLOYER AND EMPLOYEE (EACH), FROM 1972 TO 1974 AFTER CHURCH AMENDMENT AND H.R. 1 ARE APPROVED

	Prior to Church amendment 1972 [1]	Finance Committee bill 1974 [2]	Amount of increase	Percentage of increase
Wages:				
$5,000	$260	$300	$40	15
$7,000	364	420	56	15
$9,000	468	540	72	15
$10,000	468	600	132	28
$12,000	468	720	252	54

[1] Tax rates apply to annual earnings up to $9,000.
[2] Tax rates apply to annual earnings up to $12,000.

AMOUNT OF INCREASES IN SOCIAL SECURITY TAXES, EMPLOYER AND EMPLOYEE (EACH), LAW PRIOR TO AND AFTER CHURCH AMENDMENT AND COMMITTEE ON FINANCE BILL

	Prior to Church amendment 1972 [1]	After Church amendment 1973 [2]	Amount of increase	Finance Committee bill 1973 [2]	Amount of increase
Wages:					
$5,000	$260	$275	$15	$300	$25
$7,000	364	385	21	420	35
$9,000	468	495	27	540	45
$10,000	468	550	82	600	50
$12,000	468	594	126	648	54

[1] Tax rates apply to annual earnings up to $9,000.
[2] Tax rates apply to annual earnings up to $10,000.

MINIMUM TAX

Mr. NELSON. Mr. President, the enactment of the Tax Reform Act of 1969 should not result in complacency. It was merely the beginning—and a rather poor beginning—of meaningful tax reform. Our tax code, a document of mind-numbing complexity, still enshrines inequities and injustices. It still unduly rewards the rich and punishes the poor.

Perhaps the main reason why a modicum of tax reform was finally achieved in 1969 was the public's rightful outrage when it learned that many wealthy people were paying little or no income taxes. When Secretary of the Treasury Joseph Barr disclosed that in 1967, 155 Americans with income of over $200,000 paid no Federal income tax and, in fact, 21 of them made incomes of over $1 million each and still paid no taxes it was clear that something had to be done. Unfortunately, what was done, was not done well. Although the Tax Reform Act of 1969 adopted a minimum tax on income derived from tax-free preference provisions, it is still possible for the very rich to pay little or no tax. In 1970, 106 individuals with incomes of $200,000 or more paid no Federal income tax. Incredibly, three taxpayers with adjusted gross income of more than $1 million each pay no income tax at all.

As startling as these figures are, they grossly understate the number of wealthy people who, through tax loopholes, escape paying any Federal income tax at all. These figures include only individuals who file Federal income tax returns showing adjusted gross incomes in excess of the $200,000 and $1 million levels. Important tax preferences in the present Internal Revenue Code exclude certain classes of income from the definition of "gross income" altogether. More important than the tax preferences excluding income items from "gross income" are those which result in reduction of a taxpayer's "adjusted gross income" by means of special deductions. The deductions permitted by the percentage depletion allowance is an example of such a deduction. Because deductions of this kind reduce taxpayers' adjusted gross income—the figure upon which the Treasury statistics are based—they can prevent the statistics from including many individuals, who in fact, have large real incomes but pay no tax.

The fact that a millionaire can escape paying any Federal income tax at all, captures our attention, but the problem is much more serious and widespread. For every wealthy person who pays no Federal income tax there are many more who do not pay a fair share of their income in tax. In fact, the tax rate on these wealthy peoples' income is much less than the tax rate of the income of the average American worker.

The statutory rate schedule for the individual income tax has a sharply progressive structure. The tax rates rise from 14 percent to 70 percent. For married taxpayers filing joint returns, the 14 percent bracket applies only to the first $1,000 of taxable income; the 70 percent bracket applies to all taxable income in excess of $200,000.

Data on the rates of tax which taxpayers really pay manifests a marked departure from the statutory rates. Statistics disclosed by the Treasury Department in 1969 indicate that, at 1969 income levels, 28.2 percent of the tax returns showing "amended taxable income" between $500,000 and $1 million paid tax at effective rates of no more than 25 percent: 58.5 percent of the taxpayers in this income range paid tax at effective rates of no more than 30 percent—substantially less than half the top statutory rate. Of taxpayers having amended taxable income of $1 million and over, 62.8 percent paid tax at effective rates of no more than 30 percent.

Comparable data is not yet available for the first year after the Tax Reform Act of 1969 became effective. However, analysis of the data in light of specific reforms contained in the 1969 act suggests that post-1969 statistics would not show substantial deviations from the figures set forth above.

A study recently completed by Joseph Pechman and Benjamin Okner of Brookings affords additional evidence for the conclusion that the upper ranges of

the individual income tax system possess very little real progressivity.

Computing the Federal income tax paid under existing law by all classes of individuals as a percentage of so-called "expanded adjusted gross income," the study finds effective tax rates rising from .5 percent—for the first $3,000 of income—to 29.5 percent—for expanded AGI from $100,000 to $500,000, 30.4 percent—for expanded AGI of $500,000 to $1 million, and 32.1 percent—for expanded AGI of $1 million and over. This data is based upon projections of 1972 income levels and computations of tax under the law as amended both by the Tax Reform Act of 1969 and by the Revenue Act of 1971. Here again, one finds clear evidence that the 1969 act did little to improve the progressivity of the upper ranges of the individual income tax. To put the matter somewhat differently, the fundamental goal of the income tax system—to correlate taxes paid with ability to pay—remains unrealized despite the 1969 act.

The purpose of the minimum tax was to make possible the taxation, to some extent, of income which previously through certain special deductions or exclusions allowed by the Internal Revenue Code had not been subject to taxation. Income accorded this special treatment is commonly referred to as "tax preference income." The minimum tax is derived by substracting from the total tax preference income the sum of $30,000 plus the amount of any regular income tax paid and then taking 10 percent of the remainder. Not all income accord preferred tax treatment, however, is subject to the minimum tax. For example, income derived from interest on State and municipal bonds is not subject to any Federal income tax and is not included in the minimum tax as a preference income item. Beside interest from State and local bonds there are other forms of income accorded tax preference treatment that could have been included in the minimum tax but were not. Other examples of preferred income not subject to the minimum tax are charitable contributions of appreciated property and the investment credit.

Minimum or additional tax for tax preferences was effective January 1, 1970, and applied to the following "tax preferences":

First. Accelerated depreciation on real property.

Second. Accelerated depreciation on personal property subject to a net lease.

Third. Amortization of certified pollution control facilities.

Fourth. Amortization of railroad railing stock.

Fifth. Stock options.

Sixth. Reserve for losses on bad debts of financial institutions.

Seventh. Excess percentage depletion.

Eighth. Excluded portion of capital gains.

Ninth. Amortization of on-the-job training and child care facilities.

The Nelson amendment would change the tax treatment for four of these preference income items—stock options, bad debts, depletion, and capital gains—of the minimum tax. First, it would repeal the provision of existing law that allows regular income taxes to be deducted from these tax preference items; second, it would lower the present $30,000 exemption to $12,000. Finally the rates which apply to these four items of preferred income would be changed. The tax rate is changed from a flat 10 percent to half the tax which would be paid on the amount of ordinary income computed as if the taxpayer had no other income. For individuals the new tax rate would begin at 7 percent and reach a maximum of 35 percent for those with otherwise tax-exempt preference income of over $112,000 or $212,000 for married couples filing joint returns.

These changes in the minimum tax are needed because it is not as effective as intended by Congress. When the minimum tax was enacted, it was estimated that it would raise $590 million in Federal revenue. In fact, for 1970 it raised only $117 million in individuals income tax return. Preliminary statistics of 1970 individual income tax returns reveal that the effective tax rate of the minimum tax on the preference income of individuals subject to the minimum tax is 4 percent instead of the statutory rate of 10 percent.

The effective rate of the minimum tax is only 4 percent because it is very easy for a taxpayer to avoid paying any minimum tax or to pay a very small amount of minimum tax.

Mr. President, I ask unanimous consent that there be inserted in the RECORD at this time three examples of how the minimum tax operates presently and as modified by the Nelson amendment. Furthermore, I would like to insert a memorandum explaining the present minimum tax and my amendment to it in the Record at this time.

There being no objections, the material follows:

Example A, a taxpayer filing a joint return with a regular income of $100,000 and preference capital gains of $50,000 who happens to have itemized deductions of 15 per cent and two exemptions, would pay no tax on his preference income.

1. 15% of itemized deduction of $100,000 regular income is $15,000.

2. Two personal exemptions ($750 x 2) is $1500.

3. $100,000–$15,000–$1,500 is $83,500 of taxable income.

4. In the tax table for married individuals filing joint returns, $83,500 taxable income is between taxable income of $76,000 and $88,000 which pays $31,020 in taxes plus 58% of the difference between $83,500 and $76,000.

5. $83,500–$76,000 is $7,500.

6. 58% of $7,500 is $4,350.

7. $4,350+$31,020 is $35,570 which is the amount of regular income tax paid.

8. The present minimum tax allows a deduction for regular income tax paid. Therefore taxpayers can deduct $35,370 from the $50,000 of his preferred income—$50,000—$35,370 is $15,620.

9. The present minimum tax also allows a deduction of $30,000 resulting in taxpayer A having no preference income subject to the 10% tax rate of the minimum tax provision.

Under the Nelson amendment taxpayer A would pay $5,620 on his $50,000 of preference income.

(1) No deduction is allowed for the amount of regular income tax paid and the $30,000 deduction is reduced to $12,000—$50,000—$12,000 is $38,000.

(2) In the tax table for married individuals filing a joint return, $38,000 falls between $36,000 and $40,000 which pays a tax of $10,340 plus 45% of the difference between $38,000 and $36,000.

(3) $38,000—$36,000=$2,000×45%=$900.

(4) $10,340+$900=$11,240.

(5) One-half of $11,240 is $5,620.

For taxpayer A, there would be the following effective tax rates for different amounts of income:

EXAMPLE A

(1) under present law, this taxpayer would pay on income (minus deduction and exemption) of $133,500 a tax of $35,370 for an effective tax rate of $26.5%.

(2) on total income of $150,000 there would be an effective tax rate of 23.6%.

(3) under the Nelson amendment the taxpayer would pay a tax of $46,610 on $133,500 (income minus itemized deduction and exemption for an effective tax rate of 34.9%.

(4) on total income of $150,000, there would be an effective tax rate of 31%.

(5) if capital gains were treated as regular income, an income of $133,500 (deduction and exemptions) the tax would be $66,220 for an effective tax rate of 49.6%

(6) on total income of $150,000 the effective tax rate would be 44.1%

EXAMPLE B

A financial institution with taxable income of $500,000 and preference income of $250,000 of excess bad debt deductions would pay no tax on that preference income.

(1) Under the federal corporation income corporations pay 22% of the first $25,000 of taxable income; 22% of $25,000 is $5,000.

(2) $500,000—$25,000 is $475,000.

(3) $475,000×48% of federal income surtax is $225,200.

(4) $225,200+$5,500=$230,700 total federal corporate income tax paid.

(5) Under the present minimum tax a deduction is allowed for the amount of regular income tax paid—$230,700. This plus an $30,000 exemption also allowed would mean that there would be no preference income ($250,000—$230,700—$30,000) subject to the minimum tax provision.

Under the Nelson amendment taxpayer B would pay $53,870 on a preference income of $250,000.

(1) Deduction for regular income tax is not allowed but a $12,000 deduction is allowed. $250,000—$12,000 is $238,000.

(2) $25,000 x 11% (half the regular rate) is $2,750.

(3) $238,000—$25,000=$213,000×24% (half of the 48% surtax)=$51,120.

(4) $51,120+$2,750=$53,870 amount of tax on preference income.

EXAMPLE C

Y is a married taxpayer with $300,000 of long-term capital gains, $100,000 of dividends, $50,000 of salary, $50,000 of tax exempt interest, $200,000 of income from oil and gas production, $100,000 of percentage depletion in excess of cost, $250,000 of intangible drilling and development costs, $100,000 of real estate losses attributabl· to accelerated depreciation, $25,000 of deductible charitable contribution (including $10,000 of untaxed appreciation), and $25,000 of personal deductions. Under the present income tax law, Y will have no taxable income. He will pay a minimum tax of $32,000 making his effective tax rate 4.5 percent on total real income of $710,000.

(1) $50,000 of tax-exempt interest excluded from gross income.

(2) Gross income:

Capital gains	$300,000
Dividends	100,000
Salary	50,000
Income from oil and gas production	200,000
Total	650,000

(3) Deductions:

Percentage depletion in excess of cost	$100,000
Intangible drilling and development cost	250,000
Real estate losses attributable to accelerated depreciation	100,000
½ of capital gains	150,000
Total	600,000

(4) Gross income of $650,000 minus business deduction and ½ of capital gains leaves $50,000 of adjusted gross income.

(5) $50,000 of adjusted gross income minus $25,000 of deductible charitable contributions and $25,000 of personal deductions leaves a taxable income of zero.

(6) Under the minimum tax, the following items of preference income would be included:

Accelerated depreciation	$100,000
Percentage depletion	100,000
Excluded ½ capital gains	150,000
Total	350,000

(7) $350,000 minus the $30,000 deduction is $320,000.

(8) $320,000 × the 10% of the minimum tax provision results in $32,000 tax paid.

(9) Real income including capital gains, dividends, salary, tax-exempt bond interest, oil and gas income, and untax appreciation on charitable contribution of $10,000 amounts to $710,000.

(10) on a real income of $710,000, the total taxes paid is $32,000 for an effective tax rate of 4.5%.

Under the Nelson amendment taxpayer Y would pay a total tax of $76,990 on his preference income.

(1) The $100,000 of percentage depletion and $150,000 of capital gain would be taxed under the new rate.

(2) $100,000 + $150,000 = $250,000.

(3) $250,000 − $12,000 = $238,000.

(4) $238,000 is over the maximum rate. According to the tax table the tax would be $110,980 plus 70% of excess over $200,000 (or $38,000).

(5) 70% of $38,000 is $26,600.

(6) $110,980 + $26,600 = $137,580.

(7) ½ of $137,580 is $68,790.

(8) The $100,000 of accelerated depreciation would be subject to the old rate.

(9) $100,000 − $18,000 (the amount after $2,000 is subtracted from the total deduction of $30,000) is $82,000.

(10) There is no regular income tax to deduct.

(11) 10% of $82,000 is $8,200.

(12) The tax on Category I income is $8,200 and the tax on Category II income is $68,790 for a total of $76,990.

(13) On real income of $710,000 the taxpayer pays at a rate of 10.8%.

EXAMPLE D

(1) Taxpayer with $30,000 taxable income and $50,000 capital gain

(2) $30,000 + $25,000 = $55,000 taxable income, his tax is $19,650

(3) under the present minimum tax he would pay no tax

(4) under the Nelson amendment he would pay in additional tax $1,255

(5) under the old law—his total tax is $19,650 on an income $80,000 for an effective tax rate of 24.5 percent

(6) under the new law—his total tax is $20,905 on an income of $80,000 for an effective tax rate of 26.1 percent

(7) if his entire taxable income was $80,000 his tax would be $33,340 for an effective rate of 41.6 percent

(8) it should be noted that this analysis is based on an income of $55,000 which comes after all exemptions, deductions and exclusions

The Nelson amendment does not change the present tax treatment of capital gains for any taxpayer, regardless of income, if he has capital gains of $24,000 or less in one year.

EXAMPLE E

(1) Taxpayer with $15,000 taxable income, and $50,000 capital gains

(2) $15,000 + $25,000 = $40,000 taxable income, his taxes are $12,140

(3) under the present minimum tax, he would pay no additional tax

(4) under the Nelson amendment, his additional tax would be $1,255

(5) under the old law, his total tax is $12,140 on an income of $65,000 for an effective rate of 20.2%

(6) under the new law, his total tax is $13,395 on an income of $65,000 would be 22.3%

(7) if his entire taxable income was $65,000 his taxes would be $24,970 for an effective rate of 38.4%

(8) it should be noted that this analysis is based on an income of $40,000 after all exemptions, deductions and exclusions

The Nelson amendment does not change the present tax treatment of capital gains for any taxpayer, regardless of income, if he has capital gains of $24,000 or less in one year.

Mr. NELSON. Mr. President, Congress enacted the minimum tax provision in 1969 to achieve the rather simple principle of tax equity that every wealthy person should pay some Federal income tax. It is becoming painfully clear that we failed to achieve that goal. I propose that we try to finish the job. Acceptance of this amendment will not end the need for more thorough tax reform. On the other hand, acceptance of this amendment should not have to wait for a more comprehensive tax reform proposal. The minimum tax provision is by its very nature not an attempt to reform the entire tax code. It merely tries to insure that everyone who can pays some percentage of his income in taxes. The amendment I am proposing today has been the subject of extensive debate in recent years. It received detailed hearings in Congress during the Tax Reform Act of 1969. There is no excuse for not doing at least this much this year.

Mr. President, I ask unanimous consent that a more detailed legal description of the minimum tax appear in the RECORD at this time.

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

A. PRESENT MINIMUM TAX PROVISION

The Tax Reform Act of 1969 provided a special minimum tax for certain special deductions or tax favored income, called preference income. The present minimum tax is levied on nine areas of preference income. The taxpayer is allowed a deduction of $30,000 plus any regular income tax paid, and the tax is levied at the rate of 10 percent.

The following tax preference income is subject to the minimum tax: (1) accelerated depreciation on personal property subject to a net lease. Straight line depreciation means that deductions for depreciation are taken in equal amounts over the useful life of the property. Taxpayers have the option of using methods of accelerated depreciation which may allow a larger portion of depreciation to be deducted in the earlier years than in later years. The excess of these larger deductions in earlier years over the amounts that would be deducted under straight line depreciation is preference income subject to the minimum income tax. The provision only applies to individuals, estates, trusts, Subchapter S Corporations (which may elect to be taxed as partnerships), and personal holding companies; they do not apply to other corporations. Personal property of a taxpayer, which is leased with a guarantee of a specific return or a whole or partial guarantee against loss of income, is personal property subject to a net lease eligible for this treatment.

(2) Accelerated depreciation on real property. Similarly, for real property (such as buildings) the excess deductions taken in any year under an accelerated method of depreciation over those which would be taken under the straight line method are subject to the minimum tax. In addition, depreciation deductions for rehabilitation expenditures on low and moderate income housing may be taken in equal yearly installments over a five-year period. This provision allows the deductions to be taken over a shorter time than the useful life of the improvement. The excess of these deductions in any one year over the deduction which would be taken if the expenditure were depreciated over the entire useful life of the property under straight line depreciation is subject to the minimum tax. These provisions are applicable to all taxpayers.

(3) Amortization of on-the-job training and child care facilities. Under present law, expenditures for on-the-job training and child care facilities can be deducted in equal amounts over a period of five years. The excess of these deductions over the deductions which would be taken under allowable depreciation methods (including accelerated depreciation) is preference income subject to the minimum tax.

(4) Amortization of pollution control facilities. Under present law, deductions for the costs of certified pollution control facilities attributable to the first 15 years of useful life can be taken in equal yearly installments over a five-year period. The excess deductions taken under this method over allowable methods of depreciation (including accelerated depreciation methods) are subject to the minimum tax. This provision is applicable to all taxpayers.

(5) Amortization for certain railroad rolling stock. Under present law, the deduction for the cost of certain railroad rolling stock may be taken in equal installments over a period of five years. The excess deduction under this provision over allowable depreciation deductions (including accelerated depreciation methods) are subject to the minimum tax. This provision applies to all taxpayers.

(6) Tax benefits from stock options. Stock options are often granted which allow employees to buy stock at some time in the future for a stated price regardless of the market price. The difference between the option price and the market price at the time the option is exercised, which is not considered taxable income until the stock is eventually sold, is subject to the minimum tax.

(7) Depletion allowances. Present law allows a method of percentage depletion, for recovering the cost of developing a well or mine, which is based on production rather than cost. Deductions for depletion may exceed the actual costs. The excess of the depletion allowance for the year over the adjusted basis of the property at the end of the year is subject to the minimum tax.

(8) Bad debt deductions of financial institutions. Financial institutions are allowed to deduct from their taxable income, reserves against bad debts. These reserves are generally higher than actual bad debt losses. The amount by which deductions for the purpose of adding to bad debt reserves exceed the amount which would have been allowed if a bank were to maintain its reserves on the basis of actual experience is preference income subject to the minimum tax.

(9) Capital gains. Long term capital gains are treated somewhat differently for indi-

viduals and corporations. For individuals, one half of net long term capital gains (to the extent they exceed net short term capital losses) are excluded from regular tax. This income is now subject to the minimum tax. For corporations, all net long term capital gains (to the extent they exceed net short term capital losses) may be taxed at the rate of 30 percent instead of the regular corporate rate of 48 percent. Long term gains considered as preference income for a corporation are determined by multiplying total long term gains by a fraction whose numerator is the regular rate minus the alternative 30 percent rate (or 18 percent) and whose denominator is the regular rate (or 48 percent). Thus, 18/48ths of corporate long term capital gains—the difference between the tax at the regular rate and the tax at the lower rate—is subject to the minimum tax.

B. PRESENT MINIMUM TAX INEFFECTIVE

Under the present minimum income tax, it is very easy for a taxpayer to avoid paying any minimum tax or to pay a very small amount of minimum tax. For example, a taxpayer filing a joint return with a regular income of $100,000 and preference capital gains income of $50,000, who happens to have itemized deductions of 15 percent and two exemptions, would pay no tax on his preference income. If his preference income were $100,000 he would pay a tax of $3,463 on that $100,000 of income. To take another example, a financial institution with taxable income of $500,000 and preference income of $250,000 of excess bad debt deductions would pay no tax on that preference income.

C. PROPOSED NELSON/CHURCH AMENDMENT

The proposed amendment would set up two categories of preference income. Category I income—excess depreciation and amortization for real property, personal property subject to a net lease, pollution control facilities, rolling stock and on-the-job training and child care facilities—would continue to be treated as they are under present law. Category II income—preferences due to stock options, bad debt reserves, depletion and capital gains—would be treated differently. For Category II income no deduction for regular income tax would be taken and the exemption would be $12,000 rather than $30,000. The $30,000 exemption for Category I income would be reduced by the amount of the exemption taken for Category II income in the case of a taxpayer who had both types of preference income.

The rates which apply to Category II income would also be changed. In the case of corporations, the rate would be 24 percent or half of the regular corporation tax of 48 percent (normal tax plus surtax). In the case of individuals, the tax on Category II income would be equal to one-half of the tax which would be due if the preference income were considered to be regular taxable income and the taxpayer had no other regular income.

NELSON AMENDMENT TO REPEAL ADR

Mr. NELSON. Mr. President, this amendment would repeal the asset depreciation range (ADR) approved by Congress as part of the Revenue Act of 1971.

The major change brought about by the ADR system was a 20-percent shortening of guideline lives. Thus, an asset which had previously had a guideline life of 10 years could now be depreciated over 8 years.

This amendment would repeal the 20-percent speedup in guideline lives. It would save the Federal Treasury $2.7 billion in 1974 and $26 billion between now and 1980. The savings to the Treasury in each of the next 8 years would be as follows:

Savings to Treasury

[In billions]

1973	$.8
1974	1.9
1975	2.9
1976	3.4
1977	4.2
1978	4.6
1979	4.5
1980	4.1

ARGUMENT

There is now substantial evidence that the ADR has had little or no impact on investment. According to the Commerce Department's Survey of Current Business (June 1972):

There is some evidence that capital spending this year is stimulated by the liberalized depreciation rules and the new investment tax credit enacted last December. According to a survey of spending plans taken by McGraw-Hill Publications Company in March and April, businessmen reported that their expected 1972 outlays are $¾ billion higher than they would have been in the absence of these two stimulants. Roughly $500 million of that amount was attributed to the investment tax credit and $250 million to liberalized depreciation.

The ADR is costing the Treasury $1.8 billion in 1972, $2.4 billion in 1973, and increasing amounts thereafter. So the McGraw-Hill survey in effect tells us that ADR is increasing investment by 10–15 percent of its cost to the Treasury.

Mr. President, this amendment would repeal the asset depreciation range (ADR).

In January 1971, the Treasury issued new regulations governing the depreciation of plant and equipment. The major change was a 20-percent shortening of guideline lives. Thus, an asset which previously had a guideline life of 10 years could now be depreciated over 8 years.

This amendment would repeal the 20-percent speedup in guideline lives.

It would save the Federal Treasury $2.7 billion in fiscal year 1974 and $28 billion between now and 1980. The savings to the Treasury in each of the next 8 years would be as follows:

Savings to Treasury

In billions

1973	$0.8
1974	1.9
1975	2.9
1976	3.4
1977	4.2
1978	4.6
1979	4.5
1980	4.1

The ADR system became law last December as part of the Revenue Act of 1971. At that time, its proponents argued that it was needed to stimulate investment. This argument made little sense then, and it makes even less sense now.

On the floor of the Senate, I pointed out that most economists and many businessmen thought ADR would have little effect on investment in the near term. With industry operating at 73 percent of capacity, businessmen had little incentive to expand plant and equipment. I quoted Chairman James Roche of General Motors:

It should be understood that most companies of any size determines their purchases of equipment by the needs of the business and not by any short-term tax advantages.

Mr. Roche went on to say that what mattered was consumer spending:

It must be noted that the tax credit and accelerated depreciation applies only after equipment is purchased and put to use. This, like the other elements of the program, means very little unless we can achieve the improved economy the President has called for.

Today there is overwhelming evidence that the Nixon investment incentives—and particularly the ADR—have had little or no impact on investment. According to the Commerce Department's Survey of Current Business—June 1972:

There is some evidence that capital spending this year is stimulated by the liberalized depreciation rules and the new investment tax credit enacted last December. According to a survey of spending plans taken by McGraw-Hill Publications Company in March and April, businessmen reported that their expected 1972 outlays are $¾ billion higher than they would have been in the absence of these two stimulants. Roughly $500 million of that amount was attributed to the investment tax credit and $250 million to liberalized depreciation.

The ADR and the investment tax credit are costing the Treasury about $5.3 billion in 1972 and $6.3 billion in 1973. Yet here is an official organ of the Nixon administration reporting evidence that the effect on investment is negligible—less than 15 percent of the cost to the Treasury.

Of course, some people may have some doubts about the McGraw-Hill estimate. To satisfy any such doubts, we quote another source which should certainly be biased in favor of the Nixon investment incentives—Dr. Pierre Rinfret, President Nixon's principal economic spokesman for the 1972 campaign.

According to press reports, Dr. Rinfret conducted a comprehensive survey of major businesses, and concluded that if the investment credit, the ADR, and the oil depletion allowance were all repealed, investment would be cut by about 5.5 percent or $5 billion in 1973. Since these three tax provisions will cost the Treasury well over $7 billion in 1973, Dr. Rinfret's findings argue rather persuasively for their repeal.

This very point came up at Secretary Shultz' press conference on the McGovern tax program.

Question: Pierre Rinfret, the Administration's official spokesman on economic matters during this campaign, referring to Evans and Novak, conducted a survey among business investment among companies concerning their investment pensions, indicated that if you repeal ADR and investment tax credit, that investment would drop by about 5½ percent next year.

Well, if you lower business investment by about 5½ percent, wouldn't that come awfully close to equalling, in dollar amounts, just about what you're losing in revenue because of ADR and investment credit?

In other words, my question is this, is it a bargain when you would get about an additional dollar of investment for a dollar of revenue loss?

Secretary SHULTZ. Well, I think the main point of it is to have tax structure be one that stimulates the economy, that leads it to be more productive, that invites investment in better tools for the American worker to use so that, as I said, he is competitive in world markets and is able to produce a

rising standard of living here at home. I think that is the main point about it.

The reporter's point gets to the heart of the matter:

Is it a bargain when you would get an additional dollar of investment for a dollar of revenue loss?

Secretary Shultz' response suggests strongly that he has no answer to this argument.

In any event, whether one accepts the three-quarter of a billion dollar figure from the McGraw-Hill survey, or Dr. Rinfret's figure of $5 billion, it is clear that the effect on investment is relatively small—at least when compared to the cost.

True, investment has been increasing in the recent period. Nonresidential fixed investment in the second quarter of 1972 was running at an annual rate of $84.4 billion—in 1958 dollars—or about 9 percent above the 1970 level. According to the Commerce Department's survey, capital spending in the second quarter was running at $87.1 billion, also about 9 percent above the 1970 level.

[In billions]

	Nonresidential fixed investment GNP accounts (1958 dollars)	Capital spending (Commerce Department survey)
1970	$77.6	$79.7
1971	76.8	81.2
1972 1st quarter	82.2	86.8
1972 2d quarter	84.4	87.1

But this growth in investment was relatively modest; and it was hardly unexpected, since the economy as a whole was expanding throughout this period.

Much more dramatic was the growth in corporate profits and depreciation. In the second quarter, after-tax corporate profits were at an annual rate of $52.4 billion—or 30 percent above the 1970 level; and corporate depreciation was running over 23 percent above the 1970 level. The net result was a 26-percent jump in corporate cash in hand from 1970 to the second quarter of this year.

Nor is this result surprising. Since the investment credit and the ADR have had little impact on investment, it stands to reason that they must have served to swell corporate profits and depreciation allowances.

One other administration argument should be mentioned: That these tax subsidies to investment are needed to preserve the international competitiveness of American firms.

In his testimony before the Senate Finance Committee last fall, Secretary Connally presented data showing the effect of income taxes on the cost of capital goods in the major industrial countries. The United States was at the bottom of the list. The Secretary concluded that the U.S. tax structure is biased against capital.

However, the Treasury table failed to show any relationship between the Connally capital cost index and GNP growth or the growth of exports. Indeed, the United Kingdom, which had the lowest capital cost figure, also had the lowest GNP growth rate and the slowest growth of exports.

The fact is that the tax treatment of capital plays a minor role in determining a country's competitive position. Other factors—such as inflation and technological change—are much more significant.

Nor is U.S. tax policy unfavorable to business. Thus, if we compare the effective corporate tax rates in the major industrialized nations—taking into account such special provisions of the tax laws as accelerated depreciation, percentage depletion and the like—the U.S. rate is not out of line with those elsewhere. Indeed, it is lower than that in Italy, Canada, Germany, and France.

I ask unanimous consent that a table showing the estimated effort of corporate tax rates in major industrialized countries (1966) be printed in the RECORD at this time.

There being no objection, the table follows:

Estimated effective corporate tax rates in major industrialized countries—1966

[In percent]

Italy	44.0
Canada	43.5
Germany	43.3
France	42.2
U.S.	42.1
U.K.	35.0
Netherlands	25.6
Japan	24.0

Mr. NELSON. Mr. President, the new depreciation rules—ADR—should be repealed. The investment tax credit and the ADR together represent an excessive corporate tax cut.

Most of the witnesses in last year's hearings on the new economic policy before the Joint Economic Committee took this position. Senator PROXMIRE, chairman of the committee, summarized their testimony as follows:

They (the witnesses) agreed that if there is to be an investment credit, then the ADR should be withdrawn.

Even Pierre Rinfret, now President Nixon's top campaign economic adviser, took a similar position. In testimony before the House Ways and Means Committee on September 14, 1971, he said:

Liberalized depreciation should not be allowed together with the use of the investment credit. Corporations should be given an either/or choice. If they opt for the investment credit, they cannot take liberalized depreciation, or vice-versa.

The issue is one of priorities. The investment credit and the ADR together represent a corporate tax cut of more than 15 percent. These and other measures have brought about a major shift away from the corporate income tax. Thus, in 1960, the Federal Government raised 35 percent of its revenues from the income tax on corporations. Today, the figure is under 27 percent.

This shift raises serious questions about our tax system, and about the way we spend our money. Do we need more plant and equipment as opposed to more schools, more hospitals or more cars and refrigerators?

These are difficult questions over which reasonable men will differ. But even those who believe that we need more plant and equipment—who favor investment incentives—must now recognize one fact: The ADR is simply not working. For every $1 of increased investment, the Federal Government is losing over $2 in revenues.

We cannot afford this waste. I propose that we close this expansive loophole and use the money regained to insure dignity and a full life to our elderly citizens.

Mr. President, I yield to the Senator from Iowa.

Mr. MILLER. Mr. President, I think the Senator from Wisconsin knows I share much of the philosophy that he espouses in this matter. I am concerned about some parts of it. I would feel much more comfortable about it if we could establish a principle that, to the extent that benefits may be paid out under social security that have not been funded by social security taxes on the participants, then the difference will come from the general funds of the Treasury. As the Senator has pointed out, there are people receiving social security benefits who have never paid an adequate amount of taxes to fund them. We are making up the difference by imposing a regressive tax on the present and future taxpayers of America. That does not support my concept of just taxation.

The Senator has taken this matter piecemeal and selected the tax relating to the asset depreciation range system, which has some merit in it. I think that we ought to be more selective. But the Senator has provided, on page 3 of his amendment, that "There is hereby authorized to be appropriated to each of such funds an amount equal to the revenues produced for such fiscal year by reason of the amendments made in the preceding sections of this title," and so forth.

I am not sure, but I think it would be an extremely difficult task for the Treasury Department to make that determination. They would require a massive quantity of returns to be examined, and I am not sure they are equipped to do this, and certainly not in the time range envisioned by that part of the amendment.

I know what the Senator from Wisconsin is trying to do. He is trying to establish a principle, but in the establishment of the principle, it seems to me the Treasury would get bogged down.

I point to a defect that might perhaps be cured by greater study by the staff or the Treasury.

I do not intend this to be an unfriendly comment, because I sympathize with what the Senator is trying to do, but I think we ought to do a better job, and I think we really ought to take money from the general funds and put it into the social security trust fund to make up the deficit that is now being levied on the present and future workers of this country.

Mr. NELSON. I thank the Senator.

There may be some technical problems involved, but, if we adopted the amendment, it would not be difficult, with all the expertise on the staff and elsewhere, to meet these problems between now and the time of the conference.

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

Mr. NELSON. I yield to the Senator from Maine.

Mr. MUSKIE. Mr. President, I think the Senator from Wisconsin has performed a service to the Senate and the Nation in focusing our attention on this problem, which has been a growing one, which has been visibly growing, which was coming, and I think it is time we came to grips with it.

I am not sure the formula the Senator proposes is ideal, but I intend to support it because it indicates and has as its objective the shifting of this burden from the overworked and overtaxed workers, as the Senator has so eminently described, to a more equitable tax system.

Another approach to it is one I introduced earlier this year with the distinguished Senator from Minnesota (Mr. MONDALE).

Our approach was not to resort to the General Treasury, but rather to reform the social security tax system itself in two very important respects. One was to lift the ceiling on earnings subject to the tax altogether. It makes no sense to me that a man earning $100,000 a year pays the same social security tax as his secretary who earns $8,000 a year. The Senator has pointed that out.

We propose to reform the system in one other respect, and that is to give a credit for dependents to the workingman, in order to make the tax more progressive, in the same way that the income tax is progressive.

The Senator from Minnesota (Mr. MONDALE) and I introduced this notion about a year ago for the first time, and we have been promoting and developing it, and I hope it will come to hearings next year and will receive attention as what we consider to be a responsible alternative to this problem of the increasing burden of the social security tax.

So I do compliment the Senator from Wisconsin, and I will support his amendment today, in order that we can get an expression of the Senate of concern for this problem and determination to meet it.

If we do not, I share the Senator's prediction that what we may face is a revolt on the part of the workers of this country against this ever-increasing and growing burden of the social security tax.

Mr. NELSON. I thank the distinguished Senator from Maine.

Mr. MONDALE. Mr. President, on behalf of the Senator from Maine (Mr. MUSKIE) and myself, I ask unanimous consent that the text of S. 2426, a bill to improve the social security tax system introduced by Senator MUSKIE and myself last October, may appear at this point in the RECORD.

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

S. 2656

A bill to amend chapters 2 and 21 of the Internal Revenue Code of 1954, and title II of the Social Security Act, to reduce social Security tax rates and provide a new method for their determination in the future, to remove the dollar limitation presently imposed upon the amount of wages and self-employment income which may be taken into account for tax and benefit purposes under the old-age, survivors, and disability insurance system (making allowance for personal income tax exemptions and the low-income allowance in determining such amount for tax purposes), and to increase benefits under such system to reflect the new tax and benefit base

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TAX AND BENEFIT BASE

SECTION 1. (a)(1)(A)(i) Chapter 2 of the Internal Revenue Code of 1954 (relating to tax on self-employment income) is amended by inserting immediately after section 1401 the following new section:

"SEC. 1401A. DEFINITION OF SOCIAL SECURITY INCOME.

"For purposes of this title, the term 'social security income', in the case of any individual with respect to any taxable year, means the wages and self-employment income paid to or derived by such individual in such year, reduced by the sum of—

"(1) the total dollar amount of any personal exemptions to which such individual is entitled for such year under section 151, and

"(2) an amount equal to the low-income allowance which is determined with respect to such individual for such year under secton 141(c) (or which would be so determined if such individual were eligible for and claimed the standard deduction under section 141 for such year);

except that with respect to periods before 1972, such term means only the individual's wages and self-employment income as determined under the provisions of sections 3121 (a) and 1402 which were in effect with respect to such periods."

(ii) The heading of section 1402 of such Code (relating to definitions) is amended by inserting "OTHER" before "DEFINITIONS".

(iii) The table of sections for chapter 2 of each Code is amended by striking out the second item and inserting in lieu thereof the following:

"Sec. 1401A. Definition of social security income.
"Sec. 1402. Other definitions."

(B) Section 1402(b)(1) of such Code (relating to self-employment income) is amended—

(i) by striking out "; and" at the end of subparagraph (E) and inserting in lieu thereof "; or", and

(ii) by striking out subparagraph (F).

(2)(A) Title II of the Social Security Act is amended by inserting immediately after section 210 the following new section:

"DEFINITION OF SOCIAL SECURITY INCOME

"SEC. 210A. For purposes of this title, the term 'social security income', in the case of any individual with respect to any taxable year, means the wages and self-employment income paid to or derived by such individual in such year; except that with respect to periods before 1972, such term means only the individual's wages and self-employment income as determined under the provisions of sections 209 and 211 which were in effect with respect to such periods."

(B) Section 211(b) of such Act is amended—

(i) by striking out "; and" at the end of subparagraph (E) and inserting in lieu thereof "; or", and

(ii) by striking out subparagraph (F).

(b)(1)(A) Section 3121(a)(1) of the Internal Revenue Code of 1954 relating to definition of wages) is amended to read as follows:

"(1) that part of the remuneration, received by an individual during any payroll period, which is equal to the number of withholding exemptions claimed by such individual under chapter 24 with respect to such payroll period multipled by the amount of one such exemption as shown in the table in section 3402(b)(1); except that this paragraph shall not apply in determining an individual's wages for purposes of the tax imposed on employers with respect to wages received by such individual under section 3111(a)".

(B) Section 3122 of such Code (relating to Federal service) is amended by striking out the second sentence.

(C) Section 3125 of such Code (relating to returns in the case of governmental employees in Guam, American Samoa, and the District of Columbia) is amended by striking out the last sentence of subsection (a), the last sentence of subsection (b), and the last sentence of subsection (c).

(D) Section 6413(c)(1) of such Code (relating to special refunds of certain employment taxes) is amended—

(i) by striking out "or (E) during any calendar year after the calendar year 1971, the wages received by him during such year exceed $9,000,"; and

(ii) by striking out ", or which exceeds the tax with respect to the first $9,000 of such wages received in such calendar year after 1971".

(E) Section 6413(c)(2)(A) of such Code (relating to applicability in case of Federal employees) is amended by striking out "$7,800 for the calendar year 1968, 1969, 1970, or 1971, or $9,000 for any calendar year after 1971," and inserting in lieu thereof "or, $7,800 for the calendar year 1968, 1969, 1970, or 1971,".

(F) Section 6654(d)(2)(B) of such Code (relating to failure by individual to pay estimated income tax) is amended to read as follows:

"(B) The term 'adjusted self-employment income' means the net earnings from self-employment (as defined in section 1402(a)) for the months in the taxable year ending before the month in which the installment is required to be paid."

(2)(A) Section 209(a) of the Social Security Act is amended by striking out paragraph (6).

(B) Section 213(a)(2) of such Act is amended by striking out "$9,000" where it appears in clauses (ii) and (iii) and inserting in lieu thereof "twelve times the second figure specifically set forth in the last line of column III of the table in section 215(a) (as in effect on the last day of the year)".

(C) Section 215(e)(1) of such Act is amended by striking out "the excess of $7,800 in the case of any calendar year after 1967 and before 1972, and the excess of $9,000 in the case of any calendar year after 1971" and inserting in lieu thereof "and the excess of $7,800 in the case of any calendar year after 1967 and before 1972".

(c) The amendments made by subsection (b) (except paragraphs (1)(F) and (2)(A)(ii) thereof) shall apply only with respect to remuneration paid after December 1971. The amendments made by subsection (a) and by subsections (b)(1)(F) and (b)(2)(A)(ii) shall apply only with respect to taxable years beginning after 1971. The amendment made by subsection (b)(2)(C) shall apply only with respect to calendar years after 1971.

DETERMINATION OF SOCIAL SECURITY TAX RATES

SEC. 2. (a)(1) Section 1401(a) of the Internal Revenue Code of 1954 (relating to rate of tax for purposes of old-age, survivors, and disability insurance) is amended—

(A) by inserting "beginning before January 1, 1972" after "imposed for each taxable year" in the matter preceding paragraph (1);

(B) by adding "and" after the semicolon at the end of paragraph (2);

(C) by striking out "January 1, 1973" in

paragraph (3) and inserting in lieu thereof "January 1, 1972";

(D) by striking out "and" at the end of paragraph (3);

(E) by striking out paragraph (4); and

(F) by adding at the ned thereof (after and below paragraph (3)) the following:

"and there shall be imposed for each taxable year beginning after December 31, 1971, on the social security income of every individual derived in or attributable to such taxable year, a tax as follows:

"(4) in the case of any taxable year beginning after December 31, 1971, and before January 1, 1975, the tax shall be equal to 4.0 percent of the amount of the social security income for such taxable year; and

"(5) in the case of any taxable year beginning after December 31, 1974, the tax shall be equal to the percentage determined (with respect to such income) under section 3126."

(2) Section 1401(b) of such Code (relating to the rate of tax for hospital insurance purposes) is amended—

(A) by inserting "beginning before January 1, 1972" after "imposed for each taxable year" in the matter preceding paragraph (1);

(B) by striking out "January 1, 1973" in paragraph (1) and inserting in lieu thereof "January 1, 1972";

(C) by striking out paragraphs (2) through (5); and

(D) by adding at the end thereof (after and below paragraph (1)) the following:

"and there shall be imposed for each taxable year beginning after December 31, 1971, on the social security income of every individual derived in or attributable to such taxable year, a tax as follows:

"(2) in the case of any taxable year beginning after December 31, 1971, and before January 1, 1975, the tax shall be equal to 1.2 percent of the amount of the social security income for such taxable year; and

"(3) in the case of any taxable year beginning after December 31, 1974, the tax shall be equal to the percentage determined (with respect to such income) under section 3126."

(b)(1) Section 3101(a) of such Code (relating to rate of tax on employees for purposes of old-age, survivors, and disability insurance) is amended—

(A) by striking out "the calendar years 1971 and 1972" in paragraph (3) and inserting in lieu thereof "the calendar years 1971"; and

(B) by striking out paragraphs (4) and (5) and inserting in lieu thereof the following:

"(4) with respect to wages received during the calendar years 1972, 1973, and 1974, the rate shall be 4.0 percent; and

"(5) with respect to wages received after December 31, 1974, the rate shall be the percentage determined (with respect to such wages) under section 3126."

(2) Section 3101(b) of such Code (relating to rate of tax on employees for hospital insurance purposes) is amended—

(A) by striking out "1971, and 1972" in paragraph (1) and inserting in lieu thereof "and 1971"; and

(B) by striking out paragraphs (2) through (5) and inserting in lieu thereof the following:

"(2) with respect to wages received during the calendar years 1972, 1973, and 1974, the rate shall be 1.2 percent; and

"(3) with respect to wages received after December 31, 1974, the rate shall be the percentage determined (with respect to such wages) under section 3126."

(c)(1) Section 3111(a) of such Code (relating to rate of tax on employers for purposes of old-age, survivors, and disability insurance) is amended—

(A) by striking out "the calendar years 1971 and 1972" in paragraph (3) and inserting in lieu thereof "the calendar year 1971"; and

(B) by striking out paragraphs (4) and (5) and inserting in lieu thereof the following:

"(4) with respect to wages paid during the calendar years 1972, 1973, and 1974, the rate shall be 5.2 percent; and

"(5) with respect to wages paid after December 31, 1974, the rate shall be the percentage determined (with respect to such wages) under section 3126."

(2) Section 3111(b) of such Code (relating to rate of tax on employers for hospital insurance purposes) is amended—

(A) by striking out "1971, and 1972" in paragraph (1) and inserting in lieu thereof "and 1971"; and

(B) by striking out paragraphs (2) through (5) and inserting in lieu thereof the following:

"(2) with respect to wages paid during the calendar years 1972, 1973, and 1974, the rate shall be 1.2 percent; and

"(3) with respect to wages paid after December 31, 1974, the rate shall be the percentage determined (with respect to such wages) under section 3126."

(d)(1) Subchapter C of chapter 21 of such Code (general provisions relating to taxes on employees and employers under Federal Insurance Contributions Act) is amended by redesignating section 3126 as section 3127, and by inserting after section 3125 the following new section:

"SEC. 3126. DETERMINATION OF TAX RATES.

"(a) INITIAL DETERMINATION OF RATES.—On or before October 1, 1974, the Secretary or his delegate and the Secretary of Health, Education, and Welfare shall jointly estimate and determine (in accordance with subsection (c))—

"(1) the rates of tax under sections 1401(a), 3101(a), and 3111(a) which would be required in current prices, for the five-year period beginning January 1, 1975, and for each subsequent five-year period beginning on or before January 1, 2045, to assure that social security revenues for the five-year period involved will be equal to social security expenditures for such period and that the total amount in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund will not be less at the end of such five-year period (assuming the continuation of the current method of allocation between such Funds) than 90 percent of the estimated amount of the social security expenditures to be made during the first year of the immediately following five-year period; and

"(2) the rates of tax under sections 1401(b), 3101(b), and 3111(b) which would be required in current prices, for the five-year period beginning January 1, 1975, and for each subsequent five-year period beginning on or before January 1, 1995, to assure that hospital insurance revenues for the five-year period involved will be equal to hospital insurance expenditures for such period and that the total amount in the Federal Hospital Insurance Trust Fund will not be less at the end of such five-year period than 90 percent of the estimated amount of the hospital insurance expenditures to be made during the first year of the immediately following five-year period.

"(b) PERIODIC REVIEW OF RATES.—On or before October 1 of 1979 and of each fifth year thereafter (up to October 1, 2044, in the case of rates specified in subsection (a)(1), and up to October 1, 1994, in the case of the rates specified in subsection (a)(2)), the Secretary or his delegate and the Secretary of Health, Education, and Welfare shall jointly review the rates of tax determined under subsection (a) for the five-year period beginning on the following January 1. If in their judgment any of the rates as so determined do not give the assurance required by subsection (a) they shall jointly redetermine such rates in the manner provided by such subsection; and such redetermination shall supersede the estimate and determination made with respect to such rates for the five-year period involved under subsection (a).

"(c) METHOD OF DETERMINATION.—The rates of tax determined under subsection (a) or (b) with respect to any calendar year in a given five-year period shall be such that—

"(1) the total revenue received in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund as a result of the tax under section 3101(a) with respect to wages received during such calendar year will be the same as the total revenue received in such Trust Funds as a result of the tax under section 3111(a) with respect to wages paid during such calendar year;

"(2) the total revenue received in the Federal Hospital Insurance Trust Fund as a result of the tax under section 3101(b) with respect to wages received during such calendar year will be the same as the total revenue received in such Trust Fund as a result of the tax under section 3111(b) with respect to wages paid during such calendar year; and

"(3) the rates of the taxes under sections 1402(a) and 1402(b) on social security income derived in or attributable to taxable years beginning in (or with the first day of) such calendar year are equal to the rates of the taxes under sections 3101(a) and 3101(b), respectively, with respect to wages received during such calendar year.

"(d) DEFINITIONS.—For purposes of this section—

"(1)(A) the term 'social security revenues' means all amounts appropriated to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund under section 201(a) and (b) of the Social Security Act, plus all interest and proceeds from sales and redemptions credited to such Trust Funds under section 201(f) of such Act, plus any other amounts (including amounts described in sections 201(g), 217(g), 218(h), and 228(g) of such Act) which may be appropriated or transferred to or deposited in such Funds in accordance with any provision of the Social Security Act or of any other law;

"(B) the term 'social security expenditures' means all benefit payments made from such Trust Funds (as described in section 201(h) of such Act) under sections 202, 223, and 228 of such Act, plus all administrative expenses incurred in connection with the payment of such benefits or otherwise incurred in connection with the programs involved, plus any other amounts which may be transferred from or expended out of such Funds in accordance with any provision of the Social Security Act or of any other law;

"(2)(A) the term 'hospital insurance revenues' means all amounts appropriated to the Federal Hospital Insurance Trust Fund under section 1817(a) of the Social Security Act, plus all interest and proceeds from sales and redemptions credited to such Trust Fund under section 1817(e) of such Act, plus any other amounts which may be appropriated or transferred to or deposited in such Fund in accordance with any provision of the Social Security Act or of any other law; and

"(B) the term 'hospital insurance expenditures' means all benefit payments made from such Trust Fund under part A of title XVIII of such Act, plus all administrative expenses incurred in connection with the payment of such benefits or otherwise incurred in connection with the program under such part A, plus any other amounts which may be transferred from or expended out of such Fund in accordance with any other provision of the Social Security Act or of any other law.

"(e) ROUNDING.—Each rate of tax deter-

mined under subsection (a) or (b) shall be rounded to the nearest .1 percent (or to the next higher .1 percent if it is a multiple of .05 but not of .1).

"(f) PUBLICATION AND EFFECTIVE DATE OF NEW RATES.—Upon determining under subsection (a) or (b) the rates of tax to be imposed under sections 1401, 3101, and 3111 during any five-year period, the Secretary or his delegate (on or before October 1 of the calendar year in which the determination is made) shall publish such rates in the Federal Register; and, if any such rate as so determined for such five-year period is different from the corresponding rate for the year in which the determination is made, he shall also publish in the Federal Register the actuarial assumptions and methodology used in making the estimates and determinations involved. The rates as so published shall be effective—

"(1) in the case of the tax under section 1402, with respect to taxable years beginning in (or with the first day of) the five-year period with respect to which the determination is made,

"(2) in the case of the tax under section 3101, with respect to wages received during such five-year period, and

"(3) in the case of the tax under section 3111, with respect to wages paid during such five-year period."

(2) The table of sections for subchapter C of chapter 21 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 3126. Determination of tax rates.
"Sec. 3127. Short title."

(e)(1) Chapter 2 of such Code (relating to tax on self-employment income) is amended by redesignating section 1403 as section 1404, and by inserting after section 1402 the following new section:

"Sec. 1403. CREDIT FOR TAX ON WAGES.

"(a) IN GENERAL.—The amount of tax deducted under section 3102 from the wages of any individual shall be allowed to the recipient of such wages as a credit against the tax imposed by section 1401.

"(b) YEAR OF CREDIT.—The amount so deducted during any calendar year shall be allowed as a credit for the taxable year beginning in such calendar year. If more than one taxable year begins in a calendar year, such amount shall be allowed as a credit for the last taxable year so beginning."

(2) The table of sections for chapter 2 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 1403. Credit for tax on wages.
"Sec. 1404. Miscellaneous provisions."

(f) The amendments made by this section shall apply only with respect to taxable years beginning after December 31, 1971, and with respect to wages received or paid after December 31, 1971.

BENEFITS RESULTING FROM INCREASE IN TAX AND BENEFIT BASE

SEC. 3. (a) Section 215(a) of the Social Security Act is amended by adding at the end thereof (after the table of benefits) the following new paragraph:

"In order to reflect in the computation of benefits any social security income in excess of the maximum amount specifically set forth in column III of the preceding table, the Secretary shall determine, keep current, and publish in the Federal Register a revision of such table, extending columns III, IV, and V in the manner provided in this paragraph. The amounts on each additional line of column III shall be the amounts on the preceding line increased by $5 until the second figure in the last such additional line of column III is equal to the second figure in the last line of such column as specifically set forth in the table plus one-twelfth of $10,000. The amount on each additional line of column IV, up to and including the line on which in column III appears the figure most nearly equalling the second figure in the last line of such column as specifically set forth in the table plus one-twelfth of $5,000, shall be equal to the amount on the preceding line (in column IV) increased by an amount (per dollar of difference between the second figure in column III on such additional line and the second figure in column III on the preceding line) equal to one-half of the amount (per dollar of difference between the second figure in the last line of column III as specifically set forth in the table and the second figure in the next-to-last line of such column) by which the last figure specifically set forth in column IV of the table exceeds the next-to-last figure specifically set forth in such column; and the amount on each remaining additional line of column IV shall be equal to the amount on the preceding line (in column IV) increased by an amount (per dollar of difference between the second figure in column III on such additional line and the second figure in column III on the preceding line) equal to one-fourth of the amount (per dollar of difference between the second figure in the last line of column III as specifically set forth in the table and the second figure in the next-to-last line of such column) by which the last figure specifically set forth in column IV or the table exceeds the next-to-last figure specifically set forth in such column. The amount on each additional line of column V shall be equal to 1.75 times the amount on the same line of column IV. Any amount determined under the preceding provisions of this paragraph which is not a multiple of $0.10 shall be increased to the next higher multiple of $0.10. For purposes of the first sentence of this subsection and section 203(a), and for all other purposes of this title, the extension of the table as determined and published in the Federal Register at any given time under this paragraph shall be deemed to be a part of such table as in effect at such time."

(b) The amendment made by subsection (a) shall apply with respect to monthly insurance benefits payable under title II of the Social Security Act for months after December 1971, and with respect to lump-sum death payments under such title in the case of deaths occurring after December 1971.

TECHNICAL AND CONFORMING AMENDMENTS TO SOCIAL SECURITY ACT

SEC. 4. (a) The following provisions of title II of the Social Security Act are amended by striking out "wages and self-employment income" each place it appears and inserting in lieu thereof "social security income":

(1) Subsection (h) of section 201.

(2) Subsection (b)(1)(B), (d)(1) (last sentence), (d)(2), (d)(6), (e)(1)(C) and (D), (e)(4), (e)(5), (f)(1)(C), (f)(5), (f)(6), (g)(1(D) and (F)(iii), (g)(1) (last sentence), (h)(2)(B) and (C), (i) (third sentence), (k)(1), (k)(2)(A), (l), (m), (n)(1), (q)(4)(B), (q)(5)(A)(ii) and (D), (q)(7)(B) and (C), (t)(4)(A), (B), and (D), (t)(5), (t)(6), and (v) of section 202.

(3) Subsections (a), (b), (c)(4), (d)(1), (f)(1), (f)(7), (h)(1)(B), (h)(3), and (i) of section 203.

(4) Subsections (a)(1) and (d) of section 204.

(5) Subsections (c)(2), (c)(6), and (o) of section 205.

(6) Subsection (l)(4)(B) of section 210.

(7) Subsection (g)(2) of section 215.

(8) Subsection (h)(1)(B) of section 216.

(9) Subsections (a)(1), (a)(2), (b)(2), (e)(1), (e)(2), and (f)(1) of section 217.

(10) Subsection (b)(3) of section 222.

(11) Subsection (a)(1) of section 224.

(12) Subsections (a)(6), (a)(7), (a) (last two sentences), (d), (e), (f)(1), and (g) of section 224.

(13) Section 225.

(14) Subsection (a) of section 229.

(b)(1) Section 201(a)(4) of such Act is amended—

(A) by inserting "or social security income (as defined in section 1401A of such Code)" immediately before "reported";

(B) by striking out ", which self-employment income" and inserting in lieu thereof "or social security income, which self-employment income or social security income"; and

(C) by striking out "records of self-employment income" and inserting in lieu thereof "records of self-employment income and social security income".

(2) Section 201(b)(2) of such Act is amended—

(A) by striking out "self-employment income (as so defined)" in clause (D) and inserting in lieu thereof "self-employment income (as so defined) or social security income (as defined in section 1401A of such Code)"; and

(B) by striking out "records of self-employment income" and inserting in lieu thereof "records of self-employment income and social security income."

(c) Section 202(u)(1) of such Act is amended by striking out "there shall not be taken into account" and all that follows and inserting in lieu thereof "there shall not be taken into account any social security income of such individual or any other individual which is derived in or attributable to a taxable year in which such conviction occurs or any prior taxable year."

(d)(1) Section 205(c)(2) of such Act is amended by inserting "and other social security income" after "self-employment income" where it first appears.

(2) Section 205(c)(3) of such Act is amended by inserting "or other social security income" after "self-employment income" each place it appears.

(3) Section 205(c)(4) of such Act is amended—

(A) by striking out "wages or self-employment income" each place it appears in the matter preceding subparagraph (A) and inserting in lieu thereof "wages or self-employment income, or other social security income,";

(B) by inserting "or other social security income" after "self-employment income" in subparagraph (A);

(C) by striking out "self-employment income" the first two places it appears in subparagraph (C) and inserting in lieu thereof "social security income other than wages"; and

(D) by striking out "self-employment income" the last two places it appears in subparagraph (C) and inserting in lieu thereof "social security income".

(4) Section 205(c)(5) of such Act is amended—

(A) by inserting "or other social security income" after "self-employment income" where it first appears;

(B) by striking out "wages or self-employment income" each place it appears in the matter preceding subparagraph (A) and inserting in lieu thereof "social security income";

(C) by inserting "or other social security income" after "self-employment income" in subparagraph (B);

(D) by striking out "self-employment income" in subparagraph (F) and inserting in lieu thereof "social security income other than wages"; and

(E) by striking out "wages or self-employment income" in subparagraph (G) and inserting in lieu thereof "social security income".

(e) Section 208(a) of such Act is amended by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) whether other social security income was derived, or the amount of such income or the period during which it was derived

or to which it is attributable, or the person by whom it was derived; or".

(f) Section 212 of such Act is amended—

(1) by striking out "SELF-EMPLOYMENT INCOME" in the heading;

(2) by striking out "self-employment income derived during any taxable year" in the matter preceding subsection (a) and inserting in lieu thereof "social security income (other than wages) derived in or attributable to any taxable year"; and

(3) by striking out "self-employment income" in subsections (a) and (b) and inserting in lieu thereof "social security income (other than wages)".

(g) Section 213(a)(2) of such Act is amended—

(1) by striking out "self-employment income" in the matter preceding clause (i) and inserting in lieu thereof "social security income (other than wages)"; and

(2) by striking out "has self-employment income for a taxable year" and inserting in lieu thereof "for a taxable year has social security income (other than wages)".

(h)(1) Section 215(b)(1)(A) of such Act is amended by striking out "his wages paid in and self-employment income credited to" and inserting in lieu thereof "; social security income credited to".

(2) Section 215(b)(2)(B) of such Act is amended by striking out "the total of his wages and self-employment income" and inserting in lieu thereof "; social security income".

(3) Section 215(f)(2) of such Act is amended by striking out "wages or self-employment income" and inserting in lieu thereof "social security income".

(i) Section 1870 of such Act is amended by striking out "wages and self-employment income" where it appears in subsections (b)(4), (e)(2), (e)(3), and (e)(4) and inserting in lieu thereof "social security income".

(j) Whenever the term "wages and self-employment income" is used in any other provision of law or any regulation or document, with respect to the insurance system established by title II of the Social Security Act or the coverage of any individual thereunder, such terms shall be construed to mean "social security income" as defined in section 210A of the Social Security Act and section 1401A of the Internal Revenue Code of 1954.

(k) This section, and the amendments made by this section, shall take effect January 1, 1972.

TECHNICAL AND CONFORMING AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

SEC. 5. (a)(1) The heading of chapter 2 of the Internal Revenue Code of 1954 (relating to tax on self-employment income) is amended by striking out "SELF-EMPLOYMENT INCOME" and inserting in lieu thereof "SOCIAL SECURITY INCOME".

(2) The table of chapters for subtitle A of such Code (relating to income taxes) is amended by striking out the item relating to chapter 2 and inserting in lieu thereof the following:

"CHAPTER 2. Tax on social security income."

(b) Section 1402(h)(1)(B) of such Code (relating to exemption for members of certain religious faiths) is amended by striking out "wages and self-employment income" each place it appears and inserting in lieu thereof "social security income".

(c) Section 1403(a) of such Code (relating to title of chapter) is amended by striking out "Self-Employment" and inserting in lieu thereof "Social Security".

(d) The amendments made by this section shall take effect January 1, 1972.

Mr. MONDALE. I wish to join with the Senator from Maine in commending the Senator from Wisconsin for what I think is a most creative proposal.

Unknown, I think, to most Americans, since adoption of the Internal Revenue Code in 1954 the proportion of revenues raised through the corporate income tax has dropped almost in half and the proportion of revenues raised through the payroll tax has almost tripled, while the proportion of revenue raised through the individual income tax has stayed about the same.

As the Senator from Wisconsin has pointed out, the amount being charged the wage earner in payroll taxes is rising at an astonishing rate. And I think he has accurately predicted it will soon be noticed by the average worker, when he finds that $40 or $50 will be taken out of that check each month, from money that has been programed and planned for essential expenditures at home.

I am sure that we will shortly be forced by the American public to change this system.

The question is whether those of us who have had a chance to see what is happening, who have seen these dramatic increases, who have seen the regressivity of the payroll tax and the imposition it makes upon hard-working Americans—should not act now, rather than wait a year or two and force the public to force us to face up to something we know is not right.

I think the Senator from Wisconsin is to be commended for leading this fight, making the case, and developing a record which, in my opinion, is unanswerable.

Mr. NELSON. I thank the Senator.

Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors of amendment No. 1610: Mr. BAYH, Mr. CHURCH, Mr. HARRIS, Mr. HART, Mr. McINTYRE, and Mr. CHILES.

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

Mr. SCHWEIKER. Mr. President, the Senator from Wisconsin has rendered the public a service by focusing attention on the unfairness of the social security tax structure. And I agree with him that the assets depreciated range—ADR—should be repealed and the minimum tax increased. But I also believe social security benefits should be financed with a reformed social security tax structure and not out of general revenues at a time the Federal Government faces a $35 billion dollar deficit. I must therefore vote against amendment Nos. 1610 and 1609.

Mr. NELSON. I yield to the distinguished Senator from Florida.

Mr. CHILES. I compliment the Senator on his amendments and the thrust of these amendments. I think he is putting his finger right on where a great problem exists, especially with respect to the information he has presented to the Senate with regard to some of the increases that are going to come into play with what we are trying to do about the system.

Mr. President, most of us want to do something about the system. Most of us want to increase some of the benefits of the system, and broaden the benefits; but I think we now realize that we are about to break the back of the person who is carrying the load in this country, and has been: the person who is earning up to $12,000 a year.

Prior to the increases we are making now, that working man has already had the feeling that he was paying more than his share. He already knows that this tax is not progressive. He does not understand exactly what it is, but I think when he gets a $21 a month increase in the money that he has to pay, he is going to get the message loud and clear.

We were struggling in Florida one time with a tax, and one sage old fellow stood up—he was not too articulate, but when he was speaking against that tax, which again was going to go on the working man, he said:

Some of you fellows up here that vote for this tax ain't coming back no more 'cept for a visit.

I think we do not get a reform of the system, there is going to be what some people call a taxpayers' revolt by the working man, and the guy earning this $12,000 a year is going to get some new horses. He is going to decide that the horses he has had have been riding him a little too much, and he is going to change the gait, I think, and change the horses.

I think the amendments of the Senator from Wisconsin make a lot of sense. I am delighted to be a cosponsor with him, and I hope the Senate will adopt the amendments.

Mr. NELSON. I thank the Senator from Florida.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment—No. 1610—of the Senator from Wisconsin.

Mr. NELSON. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. NELSON. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. HART). The question is on agreeing to the amendment—No. 1610—offered by the Senator from Wisconsin (Mr. NELSON). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), the Senator from Virginia (Mr. SPONG), the Senator from Connecticut (Mr. RIBICOFF), the Senator from New Mexico (Mr. ANDER-

SON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

On this vote, the Senator from New Hampshire (Mr. MCINTYRE) is paired with the Senator from Rhode Island (Mr. PELL).

If present and voting, the Senator from New Hampshire would vote "yea" and the Senator from Rhode Island would vote "nay."

I further announce that, if present and voting, the Senator from Louisiana (Mrs. EDWARDS), would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER,), the Senator from Delaware (Mr. BOGGS), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Ohio (Mr. SAXBE), 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 Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. HATFIELD), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 21, nays 52, as follows:

[No. 531 Leg.]

YEAS—21

Bayh	Gravel	Mondale
Burdick	Hart	Moss
Byrd, Robert C.	Hughes	Muskie
Cannon	Jackson	Nelson
Chiles	Magnuson	Proxmire
Cook	Mansfield	Symington
Fulbright	Miller	Williams

NAYS—52

Aiken	Fannin	Pearson
Allen	Fong	Percy
Beall	Gambrell	Randolph
Bellmon	Griffin	Roth
Bennett	Gurney	Schweiker
Bible	Hansen	Scott
Brock	Hartke	Smith
Brooke	Hruska	Sparkman
Buckley	Inouye	Stafford
Byrd, Harry F., Jr.	Javits	Stennis
Case	Jordan, N.C.	Stevens
Cooper	Jordan, Idaho	Stevenson
Cotton	Long	Taft
Cranston	Mathias	Talmadge
Dole	McClellan	Thurmond
Dominick	Montoya	Weicker
Ervin	Packwood	Young
	Pastore	

NOT VOTING—27

Allott	Edwards	McIntyre
Anderson	Goldwater	Metcalf
Baker	Harris	Mundt
Bentsen	Hatfield	Pell
Boggs	Hollings	Ribicoff
Church	Humphrey	Saxbe
Curtis	Kennedy	Spong
Eagleton	McGee	Tower
Eastland	McGovern	Tunney

So Mr. NELSON's amendment (No. 1610) was rejected.

Mr. YOUNG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

SEC.—(a) Section 402 (a)(7) of the Social Security Act is amended by striking out the comma and the language which follows "such aid," up to but not including the semicolon.

(b) Section 402(a)(8)(A)(ii) of such Act is amended by striking out "in the case" and all that follows through "such income for such month" and by inserting in lieu thereof the following: "in the case of the earned income of a dependent child not included in clause (i), a relative receiving such aid, and any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, the first $60 (or, if such individual is not working at least 40 hours per week, or at least 35 hours per week and earning per week an amount at least equal to 40 times the hourly minimum wages specified in section 6(a)(1) of the Fair Labor Standards Act of 1938, the first $30) of such earned income for such month, plus one-third of the next $300 of such income for such month, plus one-fifth of the remainder of such income for such month, except that (i) reasonable child care expenses (subject to such limitations as the Secretary may prescribe in regulations) will first be deducted before computing such individual's earned income."

Mr. YOUNG. Mr. President, this amendment would restore a provision in the committee bill dealing with dependent children. There are some cases which the welfare boards would like to get off the rolls. This is recommended by Mr. T. N. Tangedahl, acting executive director of the Department of Social Services of North Dakota. He cites several examples. I will read one case which he thinks should be taken off the rolls, but because of the present law he cannot do so.

Case No. 4 is a mother and three children. She was receiving $300 per month AFDC. She was eligible for food stamps and all medical care. She secured employment paying $927.34 per month. Under present law she continues to be eligible for an AFDC payment of $22 per month, plus food stamps, plus all medical assistance.

This is one case of the four cases he cites. I could read on.

Mr. LONG. Mr. President, it is not necessary for the Senator to read on. We are persuaded that he is right. We understand the amendment. We agreed to it in the committee, and I feel that it should be agreed to. I do not think there would be any votes against it.

Mr. YOUNG. Mr. President, I ask unanimous consent to have printed in the RECORD a portion of Mr. Tangedahl's letter, starting with page 3, "Modification of Federal Statutes Which Require States To Continue AFDC Payments When No Need Exists," together with other related material.

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

3. *Modification of Federal statutes which require States to continue AFDC payments when no need exists.*

In the last five years both our caseload and expenditures have approximately doubled in the AFDC program. There undoubtedly are numerous contributing causes, such as the dramatic increase in the number of divorces and legal separations in North Dakota, along with a relatively recent decision of the U.S. Supreme Court ruling that all stepchildren are potentially eligible for AFDC. In our opinion, however, the major reason for the increase in caseload and expenditures is the result of a law enacted by Congress which requires us to provide AFDC payments to families where there is no need. Some persons refer to the "earned income disregard" provisions of Section 402 (a) (8) (ii) of Title IV of the Social Security Act as a work incentive; some refer to these provisions as inadequate. We consider them as outrageous in a program based on *need*.

Some years ago a lack of employment opportunities for mothers with children had a direct affect on our caseload. Since Congress amended Section 402 (a) (8) (ii) of Title IV of the Social Security Act we are unable to close AFDC cases even though the mother secures employment. A conservative estimate places the present number of employed AFDC caretakers, usually the mother, at 900 or 22% of the AFDC caseload. We believe at least half of these cases should be closed. We have selected some cases at random to illustrate the situation, and are enclosing copies of current budgets.

Case No. 1 is a mother and two children. She was receiving $245 per month AFDC. She was eligible for food stamps and all medical assistance. She found employment with a gross salary of $446.33 per month. Under present law she continues to be eligible for $148 per month AFDC, plus food stamps, plus all medical assistance.

Case No. 2 is a mother with one child. She was receiving $190 per month AFDC. She was eligible for food stamps and all medical assistance. She secured employment at a monthly salary of $516.53. Under present law she continues to be eligible for an AFDC payment of $102 per month, plus food stamps, plus all medical assistance.

Case No. 3 is a mother with three children. She was receiving $300 per month AFDC. She was eligible for food stamps and all medical care. She secured employment paying $548 per month. Under present law she continues to be eligible for an AFDC payment of $175 per month, plus food stamps, plus all medical assistance.

Case No. 4 is a mother and three children. She was receiving $300 per month AFDC. She was eligible for food stamps and all medical care. She secured employment paying $927.34 per month. Under present law she continues to be eligible for an AFDC payment of $22 per month, plus food stamps, plus all medical assistance.

Prior to the amendment referred to above, which was enacted by Congress, we would have closed these four cases. Under present law we are required to make AFDC payments and as a result this also increases our medical assistance costs. We think this situation compounds inequity. Our only response to comments and criticisms is that the payments must be made according to a law enacted by Congress. Some people still believe that Congress would not enact such laws. To us it seems ridiculous that a mother with three children, earning $927 per month, must be found eligible for an AFDC payment, plus food stamps, plus all medical assistance. We strongly recommend that this Section of the Social Security Act be amended. We have suggestions if anyone is interested.

Sincerely yours,

T. N. TANGEDAHL, ACSW,
Acting Executive Director.

STANDARD REQUIREMENTS AND BUDGET PLAN "BUY NORTH DAKOTA PRODUCTS"

HOUSEHOLD——CASE NUMBER——

SCHEDULE 1.—LIVING IN HOUSING UNIT

	Circle number of persons in assistance unit										
A.	1	2	3	4	5	6	7	8	9	10	over 10 (+)
B. Basic requirements	$125	$190	$245.00	$300	$340	$375	$400	$420	$435	$450	(1)
C. Special need [2]			100.00								
D. Total			345.00								
E. Less total net income (line 4C)			197.02								
F. Net need and grant			147.98								
AABD (——)											
AABD (——)											
AFDC (——)			148.00								

SCHEDULE 4.—COMPUTATION OF NET INCOME

A. Earned income:		B. Other income:	
1. Total gross earned income	[3] $446.33	1. OASDI benefits	——
		2. ——	——
2. Deduct appropriate earned income exemption ($30 and ⅓)	169.00	3. ——	——
3. Deduct earned income expenses:		4. ——	——
(a) Standard employment allowance	20.00	5. Add: Total other income	
(b) Withholding taxes	31.10		
(c) Social security deductions	23.21	C. Total net income (A5 + B5)	$197.02
4. Total earned income deductions (Lines 2 + 3a + 3b + 3c) plus $6 union dues			
5. Net earned income (A1 minus A4)	197.02		

Date —— Worker's signature ——

[1] Add $10 per person over 10.

[2] "Special need" portion of schedule 1 to be used only under conditions prescribed in sec. 3 of this charter.

[3] Remarks: $446.33 plus $148 equals $594.33; plus commodities, plus medical care.

SCHEDULE 1.—LIVING IN HOUSING UNIT

	Circle number of persons in assistance unit										
A.	1	2	3	4	5	6	7	8	9	10	over 10 (+)
B. Basic requirements	$125	$190.00	$245	$300	$340	$375	$400	$420	$435	$450	(1)
C. Special need [2] child care		130.00									
D. Total and transportation		320.00									
E. Less total net income (line 4C)		218.26									
F. Net need and grant		101.74									
AABD (——)											
AABD (——)											
AFDC (——)		102.00									

SCHEDULE 4.—COMPUTATION OF NET INCOME

A. Earned income:		B. Other income:	
1. Total gross earned income	[3] $516.53	1. OASDI benefits	——
		2. ——	——
2. Deduct appropriate earned income exemption	192.00	3. ——	——
3. Deduct earned income expenses:		4. ——	——
(a) Standard employment allowance	20.00	5. Add total other income	——
(b) Withholding taxes	58.90		
(c) Social security deductions	27.37	C. Total net income (A5 + B5)	$218.26
4. Total earned income deductions (lines 2+ 3a+ 3b+ 3c)	298.27		
5. Net earned income (A1 minus A4)	218.26		

Date —— Worker's signature ——

[1] Add $10 per person over 10.

[2] "Special need" portion of schedule 1 to be used only under conditions prescribed in sec. 3 of this chapter.

[3] Remarks: Plus medical care, plus surplus commodities.

SCHEDULE 1.—LIVING IN HOUSING UNIT

	Circle number of persons in assistance unit										
A.	1	2	3	4	5	6	7	8	9	10	over 10 (+)
B. Basic requirements	$125	$190	$245	$300.00	$340	$375	$400	$420	$435	$450	(1)
C. Special need [2] child care				108.00							
D. Total				408.00							
E. Less total net income (line 4C)				233.32							
F. Net need and grant				174.68							
AABD (——)											
AABD (——)											
AFDC (——)											

STANDARD REQUIREMENTS AND BUDGET PLAN "BUY NORTH DAKOTA PRODUCTS"—Continued

SCHEDULE 4.—COMPUTATION OF NET INCOME

A Earned income:		B. Other Income:	
1. Total gross earned income	[3] $548.00	1 OASDI benefits	—
2. Deduct appropriate earned income exemption ($30 and ⅓)	−$202.67	2 ———	—
	21.92	3 ———	—
3. Retirement program—Deduct earned income expenses:		4 ———	—
(a) Standard employment allowance	20.00	5 Add: Total other income	
(b) Witholding taxes	41.60	C Total net income (A5+B5)	$233.32
(c) Social security deductions	28.49		
4. Total earned income deductions (lines 2+3a+3b+3c)	314.68		
5. Net earned income (A1 minus A4)	233.32		

Date———— Worker's signature————

[1] Add $10 per person over 10.
[2] "Special need" portion of schedule 1 to be used only under conditions prescribed in sec. 3 of this chapter.
[3] Remarks: Food stamps pays $88 for $112 plus medical care. She just bought a new car.

SCHEDULE 1.—LIVING IN HOUSING UNIT

A.	Circle number of persons in assistance unit										
	1	2	3	4	5	6	7	8	9	10	over 10 (+)
B. Basic requirements	$125	$190	$245	$300.00	$340	$375	$400	$420	$435	$450	(1)
C. Special need [2] child care				107.50							
D. Total				407.50							
E. Less total net income (line 4C)				385.67							
F. Net need and grant				21.83							
AABD (——)											
AABD (——)											
AFDC (——)				22.00							

SCHEDULE 4.—COMPUTATION OF NET INCOME

A. Earned income:		B. Other income:	
1. Total gross earned income	[3] $927.34	1. OASDI benefits	—
2. Deduct appropriate earned income exemption	329.11	2. ———	—
Mandatory united fund contribution	5.50	3. ———	—
3. Deduct earned income expenses:		4. ———	—
(a) Standard employment allowance	20.00	5. Add: total other income	none
(b) Withholding taxes	138.85	C. Total net income (A5+B5)	$385.67
(c) Social security deductions	48.21		
4. Total earned income deductons (lines 2+3a+3b+3c)	541.67		
5. Net earned income (A1 minus A4)	385.67		

Date———— Worker's signature————

[1] Add $10 per person over 10.
[2] "Special Need" portion of schedule 1 to be used only under conditions prescribed in sec. 3 of this chapter.
[3] Remarks: Plus medical care, $88 for $112 food stamps.

The PRESIDING OFFICER (Mr. HART). The question is on agreeing to the amendment of the Senator from North Dakota (Mr. YOUNG).

The amendment was agreed to.

Mr. SPARKMAN. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

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

SEC. —. If as a result of the provisions of this section 511 of this Act, the rental charge for a family which occupies a low rent housing dwelling unit assisted under the United States Housing Act of 1937 would be increased, the required adjustment in the family's rental charge will be accomplished as follows:

(1) On the first day of the twelfth month immediately following the month in which this section becomes effective, the family's monthly rental will be increased by an amount equal to one-half the additional amount of rent which would be required; and (2) on the first day of the twenty-fourth month following the month in which this section becomes effective, the family's monthly rental charge will be increased to the full amount of the rental charge required. Notwithstanding any other provision of Federal law or regulations thereunder, a public agency shall not reduce welfare assistance payments to any tenant or group of tenants in low rent housing as a result of the provisions of this subsection which postpone the imposition of the full amount of any increase in rental charge.

Mr. LONG. Mr. President, we have examined this amendment. It has been studied by the staff and also by the Senator from Massachusetts (Mr. BROOKE) and those of us who are managing the bill and we think it is a good amendment and should be agreed to by the Senate.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama (Mr. SPARKMAN).

The amendment was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. HART). The Chair recognizes the Senator from Oklahoma (Mr. BELLMON).

The Chair would like to explain that when the Chair got up here there was a list. So, on occasions, it has been convenient but at other times it has been frustrating. Periodic consultations have modified the list. As long as the present occupant of the Chair is here, there is going to be no list. The Chair will respond to the first Senator addressing the Chair.

The Senator from Oklahoma.

Mr. BELLMON. Mr. President, I should like to say that I have been standing here for quite a long time waiting to get recognized.

I have an amendment at the desk which I ask be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

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

SEC. — Part D. of Title IV of the Social Security Act, as added by this Act, is further amended, effective February 1, 1972, by adding after Section 458 the following new section:

"SEC. 459. The Child support collection or paternity determination services established under this part shall be made available to any individual not otherwise eligible for such services under the proceeding sections of this part upon application filed by such individual with the Attorney General or, if a State or political subdivision has a program approved under Section 454, with such State or political subdivision as may be appropriate. Any costs incurred by the Attorney General (or by a State or political subdivision) in furnishing such services shall be paid by such individual by deducting such costs from the amount of any recovery made.

Mr. LONG. Mr. President, the Senator's amendment would allow a mother not on welfare to use the mechanisms provided in the bill to require a runaway father seeking to avoid his duty to his family, to support their children.

The idea of the amendment is, rather than make the mother become a welfare client she could have the assistance of the government in obtaining support from the runaway father.

I hope that the Senate will agree to this amendment.

Mr. BELLMON. Mr. President, I should like to thank the distinguished chairman for his eloquent explanation of my amendment and would like to congratulate him and his committee for the fine work they have done in helping to stop this business of increasing the AFDC load because of runaway fathers.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma (Mr. BELLMON).

The amendment was agreed to.

Mr. CHILES. Mr. President, I call up my two amendments at the desk, and ask unanimous consent that they be considered en bloc, and that the reading thereof be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; the amendments will be considered en bloc and will be printed in the RECORD at this point.

The texts of the two amendments are as follows:

On page 581, line 6, insert immediately before the period the following: "or otherwise permanently residing in the United States under color of law".

At the end of Part A, Title 5 of the bill, add the following new section:

"SEC. —. Meaning of "permanently residing in the United States under color of law"; for the purposes of this act and any provision of the Social Security Act amended by this Act, the term "alien permanently residing in the United States under color of law" shall include an alien refugee who is lawfully present in the United States as a result of the application of the provisions of section 203 (a) (7) or section 212(d) (5) of the Immigration and Nationality Act".

Mr. CHILES. Mr. President, I introduce these two amendments on behalf of my colleague, Mr. GURNEY, and myself. They simply make clear in the bill that it would not detract from the right to benefits of Cuban refugees, of which 12,000 reside in Florida. They are receiving benefits presently under the existing system, but there has been some question as to whether, under this bill, they would be eligible. These amendments would make clear that they are eligible.

The staffs of the distinguished chairman and the ranking minority member of the committee have seen these amendments. If there is no objection, I should like to have them agreed to.

Mr. GURNEY. Mr. President, these amendments which we are introducing at this time are designed to prevent a great and unintended economic hardship being placed upon the people of Dade County, Fla.

I know that the Finance Committee and its distinguished chairman did not intend this result, however, the effect of the limiting language concerning aliens which appears in the next to the last paragraph on page 466 of the committee report does just that.

Florida has about 12,000 refugees from Communist Cuba within its borders who are either over 65 years of age, blind, or disabled. At my request, HEW has provided an estimate that the payments for these individuals are about $18 million per year.

Mr. President, the Cuban refugee program is one of Federal responsibility and the State of Florida should not be required to bear the cost of that commitment alone. The categories of eligibility must, in all fairness, be amended to include these political refugees.

It was the Federal Government that established, under four successive administrations, the policy of opening this country's doors to refugees from Castro's tyranny. This policy was formalized during the preceeding administration by President Johnson's personal actions and by international agreement.

Moreover, under international protocols of general application, the United States has agreed to accord refugees staying in its territory equal treatment. If these amendments are not approved, the State of Florida, and Dade County will be forced to pay for programs which ought to be supported by the Federal Government. I am sure that this is not what the Members of this body want.

It is clear where the responsibility for these individuals lies and I urge my colleagues to support these two amendments.

Mr. LONG. Mr. President, we have no objection to the Senator's amendments.

The PRESIDING OFFICER. The question is an agreeing to the amendments en bloc of the Senator from Florida (Mr. CHILES).

The amendments were agreed to en bloc.

AMENDMENT NO. 1613

Mr. ROTH. Mr. President, I call up my amendment No. 1613 and ask that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, further reading of the amendment will be dispensed with and it will be printed in the RECORD at this point.

The text of the amendment is as follows:

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

TREATMENT OF CHILD'S SOCIAL SECURITY BENEFITS UNDER SUPPORT REQUIREMENTS

SEC. . (a) Section 152 of the Internal Revenue Code of 1954 (relating to definition of dependent) is amended by adding at the end thereof the following new subsection:

"(f) CHILD'S SOCIAL SECURITY BENEFITS.—For purposes of subsection (a), child's insurance benefits received by or on behalf of an individual under section 202(d) of the Social Security Act shall not be taken into account in determining whether the individual received more than half his support from the taxpayer."

(b) The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

Mr. ROTH. Mr. President, this amendment is cosponsored by Senators BOGGS, MANSFIELD, SCOTT, AIKEN, COOPER, RIBICOFF, PACKWOOD, RANDOLPH, STEVENS, MOSS, JAVITS, DOLE, BROCK, TAFT, GAMBRELL, DOMINICK, and BEALL. It is a simple amendment.

Its purpose is to provide that social security benefits paid on or on behalf of a child shall not be taken into account in determining whether such child is receiving more than half the support from the taxpayer. The purpose is to correct what I consider to be a gross inequity in the law.

Under the present law, a parent must contribute more than half the cost of a child to claim the child as a deduction. Social security benefits paid in behalf of children of a widow or widower is considered income of the children. Consequently, the widow must be able to prove that she contributed more to the support of the child than the value of the social security benefits paid for that child. I believe this is grossly unfair to widows or widowers of low income.

Let me illustrate and this is a true case. A widow with four children received $1,900 social security benefits on behalf of the children. She worked and earned $3,000 a year. So she had a total of $4,900 to raise her children. But the Internal Revenue challenged her right to a deduction for the children because she could not prove that she contributed more than $1,900 for the care of her children.

This is a gross inequity because it discriminates against widows with low annual incomes. If a widow has a large annual income she can, of course, pass the dependency test easily. For example, if this widow has a $20,000 income instead of $3,000, she would have no difficulty at all showing that she contributed more than $1,900 for the care of her children. Furthermore, a wealthy family can hire lawyers and be in a position to prove it, but the widow with a low income is handicapped because she is not in the practice of keeping receipts, canceled checks, or the other things which she must do in order to show that she is supporting her children to this extent.

As I say, this is a true case which occurred in Delaware. We will find it is true throughout the country.

I received a letter from the widow who caused me to introduce this legislation, and I should like to read it to the Senate:

MAY 8, 1972.

Senator WILLIAM V. ROTH, JR.,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR ROTH: I am writing in an appeal for help in my problem with Internal Revenue Service. This is my story.

My husband died in 1968, leaving me with four children, ages 17 yrs, 15 yrs, and twins 2½ years. I applied for and received Social Security benefits for these children. However, I still claimed them as dependents on my Income Tax return. The problem is this: They are checking my Income Tax Return for the year 1970, because they say that since they received Social Security benefits I cannot claim them as dependents. Now, this seems a little ridiculous to me because anyone can tell you that Social Security benefits will not contribute enough income to keep an individual alone.

This is all I receive and I have never asked for anything else as far as medical, dental, or anything. I have continued to work every day, which necessitates babysitting money, which I am not wondering if it was a wise choice. My husband, being a heart patient, did not obtain the mortgage fee insurance he should have had. As a result of this, I had to give up the home we had built. I have made personal loans when the going became rough and have done the last and final thing I can do. I have sold my furniture to pay bills. I have nothing else to sell. I have borrowed the limit I feel I can repay.

The Internal Revenue Service notified me that I must substantiate that I had contributed more than Social Security benefits towards the keeping of these children. This I have tried to do as you will see by the en-

closed. Cancelled checks are all I have to prove anything, since I had no idea that there was any question that I would claim them for dependents. They will not accept what I have given them as proof. I did not submit copies of cancelled checks for the whole year, but picked different months to try to show them that what I had given them was correct. I do not know what else I can do. I do know that I think I should be allowed some credit for working every day and using this money to keep my family in a home, food, clothing, heat, medication, etc.

There are only a few alternatives that I can think of: No. 1—Send all the bills pertaining to the children's upkeep to IRS, No. 2—Have the children put in a home and let them receive the Social Security on which they must be kept, No. 3—Quit work, apply for additional benefits and let the taxpayers keep all of us, or No. 4—Find the deepest river and highest bridge and take a flying leap and let the State worry about keeping the children. What would you suggest?

I only have ten days to come up with more proof for IRS, but I really at last am at my wit's end. I only know that it takes all I make plus what they receive to keep a roof on their heads, clothes on their back, food in their stomachs, insurance, and medication when they are ill.

The woman was finally able to prove her case, but she has given up claiming the children as a deduction because the burden is too great. But as I say, this part of the revenue code is a gross inequity. Instead of rewarding a woman and giving her an incentive to work, we are encouraging her to go on relief. I might say that I have checked into the amount she would obtain if she were to go on relief and it turned out that she would receive more than $5,000 a year in welfare benefits. And of course she would pay no taxes.

I say this is contrary to the purpose of H.R. 1, that is to get people back to work and taking care of their own children.

I ask the Senate to support my amendment.

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

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

Mr. JAVITS. Mr. President, I think the Senator from Delaware (Mr. ROTH) has taken a very fine initiative. As a cosponsor of the amendment I am very grateful to the Senator from Delaware for taking the lead in helping my State and I believe all others.

I hope the amendment is agreed to.

Mr. LONG. Mr. President, the Senator is offering a tax amendment. I would plead with the Senator not to offer it at this time. Under the law, if one wants to claim a deduction for the support for his own child, he has to show that he is providing at least 50 percent of the child's support.

Let us assume that the mother is drawing social security payments for herself and is also being paid the benefits for the child. The child is getting maybe $80 from the social security system and the mother is paying about $40 of her income to support the child. So, she does not meet the 50 percent test.

The Senator would say, "Let us not count social security, so that she can deduct the $40 she is spending to support her child."

He wants to say that Congress provided the deduction and we would not deny them the tax advantage they would have had if Congress had not provided them with social security benefits.

It would not stop here. Someone else would say, "All right, here is a case involving veterans' benefits." And the Senator from Indiana (Mr. HARTKE) has demonstrated how eloquent he can be in saying that veterans are being discriminated against.

They will say we are not counting the child's income from social security for the tax benefit, but we are holding it against the child so that he will not get the veterans' benefit. They will say that the son should get the veterans' benefit, because the father served his country. They will say that Congress meant to have him receive the benefit and did not mean to penalize him. It will be said that we are discriminating against veterans, and indeed we are.

Then someone comes up with the question of civil service retirement income and the Government insurance program. They will say that we are discriminating against our loyal Government employees and that we have to take care of them, too.

Goodness knows, I do not know where we would go with this, and these are only the examples that I think of offhand.

By the time we get through, everything that has a Government interest or a humane interest is presented to us for consideration. The next thing we know, someone will mention a private insurance plan into which the father has paid for insurance protection. It will be said that we are discriminating against the child and the father who toiled and sought to protect his family with a private insurance plan. It will be said that we do not want to discriminate against thrift and family responsibility and that we should not count the income from the private insurance that is being paid to the family.

It goes on and on and on.

Mr. President, if I thought this was an amendment to which we could agree at this point, I would be willing to do it. However, I hope that the Senator will let us study this matter and see if we can take care of the very meritorious cases without setting a precedent that will come back to plague us again and again and without having the argument made to us that we are discriminating against widows, veterans, and people who work for the railroads and against private enterprise.

If we pass this amendment, some of these things will come back to plague us. It will be said that the Senate voted for this and must have known what it was doing, that the Senate created a precedent for which we should do for all these other people. We would set the stage for it to come back to haunt us and we will be as bad to provide tax advantages for one group or another until it goes on indefinitely. I think the Senate ought to pursue its own orderly processes and give us an opportunity to consider this, which is a tax amendment, as a tax matter. I assure the Senator that if the Senator would respect our position and not be insistent about it at this time, we would consider the amendment and resolve it in a way that would not lead to the consequences that I fear.

Mr. ROTH. Mr. President, I feel that this is a grave injustice. I feel very strongly that it is wrong for us to leave on the books legislation that has the opposite effect of what we are trying to accomplish by welfare reform; that is, to get people to go back to work.

I think it is an unbelievable injustice for social security benefits, under these circumstances, to count as income of the children. And the unreal thing about it is that the widow or widower who has adequate income does not suffer in these kinds of circumstances because she can easily show that she has enough income to provide more than half of the support of the child.

I ask you how can a widow with only $3,000 income of her own demonstrate that she has given more than $1,900 which she receives in social security benefits for the care of her four children.

I believe we are putting an impossible task upon this widow. I think the current law disillusions people as to the equity of our laws; it helps make people lose confidence in the fairness of our Government. In fact, it runs counter to the whole purpose of the welfare reform we all seek.

I understand that 3 or 4 years ago similar legislation was offered and passed the Senate, but it was not agreed to in conference. I am not interested in going through the exercise of trying to make a point on the floor. I am interested in correcting what I think is a fundamental inequity in law. I think it is time that we stood up to this, and not do it on the basis of how it affects other provisions.

It is my understanding, Mr. President, that while other programs such as railroad retirement or veterans' survivor benefits could be in the same category, and frankly I would be happy to accept a perfecting amendment to include them, it nevertheless is my understanding, that veterans' survivor benefits take in consideration social security benefits, so it pretty much washes out.

From the standpoint of cost it will not be as much as some claim because many widows and widowers are not aware that they are not entitled to dependency exemptions because of social security benefits.

I think this is a situation that we should not postpone indefinitely but we should try to correct now in justice to those who are trying to do the right thing and who are willing to work to take care of the children and not go on relief.

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

Mr. ROTH. 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.

Mr. LONG. Mr. President, I move that the amendment be laid on the table. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Delaware. The yeas and

nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from California (Mr. TUNNEY), and the Senator from Mississippi (Mr. EASTLAND) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

On this vote, the Senator from Louisiana (Mrs. EDWARDS) is paired with the Senator from Connecticut (Mr. RIBICOFF). If present and voting, the Senator from Louisiana would vote "yea" and the Senator from Connecticut would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Delaware (Mr. BOGGS), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Ohio (Mr. SAXBE), 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 Oregon (Mr. HATFIELD), and the Senator from Texas (Mr. TOWER) would each vote "nay."

On this vote, the Senator from Nebraska (Mr. CURTIS) is paired with the Senator from Delaware (Mr. BOGGS). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Delaware would vote "nay."

The result was announced—yeas 31, nays 43, as follows:

[No. 532 Leg.]

YEAS—31

Bellmon	Gurney	Muskie
Bennett	Hansen	Nelson
Bible	Hart	Pastore
Byrd, Harry F., Jr.	Hartke	Proxmire
	Hruska	Randolph
Byrd, Robert C.	Jordan, N.C.	Stennis
Cotton	Jordan, Idaho	Talmadge
Ervin	Long	Weicker
Fannin	McClellan	Williams
Fulbright	Miller	Young
Gravel	Mondale	

NAYS—43

Aiken	Chiles	Inouye
Allen	Cook	Jackson
Bayh	Cooper	Javits
Beall	Cranston	Magnuson
Brock	Dole	Mansfield
Brooke	Dominick	Mathias
Buckley	Fong	Montoya
Burdick	Gambrell	Moss
Cannon	Griffin	Packwood
Case	Hughes	Pearson
Percy	Sparkman	Symington
Roth	Spong	Taft
Schweiker	Stafford	Thurmond
Scott	Stevens	
Smith	Stevenson	

NOT VOTING—26

Allott	Edwards	McIntyre
Anderson	Goldwater	Metcalf
Baker	Harris	Mundt
Bentsen	Hatfield	Pell
Boggs	Hollings	Ribicoff
Church	Humphrey	Saxbe
Curtis	Kennedy	Tower
Eagleton	McGee	Tunney
Eastland	McGovern	

So Mr. LONG's motion to lay on the table Mr. ROTH's amendment was rejected.

Mr. LONG. Mr. President, so far as I am concerned, every Senator who voted against the motion to table I presume would vote for the amendment and, to save the Senate's time, I ask unanimous consent to vacate the order for the yeas and nays, and I am willing to accept the amendment by a voice vote.

The PRESIDING OFFICER (Mr. INOUYE). Is there objection to the request of the Senator from Louisiana? Without objection, it is so ordered.

The question is on agreeing to the amendment (putting the question).

The amendment was agreed to.

Mr. MONDALE. Mr. President, I send an amendment to the desk and ask unanimous consent that its reading be waived.

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

The amendment offered by Mr. MONDALE, for himself, Mr. JAVITS, Mr. RIBICOFF, Mr. CRANSTON, and Mr. BUCKLEY, is as follows:

At the end of the bill add the following:

CHILD CARE SERVICES

SEC. —— In order to provide financial assistance under section 403(a)(3) of the Social Security Act for child care services meeting the requirements of section 1130(a)(2)(A) of such Act (in addition to any funds which may be made available for such purposes from the State's allotment under section 1130(b)(1) of such Act), there are authorized to be appropriated $800,000,000 each for the fiscal year ending June 30, 1973, and for the succeeding fiscal year.

(b) From the sums appropriated under subsection (a) of this section, the Secretary of Health, Education, and Welfare shall allot to each State—

(1) an amount which bears the same ratio to 50 per centum of the sums so appropriated as the population of such State bears to the total population of all of the States; and

(2) an amount which bears the same ratio to 50 per centum of the sums so appropriated as the number of children in families receiving payments under title IV of the Social Security Act in such State bears to the total number of such children in all of the States.

(c) The Secretary shall reallot the amount of any State's allotment under this section which will not be required for the period for which such allotment is available to any other State which he determines has need thereof.

(d) For purposes of this section, the term "State" means any one of the fifty States, the District of Columbia, or Puerto Rico.

(e) Not withstanding any other provision of this Act, the provisions of section 431 and section 433(b) of this Act shall not be effective until such date as the Congress shall designate to subsequent legislation.

(f) Section 422 of the Social Security Act is amended by inserting at the end thereof the following new subsections:

"(c) The Secretary is directed to establish appropriated procedures to ensure that no child shall be the subject of any research or experimentation under this title (other than routine testing and normal program evaluation) unless the parent or guardian is informed of such research or experimentation and is given an opportunity as of right to except such child therefrom.

(d) Nothing in this Act shall be construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional, or physical development of their children. Nor shall any section of this Act be construed or applied in such a manner as to permit any invasion of privacy otherwise protected by law, or to abridge any legal * * *

Mr. MONDALE. Mr. President, this amendment is offered by myself, the junior Senator from New York (Mr. BUCKLEY), the senior Senator from New York (Mr. JAVITS), and the senior Senator from Connecticut (Mr. RIBICOFF), and the senior Senator from California (Mr. CRANSTON).

It is designed to retain the $800 million in this bill for day care but send it through the present delivery system for day care in the Department of Health, Education, and Welfare, which involves the various State departments of welfare, and in the local government systems.

The amendment would retain the new $800 million child care authorization provided in the bill, but would make these funds available for child care through the existing title IV–A program, rather than through the creation of a new Bureau of Child Care.

Thus, the amendment supports the commitment in the bill for an expansion of day-care opportunities, but proposes that a different and more familiar mechanism be used to deliver the day care authorized.

DAY CARE NEEDED

Mr. President, I want to emphasize my support for an expansion of quality day care in the pending legislation. There is a tremendous need for more day-care opportunities in this country. Half of all mothers with school-age children, and one-third of all mothers with preschool children are working today. Yet, there are fewer than 700,000 spaces in licensed day-care facilities to serve the over 5 million preschool children whose mothers work.

I commend the committee for identifying this need, and for authorizing an additional $800 million to help meet it. The concerns I expressed yesterday were directed not at the objective of expanding day care, but solely at the mechanism proposed to provide this additional day care.

TITLE IV A PROPOSAL

That is why my amendment retains the commitment to authorize an additional $800 million for day care. And that is why it retains unchanged section 432 authorizing grants to States for establishment of model day care. While I believe very deeply that we need comprehensive child development legislation to provide a coordinated approach to day care and child development efforts, I do not believe we can overlook interim

steps such as this while we await enactment of a more complete proposal.

Thus, our amendment would authorize an additional $800 million for child care under the existing title IV–A program in the Social Security Act, in addition to the $2.5 billion presently authorized under title IV–A for all social services, including child care. It would distribute these funds among the States according to a formula based 50 percent on population, and 50 percent on AFDC recipients in order to target it on areas of greatest need.

It would provide the Secretary of Health, Education, and Welfare with authority to reallocate funds from States which will not use their entire allocation to States which would use more than their allocation. And it would be subject to the existing standards and requirements for title IV–A programs, including the Federal Interagency Day Care Standards.

Shifting the proposed $800 million authorization from a Bureau of Child Care to the existing title IV–A program—as we propose—would meet the concerns I have raised about the Bureau. By using an existing program, it would not add confusion and further fragmentation to the system of Federal assistance to child care. By retaining the Federal-State-local partnership arrangement in title IV–A it would not bypass the other levels of government or create a system with total Federal control. By avoiding a new and inadequate set of standards with respect to adult-child ratios and parent participation, it would be governed by the existing interagency day care standards now applicable to all federally assisted child-care programs.

Mr. President, I believe this amendment provides a more reasonable and more familiar framework through which to provide the additional and desperately needed funds for day care authorized in the committee bill.

This amendment, it seems to me, is essential——

Mr. LONG. Mr. President, would the Senator be willing to agree to a time limitation?

Mr. MONDALE. I think I will in a few minutes. I am waiting for the Senator from New York (Mr. BUCKLEY) to arrive. Then I think we can enter into a time limitation, because I am anxious to dispose of this amendment quickly. At this time I yield to the Senator from Illinois (Mr. STEVENSON).

Mr. STEVENSON. Mr. President, I ask unanimous consent that during the debate on the amendments to H.R. 1 a member of the staff of the Committee on Labor and Public Welfare, Mr. Basil Condos, be granted the privileges of the floor.

Mr. LONG. Mr. President, reserving the right to object, is the Senator asking for the whole staff or just one member?

Mr. STEVENSON. I named Basil Condos of the Labor and Public Welfare Committee staff.

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

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

Mr. MONDALE. I am glad to yield.

Mr. DOMINICK. I just want to make sure about this amendment. During the debate on the child care bill having to do with the day care centers, I put in an amendment, as to which I had a big argument with the Senator from Minnesota, and finally prevailed on it, to let them go through the States where they could be prime sponsors, along with everybody else. Do I understand the Senator's amendment, if amended, would make sure this circle would be retained, instead of going directly from the Government to the welfare mother?

Mr. MONDALE. The Senator is correct. My amendment is very similar to the Dominick amendment which the Senator offered some months ago. The Bureau of Child Care which is set forth in this measure establishes a permanent new Federal office, which does not now exist, and permits it to run day care centers anywhere in the country, in any fashion it wishes, with no involvement of State or local government. The Bureau can completely disregard State departments of welfare, and probably will. There is no requirement that they do so. It is not even mentioned in the measure. It can completely disregard county and local governments. It ignores the present system, and sets up an entirely new delivery system. There is no allocation State by State. One State could get all of the $800 million set out in this amendment. In addition to that, there are no real adult-child standards set forth. The so-called standards in this bill require that there can be no fewer than eight or 10 children per staff member. Real standards are just the opposite, require no more than a certain number of children per adult.

I know the Senator from New York (Mr. BUCKLEY), who will speak shortly, thinks that this——

Mr. DOMINICK. Mr. President, will the Senator yield further?

Mr. MONDALE. I yield.

Mr. DOMINICK. The Senator's amendment would do what? What would the Senator's amendment be in place of?

Mr. MONDALE. It would provide $800 million to be used in the present delivery systems established with HEW and the State Departments of Welfare, in the present way the day care under title IV–A of the Social Security Act is delivered.

Mr. DOMINICK. I am glad the Senator brought that out. What I do not want to do is set up a whole new agency to take care of that program.

Mr. MONDALE. I would like to make one further comment to the Senator from Colorado. I believe the Senator from New York (Mr. JAVITS) will shortly be reading a letter from the Secretary of Health, Education, and Welfare in which he very clearly opposes the committee's approach.

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

Mr. MONDALE. I yield.

Mr. LONG. Mr. President, I would urge Senators to remain on the floor during the debate on this amendment. It should be brief. One of the worst things is for Senators to hear the initial presentation, walk out and not hear the other side of the argument, and then spend years explaining why they did not understand the other side of the argument. This is an important amendment. I do not agree with the Senator's argument. I would like Senators to hear the committee's reasons why this amendment should not be agreed to. I hope Senators will hear both sides of the argument. I think the Senator's argument should be heard, and so should the position of the committee be heard.

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

Mr. MONDALE. I yield.

Mr. JAVITS. I agree with the Senator from Louisiana and hope Senators will listen to the opinion of the Secretary of Health, Education, and Welfare, who ought to know something about this. He says, in a letter dated October 4, of which copies are being distributed to all Senators, the following:

> The Committee bill would establish a Bureau of Child Care within the proposed independent Work Administration. The powers and duties of the child care bureau would be essentially the same as those of the Child Care Corporation which Chairman Long offered on the parallel bill in the 91st Congress.
>
> We would oppose these provisions just as we opposed them in 1970. We prefer instead the child care provisions in the House-passed version of Title IV, which would provide the Secretary of Health, Education, and Welfare with the authority to bring together in a single system all federally-assisted child care, with priority to children of families assisted under the workfare provisions of the Family Assistance Plan. As I have repeatedly testified before a number of committees, we believe it is essential to develop a single, primary system for the delivery of all federally-assisted day care and child development services rather than further fragmenting the already highly disorganized and fragmented existing child care resources. In addition, the Administration prefers the House-passed version because it would place in HEW the responsibility for developing national standards for assuring the safety and quality of all federally-assisted child care services. We also favor inclusion of parents of children in such a system in advisory councils.

I ask unanimous consent that the letter be printed in the RECORD.

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

WASHINGTON, D.C.,
October 4, 1972.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: Thank you for your letter of Friday, September 29, requesting the Administration's position on the Child Care provisions of H.R. 1 as reported to the Senate by the Committee on Finance.

The Committee bill would establish a Bureau of Child Care within the proposed independent Work Administration. The powers and duties of the child care bureau would be essentially the same as those of the Child Care Corporation which Chairman Long offered on the parallel bill in the 91st Congress.

We would oppose these provisions just as we opposed them in 1970. We prefer instead the child care provisions in the House-passed version of Title IV, which would provide the Secretary of Health, Education, and Welfare with the authority to bring together in a single system all federally-assisted child care, with priority to children of families assisted under the workfare provisions of the Family Assistance Plan. As I have repeatedly testified before a number of committees, we believe it is essential to develop a single, primary system for the delivery of all federally-assisted day care and child development services rather than further fragmenting the

already highly disorganized and fragmented existing child care resources. In addition, the Administration prefers the House-passed version because it would place in HEW the responsibility for developing national standards for assuring the safety and quality of all federally-assisted child care services. We also favor inclusion of parents of children in such a system in advisory councils.

With kindest regards.

Sincerely,

ELLIOT RICHARDSON,
Secretary.

Mr. JAVITS. I ask the Senator this question——

Mr. LONG. Mr. President——

Mr. JAVITS. Mr. President, the Senator has yielded to me and I would like to complete our argument, if I may.

Mr. LONG. Will the Senator yield for just one moment?

Mr. JAVITS. Let me complete the thought, then I will be happy to yield. The Senator knows I would never cross him, but I really want to complete the point.

Mr. LONG. I do not mind the Senator completing any point he wants to complete, but I would like to get a time limitation agreement, so that both sides would have an equal amount of time.

Mr. JAVITS. Can the Senator hold that a minute? That can come after I have completed as well as before.

Will the Senator from Minnesota tell me whether and to what extent, and how, his amendment differs from that adopted by the other body on this subject?

Mr. MONDALE. We do not create a new system. We retain the present title IV system. The letter from the Secretary of Health, Education, and Welfare makes the same point I made, that this new corporation that would be established under the pending bill goes completely outside the present delivery system, completely ignores the States, completely ignores the local governments, and sets up an entirely new organization with no standards.

I would like to add to the letter the Senator has read a letter which I received from the National Governors Conference, signed by Mr. Jensen, in which he opposes the establishment of this bureau. It says, among other things:

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.

Mr. JAVITS. Will the Senator yield again?

Mr. MONDALE. I yield.

Mr. JAVITS. How does the amendment conform to the criteria the Secretary has stated?

Mr. MONDALE. In the sense that it turns the administration over to the Department of Health, Education and Welfare under the present delivery system.

May I also add that this proposal for establishing this separate bureau is also opposed, in addition to the administration and in addition to the National Governors' Conference, by the League of Cities, and the Council of Mayors, by the National Association for the Education of Young Children, the Child Welfare League, the Day Care and Child Development Council of the American Academy of Pediatrics, and the Children's Lobby.

I would now like to yield——

Mr. JAVITS. Before the Senator yields, will he yield to me again?

Mr. MONDALE. I yield.

Mr. JAVITS. Let us get clear on this Governors' conference proposition. Do the Governors take the same position the Secretary of Health, Education and Welfare does on this subject?

Mr. MONDALE. That is correct.

Mr. JAVITS. That is clear?

Mr. MONDALE. Yes. I ask unanimous consent that the letter from the National Governors' Conference opposing the creation of the corporation be printed in the RECORD at this point.

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

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 Governor's 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 Governor's Conference.

I hope that these comments will be useful to you.

Sincerely,

ALLEN C. JENSEN,
Special Assistant.

Mr. MONDALE. I have promised to yield to the distinguished junior Senator from New York (Mr. BUCKLEY).

Mr. BUCKLEY. I thank my colleague from Minnesota.

Mr. President, I have become tremendously interested in this whole problem of child care. I did an extraordinary amount of research into the literature and the studies, and have talked with some of the experts, in trying to build up the case for torpedoing the proposal offered by my distinguished senior colleague (Mr. JAVITS) and by the distinguished Senator from Minnesota (Mr. MONDALE), because I thought that the child development legislation was too ambitious, going too far, and the system would harm the children.

But I believe that the distinguished Senator from Minnesota and I agree, as a result of what we have read in common, that the experience abroad and the experience and studies at home demonstrate that unless the quality and standards of day care, especially that given to very young children, is of the highest order, the chances for serious, real damage are too large to be ignored.

I therefore have joined in endorsing the amendment we are now discussing, and it includes a couple of provisions that I have recommended, for the simple reason that we have established, in existing legislation, a modus vivendi, we have established procedures for working through the States, we have established safeguards, and I think it would be dangerous to ignore those and to set up this statutory warehousing approach, when we could channel the children of welfare recipients through the existing structure and make sure that we have insured that limitation of the number of children per supervisor which we are told by every expert is critical, especially to those under 4 years of age.

I therefore urge the adoption of the amendment.

Mr. MONDALE. I thank the Senator from New York, and I gratefully acknowledge his role in helping us to better understand the potential damage—permanent, disastrous damage—that can be visited upon preschool children if they are placed in environments that are custodial, understaffed, and unsupportive.

First of all, I think we all understand the best place for a young child or infant is with his parents in a healthy home. Everyone agrees with that. But if the parents work, or if the family, for some reason, is broken down so that the normal functions of a healthy family cannot be performed, and there must be a substitute day care program, every expert we heard from said, "For crying out loud, make sure it is a good one, supportive, strong, and when you are dealing with the youngest infants, make sure there is a very low staff ratio, maybe only one staff person to three, in order to deliver the kind of substitute care that offers help."

The Senator from New York has made that point very clear, and I want to say the bureau proposed here has no real standards whatsoever, and no government, not even the State or local government, will be able to intervene to protect the little children.

I yield to the Senator from Pennsylvania.

Mr. SCOTT. I thank the Senator.

Mr. President, I think the record ought to be very clear that Senators are not discussing the issue of whether there should or should not be child care, or whether anyone in this body would for one moment deny the best possible solution of a very vexing problem. The only question is how to provide the best child care for those who justly, reasonably, and rightly should have it.

What is most persuasive to me, as a Senator, of anything I have heard yet, is to have another Senator, namely, the

junior Senator from New York, say that his research at the beginning was devoted to the purpose of finding reasons to oppose this proposal, this amendment, but, having done more research, I suspect, than almost any of us, having pursued all the avenues, he comes out at a different exit from that which he expected to come out, and finds himself, therefore, able to give his full and generous support to the amendment.

That is very persuasive to me, and I thank the Senator for giving me a chance to make this observation.

Mr. MONDALE. I thank the Senator from Pennsylvania.

I should say that if the distinguished floor manager wishes to propose a time limitation agreement, he may do so.

Mr. LONG. Mr. President, after those talking for the amendment have used up 25 minutes, if it is all the same, we will just take our turn when we can obtain recognition and explain our side without any limitation.

Mr. MONDALE. I yield to the Senator from Wyoming. If he cares to have the floor in his own right, I will be glad to yield the floor.

Mr. LONG. Mr. President, I would hope that the Senator would yield and let us speak on the bill's side for a while.

Mr. MONDALE. I yield.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, when we approached this problem of day care 2 years ago, the answer seemed very simple. If you wanted to seek a solution to a situation in which a mother wanted to work, she could be provided day care and could take a job and support the family. It all seemed very simple. Why not do that? Instead of paying the $2,400, for example, to a mother with a family of three, for doing nothing, why not just provide a day care center for the child and let the child be in the day care center while the mother took a job at $2,400 or more than that. Why not just let the mother earn something and put the child in a day care center?

That all seemed fine, and it seemed like a fine answer, until we discovered that these people, in wanting to seek such child development and a fulfillment of all the things that one could desire for the child, had worked it out so that the cost of day care for one child would exceed what the administration was proposing to support the whole family.

For example, the administration was proposing a level of $2,400 for a family of four. How much do you think it was proposed to pay for day care for just one child? $2,400. Now it is $2,700, going to $3,000. So it would cost more to put one child in a day care center than it would to support the whole family of four, which would cause one to say, "Just forget about the day center."

If Senators want to get the other side of the argument, they should just talk to their own secretaries. For example, take the best secretary in my office, a lady who is as well qualified to be a U.S. Senator as I am. She was Scott Lucas' secretary when she came here from the State of Illinois. She was the shorthand champion and the typing champion of the State of Illinois, and she is one of the best secretaries on the Hill. As a mother, she provided for her children when her husband died.

She said:

That cost of day care is ridiculous. I could take you to good day care centers in Washington, D.C., where you can provide day care for your child at a hundred dollars a month while you're working to earn a living for the family. At that rate, you could provide for three children, at the price those people would have you pay for one. That's ridiculous.

Then they passed a bill to establish some standards for day care. They got their standards so high that now the $2,400 is hardly enough to provide the care. They are violating their own standards because to comply with the standards would cost at least $2,400 a year, and they dare not obey the law that has been passed.

They passed themselves a bill for all this kind of child development that they could advocate, with all these lovely garden club groups and one thing and another. The people who advocate this type of care do not have the problem for the most part. They are thinking about how somebody else should do it, and they are going to make full use of all the psychologists, and all the psychiatrists, and all the social workers, and everything the mind of man can think of, to give full development to the child. And what do they achieve? They get a bill worked up in that fashion and get it sent to the White House, and it is vetoed, because it started out costing $2 billion and wound up costing $20 billion. The President sent it back to them with a veto message. They are still at war with the President today for vetoing that day care proposal.

It is all right with me if those who advocate the soup-to-nuts day care approach would spend as much as they can get. But they keep sending their day care proposals down and getting them vetoed and finding fault with the President, as though he is not interested in little children. Meanwhile, the mother cannot get a job because she cannot find day care.

This is what one of our experts in this matter told us. He said it appears that the main thing wrong with day care is that there is not enough of it, and the main reason why there is not enough of it is that it costs too much.

I discussed this problem with Ronald Reagan, who I think is a pretty knowledgeable man on these problems, and this is the way he put it to me:

I wouldn't suggest that you just put a child on a playground, in a sandbox; not at all. I would propose that you provide an adequate number of people to look after the child, have some entertainment, some recreation, some playing for the child to do; and, having done that, that you would provide for the child that way, and it would learn as much that way as in the home with the welfare mother. I would not advocate that you load the place down with psychiatrists, child development specialists, and so forth.

Senators heard the Senator from Minnesota say that he would like to have one person supervising every three children. That is pretty expensive, if you are going to pay a good wage, especially for a person qualified in child psychology, who has a college degree—one for every three children. It would cost a fortune. We cannot afford all that.

So here is our approach. We said, "If you fellows want to provide $2,400, $3,000 or $5,000 per year for a child, more power to you. If you can get your business together with the administration and you can provide all these fine, educational opportunities, great."

I think it is said that a child learns half of what he is ever going to learn before he is 5 years old. He has learned how to find his foot with his hand, and he has learned that this hand can touch this hand; that the fingers are attached to his hand, and so forth—all sorts of things he needs to know. I think it is fair to conclude that if he did not learn that at age one, he would learn it by age three. In any event, he would have found it out before he reached maturity.

Mr. President, our approach was that if you look at what mothers are actually doing—keep in mind that 45 percent of mothers are working to help support their families. Look at what those mothers are doing, those who are paying their own way. They are not enjoying any $2,400 day care or $3,000 day care. Most of them simply pay a neighbor to look after the child while they go out to earn some income.

We had an argument about the Tunney amendment, where a mother pays someone to come in and do some housework and look after the child while she is working. It is true that the person she is bringing in is not a college professor, but she does have someone looking after the child, and it is costing a great deal less than $2,400. They pay a neighbor or they prevail upon a relative to look after the child while they go to work. That is what people who are paying the taxes to support this elaborate day care arrangement provide for their own children.

So our approach was to say, "Great. If you can provide $2,400 a year for day care, or $3,000 a year for day care, or $5,000 a year for day care, more power to you. Go ahead and provide it, and we would advocate that every welfare mother take advantage of it, if you can find the opportunity to use it."

Perhaps it is preferred that she have the elaborate day care centers that the Senator from Minnesota advocates than to have something that costs less than that, but we could find money to provide about $800 million of day care. And we are proposing to do the one thing they have failed to do in talking about all their beautiful standards. We would provide for day care where they do not. If they can provide the $2,400 type of day care, great. The welfare mother will get that, if it is available. But suppose it is not available. We would say, "Take the $800 million; spread it across the country, to try to give every welfare mother a chance to go to work and improve the family income, if that is what she wants to do."

We want to do the best we can for the people with the $800 million. We want to provide day care where there is no day care for the mother—for a needy welfare mother who needs it and cannot get it. It would be great if she could get the $2,400, the $2,600, or the $3,000 day care. That would be great. But she cannot get it. The President cannot come into agreement with Senator MONDALE or with Sen-

ator JAVITS. They cannot get together on that. But we provide day care that she can get under this bill.

Now some people say that day care programs must bring all the parents in and they must consult and they must help in the teaching of the educational programs, and so forth. The people we are trying to help are the mothers who are so tired when they get home from work that they are in no position to go to the PTA. Still, we do offer to meet with the parents and for the parents to consult with the staff of the facilities on the development of the child and to observe from time to time the child while he is receiving care in such a facility. What more is needed? We provide in the bill for establishing standards in the day care centers, to assure adequate staffing—for example, the Bureau of Child Care could require at least one person supervising for every 10 children if this is a child care facility or a child development center.

Most States have about a 12-to-1 ratio. Thus, the Bureau could require a more favorable ratio from the parent's point of view than exists in most States today. Then we say, if there is a playground and children are running around playing tag or something of that sort, that on that basis one person can look after 25 children which is a fairly safe ratio. I think most Senators know what it is to be in school and have the teacher take the class out to the playground. You do not have to have more than one teacher doing that for 25 children. This is about the ratio which would seem appropriate.

Then we get into the question of bureaucracy. The Department of Health, Education, and Welfare does not want anyone to upset their control of these programs. And the man over there believes in the $2,400 standard. They are wedded to the situation where they are spending more money than we think should be necessary. Here we provide $800 million to provide for the people as much day care as can be provided, and we require that the day care meet minimal standards.

I was amazed when the Senator said we did not have in this provision any sort of standards for fire safety.

We were concerned about the fact of so many conflicting standards, some dictated by building material people for certain types of gutters, or material for sewage lines, and so forth and that some standards were so ridiculously high that we could not comply with them for that reason or because they were so confusing and contradictory. However, what we did write into the bill was a standard.

We wrote in a uniform standard, the National Safety Code of the National Fire Protection Association, 21st edition, 1967, as the fire standard. Now, why do we have that? Because that is the fire standard required in a nursing home. Many of the older people in those homes are not ambulatory; they do not have the power to get up and walk out of a building under their own power if fire should break out. So that is a very high standard, and a Federal standard.

If we meet that standard, that should be adequate for fire, rather than having to look at all the different local standards that might exist around the country. It should be adequate for day care purposes.

So that this is a matter of providing day care, of providing the $800 million on the basis of where the costs for a single child would not exceed the cost of supporting the entire family. In other words, the average family of four in this Nation under public welfare is getting about $2,400. The standards our friends advocate would make us spend more money than that to provide for a single child's day care. For three children, it would cost three times as much as to provide for a family on welfare, if we are thinking in terms of money—and we on the committee have to think about that. We know we have to raise the taxes to pay for these things and the Government is limited in the amount of money it can raise in the long run. And if we do not have the money we cannot put the program into effect, and the bill now is already in the serious position of probably being vetoed by the President, even though it will hurt the President during this election year, because the cost would break his budget something awful. So when we have to think about the limited resources available, we see that if we want to give mothers a chance to accept a job then we will have to use the $800 million in a program where we will not try to provide such an elaborate program that the children wind up without day care. Here is the $800 million for day care. We are trying to provide that day care for everybody rather than providing it for a favored few. We will take what we have available, establish a reasonable day care standard, and try to provide day care to all those who cannot get it.

Mr. BENNETT. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I yield.

Mr. BENNETT. My memory is not too good but it seems to me that the basic welfare allotment in the State of New York for a woman with three children is somewhere between $5,000 and $6,000.

Mr. LONG. Yes. If you include medicaid and public housing.

Mr. BENNETT. What is the money benefit?

Mr. LONG. Roughly $4,000.

Mr. BENNETT. Roughly $4,000 for a woman with three children in New York. I think that is the highest in the United States. But if we put these standards on, even in New York, this woman cannot put her three children in a day-care center unless it will be paid for entirely by Federal money and she makes no contribution to it. This is the basic problem.

I should like to add one other point: The problem the committee is trying to wrestle with is to find a practical way in which women on welfare can go to work and to make it possible for them to go to work. One of the ways, obviously, that first suggests itself is that some women might take care of their neighbor's children while the neighbors are at work and be paid for that service. Now this is with no psychiatrist and no trained nurse, but the children would be approximately in the same atmosphere as they would be if the mother stayed at home.

A lot has been made about the fact that women should not be required to go to work because it is so important that the mother stay home and take care of the children. But we are not willing to let the children live for part of the day in the same atmosphere in which they would be living if the mother stayed at home.

And we have the question fundamentally whether we want to make it possible for these women to go to work or whether we want to carry out the highest possible standard for day care then force the Government to provide that for these women who go to work.

If we expect them to pay for it, obviously they cannot because they do not earn enough to pay really for the cost of the care of one child, let alone three.

So, the effect of the amendment of the Senator from Minnesota, in my opinion, is simply to say that we do not want them to go to work. And the easiest way to prevent them from going to work would be to write the Senator's proposal into law.

Several Senators addressed the Chair.

Mr. LONG. Mr. President, I will yield in a moment. I will be glad to yield. However, I want to continue for a moment.

This is one more reason why some of the members of the Finance Committee, after studying the plan somewhat, thought it was a complete farce to expect to be able to put people to work under these conditions. We can take the city of New York, for example. From the tax point of view, they could not afford to put her to work. It would cost—even without the liberal benefits in New York—too much money. She would be getting $4,000 a year on welfare, plus the other liberal benefits that are available. However, if we want to put her to work, it will cost $7,200 for child care. It would be an enormous burden on the taxpayers to ask her to go to work.

If we take the average State, where the benefits would be $2,400 a year, it would cost three times as much for her to go to work as it would for her to stay home. So, the States would have to beg her not to go to work.

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

Mr. LONG. I yield.

Mr. MONDALE. Mr. President, the trouble with that argument is that the average annual cost under the proposed program is not $2,400, but about $800. That is what HEW testified, taking into account the fact that two-thirds of those served would be school-aged children, and preschool programs would involve both family day care and day care centers. So, the Senator has built a straw man that he is knocking down.

Mr. LONG. That is exactly the point. As it stands now, the Department has a standard that requires the payment of $2,400. They are only spending $800. They are violating their own law. When we pass a law we should pass a law that we can comply with. The Senator wants us to pass a law that we cannot obey.

I do not know how it would be done. I would hope that we would obey our own law. The point is whether it is better

to try to pursue a step that would place us out of the market and force us to violate the law or whether it makes better sense to do what we can afford to do.

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

Mr. LONG. I yield.

The PRESIDING OFFICER (Mr. MUSKIE). The Senator from Wyoming is recognized.

Mr. HANSEN. Mr. President, I thank the Senator for yielding. I think we ought to consider several things.

First, in the financial condition that most American families are in, they have to recognize priorities. They cannot have the best of everything if they are going to live well, and most people in America hope to. They have to decide what it is possible for them to do. They cannot have an airplane, a new car, and take a 3-months' vacation. They have to decide what is best. If they are typical, maybe it is important to take care of their children. Maybe it is important to give them a good vacation.

People decide what are the important things.

That is what the Finance Committee tried to do in the overall problem involved here. I certainly defer to my colleagues, the junior Senator from New York and the senior Senator from New York, in recognizing that they would like to impose a high ideal. That is all well and good. We can find all kinds of psychiatrists and psychologists who will testify to the extreme importance of child development before they reach school age. But after all has been said and done, not always do the children of psychiatrists and psychologists turn out to be the best citizens.

It just so happens that tender, loving care is a pretty important ingredient, too. It could be that a child's parent who has a Ph. D. is concerned about this and is giving the child basic instructions in honesty, decency, and fairplay. That child may turn out to be a better citizen than some child who is raised in what some psychologists might feel would be the ideal environment.

We are talking about a situation that would provide enough child care services to make it possible for more Americans to work in order to take care of their families. Some will say that we must have one supervisor for every three children.

If we are to do that, I can do no better than echo the words of my chairman and agree that it is a fine ideal. However, there would not be more than one out of 100 mothers who would be able to afford these services although they might want to go to work. They will not be able to place the child in that kind of an institution. It is too expensive.

I want to say that we went through this same thing when we were talking about homes for old citizens, or as the chairman has said, people who are not ambulatory. I sat on a special subcommittee to consider what we might like to do. If we had incorporated into law all of the ideas that the experts appearing before that Special Committee on the Aging recommended, I can guarantee the Senate that there would have been few deaths from fires; there would have been few deaths from any kind of infection or disease that could have been controlled; there would have been few deaths from accidents. In short, there would have been very, very few people in that kind of home because not one person out of 10C today needing that kind of home would be able to afford to be there.

Mr. LONG. Mr. President, would the Senator yield for a question?

Mr. HANSEN. I yield.

Mr. LONG. Mr. President, is the Senator aware of the fact that in our bill we say that insofar as there is day care available as provided for in these other programs initiated by the Committee on Labor and Public Welfare, that they will seek this care there first and they will only get the day care we are trying to provide here if they cannot get it in some other program?

Mr. HANSEN. Mr. President, the manager of the bill is precisely correct. Something else occurred to us. If we were to make it possible for the neighbors of mothers to undertake the responsibility of caring for some extra children—not many, but maybe one, two, or three—it would provide an opportunity for employment.

The chairman of the Finance Committee immediately saw the opportunity for a job that would be constructive, that would be productive, that would be helpful, that would free some other mother so that she could take a job. I think that that sort of situation has a great potential.

However, if we are going to impose standards that require one supervisor for every three children, we are going to put the cost up to $2,400. If we have the Department of Health, Education, and Welfare put its finger into this operation, I can think of no better way to make certain that it is going to fail. Why do I say that? I say that because HEW recognizes only one standard. They want to have the same wages apply in Mississippi, Arizona, and Alaska, as apply in New York and Wyoming.

What does that mean? That means that instead of paying salaries that will compare with local conditions and the cost of living in Arizona or New Mexico as contrasted with Alaska and New York, they will have a Federal standard imposed. They will have a Federal grade level. I suppose that the supervisor will get a federally set salary.

A garbage collector in New York City, as I understand it, now starts at $12,000 a year. I would point out that we could hire plenty of businessmen in some of the States in this contry for less than $12,000 a year.

We will run into that situation if we let the HEW run it. They will tell us what standards and wages they will impose. They will impose such standards on us that it will not work. I can think of no better way to defeat this proposal than to say that we should turn it over to the HEW. We will then make certain that it fails.

Mr. MONDALE. Mr. President, I have never seen so many strawmen established and then knocked down so successfully. Two-thirds of the children in day care centers are not there on a full-time basis. They cost about $800 and the 1-to-3 ratio that I referred to was only for the most tender aged infants.

Mr. HANSEN. When does the child not become a "tender aged infant"?

Mr. MONDALE. Say, age 1 or 2.

Mr. HANSEN. The Senator says "say, age 1 or 2." I asked the Senator a question.

Mr. MONDALE. That is very tender—1 or 2.

Mr. President, I yield to the Senator from Massachusetts.

Mr. BROOKE. Mr. President, I listened to the proponents of this amendment, and as pointed out by the distinguished chairman, the manager of the bill, I have listened to the persuasive arguments of the opponents of the bill. I must say I have not researched it in such depth as my distinguished colleague from New York, but I have visited many day care centers, and it is regrettable that this important piece of legislation has to come before the Senate in the waning days of the session and at 10:21 at night with so many Senators who are tired and so many Senators not in the Chamber, because it is a very vital piece of legislation.

What are we talking about? We are not talking about cars and airplanes, air fare, and all those things that have been mentioned. We are talking about children, and we are talking about children in the most formative years of their lives, the preschool years.

All the arguments that have been made are money arguments. I know we want to retain our fiscal sanity, and we have to be concerned about the cost of these major programs. But we are not concerned with merely putting a supervisor on a playground and watching the children play tag. That is what is wrong in the country today. These children are on the playgrounds, running the streets with no supervision at all, and consequently in the very early years of their lives they develop some of the habits which follow them throughout their lives.

Studies have indicated these children are not able to comprehend, they are not able to learn, they are slow readers, and when they go to school as our committee found out when we had exhaustive hearings on this subject, they fall far behind and they never catch up. They are doomed at birth and it keeps perpetuating itself so that generation after generation we have hundreds of thousands of children who are growing up in the jungle, who are let run loose like wild animals without a real opportunity to learn so that when they get to school they are completely unable to cope with the educational process.

Now, what kind of parents are we talking about? We are not talking about advantaged or educated parents. In the main, we are talking about poor, disadvantaged parents who themselves have not had the benefit of education. So what does that child get when he goes home? He has been in a day care center, with no supervision as he plays tag; some have psychiatric problems, some have psychological problems, and some have grave need for psychiatric and psychological care at that early age. So if we would provide these services it would help us

down the road when we do not have to bother with the children who would become dope addicts, criminal offenders, and all the other myriad of social problems that come as a result of unattended children.

Two of the most important programs we have had, and they have been successful, are Headstart and the day care centers. As has been pointed out by the distinguished proponent of this proposal, you talk about $2,400 and going to $3,000, but in the main most of them are getting $800 for the care of two children. What kind of care can you give that one child for $800? It is hardly any care at all. They are sometimes worse off in that situation than they are at home.

Again, we are concerned with children who in many instances come from fatherless homes, so when they go home they have no paternal supervision at all, as pointed out by my distinguished colleague from Wyoming, or the distinguished manager of the bill; the mother has been working all day; she is tired when she gets home, and she has perhaps four or five teenage children to cope with; she does not have the reserve of energy to even give supervision or any guidance to this preschool age child who is in a day care center. So we are talking about something much more than just dollars and cents. We are talking about the future of this country because we are going to continue to have thousands and hundreds of thousands of children run wild in the streets of this Nation, and we are going to perpetuate all the social ills we have today. They are going to be multiplied over and over again, and we are going to compound our problems. We are not adding money to this bill; we are asking for a distribution formula. I wish to ask the Senator from Minnesota if that is correct.

Mr. MONDALE. If the Senator will yield, the difference is this. Under both the committee bill and my amendment the money which will be provided is exactly the same: $800 million. But under my amendment it would be provided under the present system which involves State welfare departments. But under the committee bill it would be provided by something no one can describe, a new bureau, not accessible to the States and not accessible to local government. And all the $800 million authorized in the pending bill could be spent in a single State.

Mr. BROOKE. And HEW made an in-depth study of it. I do not accept the charges that HEW is not knowledgeable. They are experts in the field. They have watched this day care center program and they know its strengths and its weaknesses. I have great respect for the Secretary, Elliot Richardson. He is an able administrator. I am sure he would not support this if he had not done research and if he did not believe this was the best way to do it. I think that is buttressed by the distinguished junior Senator from New York who admits initially he was opposed to the bill and he has come around because of his research.

Mr. BUCKLEY. I want to say that I voted against the bill. I will explain why.

Mr. BROOKE. Very well. That is a stronger case. He voted against the bill, and he did research and now believes this is the best way to handle it.

So I say this is very, very important legislation and I do not want to prolong the Senate on this. I think the debate is important. I have great sympathy with the chairman of the committee. We all do. We know he has money problems, but we recognize the need to take care of these hundreds of thousands of young children of preschool age who need training and care, and this treatment, in many instances that they can only get in a day care center where they have these capabilities.

Mr. MONDALE. I would like to say in response that I agree. In light of the hour I wonder if the distinguished floor manager would like to agree on a time agreement of his choosing because I think at this point we are imposing on everyone and I certainly would like to agree, if he would, to a time agreement.

Mr. LONG. Mr. President, I am going to move to table, after awhile, to bring this to a vote, but I shall wait until I obtain recognition.

Mr. MONDALE. Mr. President, I yield to the Senator from New York (Mr. BUCKLEY).

Mr. BUCKLEY. Mr. President, the hour is late. I shall take only 3 or 4 minutes.

I want to point out that I voted against the child development program after I did my homework, because I do not believe in mass produced, even quality mass produced, day care for children. I am talking about children under 4. I think every study and common human experience indicate that the best place for the average child is at home, and I do not exclude women on welfare from being average. The average mother gives the affection and attention which the child needs.

If, for some reason, the mother cannot stay at home, then the next best place is to bring in a relative or place that child with neighbors, where there is a continuity of a single adult the child gets to know, where the bonds of affection are established, and where the surroundings are familiar. I believe child care for children of these ages should be reserved only in a remedial situation, in the rare case where the mother is positively a bad influence, or where she cannot find neighbors to take care of the child.

I believe the parts of the bill which encourage one mother in an apartment with children to take on two or three more is terrific. It is good. But for that situation where a given child has to be taken out of its home and away from a kind relative or a foster home or a day care family and placed in the hands of someone who has no interest in him or abuses him, or is placed in a large group where he is adequately cared for, then, if we are not going to damage that child, we have to have these extraordinary and expensive measures. Given the great danger of psychological, intellectual, and emotional damage to young children from deprived or neglectful care, we cannot afford to scrimp when providing child care arrangements.

That is why I am arguing for standards which take this into consideration, even while being in a different camp from my distinguished friend from Minnesota and my distinguished friend from Massachusetts, as far as the desirability of day care centers as institutions and the wisdom of a massive day care program for children in general is concerned.

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

Mr. MONDALE. I yield.

Mr. BROOKE. The Senator referred to a statement which was made by the distinguished Senator from Wyoming about the mother putting her child for supervision with a neighbor and her children. But now, who is the neighbor in those instances? The Senator from New York has been in those areas. He knows what we are talking about. Is that neighbor any better qualified to take care of the child of her neighbor who is working, with her brood of four or five children, usually, and on an average, who in the main are running the streets themselves? Is that going to be the solution? Can we really in good conscience say the best system is to let the neighbor take care of the child of a neighbor who wants to work?

Mr. BUCKLEY. If that mother is the average mother with the average instincts.

Mr. BROOKE. How do we understand that? We have a problem——

Mr. BUCKLEY. I wish I had my file with me of exhibit after exhibit of people who have studied this situation with the greatest care. I think the most specific answer is in some of the European countries where they had day care centers for children—Czechoslovakia, for example—which are now discouraging it because of the experience they have had. Their experience has been that it is better to leave the mother at home or find a different situation.

Mr. BROOKE. The Senator is talking about children between the ages of 1 and 4?

Mr. BUCKLEY. Yes.

Mr. BROOKE. That is all right. I am not taking away from a mother's instinct, but do we find that in such neighborhoods?

Mr. BUCKLEY. I will credit all average mothers with mothers' instincts.

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

Mr. HANSEN. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Minnesota has the floor.

Mr. MONDALE. First, Mr. President, I would like to say that I would hope that those Senators who have joined with me in this amendment could agree that we could end our arguments as soon as possible, so the floor manager could make his case and we could come to a vote.

Mr. JAVITS. Mr. President, I shall take only 5 minutes. I shall not duplicate what any other Senator has said, but I invite Senators who are here to look at the record.

The Senator from Louisiana (Mr. LONG) has given us no figure for day care under his system. The fact is that, whether HEW is violating its own guidelines or not, it is spending only just about what would be spent under the Senator from Louisiana's plan, or even less, and for this reason: It would provide also for $800 million, but being piped through HEW, and HEW estimated it would provide for 175,000 slots. That is less than $1,000 a slot. That is divided, $219,000 for preschool and $584,000 for after school. So, on the cash expenditure, there is not any real difference.

The second point is that much was said about one employee to three children, but is there any difference in the Long proposal? If one reads the fine print, and I generally do, at page 839 of the bill, line 5, it reads:

Any child under age three shall be considered as two children.

Lay that beside the items of supervision, and the ratio is 8 to 1. The highest is 10 to 1. That is 1 to 4 supervision of a child under 3, or 1 to 5.

What is the House proposal? From 3 to 8 years, 1 to 5; 4 to 6 years, 1 to 7; 9 to 14 years, 1 to 10.

One other point, again looking at the record: The committee has very nobly and very generously set forth the purpose of its title. Let us see if the purpose of this title sounds any different from the Senator from Louisiana's criticism of the purpose of HEW:

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 here it is—

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.

This child care, I might tell the Senator, under this definition, is likely to be more gold plated than which the Senator is accusing HEW of doing and which it is not.

The whole point is that the committee does not trust HEW. It is not that the Senator from Minnesota (Mr. MONDALE) and I are in conflict with the President. If we were in conflict with the President, would the Secretary of Health, Education, and Welfare write us as being for our position and not for the committee's position? That is the whole point.

The reason why we have, with Senator BROOKE's views, with Senator MONDALE's views, and with Senator BUCKLEY's views, proposed this amendment is that it makes more sense to do this through a single agency that is doing it anyway and which is thoroughly experienced. There is every good reason for doing what we propose in the amendment, and not for doing it any other way.

I deeply believe this is one amendment that truly makes sense if we are going to do the job we have to do, and that the Senate ought to adopt it.

Mr. President, I would like now to present a statement of our basic position in respect to this proposal, in terms of the elements involved.

Our amendment would strike from the committee bill section 431 which would add to the Social Security Act a new title XXI for Child Care and establish a new "Bureau of Child Care" to administer the program; the new title contains an authorization of $800 million for fiscal year 1972 and "such sums" for years thereafter.

In lieu of the completely new program contemplated under title XXI, our amendment would provide a special authorization for child care in the amount of $800 million for each of the fiscal years 1973 and 1974, to be administered through the existing social services program conducted under title IVA of the Social Security Act.

We submit that now that implementation of comprehensive welfare reform will be delayed it is inappropriate to launch a new comprehensive program through an essentially new agency and that the interim authority which we propose is needed.

THE COMMITTEE PROPOSAL

Mr. President, unlike the Ribicoff and administration backed provision of H.R. 1, the committee proposal is not merely an effort to provide a new quotient of child care to deal with the problem of welfare dependency.

The committee proposal is in fact, nothing less than a comprehensive proposal for child care throughout the Nation for all children.

Section 2101(b) of the proposed new title states as its purpose:

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.

Mr. President, as a comprehensive proposal for child care throughout the Nation it must not be adopted.

Its formulation is inimical to each of the basic criteria outlined by the 1970 White House Conference on Children.

It proposes a plan contrary to the administration's own general criteria for a comprehensive child care system and it is in fact opposed by the administration.

It is duplicative and inconsistent with S. 3617, the Comprehensive Headstart Child Development and Family Services Act of 1972, which passed the Senate only 3 months ago by a vote of 73 to 12 and is now awaiting House action.

THE 1970 WHITE HOUSE CONFERENCE ON CHILDREN

The 1970 White House Conference on Children identified the establishment of a comprehensive system of child care as the No. 1 priority and took pains to elaborate on the central elements of any system to be established.

The Conference statement was very explicit:

We recommend that the Federal Government fund comprehensive child care programs, which will be family centered, locally controlled, and universally available with initial priority for those whose needs are the greatest. These programs should provide for active participation of family members in the development and implementation of the program. These programs—including health, early childhood education, and social services—should have sufficient variety to ensure that families can select the options most appropriate to their needs.

Mr. President, the committee proposal offers virtually none of these essential elements.

First in terms of comprehensiveness, it is quite clear that there will be no guarantee that the programs to be provided under the new title will be comprehensive in nature; that is, provide as options early childhood education, health and other essential items.

The statement of purpose refers to the promotion of the well-being of all children and appropriateness for the particular needs of the children receiving such services, but there is little provision for the essential ingredients of health and other services which would insure full attention to the needs of children, as opposed to the needs of working parents.

The committee bill does not indicate that educational, health and other services will be provided by the Child Care Bureau to children whose parents request them; in fact, the report at page 446, goes out of its way to say the educational components will be hard to find under the title.

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.

Mr. President, this distinction between "child development" and "child care" is false. The fact is that no legislation requires education in any case, but that all authorities recognize education as a component that should be available under any child care program.

President Nixon, commenting upon the child care provisions contained in the House-passed H.R. 1 has said:

The child care I propose is more than custodial. This Administration is committed to a new emphasis on child development in the first five years of life. The day care that would be part of this plan would be of a quality that will help in the development of the child and provide for its health and safety, and would break the poverty cycle for the new generation.

Second, rather than local control, the committee bill envisages a system of child care from the top down virtually ignoring the contribution which the States, counties and cities have made and should continue to make in this essential area.

Section 2103 charges the Bureau with an obligation to arrange for child care

services in the various communities in each State.

Virtually no provision has been made for local decisionmaking or involvement.

But even more critically the establishment of yet another agency outside the Department of Health, Education, and Welfare—which has been responsible for administration of most child care programs to date—exhausts any hope of integration and coordination of programs at the local level.

At the present time, the Department of Health, Education, and Welfare—having concern over the Nation's children—administers approximately $800 million in funds for child care programs; through the Headstart program, the social services program, WIN, day care and educational sources.

We should be bringing these sources together and not adding yet another centralized layer to the child care bureaucracy.

S. 3617, the Comprehensive Headstart, Child Development and Family Services Act of 1972 would provide the basis for that kind of consolidation and coordination through its system of State and local prime sponsors and in fact that bill contains coordination provisions which I worked out with the Committee on Finance.

The committee's bill would merely add to the confusion by establishing a new Bureau of Child Care.

In so doing, it would seem to collide with President Nixon's action in 1969 in establishing the Office of Child Development in the Department of Health, Education, and Welfare; while all HEW child care programs are not administered by that office, it does provide a possible future basis for coordination.

Mr. President, with respect to family involvement, the committee bill lacks any sense of the participation of parents or even their consent in the running and conduct of child care programs.

We took great care in the comprehensive legislation to meet the necessary concerns of a number of members—including my colleague Senator BUCKLEY, to insure that child care services would be provided only when requested by parents, and then under safeguards of the most careful nature.

This proposal lacks those safeguards—in fact rings of the universal care notion for which we were unfairly attacked—and beyond that fails to provide for parental involvement in programs or in decisionmaking.

THE ADMINISTRATION'S POSITION

Mr. President, for these and other reasons, the administration opposes this measure.

I ask unanimous consent that there be included at this point in the RECORD an exchange of correspondence between me and the Secretary of Health, Education, and Welfare Eliot Richardson.

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., October 4, 1972.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: Thank you for your letter of Friday, September 29, requesting the Administration's position on the Child Care provisions of H.R. 1 as reported to the Senate by the Committee on Finance.

The Committee bill would establish a Bureau of Child Care within the proposed independent Work Administration. The powers and duties of the child care bureau would be essentially the same as those of the Child Care Corporation which Chairman Long offered on the parallel bill in the 91st Congress.

We would oppose these provisions just as we opposed them in 1970. We prefer instead the child care provisions in the House-passed version of Title IV, which would provide the Secretary of Health, Education, and Welfare with the authority to bring together in a single system all federally-assisted child care, with priority to children of families assisted under the workfare provisions of the Family Assistance Plan. As I have repeatedly testified before a number of committees, we believe it is essential to develop a single, primary system for the delivery of all federally-assisted day care and child development services rather than further fragmenting the already highly disorganized and fragmented existing child care resources. In addition, the Administration prefers the House-passed version because it would place in HEW the responsibility for developing national standards for assuring the safety and quality of all federally-assisted child care services. We also favor inclusion of parents of children in such a system in advisory councils.

With kindest regards,

Sincerely,

ELLIOT RICHARDSON,
Secretary.

SEPTEMBER 29, 1972.

Hon. ELLIOT L. RICHARDSON,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: As you know, the Senate is considering H.R. 1, the Social Security Amendments of 1972.

As reported by the Senate Committee on Finance, Section 431 of the bill would add a new title XXI to the Social Security Act establishing a Bureau of Child Care, within a new Work Administration to be formed for the administration of the welfare program contemplated under the Committee bill.

I am aware, of course, of the Administration's opposition to the welfare provisions contained in the Senate Finance Committee bill and its insistence on its own proposal, as passed by the House.

However, I would appreciate very much a statement of the Administration's position with respect to the proposed "Bureau of Child Care" and the other provisions of proposed title XXI as a separate measure.

Sincerely,

JACOB K. JAVITS.

Mr. JAVITS. Thus—while the Department may disagree on certain elements of the comprehensive bill passed by the Senate—and these can be worked out with the House—it opposes this measure as going in a basically different direction than desired.

THE PROPOSED SUBSTITUTE

Mr. President, while we do not consider the committee bill an appropriate comprehensive system, we share with the Senate Committee on Finance a recognition that additional needs should be met through the Social Security Act.

I have consistently supported an element of child care in the context of welfare reform.

The fact that the vehicle which has held this element—welfare reform—appears once again to have stalled along the road does not obviate the necessity of meeting the need which it was designed to reach.

We continue to have a dramatic rise in the number of persons receiving welfare assistance, particularly under Aid to Families With Dependent Children and we cannot merely wait until action on comprehensive welfare reform.

The Department of Health, Educaton, and Welfare estimates that it will pay a total of $7.7 billion in fiscal 1973 in cash payments to 12,479,074 persons on AFDC; this represents an increase of 1.1 billion and 1,486,188 persons above the amounts in fiscal 1972. In New York State alone, the number of AFDC recipients has jumped from 1.1 million to 1.3 million in the last 2 years and the Federal expenditures have risen by $123 million.

And so we must provide adequate child care to meet these real needs, in the interim until welfare reform can be enacted.

We propose that the same quotient of $800 million identified by the Senate Committee on Finance—incidentally only $50 million above that contained in the administration-backed House bill—be made available for fiscal years 1973 and 1974 for child care under title IVA.

Title IVA is focused on former and potential welfare recipients; the same focus generally as the proposed child care provisions under the committee bill.

And it is to be run by the Social Rehabilitation and Services Administration of the Department of Health, Education and Welfare through a system of State plans, with the localities participating, thus ensuring administrative efficiency.

Therefore, we do not have to add a new administrative organization to do the job.

Mr. President, we propose this quotient—the Committee's own quotient—as an amount addition to the $2,500,000,000 which may be available for social services generally, of which child care is a part.

The committee amendments already incorporates that agreement—which is contained in the Revenue Sharing Act—for that limit.

It is well known that under that limitation, it will be necessary for a number of States and cities to cut back on child care efforts under present law; New York City and New York State are among those which would be adversely effected.

I reserve the right to question or modify the overall limitation—as it affects so many social services—but I hope that the Senate will agree that the additional amount for child care which the committee was willing to add to general social service funds available—may best be channeled for now through the social services system under title IV–A and not through a new structure such as proposed.

The $800 million would therefore be an addition to approximately $326 million for child care to be spent in fiscal year 1973 under the social services section generally.

Mr. President, as title IV–A—like the committee proposal—allows for flexi-

bility in the kind of child care provided in terms of family care and other forms and they vary considerably according to cost, there can be no clear estimate of the number of opportunities which would be made available with the $800 million.

However, as a guideline it may be noted that under H.R. 1—which provided a slightly lesser amount—the administration contemplated the provision of 875,000 slots, consisting of 219,000 preschool opportunities and 584,000 after-school opportunities.

Finally, I should note that this is only an interim authority—for 2 fiscal years and thus we do not wish to undermine either the need for welfare reform or comprehensive child development legislation which is still pending.

Mr. President, I ask unanimous consent that a letter from the Child Welfare League be inserted in the RECORD.

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

CHILD WELFARE LEAGUE
OF AMERICA, INC.,
October 2, 1972.

Hon. JACOB K. JAVITS,
Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR JAVITS: The Child Welfare League of America believes that a very important principle regarding child care programs may be discarded during the debate of the complicated welfare legislation, H.R. 1, this week. For that reason, we would like to bring to your attention our position on parts of that legislation which relate directly to the well-being of children.

As you know, the Child Welfare League testified before the Senate Finance Committee on a number of occasions over the last months regarding our position on child care and other matters. I am attaching, for your information, a copy of our most recent testimony as it appeared in the Hearings record. Since that testimony runs to many pages, I have selected the following paragraphs from that testimony which is particularly pertinent.

First of all, we believe that there is a need for child care. Second, we believe that there is no need for the establishment of a new Bureau of Child Care in the Department of Labor. Third, we believe that child care legislation should be similar to the comprehensive child development legislation passed by the Senate and the House but vetoed by the President. Fourth, there are portions of Title XXI of H.R. 1—expanded authorizations for child welfare services and language setting up a National Adoption Information Exchange System—which we believe the Senate should pass and that we hope the Conference would retain.

Excerpts from our Feb. 2, 1972, testimony before Senate Finance follow:

"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."

Senator JAVITS, we know that the Senate agrees that our children are the future of this Nation; we hope that their votes will reflect this fact.

Sincerely,

JOSEPH H. REID.

Mr. LONG. Mr. President, I think the Senator from New York made clear that the money could not all be spent in one State, because the act provides that day care shall be provided throughout the United States.

It is our proposal, and we require in this committee proposal, that we provide day care where it was not provided by other agencies such as HEW and Headstart. By all means we have to go there if the day care is available. Otherwise, if it is not there, we will provide day care.

What is the big difference in the standards? The big difference is, Mr. President, that we do not have an educational requirement here. We would provide educational day care if we had the money to provide it, but, if we do not have the money, we have to trim our sails according to what is available so that we can fill the need for day care for these mothers.

A point has been made, Mr. President, about the cost. In many cases, States have requirements that you have to have all these additional degrees, college degrees or other degrees, in order for a person to work in a day-care center where, in most instances, what we are trying to do is just provide day care for a child from the time the child comes home from school until the time the mother can pick the child up and take him home with her. School-age children are being educated in the schools, and presumably they are being taught all their little minds can absorb during the hours in school. We are just trying to find someone to look after them and keep them out of harm's way after school, until the mother can come and pick them up at the day care center, wherever that may be.

So the education requirement which many States have and the Senators would require here is totally superfluous, if all we are trying to do is find someone to look after the child after school until the mother can pick him up.

Mr. President, I move that the amendment be laid on the table.

Mr. JAVITS. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. HARTKE). The question is on agreeing to the motion of the Senator from Louisiana (Mr. LONG) to lay on the table the amendment of the Senator from Minnesota (Mr. MONDALE). 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. SPARKMAN (after having voted in the affirmative). Mr. President, on this vote I have a pair with the Senator from Connecticut (Mr. RIBICOFF). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

On this vote, the Senator from Louisiana (Mrs. EDWARDS) is paired with the Senator from Rhode Island (Mr. PELL). If present and voting, the Senator from Louisiana would vote "yea" and the Senator from Rhode Island would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Delaware (Mr. BOGGS), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), 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 Connecticut (Mr. WEICKER) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

If present and voting, the Senator from Texas (Mr. TOWER) would vote "yea."

On this vote, the Senator from Nebraska (Mr. CURTIS) is paired with the Senator from Oregon (Mr. HATFIELD).

If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Oregon would vote "nay."

The result was announced—yeas 26, nays 47, as follows:

[No. 533 Leg.]

YEAS—26

Allen	Cotton	Jordan, Idaho
Bellmon	Ervin	Long
Bennett	Fannin	McClellan
Bible	Fong	Randolph
Brock	Gambrell	Stennis
Byrd, Harry F., Jr.	Gurney	Stevens
	Hansen	Symington
Byrd, Robert C.	Hruska	Talmadge
Cannon	Jordan, N.C.	Thurmond

NAYS—47

Aiken	Hart	Pastore
Bayh	Hartke	Pearson
Beall	Hughes	Percy
Brooke	Inouye	Proxmire
Buckley	Jackson	Roth
Burdick	Javits	Saxbe
Case	Magnuson	Schweiker
Chiles	Mansfield	Scott
Cook	Mathias	Smith
Cooper	Miller	Spong
Cranston	Mondale	Stafford
Dole	Montoya	Stevenson
Dominick	Moss	Taft
Fulbright	Muskie	Tunney
Gravel	Nelson	Williams
Griffin	Packwood	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Sparkman, for

NOT VOTING—26

Allott	Edwards	McIntyre
Anderson	Goldwater	Metcalf
Baker	Harris	Mundt
Bentsen	Hatfield	Pell
Boggs	Hollings	Ribicoff
Church	Humphrey	Tower
Curtis	Kennedy	Weicker
Eagleton	McGee	Young
Eastland	McGovern	

So the motion to lay on the table was rejected.

Mr. MONDALE. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, in view of the fact that the majority of the Senate did not see fit to table, I assume that the majority wants to vote for this amendment, and I would urge that we have a voice vote on the amendment.

Mr. MONDALE. Mr. President, normally I would demand a rollcall vote; but in light of the time and in light of the large margin, I would ask my cosponsors to agree to a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

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

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SCOTT. Mr. President, yesterday evening I voted against the Roth-Long amendment for several reasons, one of which was the administrative problems this so-called test would create and another, the almost unbelievable costs of conducting such a test. Because I thought Senators should have a more detailed analysis of what the effects of this amendment will be if it is enacted into law, I asked the Secretary of Health, Education, and Welfare to prepare a summary for me.

I ask unanimous consent that Secretary Richardson's letter outlining the reasons for the administration's opposition to this amendment be printed in the RECORD.

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., October 5, 1972.

Hon. HUGH SCOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCOTT: In response to your request, I would be glad to explain why I oppose the provisions of the Long-Roth amendment added to H.R. 1 by the Senate yesterday.

First, the Administration would oppose a test amendment even if it stood alone. Tests of the kind this amendment would involve would delay real reform for at least five years, as I explained in the letter I sent each Senator on October 2. Results are available from already-completed and ongoing tests. The pattern we see in these tests, which I feel will be duplicated in any additional testing, reflects the inexactness and controversy which inevitably attach to social experimentation.

The Long-Roth amendment, however, goes far beyond testing and contains provisions which would effect substantial permanent changes in this Nation's welfare system, changes which I believe are both expensive and undesirable. Together these provisions would cost at least $5 billion and perhaps as much as $6.5 billion more than current law projections. By way of comparison, the entire family welfare reform contained in the House-passed version would cost approximately $3 billion more than current law.

For example, the Bellmon provision of the Long-Roth amendment for State fiscal relief could cost almost $1.5 billion in fiscal 1973. Beyond this the 10% Social Security rebate will cost over a billion dollars a year. The wage supplement is estimated to cost almost $2 billion a year.

Furthermore, numerous changes which the Long-Roth amendment would make in existing programs would severely restrict the authority of the Secretary of HEW and cause major administrative problems. Some of the provisions concerning deserting parents and child support, while certainly well-motivated, raise serious questions of administrative feasibility and the protection of individual rights. The child care provisions of the bill would establish a sweeping new system which would further fragment the already high disorganized and fragmented existing child care resources.

In short, the Long-Roth amendment would enact into law welfare proposals broader in scope and more costly than any since 1967. While we have agreed with some of the principles involved, such as coverage of the working poor, we cannot agree with the chaotic and costly manner in which they have been assembled.

With kind regards,

Sincerely,

ELLIOT L. RICHARDSON,
Secretary.

Mr. MATHIAS. Mr. President, when the distinguished Secretary of HEW, Eliot L. Richardson testified on July 21, 1970, before the Senate Finance Committee on behalf of the administration's welfare reforms proposal, then called the Family Assistance Act of 1970, he observed that—

This Administration did not enter office determined to put into effect the specific kinds of welfare reforms which we have proposed. Neither the philosophy of the President nor our currently-restricted budgetary situation would have permitted us to propose such revolutionary and expensive legislative initiatives unless we were convinced that they were inescapably necessary.

And, indeed, since the President first proposed his family assistance plan on nationwide television in August 1969, the American people have been bombarded with accounts centered around the failure of our present welfare system. We have heard that it is not a system at all, but a "confused clutter of many systems" from which has flowed "disparity, inequity, and inefficiency".

We have been told by the administration that the AFDC program with its 54 different programs in 54 different jurisdictions operating without national standards for benefits or eligibility ceilings, has resulted virtually in an uncontrollable drain on the Federal Treasury.

Indeed, the current system has been indicted by the administration for—

Its notorious redtape, paternalism, and endless paperwork, which places social caseworkers in the role of policemen.

Reaching only 34 percent of the poor children in the country.

Making it possible for a man on welfare who does no work at all to be economically better off than a man who works full time.

Providing social tension with ominous racial overtones because current AFDC recipients are about 50 percent nonwhite—while the working poor—those who are excluded from help are about 70 percent white.

Providing wrong-way incentives—incentives which encourage men who are employed part-time to keep their work effort limited and not seek full-time employment—incentives which encourage families to dissolve and couples not to marry.

As a result of all these deficiencies, our society pays a lot—in economic, human, and spiritual terms—but gains very little.

In reporting out its welfare reform proposal, H.R. 1, the House Ways and Means Committee noted the alarming rate at which the AFDC caseloads size and maintenance costs have mounted—32.1 and 36 percent, respectively—less than a year and a half after the President's initial welfare message to Congress was submitted in August 1969.

The Senate Finance Committee report on the social security amendments observed further that—

The number of recipients under (AFDC) program has more than doubled since January 1968, and the need to pay for AFDC has forced states to shift funds into welfare that would otherwise go for education, health, housing, and other pressing social needs.

I also read with great interest the lucid description of our welfare system's failures that the Senator from Connecticut provided last week when he introduced his proposal.

We all know that most of our States are operating at tremendous deficits with public assistance being responsible for a major share. Spending and services are either being cut back or eliminated, funds are being transferred among programs, and our State legislatures are

being pressured to provide supplemental appropriations.

There may be many great issues that divide us in the country, but there is one on which we can all agree: our present system of welfare is in abysmal chaos.

For 3 long years, welfare reform has been the subject of intense study and debate in the Congress and our States. We now face decisions on the subject of welfare at several levels. In each of the State capitals, local questions must be answered immediately about the level of welfare assistance in the days immediately ahead. We must decide if we want to bring about a structural reform of the present welfare system; we must decide if we shall provide fiscal relief to our States and cities. As Secretary Richardson stated recently:

> The Nation can no longer afford the luxury of talking about welfare reform but doing nothing about it. Public confidence in government itself requires that we now create a system which taxpayers can support and administrators can administer, and which effectively aids the poor.

We cannot postpone action on this critically important problem. The choices we have before us today may be difficult and unpleasant; however, they must be made. We cannot afford to perpetuate this current mess.

I commend the distinguished senior Senator from Louisiana (Mr. LONG) and his colleagues on the Senate Finance Committee for their intensive work on this problem. Their proposal reflects many long hours of thoughtful consideration and hard work. But, I am disappointed with this proposal for it fails to do what we had hoped welfare reform would do. Rather than reform the system, it would set in concrete the defects of the current program by leaving intact the inefficient State-administered AFDC system for those who are unemployable. It fails to represent the kind of decent and humane welfare reform measure that this Congress, the administration, the American taxpayers, and the poor are looking for. Accordingly, I could not support the bill reported out of the committee.

What then do we have left to consider? Frankly, Mr. President, I am perplexed. Here we have the President of the United States in favor of welfare reform, Congress and our States want reform of our welfare system, the American taxpayer is demanding that we do something about this welfare mess, and, of course, the beneficiaries or shall we say the victims of the AFDC system want to see positive changes in the welfare system. Everybody, it seems, stands behind welfare reform. Can I assume, Mr. President, that the distinct possibility of welfare reform being dropped this year has come about as a result of our 1,000 percent backing for welfare reform?

We want welfare reform so badly that we dropped the Ribicoff compromise. Our passionate desire for ridding ourselves of the present system with its "crazy quilt" of standards, disincentives to work, and incentives for family breakup is such that we have dropped the administration's proposal which ironically enough was designed to correct all that.

The distinguished chairman of the Senate Finance Committee and his colleagues on that committee have labored long and hard to find a solution to this problem—in spite of which we shall probably drop their proposal.

The subject of welfare has troubled government for thousands of years. The Romans wrestled with the problem of how much is enough and how much is too much in distributing both general aid to the poor and veterans benefits. It was the decision on these questions that Gibbon felt accelerated the decline and fall of the Roman Empire. And so, if misery loves company, we have a long record of fellow men who have been anguished by the dilemma of the poor and the states' responsibility for them and to them.

Now that we examined in detail these proposals before us, perhaps we should also have thought a little about the purpose, the scope, and the philosophy of welfare. Most people would agree that government has a duty to see that every citizen has a minimum of the necessities of life—at least enough to sustain bare existence. Some would justify this on humane or moral grounds, while cynics would say that it is done in self-interest to prevent riots and violence by the hungry, the unclothed and the unhoused.

Beyond the bare subsistence level is the area of debate. Some envision welfare as an institution in its own right, but I would prefer to think of it ideally as a process. Its goal should be like that of a flood relief program—to go out of business when its work is done.

Welfare beneficiaries should constantly have the hope that they can be liberated from welfare and should constantly be aware of the availability of assistance to learn how to break out. This, it seems to me, must be the focus of welfare.

If we in this body who truly want welfare reform can find some common ground on which we all might stand, let us agree to: Remove the faults and abuses of our present wasteful, destructive and degrading welfare system that victimizes 7 million children;

Help those who can work, find and keep work—work which fosters independence, pride, and a sense of dignity;

Provide fiscal relief for our States and local governments from this awful financial burden—a burden that has more than tripled in the last 10 years with the end nowhere in sight.

I regret that the proposals of the distinguished Senators from Connecticut and Illinois have been tabled. They are to be commended for their efforts at attempting to fashion a decent and humane reform measure.

I believe the American people do want to change the welfare system—it is still up to us to do it.

ORDER FOR ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business tonight, it stand in adjournment until 9 o'clock tomorrow morning.

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. CRANSTON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

> Insert at the end of section 1131 of the Social Security Act, as added by section 306 of this Act, the following new subsection:
>
> "(c) For the purposes of this section, any increase in the standard of need made by a State after June 30, 1972, and before the certification made by the Secretary pursuant to subsection (b) of this section on account of the Social Security increase contained in Public Law 92-336, may be included in the increase in the standard of need required by this section."

Mr. CRANSTON. Mr. President, let me say, first, without apology, that I have five amendments. Four will take no time at all. They should go very quickly, one way or the other. The fifth will take a little time, but I hope not too much.

Mr. President, earlier this week, Senator TUNNEY and I offered an amendment, No. 1619, which was graciously accepted by the distinguished chairman of the Finance Committee (Mr. LONG). I insured that recipients of aid to the aged, blind, and disabled would receive the full 20 percent social security increase intended for them by Congress.

This was accomplished by requiring the States to raise the standard of need used to determine eligibility for aid to the aged, blind, and disabled by an amount commensurate with the social security increase.

It has since been brought to my attention that the $12 increase in aged, blind, and disabled benefits recently enacted in California would not be counted in this commensurate increase—but rather, because of a technical error in the amendment adopted the other day, California would be required to enact an additional 20 percent increase in benefits—on top of the $12 increase.

This was certainly not our intention, and the amendment Senator TUNNEY and I have just sent to the desk would correct this situation.

I believe this to be a noncontroversial amendment. And I would hope the committee could accept this amendment.

Mr. LONG. Mr. President, this is a necessary modification of an amendment we accepted the other day.

Mr. CRANSTON. That is correct.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 1708

Mr. CRANSTON. Mr. President, I call up my amendment, No. 1708.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 574, between lines 8 and 9, insert the following:

CERTAIN INDIVIDUALS DEEMED TO MEET RESOURCES TEST

(g) In the case of any individual or any individual and his spouse (as the case may be) who for the month of December 1973 was a recipient of aid or assistance under a State plan approved under title I, X, XIV, or XVI, the resources of such individual or such individual and his spouse shall be deemed not to exceed the amount specified in sections 1611(a)(1)(B) and 1611(a)(2)(B) during any period that the resources of such individual or individual and his spouse (as the case may be) does not exceed the maximum amount of resources, as specified in the State plan (above referred to, and as in effect in October 1972) under which he or they were entitled to aid or assistance for the month of December 1972.

Mr. CRANSTON. Mr. President, this amendment is of a basically noncontroversial nature, and would simply "grandfather" in present eligibility and resources of those receiving aid to the aged, blind, and disabled. This encompasses approximately 1,500 individuals whose resources are presently within the allowable resources in their respective States, but who would be over the maximum resource "disregard" in the Senate Finance Committee version.

I stress that this covers only those individuals who presently receive aid to the aged, blind, and disabled—whose resources are, under present State laws, higher than the maximum in the Senate Finance Committee bill. Of particular concern to me are those recipients of aid to the blind in my home State of California, which has a resource maximum for couples receiving aid to the blind of $2,600. Under the $2,500 limit now contained in the Senate Finance Committee bill, these individuals would be forced to dispose of $100 in order to be eligible for assistance.

I would hope that the distinguished Senator from Louisiana will accept this amendment designed to help those present recipients who would suffer unnecessary hardship under the committee bill.

Mr. LONG. Mr. President, I accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 1693

Mr. CRANSTON. Mr. President, I call up my amendment No. 1693 and send to the desk a modification. It is a technical modification.

The PRESIDING OFFICER. The clerk will report the amendment, as modified.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment, as modified, will be printed in the RECORD.

The amendment, as modified, is as follows:

On page 935, between lines 8 and 9, insert the following new section:

RECIPIENTS OF ASSISTANCE FOR THE AGED, BLIND, AND DISABLED INELIGIBLE

SEC. 513. (a) Section 402(a) of the Social Security Act is amended (1) by striking out the period at the end thereof and inserting in lieu of such period "; and", and (2) by adding at the end thereof the following new paragraph:

"(24) If an individual is receiving benefits under title XVI, then, for the period for which such benefits are received, such individual shall not be regarded as a member of a family for purposes of determining the amount of the benefits of the family under this title and his income and resources shall not be counted as income and resources of a family under this title."

(b) The amendments made by subsection (a) shall be effective on and after January 1, 1973.

Mr. CRANSTON. Mr. President, this amendment is designated to prohibit so-called double counting of recipients of aid to the aged, blind, and disabled living in AFDC households.

The amendment prohibits counting of an aged, blind, and disabled recipient, or his or her resources, who live with other recipients of AFDC assistance, in determining the amount of the AFDC assistance payment to such a family. This affects one of every 11 AFDC households, and has been included in almost every welfare reform proposal introduced in Congress.

My amendment would include this provision in title III of the bill, since title IV—the usual place for this provision—now contains the test proposal adopted by the Senate yesterday, and no longer contains the provision I am seeking to amend.

I would hope that the chairman of the Finance Committee, Mr. LONG, will be able to accept this amendment as being a necessary provision to prevent excessive assistance payments in some cases, and allow—in cases where there is an aged, blind, or disabled recipient in the household—the resources of that individual to be exempted in the computation of AFDC benefits.

The PRESIDING OFFICER. The Chair must interrupt the Senator, due to the fact that the Senator's amendment is not in order.

Mr. CRANSTON. For what reason?

The PRESIDING OFFICER. It is a part of the bill which has been locked in and is no longer open to amendment.

Mr. LONG. Mr. President, I ask unanimous consent that the amendment might be considered. I ask unanimous consent that it be modified to add it at the end of the bill.

Mr. CRANSTON. I so modify it.

The PRESIDING OFFICER. It is modified accordingly; and, accordingly the amendment is permissible and no longer is out of order.

Mr. CRANSTON. Mr. President, I have explained the amendment. It is in the chairman's hands.

Mr. LONG. Mr. President, I have some doubts about this amendment; but in view of the lateness of the hour, and rather than have long debate, I would be willing to take it to conference.

Mr. CRANSTON. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 1694

Mr. CRANSTON. Mr. President, I call up my amendment No. 1694.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 569, lines 10 and 11, strike out "Each aged, blind, or disabled individual who does not have an eligible spouse" and insert in lieu thereof "Each blind or disabled individual, and each aged individual who does not have an eligible spouse".

On page 569, line 29, strike out ", blind, or disabled".

Beginning on page 584, line 22, strike out all through page 585, line 5, and insert in lieu thereof the following:

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

Mr. CRANSTON. Mr. President, this amendment directs that in cases where one or both of the members of a couple receiving aid to the aged, blind, or disabled is blind or disabled, their benefits shall be computed as if both individuals were single.

Mr. President, 80 percent of the individuals receiving assistance under aged, blind, and disabled are eligible for benefits under the the aged category, and would not be affected by this amendment. But in those instances where one member of the couple is disabled or blind, the benefit level would be computed as if both members of the couple were single.

There is general consensus that the expenses of a blind or disabled person are higher—special household items and adaptive devices must be purchased—the opportunities for the other member of the couple to seek outside income are severely limited—and the costs and frequency of medical care are more extensive. The net effect of "couple" benefit levels is to provide one member with full "single" benefits and the other member with reduced benefits—in effect penaliz-

ing those people for their companionship.

I realize, of course, that the committee is limited in their ability to expand benefits to the extent that we all would like, and congratulate the distinguished chairman of the Finance Committee, Mr. LONG, and the members of the committee for the many excellent benefits they have included in the bill—but I would hope that the committee could accept this extension of benefits to those recipients of aid to the aged, blind, and disabled with the most limited opportunities to earn supplemental income, and with the highest expenses.

Mr. LONG. Mr. President, I do not think we should agree to this amendment. This would treat the disabled in a fashion better than we would treat the aged. It would then require us to avoid discrimination and do the same thing for the blind as for the disabled. As it stands now, a disabled couple will get $260 whereas under this an aged couple would get $195. But whether aged or disabled, the individual would get the same $130. This would tend to discriminate against the aged and would set the stage for others doing the same thing for the aged which would cost a great deal of money. When two people live together, as we know, the expenses are not so great as it is for people who live in two different households. For that reason, I do not think the amendment should be agreed to.

Mr. CRANSTON. The blind and the disabled have a greater need. That is the reason for this. I am ready to vote.

The PRESIDING OFFICER (Mr. HARTKE). The question is on agreeing to the amendment of the Senator from California (Mr. CRANSTON) (No. 1694).

The amendment was rejected.

AMENDMENT NO. 1707

Mr. CRANSTON. Mr. President, I now call up my last amendment, No. 1707, which I send to the desk with a modification, a technical modification, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated and the clerk will report the modification.

The legislative clerk read as follows:

Insert at the appropriate place in the bill the following new section:

"SEC. . Notwithstanding any other provision of this Act (section 512 and) subsection (c) of section 452 of the Social Security Act, as added by this Act, shall not be effective until such date as the Congress shall designate by subsequent legislation."

Mr. CRANSTON. Mr. President, I ask unanimous consent that during the consideration of this amendment Mr. Richard Johnson, counsel to the Poverty Subcommittee be given the privilege of the floor.

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

Mr. CRANSTON. Mr. President, this amendment which I now submit on behalf of myself and Senator JAVITS and 24 other Senators from both sides of the aisle would nullify two provisions of the welfare reform legislation now on the floor. Both sections of the pending measure which would be postponed indefinitely—section 452(c) in part D of title IV and section 512 in part A of title V, would subvert the OEO legal services program, our system of justice, and the separation of powers among the legislative, executive, and judicial branches of Government, and would result, Mr. President, in destroying the faith of the poor in the fairness of our justice system.

SECTION 452(C)

Section 452(c) would require an agreement between OEO and the Attorney General whereby legal services attorneys would be made available to the Justice Department to serve as prosecutors and collection agents. This would place legal services attorneys in a position contrary to the purposes and intent of the legal services program as set forth by Congress in 1965. The legal services program was created "to further the cause of justice among persons living in poverty." The intent was to provide the poor with access to our courts so that they may redress their grievances peacefully within the legal and judicial system—not in the streets.

The program was founded to provide the poor with legal counsel to represent their interests and enforce their rights. It was founded to counter the image the poor have always had of the law, or as Robert Kennedy said:

The poor man looks upon the law as an enemy, not as a friend. For him the law is always taking something away.

The legal services program has done much to change that image of the law and the lawyer. If we now turn the program into an extension of the Justice Department, or even place these lawyers temporarily in the role of prosecutors, much of the substantive accomplishments, much—if not all—of the faith it has restored to the poor, will be destroyed.

This section also raises the most serious ethical and legal questions. Last year, the District of Columbia Court of Appeals held that under the Code of Professional Responsibility of the American Bar Association, two legal services attorneys from the same program could not separately represent both the husband and the wife in a contested matrimonial action—Borden against Borden, 277 A–2nd 89 (1971). This would most likely be true for other types of cases placing legal services attorneys on both sides of a single case. Under section 452(c) such a situation could very well arise where the missing parent is already being represented by the only legal services program in the area and the Attorney General requests the program to prosecute the same parent. This would present an impossible ethical conflict which could well result in depriving poverty clients of essential legal representation.

In addition, this section provides a most cumbersome way of achieving its goals. It provides for the Attorney General to reimburse OEO for the use of legal services attorneys in locating and prosecuting missing parents. Why not appropriate these same funds directly to the Department of Justice for additional staff for the U.S. attorney's office if it is felt desirable to pursue these individuals?

Why encumber both OEO and the Attorney General, as well as hundreds of individual legal services attorneys, with time-consuming, costly, and unnecessary, bookkeeping functions? A straightforward approach of giving the Attorney General the necessary funds to carry out his duties under the act would be more efficient and less damaging to legal services and the rights of the poor, unless, of course, the real purpose of this provision is to tie up the time of legal services attorneys so that they cannot provide counsel and legal representation to the poor.

SECTION 512

The second section this amendment seeks to nullify is section 512, which prohibits the expenditure of any Federal funds for any activity seeking "to nullify, challenge, or circumvent" any provisions of the Social Security Act or, and I stress this, "the purposes or intentions of the Congress in enacting" that act, through court action, unless approved by the Attorney General, who in turn must notify the Senate Finance Committee and the House Ways and Means Committee 60 days before any such waiver takes effect.

This section would deprive the poor of a fundamental right—exercised by anyone who can afford a lawyer—that is, to challenge the validity of laws. It also directly interferes with the delicate, but yet unique, balance of power between our legislative, executive, and judicial branches of Government. It seeks to allow the Attorney General, and the Congress, to determine whether court actions should be initiated in a particular case, based upon an incident-by-incident review process. It seems fundamentally unfair—if not clearly unconstitutional—to make the right to seek redress in court dependent on the permission of one's adversary.

If the Senate Finance Committee wishes to restrict the jurisdiction of our courts, let it request the appropriate committee to review that question, and let us consider that issue directly in separate legislation.

Moreover, if the Finance Committee wishes to achieve proper interpretation by the courts of certain substantive provisions of the Social Security Act, let Congress seek to amend those provisions with the precise language to carry out its intent. But to achieve those goals by discriminating against the rights of the poor—and by upsetting the balance of powers among our three branches—is both wrong and unnecessary.

This section also threatens a denial of equal protection and due process to the poor. The constitutional guarantee of equal protection could be violated because only the poor would be so restricted from bringing legal action to enforce their rights or to challenge the constitutionality of this particular act of Congress. Imagine a corporation having to seek the permission of the Attorney General, and waiting 2 months for congressional committees to review that question, before challenging governmental actions it considers damaging to its own existence.

A denial of due process could also be involved when the courts are clearly the only forum for the effective resolution of the matter at hand and an indigent per-

son is denied access to such forum—*Boddie* v. *Connecticut*, 401 U.S. 371 (1971).

Finally, the ABA Canons of Ethics and Code of Professional Responsibility would certainly be violated if a lawyer cannot provide adequate and quality legal representation to his client.

Looking at what effect section 512 would have in actual practice might help to provide a better picture of why we must nullify it in this bill.

In a recent legal services case, *Carelson* v. *Remillard*, 406 U.S. 598 (June 6, 1972), a mother and her children were denied welfare benefits when the father's military allotments were too low to support them. The father was serving his country in Vietnam. The Legal Aid Society of San Mateo County sued the State of California, claiming the mother was eligible under the Federal law; namely, the Social Security Act. The current Supreme Court unanimously upheld the mother's appeal and warded her benefits. The permission to bring this case might have been denied, since the attorney general had filed an amicus brief in opposition. But clearly the merits of the case are obvious.

This illustration raises another important issue—the vagueness and breadth of the language in the provision. The intent of the committee seems to be to prevent almost all welfare-related lawsuits which it sees as "challenging or circumventing" the Social Security Act. However, not only have the courts considered many of these suits meritorious, but almost all of these suits have actually sought to enforce the act, not nullify it. It seems that the committee provision seeks to prevent only poor people from seeking enforcement of the Federal law and congressional intent by States and local governments under old-age and survivor's disability insurance, unemployment insurance, public assistance benefits and social services under the child welfare program.

The States have not had any reason to fear that Federal law would be enforced by HEW. The Assistance Payments Administration reported that as of March 31, 1972, 33 out of 54 jurisdictions with federally financed public assistance programs had, as of that time, been out of compliance with Federal law for a considerable period of time. Detailed charts were published, but not one State has been notified that sanctions or enforcement was ever being contemplated. It has fallen to legal services lawyers in recent years to enforce Federal law, including the example of the military wife I just described.

If we look to the actual text of the bill, it might seem that only those lawsuits seeking to declare provisions of the Social Security Act as unconstitutional are restricted. I think more than that is proscribed; but that right to ask the courts to interpret the constitutionality of acts of Congress is absolutely basic to our system of government. To deprive the poor of that fundamental right is, to me, absolutely unconscionable.

Clearly, then, these two provisions should not be included in this bill. For reasons I have stated—including questions of constitutionality, the ethics of the legal profession, interference in the balance of power between the three branches of government, the lack of consideration of the effects of such legislation by the appropriate congressional committees, the damage to a successful program for the poor, the cumbersome machinery they would establish involving the Attorney General and two important congressional committees, and finally the denial of equal justice to all of our people—for all these reasons we should vote to adopt this amendment to nullify sections 452(c) and 512.

I urge my fellow Senators to adopt this amendment and in considering it, to give heed to the views of organizations which are familiar to us all and which are greatly concerned with the orderly process of justice in this country. The president of the American Bar Association, Robert Meserve, has urged us to delete these provisions. He said:

American Bar Association urges deletion of Sections 452(c) and 512 of H.R. 1 as reported to the Senate. Former Provision would force upon OEO Lawyers prosecutorial function inconsistent with professional obligations to represent the poor. Latter provision seriously limits access of the poor to courts in areas of significant concern, contravenes lawyer's ethical obligation to client, and raises question of equal protection of the laws for all our citizens. Association endorses the principle expressed by President Nixon in his statement of May 5, 1971, "The legal problems of the poor are of sufficient scope that we should not restrict the right of their attorneys to bring any type of civil suit. Only in this manner can we maintain the integrity of the adversary process and fully protect the attorney-client relationship so central to our judicial process." Urge support of Cranston-Javits amendment to strike Sections 452(c) and 512.

The Association of American Law Schools, the American Trial Lawyers Association, and the deans of many law schools have expressed their strong opposition to the provisions in the bill we are seeking to nullify. Mr. President, I ask unanimous consent that messages from these groups and individuals and certain materials pertaining to the 1969 "Murphy amendment" be set forth in the RECORD at this point.

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

TELEGRAM

Nixon in his statement of May 5, 1971, "the legal problems of the poor are of sufficient scope that we should not restrict the right of other attorneys to bring any type of civil suit. Only in this manner can we maintain the integrity of the adversary process and fully protect the attorney-client relationship so central to our judicial process". Urge support of Cranston-Javits amendment to strike secs. 452(c) and 512.

ROBERT W. MESERVE,
President, ABA.

DEAR SENATOR CRANSTON: I am writing to record the encouragement of your efforts to delete from H.R. 1, the Welfare Reform Bill, the restrictions on the performance of legal services by attorneys contained in Sections 452(c) and 512.

The Association of American Law Schools has always been concerned when the proper exercise of legal services has been threatened through restrictive legislation. This concern has most recently been expressed in the letter dated May 1, 1972 from Professor Richard C. Maxwell, President of the Association, to Senator Long, concerning restrictions in this same bill. Such restrictions would affect law students and legal education because of the many programs in law schools that involve law students in the rendering of legal services for the poor and disadvantage. Consequently, we hope that once more the efforts to avoid restrictions of the kind contained in the Sections mentioned above will be successful.

MICHAEL CARDOZO,
Executive Director, Association of American Law Schools.

DEAR SENATOR CRANSTON: The American Trial Lawyers Association endorses your efforts to remove serious restrictions from H.R. 1 which would prevent Legal Services attorneys from providing full and adequate legal representation to the poor.

Sections 452(c) and 512 raise serious questions of due process and equal protection of the laws for all people. Both sections would contradict President Nixon's statement of May 5, 1971, which said, "The Legal Problems of the poor are of sufficient scope that we should not restrict the right of their attorneys to bring any type of civil suit. Only in this manner can we maintain the integrity of the adversary process and fully protect the attorney-client relationship so central to our judicial process."

We urge passage of this amendment so that the poor can receive equal justice under the law.

JACOB FUCHSBERG,
American Trial Lawyers Association.

OCTOBER 5, 1972.

I strongly support amendment to strike sections 452(c) and 512 of H.R. 1, and fervently hope it prevails.

MICHAEL SOVERN,
Dean, Columbia Law School.
LEO O'BRIEN,
Dean, Loyola University Law School.
LANI BADER,
Dean, Golden Gate University Law School.
MARVIN ANDERSON,
Dean, Hastings College of Law.
CLINTON BAMBERGER,
Dean, Catholic University School of Law C.D.C.
MURRAY SCHWARTZ,
Dean, U.C.L.A. School of Law.
EDWARD HALBACH,
Dean, Boaldt School of Law, University of California at Berkeley.
JEROME BARRON,
School of Law, Syracuse University.

RESOLUTION ADOPTED BY AMERICAN BAR ASSOCIATION BOARD OF GOVERNORS, OCTOBER 18, 1969

Whereas, the adoption by the United States Senate of an amendment to S. 3016 seeks to place in the hands of the Governors of the various States a power of veto over the activities of Legal Service Programs funded by the Office of Economic Opportunity.

And whereas, such power contravenes the American Bar Association's commitment to secure full and effective legal services to the poor by providing every person in our society with access to the independent professional services of a lawyer of integrity and competence;

And whereas, enlarging the scope and effectiveness of the power to veto legal services programs is highly undesirable because experience has shown that the power to veto may be used to circumscribe the freedom of legal service attorneys in representing their clients to address issues of government action or omission affecting the rights of their clients, and to discourage actions which are politically unpopular or adverse to the views of the majority;

And whereas, such limitations impair the ability of legal services programs to respond

properly to the needs of the poor and constitute oppressive interference with the freedom of the lawyer and the citizen;

Now, therefore be it resolved, that the American Bar Association reaffirms its position that the Legal Services Program should operate with full assurance of independence of lawyers within the program not only to render services to individual clients but also in cases which might involve action against governmental agencies seeking significant institutional change.

And, further resolved, that representatives of the American Bar Association be authorized to express the concern of the Association as to the effect of the aforesaid amendment.

LEGAL AID FOUNDATION OF LONG BEACH,
October 22, 1969.

Re Economic Opportunity Amendments of 1969.

Hon. GEORGE E. BROWN, Jr.,
Cannon Building,
Washington, D.C.

DEAR CONGRESSMAN BROWN: I am deeply concerned over the passage of Senator Murphy's amendments to S. 3016 relative to the veto power of governors over legal services programs. This amendment, if it becomes law, particularly without the safeguard of an override, will seriously affect the independence, effectiveness, and even the existence of many important legal aid and legal services programs.

Enclosed is a copy of a press release from Maynard Toll, President of the National Legal Aid and Defender Association, which contains the concerns and position of the legal aid movement and the organized bar.

I strongly urge your opposition to the Senate's action in approving Senator Murphy's amendment.

Very truly yours,
HOWARD M. VAN ELGORT,
Executive Director.

JUDGE OF MUNICIPAL COURT, LOS ANGELES JUDICIAL DISTRICT,
Los Angeles, Calif., October 21, 1969.

Hon. GEORGE E. BROWN, Jr.,
House of Representatives, Cannon Building, Washington, D.C.

DEAR GEORGE: As a member of the National Advisory Committee of the Legal Services Program I wish to call your attention to an amendment passed by the Senate in conjunction with the extension of the Office of Economic Opportunity Act which could result in defeating the purposes of the Legal Services Program under the OEO. This amendment grants the governor of a state the right to veto legal services projects. It was authored by Senator George Murphy of California.

Additionally, the OEO director has been deprived of the power to override a governor's veto of legal services projects. The obvious result of this amendment is to deprive the poor people of legal representation in the states where it is most needed.

You are urged to study this provision when the measure is referred to the House of Representatives and to vote against the provision which will take away the effective legal protection that the poor have been receiving through the Legal Services Program. There is a meeting of our advisory committee in Washington on November 7th and perhaps it will be timely and desirable to have a representative of your office at this meeting in the OEO office to inform you more fully as to the possible consequences.

Sincerely,
PHILIP M. NEWMAN.

[From the Congressional Record, Nov. 26, 1969]

VETO POWER OF GOVERNORS OVER THE OEO LEGAL SERVICES PROGRAM

Mr. MONDALE. Mr. President, on November 13, 1969, more than 80 deans of law schools throughout the United States signed a statement in opposition to the Senate amendment giving Governors a veto over OEO's legal services program. It is their fear that this amendment would not only interfere with traditional independence of the legal profession, but would also have a detrimental effect on legal education.

I am particularly proud of the fact that the organizer of this petition was Dean William B. Lockhart, of the University of Minnesota Law School. Dean Lockhart, who is serving as president of the Association of American Law Schools, has been one of the most outspoken advocates of quality legal services for the poor.

Since law school deans play such a major role in the training of future lawyers, I think that Senators should know of their strong opposition to any effort to cripple the legal services program. I therefore ask unanimous consent that their petition and names be printed in the Record.

There being no objection, the petition and names were ordered to be printed in the records, as follows:

STATEMENT OF LAW SCHOOL DEANS

We concur with the resolution adopted on October 18, 1969, by the Board of Governors of the American Bar Association and the action of the Judicial Conference of the United States at its meeting on November 1, 1969, and voice our opposition to the amendment to S. 3016 which would give State governors a veto over legal services programs.

As law school deans we are concerned with the possibility of interference with the attorney-client relationship and the traditional independence of the legal profession. We are especially concerned with the effect that this amendment may have on legal education and the development of a sense of professional responsibility among law students to participate in programs providing meaningful legal services to the disadvantaged.

November 13, 1969.

Samuel H. Hesson, Albany Law School, Union University.

B. J. Tennery, Washington College of Law, American University.

Willard H. Pedrick, Arizona State University College of Law.

Ralph C. Barnhart, University of Arkansas School of Law.

Robert F. Drinan, S.J., Boston College Law School.

Paul M. Siskind, Boston University School of Law.

Edward C. Halbach, Jr., Univ. of California School of Law, Berkeley.

Edward L. Barrett, Univ. of California School of Law, Davis.

Arthur M. Sammis, Univ. of California, Hastings College of Law.

Robert K. Castetter, California Western School of Law of the U.S. International University.

Clinton E. Bamberger, Jr., Catholic University of America School of Law.

Phil C. Neal, University of Chicago Law School.

William F. Zacharias, Chicago-Kent College of Law.

Samuel S. Wilson, University of Cincinnati College of Law.

James K. Gaynor, Cleveland-Marshall College of Law, Cleveland State University.

Howard R. Sacks, University of Connecticut School of Law.

James A. Doyle, Creighton University School of Law.

Robert B. Yegge, University of Denver College of Law.

Robert G. Weclew, De Paul University College of Law.

Brian G. Brockway, University of Detroit School of Law.

A. Kenneth Pye, Duke University School of Law.

Ben F. Johnson, Emory University School of Law.

William Hughes Mulligan, Fordham University School of Law.

Adrian S. Fisher, Georgetown University Law Center.

Robert Kramer, National Law Center, George Washington University.

Lindsey Cowen, University of Georgia School of Law.

Lewis H. Orland, Gonzaga University School of Law.

Derek C. Bok, Harvard University Law School.

Malachy T. Mahon, Hofstra University School of Law.

Paul E. Miller, Howard University School of Law.

Albert R. Menard, Jr., University of Idaho College of Law.

John E. Cribbett, University of Illinois College of Law.

Cleon H. Foust, Indiana University, Indianapolis Law School.

David H. Vernon, University of Iowa College of Law.

Lawrence E. Blades, University of Kansas School of Law.

William Lewis Matthews, Jr., University of Kentucky College of Law.

William L. Lamey, Loyola University School of Law, Chicago.

Leo J. O'Brien, Loyola University School of Law, Los Angeles.

Marcel Garsaud, Jr., Loyola University School of Law, New Orleans.

Edward S. Godfrey, University of Maine School of Law.

Robert F. Boden, Marquette University Law School.

William P. Cunningham, University of Maryland School of Law.

Frederick D. Lewis, University of Miami School of Law.

William B. Lockhart, University of Minnesota Law School.

Patrick D. Kelly, University of Missouri—Kansas City, School of Law.

Robert E. Sullivan, University of Montana School of Law.

Henry M. Grether, Jr., University of Nebraska College of Law.

Thomas W. Christopher, University of New Mexico School of Law.

William H. Angus, State University of New York at Buffalo School of Law.

Robert B. McKay, New York University School of Law.

DeJarman LeMarquis, North Carolina Central University School of Law.

Robert K. Rushing, University of North Dakota School of Law.

John Ritchie, Northwestern University School of Law.

Eugene N. Hanson, Ohio Northern University College of Law.

Ivan C. Rutledge, Ohio State University College of Law.

Ted Foster, Oklahoma City University Law School.

Eugene F. Scoles, University of Oregon School of Law.

Jefferson B. Fordham, University of Pennsylvania Law School.

John J. Murphy, St. John's University School of Law.

Richard J. Childress, St. Louis University School of Law.

Joseph A. Sinclitico, Jr., University of San Diego School of Law.

William J. Riegger, University of San Francisco School of Law.

Leo A. Huard, University of Santa Clara School of Law.

John P. Loftus, Seton Hall University School of Law.

James B. Adams, University of South Dakota School of Law.

Dorothy W. Nelson, University of Southern California Law Center.

Bayless A. Manning, Stanford University School of Law.

Richard T. Dillon, Stetson University College of Law.

Robert W. Miller, Syracuse University College of Law.
Harold C. Warner, University of Tennessee College of Law.
W. Page Keeton, University of Texas School of Law.
Richard B. Amandes, Texas Tech University School of Law.
Karl Krastin, University of Toledo College of Law.
Samuel D. Thurman, University of Utah College of Law.
John W. Wade, Vanderbilt University School of Law.
Harold G. Reuschlein, Villanova University School of Law.
Monrad G. Paulsen, University of Virginia School of Law.
John E. Howe, Washburn University of Law.
Hiram H. Lesar, Washington University School of Law.
Charles W. Joiner, Wayne State University Law School.
Paul L. Selby, Jr., West Virginia University College of Law.
Spencer L. Kimball, University of Wisconsin Law School.
Frank J. Trelease, University of Wyoming College of Law.
Louis H. Pollak, Yale Law School.

[From the CONGRESSIONAL RECORD, Dec. 4, 1969]

STATEMENT BY U.S. COMMISSION ON CIVIL RIGHTS VETO POWER FOR GOVERNORS OF LEGAL SERVICES PROGRAMS

The United States Commission on Civil Rights wholeheartedly supports the American Bar Association, The United States Judicial Conference, The National Legal Aid and Defenders Association, as well as local and State bar associations and other interested groups in their opposition to the proposed amendment to the Office of Economic Opportunity authorization bill providing State governors veto power over OEO funded legal services programs. The adoption of this amendment would critically weaken the most successful and fulfilling of all of the OEO programs and undermine the concept of equal legal representation for all. It especially would jeopardize survival of legal services programs that vigorously represent Negroes, Mexican Americans and Indians.

The need for vigorous and aggressive legal representation on behalf of the poor of all races cannot be overemphasized. "Equality before the law," said former Supreme Court Justice Wiley Rutledge, "in a true democracy is a matter of right. It cannot be a matter of charity or of favor or of grace or of discretion." In many areas such as housing, welfare rights and consumer protection, legal services groups have provided the best hope for a system of effective representation for the poor—not just in providing day to day legal counsel on an individual basis—but in attending to those activities which establish legal precedents and law reform affecting large numbers of people.

In a recent speech President Nixon set for the OEO Office of Legal Services the following goal:

"It will take on central responsibility for programs which help provide advocates for the poor in their dealings with social institutions. The sluggishness of many institutions—at all levels of society—in responding to the needs of individual citizens is one of the central problems of our time. Disadvantaged persons in particular must be assisted so that they fully understand the lawful means of making their needs known and having those needs met."

Those legal services programs which have proven most vigorous, resourceful and innovative in the assistance of their clients and which have been responsible for the most far-reaching legal reforms are the very programs which are put in greatest jeopardy by the proposed amendment. The right of disadvantaged groups to have full and effective access to the courts must not be fettered by the political restrictions imposed by the amendment. Such an amendment would be a regressive step that can only serve to discourage the poor from bringing their grievances to the courts rather than to the streets.

URGES DEFEAT OF "MURPHY AMENDMENT"

Mr. CORMAN. Mr. Speaker, a few weeks ago I spoke out against the so-called "Murphy amendment" to Senate bill S. 3016. At that time I brought to the attention of the House Members a resolution adopted by the Los Angeles County Bar Association Board of Trustees strongly opposing the Senate action in including this amendment in its bill to provide for the continuation of economic opportunity programs.

Recently, nine law school deans from the State of California issued a statement urging defeat of the "Murphy amendment" from the Senate bill. These gentlemen believe the amendment is inconsistent with the canons of professional ethics and professional responsibility which are essential to the proper functioning of our traditional system of justice. It should also be noted that these gentlemen oppose any limitation on the legal services program. I fully agree with the statements made by these nine law school deans from my own State.

Mr. Speaker, H.R. 12321, to authorize continued programs under the Economic Opportunity Act, comes to the floor for consideration this week. The committee very wisely did not include any version of the "Murphy amendment" in its bill. However, it is expected that an attempt will be made to offer such an amendment to the House bill during floor debate.

As we begin consideration of this legislation, I wish to add the voices of these nine law school deans to the growing opposition to the "Murphy amendment," and urge the attention of my colleagues to their statement:

STATEMENT OF CALIFORNIA LAW SCHOOL DEANS

"We strongly urge the defeat of the amendment to S. 3016 which grants State Governors an absolute veto over Legal Services Programs. The amendment is intended to allow Governors to bar particular types of legal actions.

"As Deans of the law schools educating most of California's future lawyers, we are deeply concerned about the impact of this amendment upon the ideals and practice of law in this State and the Nation. It is inconsistent with the Canons of Professional Ethics which we endeavor to instill in our students. It constitutes a direct infringement upon the independence and professional responsibility which are essential to the proper functioning of our traditional system of justice.

"This amendment has been opposed by most representatives of the legal community, including the unanimous action of the American Bar Association's Board of Governors. It is also opposed by the Judicial Conference of the United States under Chief Justice Warren Burger, by the National Legal Aid and Defender Association delegates and board, by the American Bar Association's Section on Individual Rights and Responsibilities, and by the President of the Association of American Law Schools. We join in opposing the amendment for these further reasons:

"(1) Any limitation on the Legal Services Program threatens law and order by closing a peaceful channel for the redress of the grievances of the poor.

"(2) Preventing poor people from maintaining legal action against their government undermines the American system of a government of law in which no official is beyond legal review.

"(3) Granting State Governors an absolute veto over Legal Services Programs almost assuredly will result in a substantial, or indeed total, denial of legal assistance to the disadvantaged in a number of states."

Dated: November 1969.

Dean Dorothy Nelson, University of Southern California Law Center; Dean Murray Schwartz, University of California, Los Angeles, School of Law; Dean Edward C. Halbach, Jr., University of California, Boalt Hall, Berkeley; Dean Leo O'Brien, Loyola University School of Law; Dean B. A. Manning, Stanford University Law School; Acting Dean William Riegger, University of San Francisco Law School; Dean L. A. Huard, University of Santa Clara School of Law; Dean A. M. Sammis, Hastings College of Law, University of California; Dean Edward Barrett, University of California at Davis Law School.

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

Mr. CRANSTON. I yield.

Mr. BENNETT. Mr. President, it is nearly a quarter after 11. All of those words the Senator is uttering will appear in the RECORD tomorrow morning. Those of us who are listening are getting more tired and more tired all the time. I would respectfully suggest that the entire statement of the Senator be printed in the RECORD and let us get to a vote.

Mr. CRANSTON. Mr. President, I will not be very much longer. I will just make one or two comments on things that might not be known.

Mr. President, in closing I wish to make two points. Earlier this evening I spoke with a high administration spokesman. He said the administration opposes the two provisions this amendment would nullify. The administration never proposed them in their legal services corporation bill, and the administration never proposed them or similar restrictions in H.R. 1 or any other legislation.

Finally, I wish to point out that this vote stands for the very future of what I consider the most effective and most important part of all our antipoverty programs. If this gaping hole can be shot through the fabric of legal representation for poor clients, then there will be repeated efforts to exempt one after another Federal statute from judicial review at the behest of the poor. And if this succeeds, there will be no stopping the rest of such efforts. And that will be the death knell of the legal services program.

We cannot, we must not, allow this. We cannot tell the poor that the system of justice is for everyone but them; that when the Congress acts to affect their interest, the resulting statutes are immune from judicial scrutiny. I do not believe this is the message that Senate wishes to convey to our Nation's poor. I fervently hope we will not do so.

Mr. MONDALE. Mr. President, I strongly urge the Senate to adopt the amendment to H.R. 1 introduced by Senator CRANSTON, Senator JAVITS, myself and several other Senators. This amendment would nullify section 452(c) and section 512 of this bill.

The Enactment of either of these provisions would seriously jeopardize the integrity and independence of OEO's Legal Services program.

Section 452(c) directs the Attorney General and the Director of the Office of Economic Opportunity to enter into an agreement to utilize Legal Services attorneys in prosecuting cases involving nonsupport of dependent AFDC children.

Section 452(c) will mean that these attorneys will be in the position of representing the Government against indigent individuals who they are required to represent under the Legal Services program's legislative mandate. Such a provision is clearly inconsistent with the purpose of this program—which was never intended to be an adjunct to Federal, State, or local law enforcement authorities in prosecuting individuals for violation of the law.

To require Legal Services attorneys to serve as prosecutors will undermine the great confidence which the client community now has in this program Furthermore, given the program's limited resources, the additional burden imposed by section 452(c) will mean that the legal needs of poor Americans will continue to be unmet. For example, it is estimated that almost 80 percent of the legal problems of the poor are now being ignored because of the insufficient funds available to the Legal Services program.

Even more disturbing is section 512 of this legislation. This section prohibits the direct or indirect use of legal services funds for any attorney or other person who 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 relating 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 relating thereto." This prohibition can be waived by the Attorney General after 60 days' notification and submission to the Senate Committee on Finance and the House Committee on Ways and Means. The Senate Finance Committee report makes clear that during the 60-day period the committee will consider the issues being raised in the proposed litigation and may take legislative action concerning such issues.

This section is totally inconsistent with the clear and explicit mandates of the legal profession. Canon 7 of the Code of Professional Responsibility states:

A lawyer should represent a client zealously within the bounds of law.

Ethical consideration 7–1 elaborates on this canon in the following manner:

The duty of a lawyer, both to his client and to the legal system, is to represent his client zealously within the bounds of the law, which includes Disciplinary Rules and enforceable professional regulations. The professional responsibility of a lawyer derives from his membership in a profession which has the duty of assisting members of the public to secure and protect available legal rights and benefits. In our government of laws and not of men, each member of our society is entitled to have his conduct judged and regulated in accordance with the law; to seek any lawful objective through legally permissible means; and to present for adjudication any lawful claim, issue or defense.

In light of these ethical requirements, a legal services attorney—like any other lawyer—cannot stop and weigh the consequences of contemplated legal action.

These mandates reflect the fact that our system of justice is based on the adversary process—which in turn depends upon effective advocacy. A dilution of the lawyer's independence threatens this adversary process. As former Chief Justice Warren has stated:

A right without an advocate is as useless as a blueprint without a builder or materials.

No attorney can meet his professional responsibilities to a client if there are outside restraints on the types of cases in which he can participate or the kinds of issues he can raise. No large corporation would tolerate outside interference with their retained attorneys. Certainly the poor should not be expected to tolerate such interference.

Section 512 not only undermines the legal profession's Code of Professional Responsibility, it also raises serious constitutional questions under the equal protection and due process clauses of the Constitution.

In Boddie against Connecticut, the Supreme Court held that access to the courts may not be denied because of a person's indigency, when the courts have been estabilshed as the only forum for the effective resolution of the matter at hand.

In seeking to deprive the poor of legal redress in an area directly affecting their most fundamental interests, section 512 singles out the poor as a class to be denied certain basic rights.

Imagine Bethlehem Steel having to obtain the permission of the Attorney General of the United States and wait 2 months for congressional committees to think about a lawsuit before challenging the seizure of its steel plants by President Truman. Yet under section 512, this is exactly what the poor person will have to do when he claims that the subsistence benefits he needs for his sick wife or small children have been denied to him by an unconstitutional law or by a public employee refusing to obey Federal law.

It is for these reasons that leading spokesmen for the legal profession have consistently opposed such efforts to limit the ability of legal services lawyers to represent their clients.

On May 1, 1972, Dean Richard C. Maxwell, president of the Association of American Law Schools, wrote to the Senate Finance Committee urging rejection of language now contained in section 512. In addition, the American Bar Association, the National Bar Association, the National Legal Aid and Defender Association, and the American Trial Lawyers Association have strongly opposed such a restriction.

On October 3, 1972, the president of the American Bar Association, Robert W. Meserve, wired each Member of the Senate in support of the amendment to nullify sections 512 and 452(c). The text of this telegram is as follows:

ABA urges deletion of Sections 452(c) and 512 of H.R. 1 as reported to the Senate. Former provision would force upon OEO lawyers prosecutorial function inconsistent with professional obligations to represent the poor. Latter provision seriously limits access of the poor to courts in areas of significant concern contravenes, lawyer's ethical obligation to client, and raises question of equal protections of the laws for all our citizens. Association endorses the principle expressed by President Nixon in his statement of May 5, 1971.

"The legal problems of the poor are of sufficient scope that we should not restrict the right of their attorneys to bring any type of civil suit. Only in this manner can we maintain the integrity of the adversary process and fully protect the attorney-client relationship so central to our judicial process."

Urge support of Cranston-Javits amendment to strike Sections 452(c) and 512.

The ABA and other professional legal organizations recognize that under our system, the courts are the forum of last redress. We understand as a people that we must respect the supremacy of law—and the inviolability of recourse to the courts for those who are disenfranchised and for those who have been dealt with unfairly and arbitrarily.

In this decade, it is a singularly small but visible effort which has come to symbolize the possibility of a new period of maturity, of conscience, of self-assurance, for our Nation—the Legal Services program.

I believe that our Government has reached the point where it can admit that it is capable of error, that it no longer need claim infallibility or hide behind sovereign immunity. We are ready to set up mechanisms whereby the people can hold the Government accountable—not only every 2 or 4 years—but can challenge individual acts and specific policies as contrary to law.

This is the genius and historic significance of the Legal Services program—that a government can offer to the powerless the opportunity and the resources needed to challenge improper acts by both private and public bodies.

If the poor and the powerless do not have free access to our legal system, government by law is a failure.

I, therefore, urge the Senate to adopt the pending amendment.

Several Senators addressed the Chair.

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

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California has the floor.

Mr. CRANSTON. Mr. President, I yield very briefly to the Senator from New York.

Mr. LONG. Mr. President, I object to the Senator getting the floor. I would like to speak.

The PRESIDING OFFICER. The Senator from California has the floor.

Mr. LONG. He can only yield for a question. He cannot farm out the time.

Mr. JAVITS. Mr. President, I will ask a question.

Is it not a fact that the American Bar Association has endorsed the provisions of this amendment? Has not the president of the Bar Association, Robert W. Meserve, president of the ABA, has in fact, wired all Senators of the United States as follows:

American Bar Association urges deletion of Secs. 452(c) and 512 of H.R. 1 as reported to the Senate. Former provision would force upon OEO lawyers prosecutorial function inconsistent with professional obligations to represent the poor. Latter provision seriously limits access of the poor to courts in areas

of significant concern, contravenes lawyer's ethical obligation to client, and raises question of equal protection of the laws for all our citizens.

Is it not a fact also that the telegram goes on to say:

Association endorses the principle expressed by President Nixon in his statement of May 5, 1971, "the legal problems of the poor are of sufficient scope that we should not restrict the right of their attorneys to bring any type of civil suit. Only in this manner can we maintain the integrity of the adversary process and fully protect the attorney-client relationship so central to our judicial process." Urge support of Cranston-Javits amendment to strike Secs. 452(c) and 512.

The telegram is signed by Robert W. Meserve, president of the American Bar Association.

Is it not a fact that that telegram has been sent to every Member of the Senate?

Mr. CRANSTON. The Senator is correct. And in addition, the Association of American Law Schools, the American Trial Lawyers Association, and the deans of many law schools have expressed their support for the amendment.

Mr. LONG. Mr. President, I think that we have heard one side of the matter. Let me now talk about something that one does not have to go to law school to understand. No one that has one ounce of commonsense, that has enough commonsense to find his way out of an insane asylum, would hire a lawyer to sue himself.

I think that is what this amendment to strike our amendment would do. This would hire Government lawyers to sue the United States. It has already cost us billions of dollars.

It would be one thing for the Government to do something like that. And our amendment would provide that the Government could do that. If the Attorney General of the United States, as our chief lawyer, wants to hire a lawyer at the expense of the United States to file a lawsuit to sue the United States for something, that is all right. But we would like to know about it before he authorizes something that will cost us a lot of money.

For example, some of us thought when we voted for poverty lawyers to proceed to go into business under the OEO, that these poverty lawyers were going to do the kind of thing that I did when I was a young lawyer. A woman would come in and say that her husband had deserted her and that she did not have enough money to pay her bills. She would ask me to sue the man so that she could get some money for the children. I would do my best to sue the father. Sometimes he would get beyond my reach when he got outside the boundaries of the State of Louisiana. However, I did the best I could to help her.

That is not the area that the poverty lawyer works in today. He does not work in the field of family law. Does the Senator think that these poverty lawyers are willing to be the kind of lawyer that I was? Not on your tintype. They have the word out, "We can achieve a great thing for the poor if we can file a certain type of lawsuit and sue the Government. We can get $5 billion in benefits for the poor if we can require them to load these welfare rolls down with all of these people." They circulate among the people and have their people find someone to file that particular kind of a lawsuit that they would like to promote and where they can claim that this is a great victory for the poor. They proceeded to find someone to sue the Government to strike down the man-in-the-household rule.

We had provided in the law that we would take into account all the income that the family had. We thought that in doing that we would take into account the income available to them because a man was living in the house with mama and the children looked just like him, but they claimed that we could not do that even if he is making $20,000 a year and living with mama because he is not the legal father. So they win, and that increases the cost of the program by 50 percent.

Perhaps some of these people who think things were too tight believe we could have acted on that in Washington; HEW could have made suggestions and we could have acted. But where he conducts himself like a papa, and he looks like the papa, you would expect him to support them if he was in the house with them. That was one of their great victories.

We say that if they are going to sue in the future, in view of the fact the Federal Government is going to have to pay 50 percent of the cost, then Uncle Sam should be consulted if he is going to pay the lawyer. It just does not make sense, and we should not do that.

Just look at some of these things. Poverty lawyers have won a decision so that a woman can be on welfare even though she refused to say who the father was. She can steadfastly refuse to say who the father was and stay on welfare. They also won that decision. We will try to do something about it. They have won a great many of these cases. If poverty lawyers try to enforce support orders, we are told that would be horrible, that would be antisocial, and that would not be ethical. No, no; do not have the poverty lawyer do that. Get them to use Uncle Sam. If we are going to let them sue the Government, we should pass judgment on what we want them to do.

Think of the good job the poverty lawyers could do. It costs us 10 times what we appropriate when they win a victory by prevailing in a position that was never intended by Congress. They are doing things that were never intended. They do not sue papa to support his children. That would save money for Uncle Sam. That is all right, since Uncle Sam will pay for mama on welfare.

Which one of you has ever paid a lawyer to sue yourself? You are paying a lawyer to sue Uncle Sam and your own State. That is all right with me, and it is all right with you, provided Uncle Sam knows and the Attorney General has authorized the State to be sued.

Let me explain the situation. I am a member of the American Bar Association. They have different sections. There is an international law section, there is a family law section, and there is a section on this and a section on that. When these sections meet they have a group that decides what the law should be with regard to their specialty of the law. I can only conclude when I see something as ridiculous as this that they must have a poverty law section. The poverty law section meets, and they have one thing in common. Their great claim to fame is that they have cost the Government billions of dollars by obtaining favorable court decisions.

Because of various court decisions which have come about through OEO lawyers, a person by mere delay, and to no inconvenience to himself, can stay on the welfare rolls for as long as 5 months, although he was never eligible the first day to draw all of those payments. Then, if it is found he was not eligible, how much more money can you get back? Not the first red copper cent. But let a veteran who fought for his country be paid one nickel more than he is entitled to receive. How much can he keep? They will sue him and they will make him pay back the last nickel. Let that person be a taxpayer who has some small amount outstanding and he will have to pay every nickel. The poverty lawyer spends his time in suing Uncle Sam and suing the States but not in making the father do what he should by his children.

Mr. President, that is the sort of mischief we have tried to upset. I suppose there is some section in the ABA where young poverty lawyers dominate. I assume they account in large measure for this talk about legal ethics, where we take a practical, commonsense attitude.

I am a lawyer and I say that nobody but a fool would hire a lawyer to sue himself. The poverty lawyers we are paying should do what I thought they were going to do. I thought they should help mama get support from papa, help mama get her business straightened out, or help her get divorced so she could get married to another man to help her support the family, rather than spending all their time in suing us.

If they want to sue us, tell us the basis for the lawsuit and why they think we should be sued, or why the State of Arkansas, the State of Mississippi, the State of Georgia should be sued, or why the State of Tennessee or Missouri should be sued. They do not have to get our consent; just tell us why before they sic all their poverty lawyers on us and load the welfare rolls down with vast numbers of people we do not think should be there.

The Federal Government is not the only one that can hire a lawyer. You have the Ford Foundation with untold millions of dollars; you have the Rockefeller Foundation with untold millions of dollars, and you have all sorts of well-intentioned, although perhaps misguided people, with all their foundation money, so much they do not know what to do with it. All that is available to subsidize someone to sue Uncle Sam. Why does Uncle Sam have to pay someone to sue himself?

So I hope the Senate leaves in this provision that would say the poverty lawyer would be required to help us to do what I thought they were to do in the first place, to help mama get help from papa.

That being the case, in view of the

lateness of the hour, I hope we can dispose of the matter.

Mr. President, I move to lay the amendment on the table. 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 to lay the amendment on the table.

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 Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Louisiana (Mrs. EDWARDS) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE), is absent on official business.

On this vote, the Senator from Louisiana (Mrs. EDWARDS) is paired with the Senator from Connecticut (Mr. RIBICOFF).

If present and voting, the Senator from Louisiana would vote "yea" and the Senator from Connecticut would vote "nay."

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. BAKER), the Senator from Delaware (Mr. BOGGS), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), 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 Colorado (Mr. DOMINICK), the Senator from Connecticut (Mr. WEICKER) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

If present and voting, the Senator from Texas (Mr. TOWER) would vote "yea."

On this vote, the Senator from Nebraska (Mr. CURTIS) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Oregon would vote "nay."

The result was announced—yeas 38, nays 35, as follows:

[No. 534 Leg.]

YEAS—38

Allen	Buckley	Dole
Beall	Byrd,	Ervin
Bellmon	Harry F., Jr.	Fannin
Bennett	Byrd, Robert C.	Fong
Bible	Cannon	Gambrell
Brock	Cotton	Griffin
Gurney	McClellan	Saxbe
Hansen	Miller	Smith
Hruska	Packwood	Sparkman
Jackson	Pastore	Stennis
Jordan, N.C.	Pearson	Symington
Jordan, Idaho	Randolph	Talmadge
Long	Roth	Thurmond

NAYS—35

Aiken	Hartke	Percy
Bayh	Hughes	Proxmire
Brooke	Inouye	Schweiker
Burdick	Javits	Scott
Case	Magnuson	Spong
Chiles	Mansfield	Stafford
Cook	Mathias	Stevens
Cooper	Mondale	Stevenson
Cranston	Montoya	Taft
Fulbright	Moss	Tunney
Gravel	Muskie	Williams
Hart	Nelson	

NOT VOTING—27

Allott	Eastland	McGovern
Anderson	Edwards	McIntyre
Baker	Goldwater	Metcalf
Bentsen	Harris	Mundt
Boggs	Hatfield	Pell
Church	Hollings	Ribicoff
Curtis	Humphrey	Tower
Dominick	Kennedy	Weicker
Eagleton	McGee	Young

So the motion to lay on the table was agreed to.

AMENDMENT NO. 1662

Mr. TUNNEY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. TUNNEY. I ask unanimous consent that further reading of the amendment be dispensed with.

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

Mr. TUNNEY's amendment is as follows:

Beginning on page 588, line 7, strike out through page 589, line 25, and insert in lieu thereof the following new section:

STATE SUPPLEMENTATION

SEC. 1616. (a)(1) In order for a State to be eligible for payments pursuant to title V, VI, XV, or XIX of this Act, with respect to expenditures for any quarter beginning after December 31, 1973, it must have in effect an agreement with the Secretary under which it will (A) make supplementary payments, as provided in this section, to any individual or married couple residing in the State who is (or who, but for his or her income, would be) eligible for benefits under this title, or (B) authorize the Secretary to make such payments on its behalf.

(2) The amount payable under any agreement with a State under this section, to any individual (or married couple) shall be excluded under section 1616(b)(6) in determining the income of such individual or couple, and, subject to the succeeding provisions of this section, shall be not less than an amount equal to—

(A) the sum of (i) the amount of the money payment which such individual or married couple would have received under the plan of such State which was approved under and complied with the requirements of or imposed with respect to title I, X, XIV, or XVI of the Social Security Act and was in effect for December 1973, or any greater amount which such individual or married couple would have received under such an approved plan at any prior time; plus (ii) the bonus value of food stamps for December 1973 (as defined in paragraph (3)); plus (iii) any cost-of-living increase required to be paid under paragraph (4); reduced by—

(B) the benefits payable to such individual or such married couple under this title.

(3) For purposes of paragraph (2)—

(A) an individual or married couple who would not have been eligible for assistance under a plan referred to in paragraph (2)(A), but who is (or would, but for his or their income, be) eligible for benefits under this title, shall be deemed to meet the eligibility requirements of the plan of such State which was in effect for December 1973; and

(B) the term "bonus value of food stamps" in a State for December 1973 (with respect to an individual or married couple) means—

(i) the face value of the coupon allotment which would have been provided to such individual (or married couple) under the Food Stamp Act of 1964 for December 1973, reduced by—

(ii) the charge which such individual (or married couple) would have paid for such coupon allotment if his (or their) income were equal to the amount determined under paragraph (2)(A)(i) for an individual, or married couple, who had no other income.

The total value of food stamps and the cost thereof in December 1973, shall be determined in accordance with rules prescribed by the Secretary of Agriculture in effect in such month. For purposes of this subsection, each individual (or married couple) will be deemed to have been residing in a jurisdiction where the food stamp program was in effect in December 1973.

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

(1) that in determining the eligibility of any individual (and his eligible spouse, if any) for supplementary payments on the basis of his income, all the provisions of section 1612(b) will apply, except that, with respect to any quarter, if benefits are paid to such individual for such quarter under this title, such benefits will not be excluded from income in applying paragraph (4) of such section,

(2) that the determination of the amount of supplementary payments for which an individual (or individual and eligible spouse) is eligible will be made without regard to any reduction in benefits under this title pursuant to section 1611(f)(1),

(3) that no lien will be imposed by the State against the property of any individual or eligible spouse or his or their estate on account of payments made under the agreement, and that there will be no adjustment or any recovery of payments correctly made under the agreement,

and, if the agreement provides that the Secretary will, on behalf of the State (or political subdivision), make the supplementary payments to individuals receiving benefits under this title, shall also provide—

(4) that such payments will be made to all individuals residing in such State (or subdivision) who are (or who, but for their income, would be) receiving benefits under this title,

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

(b)(1) Any State (or political subdivision), in determining the eligibility of any individual for supplementary payments described in subsection (a), may disregard up to $7.50 per month of any income in addition to other amounts which it is required or permitted to disregard under this section in determining such eligibility, and may include a provision to that effect in the State's agreement with the Secretary under subsection (a).

(2) Any State (or political subdivision) in determining the eligibility of any individual for supplementary payments described in subsection (a), shall disregard any income derived from an increase in Federal benefits under this title under the operation of section 1611(c) in addition to other amounts which

it is permitted or required to disregard under this section in determining such eligibility, and shall include a provision to that effect in the State's agreement with the Secretary under subsection (a).

(c) Any payments which are made to individuals by a State to which the provisions of section 344 of the Social Security Amendments of 1950 were applicable on January 1, 1962, and to which the sentence following paragraph (2) of section 1002(b) and the sentence following paragraph (3) of section 1602(b) of this Act, as in effect prior to the enactment of this title, were applicable shall be considered as supplementary payments for purposes of this title only to the extent that such payments would have been included as expenditures for the purpose of payments under section 1003 or section 1603 of this Act, as in effect prior to the enactment of this title.

Mr. TUNNEY. Mr. President, the amendment to H.R. 1 I am offering will correct a large gap in title III as reported out by the Finance Committee by requiring mandatory State supplementation of the benefit levels proposed by the committee.

As you know, Mr. President, title III of the bill creates a system of Federal benefits for elderly, blind, and disabled persons. The committee has set basic benefit levels at $130 for an individual and $195 for a couple.

At the present time, some States, including California, provide benefits to such persons at considerably higher levels. In California, for example, the maximum for an individual senior citizen is $218 per month.

But there is nothing in the bill as drafted which prevents a State from cutting back its own benefits and paying nothing additional to these needy persons beyond the minimum levels set by the committee.

My amendment will require the States to supplement the new Federal minimum assistance levels to bring them back up to the present levels in States where benefits are higher than those proposed by the committee. In this way, aged, blind, and disabled public assistance recipients in States such as California will not be worse off after the enactment of H.R. 1 than they are presently.

Mr. President, everyone knows that States—and even cities within States—vary widely in terms of the cost necessary to eke out an existence under conditions other than grinding poverty. In San Francisco, for example, an elderly welfare recipient may receive up to $218 per month. This sum, barely adequate in terms of San Francisco costs, is more than adequate for a more comfortable existence in rural areas of the south. Yet, under the committee proposal, it is assumed that all senior citizens face the same cost barriers to an equal extent no matter where they live.

We all know that the Nation's aged citizens suffer unequal financial burdens according to economic conditions where they live. Yet, under the committee proposal, all qualified recipients are treated equally under the bill with each to receive a maximum of $130 in basic public assistance. Although the figure of $130 per month may be a boon to our southern elderly, it is a figure which deals a painful blow to the already meager straits of California senior citizens.

The committee bill reflects a desire for a nationwide minimum standard for benefits. But in my judgment, it is indulging in fantasy for us to conclude that a sum which is adequate for the elderly in one area of the country has relevance to what is adequate in other area. We all know that living costs are widely different in different parts of the country.

Indeed, in large part, the reason for the patch work quilt-like system encompassing different assistant levels for different States is a mirror reflection of the vastly different economic realities confronting them. It is this fact of life which has caused some States to set benefits levels at rates higher than those existing in other States.

The fear that I have is that unless we amend title III, it may have the unintended affect of lowering benefit levels in many States. Therefore, the amendment I am offering would assume that no elderly, blind, or disabled person would end up with less money than he is now getting.

Although the committee version of title III gives the States the option to supplement the basic Federal minimum benefits, nothing requires them to do so.

Furthermore, I have been advised by some legal authorities in my State that in order for a State to exercise an option to supplement, it will require affirmative State legislative action which, of course, would be subject to the veto of the Governor.

Mr. President, I do not think it is wise for us to assume that States will be anxious or willing to supplement. I believe the issue is clear enough—and the needs of our elderly, blind, and disabled citizens acute enough—to make supplementation mandatory so that the reforms of title III will not become instruments of harshness and deprivation for some of the people we are trying to help.

Under my amendment, all States presently providing higher allowances than title III levels set by the committee would be required to supplement the basic Federal payments so that the total Federal-State payment would at least equal present payment, plus an allowance for the cash value of food stamps, which are being eliminated under title III involves no Federal expenditures.

I urge the Senate to act favorably on it.

With that, I yield to the chairman of the Committee on Finance, to have his opinion on the amendment. I hope it can be disposed of fairly quickly.

Mr. LONG. Mr. President, this is something that just has to address itself to the conscience of the individual Senator, and I really would urge Senators to think about it and apply it to their own situations.

What the Senator wants to do is say that a State cannot cut back on the benefits that it is paying.

We assume that States are not going to cut back on their benefit levels, and we do not know of any reason to anticipate that they would. We did provide some additional help to them, so we would hope they would not do it. It is conceivable that there might be a court decision or something that might require them to add a lot of people to the rolls that they did not anticipate, and if that were the case, they might need to cut back on benefit levels. So far as we know, we do not anticipate that there would be any cutback.

But the question is, where a State has a high level of benefits and wants to make a reduction, should it be permitted to do so? After all, it is a State plan that provides the money, and where the State is putting up more than half the money, should they be permitted to make a reduction in the level of benefits if they want to do so, if they think it is too generous?

I would say it is up to the conscience of the individual Senator. It does not upset our cost estimates one way or the other. Our estimate would be the same in either event. We assume the States are not going to cut back. The question is, do we want, at this level of government, to require that they not make reductions in the existing level of benefits they pay?

I do not know whether I can, in good conscience, insist on that, because other States like New York and California may be paying a higher level of benefits than Louisiana. I do not know that I can insist, in good conscience, that the other States not cut back if their level is higher than that of my State.

I would say it is up to the conscience of individual Senators. Do Senators think they ought to be able to cut back if they want to, or not? If Senators think they should not be able to make a reduction, they should vote for the amendment.

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

Mr. LONG. I yield.

Mr. PASTORE. I think what the Senator from California means is that, because of this bounty going to the various States because of the generosity of the Federal Government, he does not feel they ought to be allowed to cut back on their own contribution to welfare.

That is his point. It is not the point that later on, if they had a bad financial situation in the State, the State would be denied the prerogative of deciding what it should do in behalf of its own people. But he means they cannot use the Federal money as an excuse for cutting down on their own contribution to this body of people who are in need. Is that not the point?

Mr. TUNNEY. Mr. President, one thing I would like to point out is that the State of California, for example, is going to save $200 million in the adult categories under the bill assuming they maintain the present benefit levels. This is because the Federal Government's contribution to the State is so much greater under the bill than under existing law.

Mr. PASTORE. This happened in many States, if the Senate will recall, when we raised the benefit for social security, and some States just cut back on the amount of money they were paying on social welfare, so we had to remedy that by ad-

justing the laws here in the Federal Government.

I think that is what the Senator from California has in mind, and I think the amendment ought to be accepted.

Mr. TUNNEY. I do not want to subject this to a record vote, as the hour is so late, and we know many Senators want to get home. I would just hope that this could be decided by a voice vote.

Mr. LONG. Mr. President, just let me make the point that as it would stand without the Tunney amendment, if States wanted to take some of the money they are spending on welfare payments and spend it on social services instead of for these purposes, should they be permitted to do so?

Should they be permitted to reduce their welfare payment levels in order to spend more on education, for example? Without the Tunney amendment, the State would be entrusted with that decision. With the Tunney amendment, it could not make the decision.

I leave it up to the Senate.

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

Mr. LONG. I yield.

Mr. STEVENS. Does the Tunney amendment affect the 20-percent increase under the Long amendment?

Mr. LONG. It has nothing to do with it.

Mr. TUNNEY. It has no Federal budgetary impact.

The PRESIDING OFFICER (Mr. BAYH). The question is on agreeing to the amendment (No. 1662) of the Senator from California (Mr. TUNNEY) (putting the question).

The amendment was rejected.

Mr. PASTORE. Mr. President, I ask for a division.

On a division, the amendment was rejected.

Several Senators addressed the Chair.

AMENDMENT NO. 1689

Mr. TUNNEY. Mr. President, I call up my amendment No. 1689.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 523, after line 24, insert the following new section:

LIMITATION ON SPEND DOWN REQUIREMENT UNDER MEDICAID

SEC. 299I. (a) Section 1903(d)(1)(A) is amended by inserting immediately before the period at the end thereof the following: "and, in the case of any State which imposes an income limitation that is lower than the applicable income limitation determined under this paragraph, no payment shall be made under the preceding provisions of this section".

(b) Section 1903(d)(1)(B)(i) of the Social Security Act is amended—

(1) by inserting "to whichever of the following is greater: (I)" after "equivalent to", and

(2) by inserting "or (II) 100 percent of the highest amount which would ordinarily be paid to an individual without any income or resources, in the form of money payments, under the plan of the State approved under title I, X, XIV, XV, or XVI (or, supplemental security income benefits under title XVI of this Act as in effect after December 31, 1973) of this Act" before the period at the end thereof.

Mr. TUNNEY. Mr. President, a very unfortunate anomaly exists in the Federal law governing State medicaid. Its effect upon aged, blind, and disabled persons in 11 States is to punish financially those persons who are able to remove themselves from public assistance rolls. Today, I offer an amendment to H.R. 1 to deal effectively and fairly with the problem.

Under current law, any State participating in the medicaid grant program must provide medicaid to all recipients of cash assistance. In addition, the States also may, if they choose to do so, provide medicaid services to persons who would, except for the level of their income and resources, be eligible for cash assistance. States which opt for this second type of medical coverage for those whose incomes exceed the cash assistance eligibility standards are said to be providing medicaid benefits to those persons deemed to be "medically needy."

Twenty-seven States, including California have chosen this dual medicaid system. But in at least 11 of those States, including California, the system operates to the considerable detriment of aged, blind, and disabled persons who receive public assistance, and for one reason or another, receive a supplement to their income which takes them off public assistance rolls. Although these persons no longer receive medicaid benefits which accompany public assistance, they are eligible to qualify under the "medically needy" program.

The problem my amendment deals with derives from the fact that the "medically needy" standard is below the cash assistance standard, thereby requiring a "spend down" from the latter level to the former.

The way it works is this. Current law limits the income standard for a "medically needy" program—this medical assistance standard is technically called the "standard of income protected for maintenance—to 133 percent of the payment for an AFDC family, adjusted for appropriate family size. Since payments to AFDC families are sometimes considerably less generous than cash assistance payments to the aged, blind, and disabled, the anomalous result is that persons with incomes only slightly in excess of the cash assistance standard may have to incur a significant amount of medical expense—that is "spend down" their income by this amount on medical expenses—before they can receive medicaid coverage.

Furthermore, even though the "medically needy" income standard has a maximum set by Federal law, States are able to reduce the standard below the Federal limit thereby making the "income gap" even wider.

Let me give an example of how the problem operates in California. A California senior citizen can receive up to a maximum of $218 per month. Let us assume such a person has nonexcluded income of $200 per month and receives $18 per month public assistance. Under current laws, that individual is entitled to Medi-Cal—the name of California's medicaid plan—benefits because he is receiving public assistance. Suppose he receives a supplement to his existing $200 per month income by $25 per month. Since his income is above the maximum benefit level, $218 for an aged person, as a result he will not be on public assistance any longer, nor will he be eligible for Medi-Cal benefits.

However, since California does have a "medically needy" program, our hypothetical person has an opportunity to qualify for those benefits. Unfortunately, though, in order to qualify, our senior citizen whose income has now been supplemented to a level only $7 above the public assistance level must "spend down" to the rate of $158 per month, the highest level California allows.

Thus, the result to this individual of receiving an additional $25 is that he must spend on medical expenses at the rate of $67 per month. He is actually much worse off after his income was supplemented than he was before.

The situation is much worse for an aged California couple. Presently, the relevant maximum old age assistance level is $5,232 on an annual basis. Yet the medically needy standard is only $2,520 on an annual basis, thereby requiring an expenditure of in excess of $2,700 in medical expenses as a prerequisite for qualifying for Medi-Cal benefits once they are off the welfare rolls.

It is this type of situation which has the effect of locking aged, blind, and disabled citizens in California and other States into their present public assistance income level. It operates as a disincentive to pull themselves out of it. Medical expenses for the elderly and the disabled are probably the single largest expenses for them after housing and food. It is no wonder that a person receiving a small assistance allowance would be very reluctant to do anything to supplement his income because of the fear that his medical needs will no longer be provided for.

The system is simply geared to keep those people in their already meager straits.

The amendment I offer today would correct the situation in the 11 States which have lower AFDC payments than assistance levels for the aged, blind and disabled. Its effect would be such that wherever the medically needy standard is below the relevant assistance payment level, the recipient would be required to spend down only to that applicable level, and no lower.

Thus, continuing with my example, my California senior citizen would be required under my proposal to spend only down from the $225 level to the $218 level at which point he would be eligible for Medi-Cal payments.

I think this inequity is long overdue for a legislative response. Now is the time for us to act.

I ask unanimous consent to incorporate at the conclusion of my remarks a chart showing OAA Cash and Medical Assistance Standards, as of January 1972.

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

OAA CASH AND MEDICAL ASSISTANCE STANDARDS, AS OF JANUARY 1972

	1 person		2 persons	
	OAA yearly eligibility standard for cash assistance	Yearly income protected for medical assistance	OAA yearly eligibility standard for cash assistance	Yearly income protected for medical assistance
Alabama	1,752		2,904	
Alaska	3,000		4,200	
Arizona	1,416		1,968	
Arkansas	1,788		2,988	
California	2,236	[1] 1,896	3,840	[1] 2,400
Colorado	1,680		3,360	
Connecticut	2,856	[1] 2,500	3,432	[1] 2,900
Delaware	1,680		2,364	
District of Columbia	1,800	2,100	2,472	2,800
Florida	1,368		1,920	
Georgia	1,203		2,044	
Guam	1,685	[1] 1,500	2,406	2,500
Hawaii	1,584	1,668	2,460	2,784
Idaho	2,184		2,628	
Illinois	2,076	[1] 2,016	2,568	[1] 2,460
Indiana	2,220		2,964	
Iowa	1,464		2,232	
Kansas	2,160	[1] 1,600	2,604	[1] 2,220
Kentucky	1,152	1,500	1,920	[1] 1,800
Louisiana	1,764		2,820	
Maine	1,476		2,568	
Maryland	1,560	1,800	2,244	2,280
Massachusetts	1,800	2,160	3,360	[1] 2,832
Michigan	2,160	[1] 1,900	2,856	[1] 2,700
Minnesota	1,896	[1] 1,740	2,760	[1] 2,424
Mississippi	1,800		2,616	
Missouri	2,172		2,964	
Montana	1,440		2,304	
Nebraska	2,184	[1] 1,600	2,820	[1] 2,200
Nevada	2,040		3,252	
New Hampshire	2,076	2,280	2,736	[1] 2,686
New Jersey	1,944		2,664	
New Mexico	1,392		1,860	
New York	1,908	2,200	2,628	3,100
North Carolina	1,380	1,700	1,836	2,200
North Dakota	1,500		2,280	
Ohio	1,512		2,544	
Oklahoma	1,560	[1] 1,400	2,544	[1] 2,000
Oregon	1,836		2,652	
Pennsylvania	1,656	2,000	2,496	2,500
Puerto Rico	648	2,500	1,056	3,200
Rhode Island	1,956	2,500	2,532	3,500
South Carolina	1,044		1,452	
South Dakota	2,160		2,640	
Tennessee	1,224		1,704	
Texas	1,428		2,304	
Utah	1,272	[1] 1,260	1,704	1,740
Vermont	2,124	2,172	2,796	2,748
Virgin Islands	618	2,200	1,236	2,750
Virginia	1,824	1,900	2,388	2,500
Washington	1,728	2,340	2,484	3,000
West Virginia	1,752		2,232	
Wisconsin	1,896	[1] 1,600	2,592	[1] 2,500
Wyoming	1,668		2,340	

[1] Eligibility for medically needy program below that for cash assistance.

Mr. LONG. Mr. President, we are prepared to accept this amendment.

Mr. TUNNEY. Then I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 1689) of the Senator from California.

The amendment was agreed to.

AMENDMENT NO. 1701

Mr. STEVENSON. Mr. President, I have two amendments. I shall be very brief. I have discussed them both with the chairman.

Mr. President, I call up first amendment No. 1701. I ask unanimous consent that the names of Senators WILLIAMS, JAVITS, KENNEDY, and TUNNEY be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The assistant legislative clerk read as follows:

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:

"(2) 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 twenty 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:

"(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 twenty 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.

Mr. STEVENSON. Mr. President, only one major group of workers is deprived of the full benefits of social security—the American farmworker.

Work in the field is every bit as arduous and important as work in the factory. Yet, farmworkers were completely excluded from social security until 1956. Despite the fact that the farmworker is poorer, sicker, and more likely to be injured on the job than most American workers, the Social Security Act discriminates against farmworkers to this day.

In 1971, the Advisory Council on Social Security, chaired by former HEW Secretary Arthur Flemming, stated, "it is especially important that social security protection of migratory farmworkers and their families be improved" and recommended a specific method of bringing about that improvement. The amendment before us is substantially identical to the Advisory Council's recommendation. I ask unanimous consent that the portion of the Advisory Council report dealing with farmworker coverage be reprinted at this point in the RECORD.

Mr. President, the overwhelming majority of all farmers, including all small family farmers, will not be affected by this amendment. They and their employees will remain exactly where they are under existing law. With respect to large farm operators, including all corporate farms, this amendment makes two simple changes.

It provides that the large farmer—defined as the farmer who pays more than $500 a year in farmworker wages—must report all employee earnings from the first day and the first dollar, just as all other commercial employers must. Under present law, earnings must be reported only if the farm employee receives from the employer more than $150 annually or works more than 20 days annually at an hourly rate.

This means that under present law a farmworker who earns $100 from each of 10 employers—or $1,000 in total—would get no social security coverage. Every other worker employed by a commercial enterprise would receive up to four quarters' coverage in those circumstances. While the change made by this amendment will affect only about 20 percent of all farms, it will mean that 90 percent of all farmworker earnings will be credited toward social security coverage with the result that a half mil-

lion farmworkers will get coverage for the first time.

The second change made by my amendment is that for social security purposes the large farmer will be deemed to be the employer of all who work on his farm, including the so-called crew leader and those who work under him. The reason for the change is that crew leaders, who are transient and in many cases unscrupulous, often fail to comply with social security requirements, thereby depriving the farmworker of social security coverage he has earned. Under existing law, a person doing farmwork under a crew leader is presumed to be the employee of the crew leader unless there is a written contract of employment between the farm operator and the farmworker. In practice, this creates a conclusive and usually unwarranted presumption that the farmworker is employed by the crew leader. In the case of small farmers, the employment relationship will be established by the familiar common-law test rather than by artificial presumptions.

Mr. President, when the farmworkers are denied the opportunity to earn social security protection, when they get old, sick, or disabled they go on welfare or get medicaid—in each case at the expense of all the taxpayers. The choice presented by this amendment is whether to finance retirement income and medical care from the earnings of the covered employees, or to shift the burden to already overburdened taxpayers. The farmworker should have the same right to pay his own way, and the same benefits enjoyed by all other American workers. If the committee cannot accept this amendment. I would hope that in the next session of the Congress it would give its new serious attention to the plight of farmworkers.

I ask unanimous consent to have printed in the RECORD an excerpt from House Document 92–80, the report of the 1971 Advisory Council on Social Security.

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

EXCERPT FROM REPORT OF 1971 ADVISORY COUNCIL ON SOCIAL SECURITY (H. DOC. 92–80)

COVERAGE OF FARM WORKERS

Social security coverage of farm workers should be improved by providing that employers who have substantial amounts of expenditures for farm labor report all of the cash wages paid to their employees and that the determination of whether leaders of farm labor crews are employers of their crew members be made under the common-law test of whether an individual is an employee.

Under present law, farm wages are covered under social security only if the worker is paid $150 or more in cash wages by the employer in a year or he works for the employer on 20 or more days in the year and is paid on a time basis. Where a farm worker is a member of a labor crew, the crew leader rather than the farmer is ordinarily considered to be the employer.

The present coverage test prevents many who primarily work on farms from getting social security credit for part or all of such work. People who depend mainly on farm employment for their livelihood generally rely entirely on social security coverage for their protection against loss of income through the death, long-term disablement or old age of the worker. These workers have little or no private insurance and rarely are covered under private pension plans; their savings and assets are usually inconsequential. They have need for protection too under Medicare. The Council believes it is especially important that social security protection of migratory farm workers and their families be improved.

Workers on farms which have substantial expenditures for farm labor should have social security coverage on the same basis as employees in industry. Such farms are generally sizable business enterprises—some are large corporations—keeping the same kind of business records that nonfarm businesses do. Most are highly mechanized, with many employees engaged in operating and maintaining farm machines, and are operated in much the same manner as nonfarm businesses—yet many employ seasonal field workers who do not meet the coverage test in present law. Wages paid for farm labor performed on such farms constitute a very large proportion of the farm wages paid in the United States.

The Council recommends that farm employers whose total expenditures in a calendar year for farm wages are substantial, for example $500 or more—report all of the farm wages they pay in the following year. The present coverage test would be continued for individual farm employees when employed by a farmer whose total farm payroll in the previous year was not substantial. The recommended change would not affect the recordkeeping and reporting of the operators of what are essentially family farms with only occasional hired workers.

If the foregoing recommendation is adopted by the Congress, it would be desirable to make an additional change in present law that would further improve coverage for migratory workers who are members of crews. Difficulties in getting crew leaders to report the covered earnings of crew members have contributed to the inadequacy of the social security protection now afforded these workers. Also, there are increasing numbers, of small crews—mostly family groups. In the case of family groups, the family spokesman generally meets the definition of a crew leader in the law and is thus self-employed. These people do not think of themselves as being self-employed and generally do not report their earnings. The Council recommends that (contingent upon extension of coverage to all farm workers hired by employers who have substantial expenditures for labor) the provision in present law under which a crew leader is deemed to be the employer of members of his crew be repealed. Whether a crew leader is the employer of his crew members would be determined under the common-law test. Spokesmen of family groups and members of family groups should ordinarily be considered employees of the farm operators. Nearly all members of crews, most of whom are migratory workers, would have all of their wages covered under these recommended changes since workers who are hired in crews work primarily on farms with substantial annual payrolls.

Under the Council's recommendations (assuming a $500 annual employer payroll test), roughly 40 percent of the farms with farm labor expenditures would report all of their farm employees for social security purposes. The farm wages paid by these farms constitute more than 90 percent of the total farm wages paid. Under the recommendations, more than one-half million employees would have farm wages covered which are not covered under present law.

Mr. STEVENSON. The largest single group of American workers uncovered by social security are the American farmers. Because of discriminatory provisions of the Social Security Act, some 500,000 American farmworkers do not get any social security benefits.

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

Mr. STEVENSON. I yield.

Mr. LONG. Mr. President, this problem is one we would very much like to look at next year. It does relate to agricutural labor, and it does involve a number of considerations that will have to be looked into.

I would hope the Senator would be willing to withhold this amendment, with the understanding that we will look at it next year and try to give it the best judgment we can. If we can agree with the Senator, we will recommend it. Otherwise, we will suggest what we think the answer should be.

Mr. STEVENSON. On that basis and with that assurance, I will withdraw the amendment.

I do hope that there can be some serious concern and consideration given in the Finance Committee to the farmer. Also, I hope we can receive some assurance that the Senate will not have to wait 2, 3, 4, 5, 6, or 7 years for another social security bill to come to the floor of the Senate before we will have a chance to vote on this question.

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

Mr. STEVENSON. I yield.

Mr. JAVITS. The administration is very much interested in this matter, and they tried to do a complete job of research for the Senator from Illinois tonight, and it was impossible. I am glad he is making this decision. I think it is much better for the cause.

Mr. STEVENSON. I thank the Senator from New York.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 1686

Mr. STEVENSON. Mr. President, I call up my amendment No. 1686.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 486, line 20, insert the following: immediately following the word "therapy": ", occupational therapy,".

Section 1835(a)(2)(A)(1) of the Social Security Act is amended by inserting ", occupational," after "physical".

Mr. STEVENSON. Mr. President, I have a modification which I send to the desk.

The PRESIDING OFFICER. The modification will be stated.

The assistant legislative clerk proceeded to read the modification.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without

objection, the amendment, as modified, will be printed in the RECORD.

The amendment, as modified, is as follows:

On page 486, line 20, insert the following: immediately following the word "therapy": ", occupational therapy,".

At the end of title II of the bill, add the following new sections:

SEC. — (a) Section 1835(a)(2)(A)(i) of the Social Security Act is amended by inserting ", occupational," after "physical.

SEC. — (b) Section 1814(a)(2)(D) of the Social Security Act is amended by adding ", occupational," after "physical".

Mr. STEVENSON. The purpose of my modified amendment is to give medicare beneficiaries maximum access to occupational therapy, while discouraging unnecessary use of other covered services.

The Nation's 14,000 occupational therapists perform perceptual testing on stroke patients, testing which helps determine the right rehabilitation strategy. They train amputees in the use of new muscles and prosthetic devices. They provide rheumatoid arthritics with splinting devices. They help the blind learn how to compensate for the loss of sight, to list just a few of the occupational therapies.

Occupational therapy is medically necessary in cases where physical therapy or speech pathology is not. No one disputes that point, yet, if H.R. 1 is enacted in its present form, occupational therapy provided by a home health agency or free-standing rehabilitation facility will not be covered by medicare unless the patient also needs physical therapy or speech pathology or hospitalization. My amendment eliminates that linkage.

Mr. President, if a patient needs physical therapy but nothing else, he can get it under medicare. If he needs speech pathology but nothing else, he can get it under medicare. Unless occupational therapy is put on the same footing, countless medicare patients will be deprived of coverage for vital health services.

I recognize the need to control costs and discharge utilization of unnecessary services, and I applaud the Finance Committee for its efforts to do that. But we should not cut costs by denying the patient access to one kind of service unless he needs another kind. Besides, as matters now stand, patients may receive physical therapy or hospitalization they do not need solely to qualify them for the occupational therapy they do need This amendment will remove the incentive to provide unnecessary services and thereby bring about cost savings, as well as better health services.

If this amendment is agreed to, I would expect that the Secretary of Health, Education, and Welfare will promptly issue regulations carefully defining the kinds of occupational therapy services that are covered. In my judgment, such regulations are a fairer and more selective means of controlling occupational therapy services.

I therefore urge that the amendment be agreed to, and I ask unanimous consent that a letter of support from the American Occupational Therapy Association be printed at this point in the RECORD.

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

THE AMERICAN OCCUPATIONAL THERAPY ASSOCIATION, INC.,
Rockville, Md., October 2, 1972.

Hon. ADLAI E. STEVENSON III
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENSON: Thank you for your interest in occupational therapy's alarm about the language in H.R. 1 pertaining to outpatient rehabilitation facilities. We urge that the clause that would make eligibility for occupational therapy services contingent upon a concomitant need for physical therapy and/or speech pathology be deleted. Such a provision would deny coverage for many individuals in need of occupational therapy services. Examples of the kinds of patients that would be denied coverage by the present bill are:

1. Hand and arm amputees who need to learn how to use prostheses;

2. Patients with such debilitating conditions as terminal cancer, diabetes, and cardiac conditions who need evaluation and programs that would enable them to function out of the hospital to full tolerance;

3. Rheumatoid arthritics who need splinting or other adaptive devices as well as training in hand use without overstress to muscles and joints;

4. Wheelchair ambulatory patients who need training in order to care for themselves and manage their personal affairs in their homes; and

5. Blind and visually handicapped patients who need to learn how to cook, work in their kitchens and care for their personal needs with full safety.

Occupational therapy is the professional direction of a patient's use of time, energy, interest and attention toward the learning of new skills or active exercise to overcome illness or handicapping conditions.

We will appreciate your efforts to rectify this oversight in H.R. 1.

Very sincerely yours,
RUTH B. WIEMER,
Chairman, Legislation Committee.

Mr. LONG. Mr. President, we do find some problems with this amendment, but I would be willing to take it to conference and see what will happen. I hope we can work it out to the Senator's satisfaction.

Mr. STEVENSON. I thank the chairman.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. STEVENS. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the bill insert the following:

"SEC. (2)(A). If the Secretary determines that, for any calendar quarter before July 1, 1973 (commencing with the first calendar quarter which begins more than 30 days after the date of the enactment of this section) that the amount equal to one-fourth of the allotment (as determined without regard to this paragraph) of any State is in excess of the total of the expenditures (of the type, and under the programs, to which the allotment under this subsection applies) which will be incurred by the State for such calendar quarter, then the allotment of such State for fiscal year 1973 shall be reduced by the amount of such excess and an amount equal to the amount of such excess shall be available, for reallotment among the States, by the Secretary for such fiscal year but only for social services provided recipients of assistance under State plans approved under titles I. X, XIV, XVI, or part A of title IV of this Act.

"(B) From the amounts made available for reallotment under this paragraph for fiscal year 1973, the Secretary may increase the allotment of any State (but not by more than $10,000,000) which he determines will incur, during such fiscal year, expenditures (of the type, and under the programs, to which the allotment under this section applies) the total of which is in excess of the amount of the allotment of such State (as determined without regard to this paragraph).

"(C) Each State shall, prior to each calendar quarter (commencing with the first calendar quarter which begins more than 30 days after the date of the enactment of this section) certify to the Secretary (in such form and manner and containing such information as the Secretary shall by regulations prescribe) the total amount of the expenditures (of the type, and under the programs, to which the allotment under this section applies) which will be incurred by the State for such calendar quarter; and the Secretary shall conclusively presume for purposes of subparagraph (A), that the amount so certified will be the amount which will be expended for such quarter. If any State fails to make timely certification of such expenditures for any calendar quarter, the Secretary shall conclusively presume, for purposes of this paragraph, that the amount of such expenditures for such quarter will be equal to the amount of such expenditures for the preceding calendar quarter.

Mr. STEVENS. Mr. President, we have discussed this matter with the manager of the bill, the Senator from Louisiana. We are all tired.

The amendment provides a transitional section to carry over the social services contracting for a period of not to exceed the present fiscal year and sets a limit of $10 million within which the Secretary of HEW could allocate the moneys that are to be used by States under their entitlement under the population formula to those States that have contracts which are underway which will have to be terminated if this section is not in the bill.

Mr. JAVITS. Mr. President, I have an amendment to the amendment, if it is now in order, and I send it to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 1, line x, insert the following: on the third line from the bottom, strike "$10,000,000" an insert in lieu thereof "$15,000,000."

Mr. JAVITS. Mr. President, I will take just 2 minutes to explain this amendment to the Senate.

Mr. LONG. Mr. President, I will be happy to agree to the amendment as amended, if the Senator will withhold the explanation.

Mr. JAVITS. I will.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The ques-

tion recurs on agreeing to the amendment of the Senator from Alaska, as amended.

The amendment, as amended, was agreed to.

Mr. CASE. Mr. President, I call up my amendment to H.R. 1, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the bill, add the following:

SEC. —. Notwithstanding the provisions of sections 508 and 509 of this Act, the provisions of such sections shall not be effective until such date as the Congress shall designate by subsequent legislation.

Mr. HRUSKA. A parliamentary inquiry, Mr. President.

What is the number of the amendment?

Mr. CASE. This is an unprinted amendment, and I shall explain its effect.

Mr. President, this amendment would modify the effect of sections 508 and 509 of H.R. 1. Unless modified, thousands of older people, the blind and the disabled now receiving welfare aid will lose their food stamp or food commodity benefits. I do not believe this was the intention of the Senate when it accepted an amendment offered on Wednesday evening by Senator ROTH.

My amendment is cosponsored by Senators AIKEN, BROOKE, CRANSTON, EAGLETON, RIBICOFF, COOK, MAGNUSON, COOPER, CHURCH, ANDERSON, MCGOVERN, HART, HUMPHREY, HOLLINGS, MONDALE, PERCY, MCINTYRE, MOSS, BAYH, KENNEDY, TUNNEY, PASTORE, WILLIAMS, STEVENSON, HUGHES, MCGEE, GRAVEL, HARTKE, RANDOLPH, WEICKER, JAVITS, and MUSKIE.

At the present time those receiving Federal welfare assistance under the aged, blind and disabled categories receive food stamps in addition to cash. While H.R. 1 establishes a benefit floor for these categories where previously the States set their own levels, the welfare bill in section 508 also deletes food stamps for all aged, blind and disabled welfare recipients. Moreover, while section 509 establishes a mechanism for the States to pay out the difference to current food stamp recipients in cash, it does not guarantee that the States will do so, or that the States will maintain their current benefit levels, or that the amount of cash in addition to the minimum floor will be equal to the loss in dollars accrued through food stamp coupons.

In other words thousands of older citizens, the blind and the disabled, will be worse off than before, especially those who are in those States that now pay considerably more than the minimum floor now established.

To my mind this amendment not only legalizes but mandates the existence of hunger, malnutrition, and premature death for an uncertain number of the American people. The problem is a simple one. None of the welfare programs before us will give recipients an income meeting what we call the poverty level.

In passing title III of H.R. 1 just last week, it is true that we raised benefits to the aged, blind, and disabled to $130 per month for single people, and $185 per month for couples. But there are two important points to be kept in mind. First, the Senate action in passing title III did not include a requirement that States now providing higher benefits to the elderly and disabled continue those higher levels; that means that elderly and disabled welfare recipients could be worse off. This is not a small matter. Twenty-four States last year paid more to an elderly individual, and 28 States paid more to an elderly couple. In addition, 26 States paid more than $130 per month to a blind recipient; 22 paid more than that to a disabled recipient.

Second, the levels provided in title III will not bring elderly and disabled persons up to the poverty line. In fact, they will not even bring people up to last year's poverty line. One hundred thirty dollars per month provides yearly benefits of $1,560; the poverty line in 1971, for a single person, was $2,130. Similarly, $195 for a couple provides yearly benefits of $2,340; the poverty line for a couple was $2,790 last year. By 1974, when the provisions of the Roth amendment go into effect, the poverty line will be $2,220 for a single individual and $2,880 for a couple.

I do not debate our failure to provide benefits at the poverty line at this time. But we must understand, Mr. President, that poverty by definition is the inability to purchase a nutritionally adequate diet. An income below the poverty level puts people at nutritional risk. As surely as malnutrition retards the physical and mental growth of the young child, malnutrition hastens the degenerative process of the elderly individual.

In the last 4 years I have been proud to have been a part of this body in its efforts to eliminate hunger and malnutrition. I applauded the President's goal "to put an end to hunger in America for all time" and the President's efforts in "Project FIND" which was designed to inform the elderly of their right to food stamps. While we do not reach every one of the elderly or the blind or the disabled, we have it within our grasp to provide food assistance for the elderly and disabled who involuntarily suffer from poverty-related malnutrition.

We must act now to reverse last night's action prohibiting the elderly blind, and disabled from participating in the food stamp program. Otherwise we shall have told every poor elderly and disabled American that advanced age is to be a penance rather than a privilege. We shall have told blind and disabled Americans that their afflictions win them not sympathy or assistance from the Federal Government, but punishment. Unless we reverse our course, the penance and the punishment we mandate today is hunger. Last night we set America back 5 years in its fight to end hunger. Unless this action is reversed, we make a mockery of the phrase "welfare reform." We shall not have reform: We shall have retreat. A retreat from the most profound moral obligation of an affluent nation—to feed its hungry poor.

I urge my colleagues to retain the food stamp program as it now is for the aged, blind, and disabled. It does not involve an additional expenditure to do so but it does protect these recipients from being far worse off than before.

Mr. COTTON. Mr. President, will the Senator yield for a question?

Mr. CASE. I yield.

Mr. COTTON. I thought the distinguished Senator from Minnesota (Mr. HUMPHREY) yesterday offered an amendment—I collaborated with him in discussing it—so as to include both States that paid in food stamps and money and States that paid in commodities. It was adopted, and I thought it corrected this situation.

Mr. CASE. That is what I am advised. This is the 20-percent social security problem. It does not relate to the food stamp and commodity program. That amendment does not take care of this particular problem. I do not want to overstate or understate the matter. There is no point in trying to make it something it is not.

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

Mr. COOPER. Mr. President, will the Senator from New Jersey yield?

Mr. CASE. I yield.

Mr. COOPER. May I ask the Senator, this will not come into effect until the Committee on Agriculture and Forestry has considered the matter; is that not correct?

Mr. CASE. That is correct. The food stamp program and the commodity program should be under the control of that committee.

Mr. LONG. Mr. President, in this bill we have a $3 billion increase in benefits for the aged, blind, and disabled. The bill provides for the largest increases in history which have been provided for the aged, the blind, and the disabled. In providing this increase, we included a cash-out of the food stamps, that is, cash to replace the value of the food stamps. So that if one were receiving $130 and his food stamps came to $20, we would pay him the extra amount in cash, $20.

What the Senator's amendment would do would be to provide food stamps in addition to the food stamp cash-out.

We have been so generous here that we are moving 98 percent of our aged people out of poverty. The 2 percent that would be left in poverty, the States would have all the means they need to move them out of poverty.

We do very well by the aged in the bill. Not quite so well by the disabled, perhaps, because not nearly so many are covered by social security and so do not get the advantage of our $50 disregard.

I do not think that anyone can be heard to argue that we are not as generous as this Government can afford to be to the aged, the blind, and the disabled. Our bill includes a cash-out of food stamps, which means cash which they can spend however they wish.

I have known of no protests against that. But the Senator is proposing that we provide food stamps on top of the cash-out of food stamps.

For example, with regard to the 98 percent of the aged that would be moved out of poverty, a large number would still be permitted to have food stamps even though they are out of poverty. It would raise them up to the higher standard, which we think is justified.

So that I do not think the amendment should be agreed to. We have done as

much as can be done at this time, so much so that we maybe in prospect of a veto if we do not hurry up and get this bill to the President before the election.

Because the committee bill is so generous, I would hope that the Senator would not go beyond it, having voted to pay for the cash-out of food stamps and now paying for the food stamps all over again.

Mr. AIKEN. Mr. President, as I recall, when the amendment which the Senator from New Jersey said would eliminate the food stamp program was before this body yesterday, the explanation was inserted in the RECORD but I do not recall that it was made on the floor of the Senate here.

I, for one, certainly would not have voted for it had I known that the food stamp program was to be eliminated.

I do not know what kind of language we should have, but I do think we should accept the Case amendment and let the bill go to conference and be straightened out there, because there are certainly some areas of food stamps which should not be eliminated, even for cash. So I think, to be on the safe side, we had better take the Case amendment.

Mr. CASE. I appreciate what the Senator from Vermont has said. It is precisely because of the uncertainty about the operation of this, which is the real crux of the matter.

Mr. AIKEN. The first time I realized that the food stamps were being jeopardized by our action yesterday was when I read the fine print this morning in the RECORD, but I did not hear it explained on the floor.

Mr. LONG. Mr. President, may I point out that the Senate agreed to the Humphrey amendment which said that for purposes of eligibility for food stamps, we would not count the recently enacted 20-percent social security increase. So we are going to disregard the 20 percent social security in determining eligibility for food stamps.

Now it is being suggested that, in addition to having paid to cash-out the food stamps, we should provide for them all over again.

What do we want to do, provide for food stamps three times over? That is what logic would suggest.

Mr. CASE. I think the matter should be gone into by a committee expert in this field who has jurisdiction over the food stamp program, but that would be after, as the Senator from Vermont has said, voting for my amendment.

The PRESIDING OFFICER (Mr. BAYH). The question is on agreeing to the amendment of the Senator from New Jersey (Mr. CASE).

The noes appear to have it.

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

The yeas and nays were ordered.

Mr. BENNETT. Why not ask for a division?

Several Senators. Yes, please.

Mr. CASE. There are 33 sponsors to this amendment.

Mr. COOK. Mr. President, I rise in support of the amendment by the distinguished Senator from New Jersey (Mr. CASE). That amendment will neutralize the effect of section 508 of the amendment offered by the Senator from Delaware (Mr. ROTH) passed by the Senate yesterday. Senator CASE's amendment will assure that those needy persons who are elderly, blind, and disabled will not be refused access to the food stamp program.

Make no mistake, Mr. President, I look for the day when America's poor will no longer need the food stamp program, and I look for the day when America can have true reform of the welfare system.

But until the day that welfare assistance provides an income sufficient to purchase a nutritionally adequate diet, we must be sure that no American, who is elderly, blind, or disabled, is allowed to suffer from poverty-related hunger and malnutrition.

The amendment which the Senate accepted last night prohibits poor elderly, blind, and disabled Americans from receiving Federal food assistance. For what reason? The only legitimate reason for such a prohibition would be the provision to these persons of an income sufficient of itself to prevent them from being hungry.

But that is not the case under the Long-Roth amendment which the Senate passed last night. As H.R. 1 presently stands, America's elderly, blind, and disabled will receive an income far below the poverty level of the Nation. And yet, perhaps due to either an unintentional oversight or a misguided notion of fiscal responsibility, this legislative body now declares the policy of this Nation to be that our needy senior citizens and persons who cannot take a job because of some serious disability shall be unable to participate in the food stamp program—a program which is the only means for many elderly and disabled to combat malnourishment.

Mr. President, we have been on a course in the last 4 years that would lead us to the elimination and prevention of serious malnutrition in our country. I cannot understand the extent of "social" legislation that forbids the use of such desperately needed food assistance by the elderly and disabled. We most certainly possess more than sufficient resources to guarantee that no American will be involuntarily hungry in any State of this Union. We possess the technological and administrative know-how to deliver that food to the Nation's poor. Without the will to do so, however, these resources mean nothing. Today the Senate is able to demonstrate that will by passing amendment No. 1677.

Mr. HART. Mr. President, I urge the Members on both sides of the aisle to vote in favor of the amendment offered by the distinguished Senator from New Jersey. His amendment will nullify the effect of section 508 of the amendment passed by the Senate last night.

As Senator CASE stated, that section would prohibit the elderly, blind, and disabled, eligible for cash assistance, from participating in the food stamp or commodity distribution programs.

To allow that provision to stand in the fact of income assistance well below the poverty level would be to mandate hunger for hundreds of thousands of old or disabled poor Americans.

This amendment provides no new benefits and involves no new costs. It merely protects elderly and disabled welfare recipients so that they will not lose food benefits to which they are now entitled.

Mr. BAYH. Mr. President, it is with great dismay that I view sections 508 and 509 of the legislation before the Senate, the amendment offered by Senator ROTH. Those provisions would prohibit adult welfare recipients from participating in the food stamp or the commodity distribution program. This denial asks the Congress and the American people—especially America's aged and disabled poor—to make an insupportable leap of faith. It asks us to believe that food assistance is no longer necessary in America. That is a leap of faith I cannot take. It is a leap of faith the poor cannot take: To them it recreates the hunger gap. For them, this provision turns "welfare reform" into welfare reduction.

Hunger is a reality in America, Mr. President. It is a reality for America's 6 million poor, more than half of whom can now use some form of food assistance. Unless amendment No. 1677 is passed, recipients in the adult categories will no longer be able to use our food programs.

Poverty, Mr. President, means you do not have enough money to purchase an adequate diet—the term itself is defined by one's ability or nonability to purchase a minimal diet. And my experience as a member of the Senate Select Committee on Nutrition and Human Needs has taught me that when the income of the family goes below the poverty level, the first item to go by the wayside is food. You have to pay the rent or you get evicted. You have to pay the utilities so that you will not freeze and your lights will stay on at night. It is always easier to try to spread out the food dollar: There are no bill collectors coming around because your family goes hungry.

Mr. President, I do not believe food stamps are the whole answer to hunger or to poverty. But fighting hunger is, in my mind, an essential prerequisite to ending poverty. So long as the welfare benefits we provide do not eliminate poverty in America, then food stamps and surplus commodities will continue to be a necessary defense.

I support the amendment by my able colleague and the distinguished gentleman from New Jersey (Mr. CASE).

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Social Security Rise Becomes a Nightmare for Many Elderly," published in the New York Times of October 3, 1972.

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

SOCIAL SECURITY RISE BECOMES A NIGHTMARE FOR MANY ELDERLY

(By David K. Shipler)

Like millions of other aged Americans, Marie Nashif of Denver will receive a 20 per cent increase in her Social Security check this month. But unlike most, she will not welcome the extra cash.

Mrs. Nashif is among the 187,000 or so elderly for whom Congressional election-year generosity has become a nightmare. The Social Security rise, voted by Congress June 30, has pushed her income just high enough to make her ineligible for the welfare and Medicaid benefits that she needs so desperately.

Mrs. Nashif, a small, alert, 74-year-old woman, suffers badly from arthritis. Until now, her heavy medical bills have been paid fully by Medicaid. But when her monthly Social Security check rises from $138.40 to $166.10, it will surpass the $147 figure that Colorado uses to divide those who are eligible from those who are not.

In exchange for her $27.70 additional from Social Security, Mrs. Nashif will have to pay $5.80 a month in medical insurance premiums, 20 per cent of all doctors' bills, the first $68 a year in hospital expenses, $17 a day after 60 days in the hospital, and the total amount of prescription drugs.

Further, she will lose $7 a month in welfare payments, she will probably become ineligible for food stamps, and her rent will rise, since she lives in Federally subsidized housing where rents are tied to income.

"When I take all this into consideration," she said, "I'll be a darn sight worse off than I am now."

Congressional action could eliminate such hardships, and several bills addressed to the problem are now pending. Last Friday, the Senate voted a solution for welfare recipients by passing a measure that would force states to raise the eligible income limits for welfare by the same dollar amount as the Social Security increases. Prospects for the bill in the House are uncertain.

Even if the bill becomes law, it will not help people who now collect Medicaid and are not welfare recipients, and there are thousands of those in New York City alone who risk losing their medical benefits. The bill addresses itself only to welfare recipients.

ACTION BY STATES

Some states have already taken action on their own. Gov. William T. Cahill of New Jersey has ordered Medicaid benefits continued for 4,000 elderly who would otherwise become ineligible.

Delaware has allocated $1-million to raise the eligibility income maximums. Gov. Winfield Dunn of Tennessee has changed administrative regulations to keep 7,500 people on the welfare rolls. Nebraska, Missouri, Iowa, Florida and Wyoming are among the states that have increased the income levels that determine eligibility.

No action has been taken in New York. The state's Department of Social Services contends that it has no power to make the necessary changes without approval from the Legislature, whose regular session begins in January.

New York City has already sent letters informing 6,000 elderly people that their welfare benefits will be halted. This means that they will have to begin paying 20 per cent of their medical expenses.

In addition, many aged New Yorkers who are not on welfare and are not addressed by the Senate bill will be hurt by the Social Security increases.

The city's Office for the Aging estimated that 14,696 persons who now receive 80 per cent of their medical expenses from Medicaid will be cut off altogether. In addition, 22,434 who are not on welfare but are fully covered by Medicaid will have until they have spent all their income above the welfare maximum on medical bills. At that point Medicaid will pick up the full burden again. This totals about 43,000 elderly affected adversely in New York City alone.

The figures elsewhere are smaller, ranging from about 10,000 in California to 400 in Vermont. The United States Department of Health, Education, and Welfare calculates that nationwide, 187,000 people will become ineligible for welfare and 93,000 will lose Medicaid.

Even many who do not lose will not gain from the Social Security increase, since some states apply Social Security income against welfare payments. As Social Security rises, welfare decreases; the beneficiary is not the individual, but the state.

"I'm all for the increase," said John Maros, administrator of the Wyoming Division of Public Assistance. "The more Social Security they get the less public assistance is needed." The State of Washington estimates that it will save $2.3-million in welfare payments by next June 30.

"The average pensioner in Alabama won't gain a dime as a result of the increase," said Ruben K. King, Alabama director of pensions and security.

BAN UNDER SENATE BILL

"This is a form of psychological deceit practiced upon senior citizens," said C. Christophor Brown, head of the law reform unit of the Baltimore Legal Aid Bureau. "The government is giving with one hand and taking away with the other."

This cannot happen if the bill passed by the Senate is approved by the House and signed by President Nixon. Under the measure states would be prohibited from reducing welfare payments in response to the Social Security increase.

The bill would also cost the states additional money by requiring them to raise the income limits for eligibility, not merely for those welfare recipients who are on Social Security, but for all disabled, aged and blind. In New York, many in the disabled category are narcotics addicts.

In most states, elderly people on Social Security receive only small amounts of money from welfare, and their removal from the rolls is less of a hardship in terms of direct welfare payments than it is in terms of the services that are corollaries to a welfare status.

In many states, for example, Medicaid—whose cost is shared by the Federal and state governments—is available only to those whose incomes are low enough to qualify them for welfare, even though the Federal guidelines allow Medicaid benefits for those with incomes up to 133 per cent of the welfare maximum.

Other benefits, such as food stamps, legal help and home-making services, are also often tied directly to welfare.

BRONX WOMAN HIT

Mrs. Elesabeth Miles of 1365 Finley Avenue, the Bronx, for example, faces the loss of a valuable homemaker because the Social Security rise will make her ineligible for welfare. She is 62.

"The letter came last Wednesday," she said, "and now I have nothing. I have been a widow for 29 years and am completely blind in the right eye and partially blind in the left eye. My son is unable to take care of me because he has eight children of his own."

Her monthly Social Security check, to rise from $133.10 to $159.70, will have to cover her $70.40 a month rent, as well as her food and other expenses.

"They say that they are giving me a 20 per cent increase, but they been taking everything back and all I get is nothing," Mrs. Miles said. "We worked hard to take care of ourselves and they just don't care if we live or die."

In a small, sad room on West 86th Street, Joseph Wolfson, 80, a frail, asthmatic man spoke with fear. "Most of the time I am in the hospital because of asthma," he said. "I feel all right now, but who knows what can happen next week? I just can't live with that little amount of money and no Medicaid."

Eva Estelle Jackson, 70, lives alone in Montgomery, Ala., and has suffered from tuberculosis and ulcers. She now receives $132 a month in Social Security and $24 in welfare, but she has been told that the Social Security increase will raise her a few dollars above the welfare maximum she will therefore lose Medicaid, which paid several thousand dollars for three weeks she spent in hospitals last year.

"It's gonna hit me hard," Miss Jackson said. "If they'd just left me with a pension of $1 or $2, and Medicaid, I'd have been a lot better off. If I had some illness, I just don't know what I'd do. I'd just be in bad shape, because I've got nobody to fall back on."

Miss Jackson discovered that she will also have to pay a $2-a-month garbage collection fee to the City of Montgomery. Only those on welfare are exempted from the fee.

Another Montgomery resident, Emily Shepherd, 75, is now in the hospital, being treated for emphysema. When her $137-a-month Social Security check rises to $164, she will lose $66 in welfare from the state, ending up with $39 less a month than now, and no Medicaid.

At that point, her choices will be "either to go into a convalescent home or just go back to my apartment and die," she says. "It's the most ridiculous thing I ever hard of. They should have had a little forethought. They're just a bunch of meatheads in Congress."

In Las Vegas, the Social Security check of Henrietta G. Oberg, 78, will rise from $153 to $183 a month, but her $23 welfare payment will be eliminated as a result, leaving her $7 ahead, but without Medicaid. She is being treated for cancer. "What am I going to do?" she asked.

In Cedar Rapids, Iowa, Mary Wright also lost Medicaid. "It will take it all away from me," she said of the Social Security increase. "I can't afford it. I'm having it all canceled. I got to pay my rent, clothes and feed myself. There's nobody else to do it for me. You can't get any glasses, can't get any teeth—anything you need you can't get."

The difficulties have also affected some younger people. Lennell Frison, 40, a father of 10 in Portland, Ore., is a former foundry worker whose arthritis put him out of a job two years ago. He and his wife, who has diabetes, were told recently that the Social Security rise would mean the end of welfare and the end of medical payments.

"Without that aid to the doctor, man, I don't know how we're going to make it." His wife, he says, works sometimes as a janitor at night, making about $100 a week. They had planned to try to buy the six-room house they now rent, he said, "But we're probably gonna lose it."

Mr. Frison has considered sending his 17-year-old son to work, but he is torn by powerful doubts. "I hate to take my oldest boy out of school, because then he'd be where I am. I think I'd go back to work and punish myself instead. I can't stand up too long. My legs won't hold me. But it gets you. A man ain't nothing if he can't feed his children."

In Hazelwood, Mo., a suburb of St. Louis, Mr. and Mrs. Russell French face similar difficulties. Mr. French suffers from heart disease and diabetes, she from arthritis and rickets. Two of their children, Charles, 15, and Lorraine, 12, have rickets, and a third, Russell, is diabetic.

"It's the Medicaid that counts," said Mrs. French. "I figure it would cost us $100 a month just to keep my husband supplied with medicine." Neither she nor her husband can work; their Social Security comes to about $400 a month.

The family's physician, who asked not to be identified, confirmed that the French family needed constant medical attention. "Of all my families, this is the one that is probably the most in need," he said.

When Mrs. French was 10 years old and living in Corning, Ark., she recalled, her mother died because she could not get medical help. "If anyone thinks things have changed, they haven't," she said, "because the same thing probably will happen to us."

Mr. PERCY. Mr. President, 2 days ago I joined with the distinguished senior Senator from New Jersey (Mr. CASE), and several other colleagues in sponsoring an amendment to title V of H.R. 1, as reported, to restore the eligibility of public assistance recipients for Federal food assistance programs.

It now appears that in the context of yesterday's activities we voted to extend the benefits of these programs to those persons who will receive assistance under the so-called aid to families with dependent children category, but to deny them to persons in the adult categories—the aged, the blind, and the disabled.

I consider this an unfortunate and ill-advised act on the part of this body and that is why I am joining with Senator CASE and others to sponsor an amendment which would in effect suspend sections 508 and 509 of this bill until the Congress takes some further affirmative action to implement them.

As a charter member of the Select Committee on Nutrition and Human Needs and as the ranking minority member of the committee during the 92d Congress, I have witnessed participation in the food stamp program by the very needy nearly quadruple in the last 4 years. I have heard time and time again in testimony before the select committee from both Government officials and private citizens alike that the food stamp program is beyond a doubt the single most powerful weapon we possess in our war against hunger. Though it has been subject to some abuse, it is small compared to the vast amount of good accomplished for worthy and malnourished Americans.

Have we won that war? Have we fulfilled the commitment which President Nixon set forth so eloquently in 1969 to end hunger in America for all time? Or will the terms of the legislation we are now considering be so generous that recipients of public assistance in the adult categories will be assured of a nutritionally adequate diet? The answer to each of these questions is a resounding "no."

I do not believe any Member of this body wants to put in jeopardy the nutritional status of two groups in our population most vulnerable to malnutrition: The elderly and the disabled. This action would fly in the face of years of progressive steps by this body to extend the reach and scope of our food assistance programs and of our unanimous action not more than 6 months ago to set up a nationwide program of hot meals for the elderly.

To allow our action of yesterday to stand is to take a giant step backwards in our war against hunger and malnutrition and to take it at the expense of perhaps the most helpless and defenseless segment of our population. Some may call this reform; I call it a breach of faith with the elderly and the infirm.

I urge my colleagues to reconsider the action of yesterday and to pass the amendment put forward by the very able and dedicated Senator from New Jersey (Mr. CASE).

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey (Mr. CASE).

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 Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisana (Mrs. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), and the Senator from Connecticut (Mr. RIBICOFF) 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 Minnesota (Mr. HUMPHREY) and the Senator from New Hampshire (Mr. MCINTYRE) would each vote "yea."

On this vote, the Senator from Rhode Island (Mr. PELL) is paired with the Senator from Louisiana (Mrs. EDWARDS).

If present and voting, the Senator from Rhode Island would vote "yea" and the Senator from Louisiana would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Delaware (Mr. BOGGS), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), 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 Colorado (Mr. DOMINICK), the Senator from Connecticut (Mr. WEICKER) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

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

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Nebraska (Mr. CURTIS). If present voting, the Senator from Oregon would vote "yea' and the Senator from Nebraska would vote "nay."

Mr. CANNON (after having voted in the negative). On this vote I have a pair with the Senator from Connecticut (Mr. RIBICOFF). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withdraw my vote.

Mr. GAMBRELL (after having voted in the negative). On this vote I have a pair with the Senator from South Carolina (Mr. HOLLINGS). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withdraw my vote.

The result was announced—yeas 44, nays 27, as follows:

[No. 535 Leg.]

YEAS—44

Aiken	Hart	Pearson
Allen	Hartke	Percy
Bayh	Hughes	Randolph
Beall	Inouye	Schweiker
Brooke	Jackson	Scott
Burdick	Javits	Smith
Byrd, Robert C.	Magnuson	Sparkman
Case	Mathias	Stafford
Cook	Mondale	Stevens
Cooper	Montoya	Stevenson
Cranston	Moss	Symington
Dole	Muskie	Taft
Fulbright	Nelson	Tunney
Gravel	Packwood	Williams
Griffin	Pastore	

NAYS—27

Bellmon	Fannin	Miller
Bennett	Fong	Proxmire
Bible	Gurney	Roth
Brock	Hansen	Saxbe
Buckley	Hruska	Spong
Byrd, Harry F., Jr.	Jordan, N.C.	Stennis
	Jordan, Idaho	Talmadge
Chiles	Long	Thurmond
Cotton	Mansfield	
Ervin	McClellan	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Cannon, against.
Gambrell, against.

NOT VOTING—27

Allott	Eastland	McGovern
Anderson	Edwards	McIntyre
Baker	Goldwater	Metcalf
Bentsen	Harris	Mundt
Boggs	Hatfield	Pell
Church	Hollings	Ribicoff
Curtis	Humphrey	Tower
Dominick	Kennedy	Weicker
Eagleton	McGee	Young

So the Case amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HARTKE. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to state the amendment.

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

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

The amendment is as follows:

On page 295, between lines 11 and 12, insert the following:

"(H) to determine whether the services of clinical psychologists may be made more generally available to persons eligible for services under titles 18 and 19 of this act in a manner consistent with quality of care and equitable as efficient administration."

Mr. HARTKE. Mr. President, I have discussed the amendment with the distinguished chairman of the committee and also with the ranking minority member. It calls for a termination to be made on the question of whether the services of clinical psychologists may be made more generally available to persons eligible for services under titles 18 and 19 of this act in a manner consistent with

the quality of care and equitable and efficient administration.

Mr. LONG. Mr. President, we support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana. (Putting the question.)

The amendment was agreed to.

Mr. BUCKLEY. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to state the amendment.

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

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

The amendment is as follows:

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

SEC. —. (a) Section 402(a) of the Social Security Act is amended by adding at the end thereof the following new paragraphs:

"(27) provide that eligibility for aid to families with dependent children will not be determined solely on the basis of declarations concerning eligibility factors and other relevant facts by an applicant for or recipient of such aid, and that relevant information will be verified to the maximum extent feasible from independent or collateral sources and additional information obtained as necessary in order to insure that such aid is only provided to eligible persons and that the amounts of such aid are correct;

"(28) provide—

"(A) that aid to families with dependent children shall not be furnished to any individual unless such individual (i) is a resident of the State, and (ii) has resided in the State continuously for ninety consecutive days immediately preceding the application for such aid;

"(B) that such aid shall be furnished under the State plan for a period of ninety consecutive days to any individual who (i) has moved out of such State regardless of whether he has terminated his residence in such State, (ii) was receiving aid under such State plan in the month before the month in which he moved out of such State, (iii) continues to meet the eligibility requirements of such State plan except for residency, and (iv) is not receiving aid to families with dependent children under a plan of the State in which he is present solely because he does not meet the duration of residency requirements imposed under subclause (A);

"(C) that for the purpose of furnishing aid under the State plan to any individual described in subclause (B), appropriate agreements (including provisions for reimbursement) will be made with the State agency administering or supervising the administration of the plan approved under this part of the other State so that the agency of such other State will determine the continuing eligibility of and make payments to such individual; and

"(D) that the State agency will enter into agreements with the State agency administering or supervising the administration of the plan under this part of other States to carry out for them the functions described in subclause (C); and

"(29) provide emergency assistance to needy families with children (as defined in section 406(e), on a statewide basis, to needy migrant workers with children in the State."

(b) Section 406(a) of the Social Security Act is amended by inserting the words "who has been born and" after "needy child";

(c) Section 406 of said Act is further amended by adding at the end thereof the following new subsections:

"(f) Notwithstanding the provisions of subsection (b), the term "aid to families with dependent children" does not mean payments with respect to a dependent child, a relative with whom any dependent child is living, or any other individual (living in the same home as such a child and relative) whose needs such State determines should be considered in determining the need of the child or relative claiming aid under the plan of such State approved under this part—who for any month—

"(1) (other than a member of a migrant family, for purposes of emergency assistance under section 410) has resided in such State for a period of less than ninety consecutive days or, in the case of a child born within three months immediately preceding the application for such aid, is living with a parent or other relative who has resided in such State for a period of less than ninety consecutive days;

"(2) is neither a citizen nor an alien lawfully admitted for permanent residence (or otherwise permanently residing in the United States under color of law);

"(3) is outside the United States during all of such month (and an individual who has been outside the United States for any period of 30 consecutive days shall be treated as remaining outside the United States until he has been in the United States for a period of 30 consecutive days);

"(4) is a mother of a child born out of wedlock with respect to whom such aid is claimed and who fails to cooperate with the State agency or with the United States in establishing the paternity of such child;

"(5) is the parent of a child with respect to whom such aid is claimed who fails to cooperate with any agency or official of the State or of the United States in obtaining support payments for herself or such child or in obtaining any other payments or property due herself or such child;

"(6) is medically determined to be a drug addict or alcoholic;

and (but only if the State, at its option, so provides in its plan approved under this part) does not include payments to any one or more of the following—

"(7) an individual who is absent from such State for a period in excess of 90 consecutive days (regardless of whether he maintains his residence in the State during such period) until he has been present in the State for 30 consecutive days in the case of such an individual who has maintained his residence in such State during such period or 90 consecutive days in the case of any other such individual;

"(8) an individual who will not agree, as a condition of initial or continuing eligibility for such aid, to permit inspection of his home, at reasonable times and with reasonable notice, by any duly authorized person employed by or on behalf of such State in the administration of such plan;

(d) Section 402(a)(4) of said Act is amended to read:

"(4) provide (A) for granting an opportunity for an evidentiary hearing before the State agency or, if the State plan is administered in each of the political subdivisions of the State by a local agency, before such local agency, to any individual whose claim for aid to families with dependent children is denied, or is not acted upon with reasonable promptness or to any individual who is receiving aid under the plan which aid such State or local agency determines should be terminated or the amount of which should be reduced, (B) that any hearing held at the request of any individual to determine the matter of whether the aid provided to such individual (or to members of his family) under the State plan should be terminated or the amount thereof reduced shall be completed and the agency before which such hearing is held shall make a decision on the basis of such evidentiary hearing with respect to such matter not later than thirty days after the date such individual is notified of the intention of such agency to terminate or reduce the amount of such aid, (C) that the agency before which such hearing is held may put its decision into effect immediately upon its issuance, (D) that if the evidentiary hearing is held by a local agency administering the State plan in a political subdivision of such State, the individual will be provided an opportunity to appeal such decision to the State agency, and (E) if any individual (or family) is determined under a final decision of the State agency (or of the local agency if no appeal is taken therefrom) to have received, prior to such decision, aid under the plan in any amount to which he (or his family) was not entitled, appropriate adjustment or recovery of such amount will be made as required by section 404(e); except that no individual whose eligibility for aid under the State plan is terminated by reason of provisions relating to limitation of duration of eligibility based on any approved application for aid in a State plan shall be entitled to a hearing on account of termination of his eligibility arising from the application of such provisions;"

Mr. BUCKLEY. Mr. President, yesterday so many things were happening in such a confused way that some of the important reforms worked out by the Finance Committee kind of evaporated. I am talking about reforms that would make this flexible to the States and enable them to handle welfare problems in a humane way.

I have 10 in one on this amendment to save us all time and trouble.

This would be reinserted in the bill as the result of the amendment. The bill would once again require States to provide emergency assistance for migrant families and children. It would provide that welfare children could not be counted for welfare purposes. It would eliminate eligibility for nonresident aliens. It would eliminate——

Mr. LONG. Mr. President, having looked at the amendment, it can be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York (putting the question).

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOK. Mr. President, I do not have an amendment. I got my name on the list some time ago so that I could have a discussion with the distinguished manager of the bill about a matter that I would hope would be taken up next year. I will only take about 60 seconds on this matter.

We are faced with a very serious problem that I hope the Senate will consider next year. That concerns an individual under social security who has, let us say, 19 quarters and does not have the additional quarter.

Nothing can be done for this individual except to find some welfare agency that can help him out.

There happens to be a problem, as Senators well know, under the Federal civil service system. If an individual retires before she is eligible to receive any benefits, that individual can draw out everything that she put into the fund plus 2.5 percent or 3 percent interest. They are entitled to that.

I might say that we have a real serious problem. I would like the attention of my colleagues on this matter, because I think it is something that we ought to face up to next year.

We here within our own Federal employees find ourselves in a situation where we have employees in our offices who can build up part of their retirement funds, and then if they want to take a vacation or buy a car, they go off the payroll for 1 day and withdraw everything that they put into the fund, plus interest. They then go back on the payroll the next day and start building up their retirement fund again.

Nobody else in the United States is entitled to do that; nobody under social security is entitled to do that. I can only say to the chairman I hope next year if we get into the field of reform we would do something about the individual who finds himself with 19 quarters or 19-plus quarters and does not have that 20th quarter. He really could withdraw nothing from social security, and yet we sit here and sanctify under the Civil Service System a program whereby if an individual finds himself in the same situation as the person under social security, he can draw all of his money out—and the present interest rate is between 2.5 and 3 percent—and yet the individual under social security finds himself in a different situation. I hope we will consider that next year.

Mr. LONG. We certainly need more answers than we have now. I thank the Senator for having directed our attention to it.

Mr. COOK. I thank the Senator.

Mr. LONG. Mr. President, I would like to submit an amendment and explain the situation it is designed to help. The Roth amendment struck from the committee bill the arrangement that the committee had provided for fiscal relief to the States. We restored most of the fiscal relief, and in some States perhaps more than provided by the committee bill, except we did not give the States the same opportunity to profit from tight administration of their welfare programs. This would restore that feature, so if they elect to do so they can receive the money under an alternative formula that would be available to them as long as they maintain the existing level of benefits. If the State manages to save money, they can do so. This amendment would seek to reinstate this feature of the bill as reported.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

The amendment is as follows:

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

SEC. —. Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"ALTERNATIVE FEDERAL SHARE OF ASSISTANCE COSTS

"SEC. 411(a). For any fiscal year beginning after June 30, 1972, the Secretary of the Treasury shall pay to any State electing to receive payments under this section an amount equal to 120 per centum of the amount payable to such State for quarters in the calendar year 1972 under section 403 (a)(1) or under section 1118 (but only with respect to expenditures described in section 403(a)(1)).

"(b) Any payment under subsection (a) for any fiscal year shall be in lieu of amounts otherwise payable with respect to expenditures described in section 403(a)(1) or section 560 of the Social Security Amendments of 1972 (but only with respect to expenditures described in section 403(a)(1)).

"(c) The amount payable to a State under subsection (a) for any fiscal year shall be increased or decreased by the same percentage by which the population of such State in such fiscal year is greater or less than the population of such State in calendar year 1972. For the purpose of this subsection the population of a State shall be estimated by the Secretary on the basis of the most recent satisfactory data available from the Secretary of Commerce.

"(d) No payment shall be made under this section to any State with respect to any fiscal year during which the levels of assistance which it provides to families of various sizes are lower than the levels of assistance provided to such families under the State plan approved under this title as in effect in October 1972."

Mr. BENNETT. Mr. President, I have no objection to the amendment. I hope it is accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

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

Mr. BENNETT. I am glad to yield to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. BURDICK. Mr. President, I would like to ask the manager a question about the bill. Overlooked in the bill is consideration for the citizens of the United States residing in Guam, Puerto Rico, and the Virgin Islands.

I hastily drew up an amendment I had intended to offer which I discussed with the Senator, and I believe the Senator gave me assurance that early next year the matter would be considered, and by early I mean as early as possible, after we have some data, facts, and figures that we need to correct this matter.

Do I have that understanding?

Mr. LONG. Yes. I told the Senator, speaking as the manager of the bill, that if we could find what would appear to be an appropriate answer to provide equity and justice in those territories, I would be willing to accept such an amendment and take it to conference.

Unfortunately, neither he nor those of us on the committee could come up with an adequate answer.

I assure the Senator we on the committee will be glad to look into it and give our cooperation early in the next session.

Mr. BURDICK. I thank the Senator.

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

Mr. BENNETT. I yield.

Mr. JAVITS. Mr. President, Senator BUCKLEY and I were apprised unfortunately late with respect to alleged serious deprivation resulting from certain ceilings under the social security laws on money for Guam, Puerto Rico, and the Virgin Islands for welfare programs. We decided it was just too hasty and too complicated to move into now. May I have the assurance of the chairman that that will be looked into?

Mr. LONG. Mr. President, the Senator is familiar with the problem here. There is a difference in the dollar level of earnings, and there are tax considerations, but I would be happy to say that we will seek to look into it next year.

Mr. JAVITS. And Senator BUCKLEY has the same assurance?

Mr. LONG. Yes.

Mr. President, the junior Senator from New York wanted to ask a question, and I will be glad to respond.

The PRESIDING OFFICER. Does the Senator yield?

Mr. BENNETT. I yield.

Mr. BUCKLEY. Mr. President, I wish to ask the chairman two questions which will take an aggregate of 43 seconds. I know, because I timed them.

Mr. President, the Roth amendment which we adopted yesterday contained a provision repealing section 204(2)(2) of the Social Security Amendments of 1967.

I would like to ask the distinguished chairman whether my understanding is correct that the effect of this deletion is to restore the opportunity for the States to develop their own community work and training programs independently of the WIN program?

I also would like to ask the distinguished chairman whether the effect of this deletion is to restore the right of the State of New York to develop and enforce the requirements of its work performance program which I have described?

Mr. LONG. Yes, that is exactly what was intended. The committee did that so the State of New York could do what it was trying to do and that is implement a work program to help reform its own welfare program.

Mr. BUCKLEY. So they could pick up checks at the State employment office?

Mr. LONG. That is part of the program of the State of New York to create community work and training opportunities. We applaud that, as well as the efforts of the State of California to reform welfare.

Mr. BENNETT. Mr. President, I have two amendments. The first is an amendment prepared by the staff and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. The Senator from Utah (Mr. BENNETT) proposes an amendment at the end of title II.

Mr. BENNETT. Mr. President, I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment ordered to be printed in the RECORD is as follows:

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

DETERMINATIONS AND APPEALS

SEC. —. (a) Section 1869 (b) of the Social Security Act is amended to read as follows:

"(b)(1) Any individual dissatisfied with any determination under subsection (a) as to—

"(A) whether he meets the conditions of section 226 of this Act or section 103 of the Social Security Amendments of 1965, or

"(B) whether he is eligible to enroll and has enrolled pursuant to the provisions of

part B of this title, or section 1818, or section 1819, or

"(C) the amount of benefits under part A (including a determination where such amount is determined to be zero) shall be entitled to a hearing thereon by the Secretary to the same extent as is provided in section 205(b) and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

"(2) Notwithstanding the provisions of subparagraph (C) of paragraph (1) of this subsection, a hearing shall not be available to an individual by reason of such subparagraph (C) if the amount in controversy is less than $100; nor shall judicial review be available to an individual by reason of such subparagraph (C) if the amount in controversy is less than $1,000."

(b)(1) The provisions of subparagraphs (A) and (B) of section 1869(b)(1) of the Social Security Act, as amended by subsection (a) of this section, shall be effective on the date of enactment of this Act.

(2) The provisions of paragraph (2) and of subparagraph (C) of paragraph (1) of section 1869(b) of the Social Security Act, as amended by subsection (a) of this section, shall be effective with respect to any claims under Part A of title XVIII of such Act, filed—

(A) in or after the month in which this Act is enacted, or

(B) before the month in which this Act is enacted, but only if a civil action with respect to a final decision of the Secretary of Health, Education, and Welfare on such claim has not been commenced under such section 1869(b) before such month.

Mr. BENNETT. Mr. President, the purpose of the amendment is to make sure existing law, which gives the right of a person to go to court on the question of eligibility to receive welfare, is not interpreted to mean he can take the question of the Federal claim to court. If he did we would never have an end to it. This is to reconfirm the original intention of the law that the courts can determine only eligibility.

The situations in which medicare decisions are appealable to the courts were intended in the original law to be greatly restricted in order to avoid overloading the courts with quite minor matters. The law refers to "entitlement" as being an issue subject to court review and the word was intended to mean eligibility to any benefits of medicare but not to decisions on a claim for payment for a given service.

If judicial review is made available where any claim is denied, as some court decisions have held, the resources of the Federal court system would be unduly taxed and little real value would be derived by the enrollees. The proposed amendment would merely clarify the original intent of the law and prevent the overloading of the courts with trivial matters because the intent is considered unclear.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BENNETT. Mr. President, I send a second amendment to the desk and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. The Senator from Utah (Mr. BENNETT) proposes an amendment at the end of the bill to insert the following new section.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

At the end of bill insert the following new section:

SEC. —. (a) No participant in any of the three test programs provided in Sec. 401(b)(1) of Title IV as amended who is the father of a dependent child shall be considered to be unemployed for any week in which his unemployment is on account of a labor dispute at the establishment where he was previously employed, unless such individual (1) is not directly interested in and has not participated in such dispute, and (2) is not a member of any group of employees which is directly interested in, financing or participating in, such dispute.

SEC. —. (b) Section 407(a) of the Social Security Act is amended by striking the period at the end thereof and adding "provided that a father of a dependent child shall not be considered to be unemployed for any week in which his unemployment is on account of a labor dispute at the establishment where he was previously employed, unless such individual (1) is not directly interested in and has not participated in such dispute, and (2) is not a member of any group of employees which is directly interested in, financing or participating in, such dispute."

Mr. BENNETT. Mr. President, another thing left out of the committee bill by the Roth amendment was a problem in the bill that welfare payments could not be paid to striking fathers under aid to families with dependent children. The amendment was drawn so the effect of this would not fall on other employees of corporations or anybody not directly and properly involved in the strike.

I think the chairman is willing to take this to conference.

Mr. JAVITS. Mr. President, this strikes me as very much a labor matter, which we have kept out of. After all, we do not want to delay the Senate. This is the Senator's amendment and with all respect to the Senator from Utah I hope very much that this will not be passed on at this hour. I do not know its implications and neither does anyone else. This deals with labor disputes and we are going to make a special record for fathers under welfare. I hope it can be submitted at a later date.

Mr. LONG. This amendment was included under the committee bill. It was stricken from the bill in the Roth amendment. This Senator made the statement that the provision would be submitted to the Senate for decision. It is up to the Senate to make the decision. Frankly, the Senator from Louisiana feels that the Government should be neutral between labor and management in a labor dispute, and that to pay welfare benefits to people who are on strike is not being neutral. We are not talking about people in a secondary involvement. We are not talking about an instance in which one union goes out, and since that union is out, it is not practical for others to work. We are talking only about those who are actively engaged in a strike.

For example, if there are several unions in a plant, and one union walks out, and therefore the plant cannot operate, the others can receive benefits because they are not on strike, but the strikers themselves could not receive benefits, just on the theory that the Government should be neutral in a controversy between labor and management, and to pay a generous level of benefits while a worker is on strike is, in effect, to place labor in a position to remain on strike indefinitely, while management is not in a position to operate a plant.

This, admittedly, is one about which there can be a difference of opinion. There was in the committee. I am sure there will be in the Senate.

When the Roth amendment was voted, those of us who voted for it promised those who favored this committee amendment that we would offer them the opportunity to vote on this amendment, which I feel is more a welfare matter than it is a labor matter. It is just a question of: Do you think you ought to pay welfare benefits to people who are not working because they decline to work for the reason that they are engaged in a controversy with management, and therefore they withhold their labor?

Since this is a struggle between management and labor, where both will suffer until they come to some kind of accord, we think that under no circumstances should the Government take the side of labor to the extent that it makes eligible for welfare payments and food stamps those who are on strike, and thereby, in one respect or another, tends to aid the side of labor in a dispute between labor and management.

It is the feeling of a majority of those of us on the committee that the Government should be neutral between the two contending forces of management and labor, and therefore, that welfare benefits should not be paid to those who are actively engaged in a strike. This matter, as Senators know, is in contest in the State of Maryland right now. But all of that has to do with: What was the congressional intent? Did we intend welfare payments to be paid to those who are out on strike, or did we not?

It seems to me that it is more appropriate that the Congress tell the Supreme Court what it meant than to have a bunch of lawyers argue what we meant. My guess is that it was not considered at all when the legislation was passed, and as it stands now, the Court is in a position to construe what Congress meant. When I doubt whether any 10 Senators could agree on what we meant on this matter, it seems to me our intention should be made clear: Do you think welfare payments should be payable to those actively engaged in a strike, or do you not?

Mr. BENNETT. Mr. President, I think the quickest way to settle this is by a division. I do not think that we should settle it by a voice vote. I ask for a division.

Mr. JAVITS. Mr. President, we are not quite ready yet to vote on it. We have not brought it up; the proponents of the bill have brought it up, and though it is very late, there is no hesitancy in dealing with an amendment which may be serious in its implications because the proponents, the managers, have sought to bring up an amendment at a late hour.

One thing the Senator from Louisiana

(Mr. LONG) has said is quite proper: The Government should be neutral. But the Government should not hurt children whose father happens to be on strike. That is not being neutral, either.

I frankly do not know the depth of this amendment. It is a matter of first impression, but I beg the Senate to listen to it, because it has not been read. It reads as follows. It applies to two programs, one to the three test programs for income maintenance, and another part of it—both are proposed together—applies to the welfare assistance. It reads as follows:

No participant in any of the three test programs provided in Sec. 401(b)(1) of Title VI as amended who is the father of a dependent child shall be considered to be unemployed for any week in which his unemployment is on account of a labor dispute at the establishment where he was previously employed, unless such individual (1) is not directly interested in and has not participated in such dispute, and (2) is not a member of any group of employees which is directly interested in, financing or participating in, such dispute."

It strikes me that there are two grave deficiencies in this matter. One deficiency is that it is participating in a labor dispute, because it is penalizing a man who is on strike or has joined a union. That is what it says. Second, I believe—and again I submit to the Senate it must, because of how it is submitted, be only a matter of first impression—it affects the eligibility for a particular family or a particular child to receive aid.

I could not imagine much more coercion on any man in going on a strike or being a member of a union which is on strike than denying relief, welfare, or whatever it may be that is agreed to under the law, to this man's child.

For those reasons, I think it is a serious matter, and I hope very much that, in this last moment on a major bill—and I join all my colleagues, and I think the whole country owes a debt of thanks to the Senator from Louisiana (Mr. LONG) and the Senator from Utah (Mr. BENNETT) for piloting this measure through, which seems to be of some consolation, and at least there will be some legislation that Congress will have created as a result of this enormous effort—but both gentlemen, I respectfully submit, should not ask us to take this amendment, which seems to have very serious and adverse implications, at this late hour. That is asking us, at least me, in all conscience—and I am the ranking Republican member of the Committee on Labor and Public Welfare—to do more than we should do.

Mr. WILLIAMS. Mr. President, this seems to me to be a matter which should be considered by the Labor and Public Welfare Committee, and as chairman of that committee, I feel compelled to move to table this amendment.

The PRESIDING OFFICER. The motion is not debatable. All those in favor signify by saying "aye." Those opposed, "no." The "ayes" appear to have it. The "ayes" have it. The motion to lay on the table is agreed to.

The bill is open to further amendment.

Mr. HART. Mr. President, I invite the attention of the Senator from New York, with some apology to everybody on the floor, to a matter. I know what Senators think, and I would not be doing this if I had not just been jumped by members of the staff, who, hopefully, know more about what we have just done than all of us here, or most of us here.

Would the Senator from New York advise us whether the amendment that he offered, which was not, as I have been advised, explained, and then was accepted, and hence has been added to this bill—it was an unprinted amendment; it was just recently acted on—reimposes, for example, the residency requirement for welfare? In effect, does it overrule the finding of the Supreme Court?

Mr. BUCKLEY. No, it does not overrule the Supreme Court's finding, but it imposes a uniform residency requirement unless State law requires otherwise. I think the Chairman is in a position to discuss the details.

Mr. HART. What does it do about——

Mr. LONG. The language is right there in the committee report.

Mr. HART. I beg the Senator's pardon?

Mr. LONG. I assume the Senator is reading from the committee report. The language is there. As to the residency requirement problem, it provides that a citizen is deemed a resident of the State from which he departed for 3 months after he left, and he then is deemed a resident of the State to which he moves for the purpose of their welfare program 3 months after he arrives, so that a State that wants to have high welfare benefits, such as New York or Michigan, can do so, and then will be some small impediment to a heavy migration of people from States that have lower welfare payments into their State.

There is an amendment to that that affects a particular problem in the State of Arizona, but the point is to say that 3 months after a citizen leaves the State, that State does not have to make any further payments to him, and 3 months after he leaves the State, the State to which he goes must make payments to him, so that he would be eligible under the laws of one State or the other

The committee moved in a way to meet the Supreme Court decision which said that Congress cannot authorize a State to impose a residency requirement under the equal protection clause, but the equal protection clause does not prevent Congress from levying a residency requirement, and so it would seek to meet the problem by simply setting a residency definition by saying that you would be eligible for the welfare benefits of a State for 3 months after you left, and then the State to which you moved could make you eligible 3 months after you arrived there.

There is also a provision that the Senator might want to read there, where we went along with what the House of Representatives suggested by prohibiting the thing which we thought was probably the most unwise thing that was done to load the welfare rolls down with people who did not belong there, and that was what is called the declaration method, whereby a person could be put on the welfare rolls by a mere telephone call or by sending in a card by mail. The House of Representatives felt and we feel, that that provision increased the welfare rolls and the number of ineligible people on them by at least 10 percent. So, the House provided that the declaration method would not be used, and we also provided that the declaration method would not be used.

These are provisions that the Roth amendment struck from the bill.

We also provided, for example, that a State would not be required to make persons eligible who are not either citizens of the United States or aliens lawfully admitted to this country. It was also provided that a State need not make eligible a family where the mother declines to cooperate with the State in identifying the paternity of the child. She can say she does not know who the father is, and there is nothing they can do about it, but if she simply refuses to tell you who the father is, it would seem to me and to our committee that she should not be entitled to support from welfare.

Those are provisions that were in the committee bill—I have yet to hear anyone argue that they should not have been there—that were stricken by the Roth amendment. Frankly, I must confess I was not aware that these provisions had been stricken, but I am constrained to agree that they should be restored. The Senator from New York felt that they should be restored, and I agreed that they should be.

I would be happy, if the Senator would like, to vote individually on any one of these proposals which were in the committee bill and were stricken by the Roth amendment. Is there any particular one the Senator would like to vote on?

Mr. HART. I have been asked to obtain some kind of explanation. Unless material was handed in before our vote, we lack—maybe there is material in the RECORD, with the filing of printed material, and we will find out in the morning what it was we did. That is a harsh thing to have to get up and say, but we are all in this boat, and it is not meant to embarrass anyone, but rather in an effort to avoid embarrassment that I ask, for example, if there was included in the unprinted amendments any change with respect to the entry of caseworkers into homes.

Mr. BUCKLEY. There is such a provision. I think it would be useful if the Senator from Michigan would pick up the committee report and turn to page 451, and he will see the various items set out, with a very concise description of the provisions, contained in that index.

Mr. HART. On page 451, there are page references to what, 20 or 25 items?

Mr. BUCKLEY. "Refusal to allow caseworkers in home," 471. If the Senator will turn to page 471, he will find the following:

The committee bill would codify the Supreme Court's decision in the statute by permitting the States, at their option, to require as a condition of eligibility under the AFDC welfare program that a recipient allow a caseworker or other duly authorized person to visit the home. In doing so, the committee is not endorsing the so-called "midnight raids," which have been generally considered objectionable as a means of enforcing welfare eligibility rules. The bill specifically requires that such home vis-

its must be made at a reasonable time and with reasonable advance notice.

Mr. LONG. That particular provision right in the law is a Supreme Court decision. That is a decision of the Supreme Court of the United States which reversed the lower courts.

Being happy to find a Supreme Court decision with which we could heartily agree, we have decided that it should be written into the law, lest someone should argue that it should be reversed by trying to persuade the court that we did not mean what we thought we meant, and what the court has agreed we meant.

These provisions, Mr. President, that were involved in the Buckley amendment, are all provisions that were in the bill. As a matter of fact, what the Senator from New York suggested when he showed it to me was actually—here is what the Senator showed me, photostated from the bill.

He said, "This is some language that was stricken from the bill, and I think it ought to be restored."

I am familiar with it, of course; we sat there and worked on this for weeks. So as far as this Senator was concerned, the Senator from Delaware (Mr. ROTH) made no point to explain that this was being stricken when he offered his amendment. At the time, I was aware there were some things being stricken that I thought should be restored. I did not suggest that the Senator from New York offer the amendment, but when he offered it I was satisfied that these were items that should be restored, and they were.

The Senator from Michigan probably did not know they were in the bill to begin with. He probably did not know, when the Roth amendment struck them, that they were stricken, and when they went back in, he probably did not know that they went back in. But the fact is that there were things in the Roth amendment that were so much more controversial and attracted so much debate and fire in other respects that these items simply were not debated.

I would be happy to vote on each one of them individually if the Senator wants to do so, but I am confident I know what the committee wants to do about it.

Mr. HART. Well, clearly a vote at this time would not serve the best interests of anyone. I am not in a position, since I am not a member of the committee, really to do more than rise here and at least in part make the point, though it is not new, that we have wrought in these last hours changes in legislation that affect intimately the lives of an awful lot of people, generally speaking the weakest and poorest among us, without knowing what we were doing. This is not a charge against anyone; but if anybody wants to disagree with this, that enormous legislative changes affecting an awful lot of people have been made and not very many people knew what we were doing, I would be glad to be corrected.

Mr. LONG. Mr. President, while the Senator from Michigan may not understand this bill as well as he would like to, he has sitting beside him a man who understands it better than I do. He is Mr. Peterson, who is the assistant to Mr. RIBICOFF who is responsible for some of the provisions that appear in the bill. He is a very brilliant adviser. I am sure Mr. Peterson knew what these provisions were as reported. I assume he was following it closely enough to know that they were stricken when the Roth amendment struck them, even if I did not, and that they were restored when they were restored.

All I want to do, Mr. President, is what the Senate wants to do about this matter, and I will seek to move accordingly.

We have accepted some amendments here tonight that I do not fully understand; but when the Senate is trying to adjourn 1 week from now, if we do not pass this bill some time soon, we might as well forget about it. It should be resolved soon, and I hope the House will go to conference with us.

I recall the experience 2 years ago when we had a bill that cost half this amount, and the House declined to go to conference with us because they thought it would cost too much money, and they would rather start all over again.

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

Mr. LONG. I yield.

Mr. MAGNUSON. I was tempted to propose an amendment to the end of the bill—I do not know whether it is section 2000 or section 2001—to add a section to the bill sending greetings and sympathy to the Appropriations Committee of the Committee on Health, Education, and Welfare.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. STEVENSON. Mr. President, there are many provisions of this legislation that I strongly support, particularly those affecting social security, old age assistance, and aid to the blind and disabled. Yet, I am forced to vote against passage of H.R. 1 in its final form because it perpetuates our present chaotic, ever-expanding, and inordinately expensive welfare system.

The Senate had a rare opportunity to accomplish a major restructuring of the welfare system. That we were not successful is in large measure due to the opposition of the President who incomprehensibly destroyed his own creation. Having had the foresight to propose far-reaching reform, he apparently lacked the political coverage to support it. He opposed the Ribicoff and Stevenson proposals even though they had the support of his Secretary of Health, Education, and Welfare and were substantially the same as his original proposal.

The President's opposition has condemned us to a continuation of the welfare mess for the indefinite future. I cannot vote for a program which rewards those who do not work and not those who do, which encourages fathers to desert their families; which is bankrupting the States of our Nation, including my own State of Illinois.

Despite my strong support for many provisions of this bill, I have no choice but to cast my vote against it.

Mr. FANNIN. Mr. President, the committee bill modified the unemployed father provision of aid to families with dependent children so that welfare benefits will not be available for strikers. This disqualification would not apply to any employee who is not participating or directly interested in the labor dispute and does not belong to a group of workers any of whom are participating in or financing or directly interested in the dispute. This disqualification, adapted from the unemployment insurance laws, is designed to prevent the government financing one side of a labor-management dispute.

Senator ROTH's amendment in rewriting title IV of the bill left out the striker disqualification.

The committee, in denying welfare for strikers was motivated in part by a 1972 decision by the U.S. District Court of Maryland—Francis against Davidson—holding that Maryland could not disqualify a family from aid to families with dependent children on the grounds that the fathers unemployment was due to a strike.

Members of the committee and I, personally, were more motivated by the fact that union use of welfare funds to support and prolong strikes has become a national disgrace.

To cite a few examples:

A 1970–71 strike by United Electrical Workers against Westinghouse at Lester, Pa.—During this 151-day strike a total of at least $2,500,000 in public funds, in the form of various welfare benefits, was paid to strikers and their families. The union paid nothing in strike benefit funds.

A recent study conducted by the Wharton School of Finance, University of Pennsylvania estimates that by 1973 the direct and indirect dollar cost of aid to strikers will exceed $365 million a year, or more than $1 million a day.

In the General Electric strike of 1969–70 which lasted more than 100 days and involved 150,000 workers, public welfare benefits to strikers totaled $25 million.

In the 71 day strike of the United Automobile workers against General Motors in 1970, an estimated $30 million was spent in public welfare benefits to the strikers. Of this sum, nearly $16 million was spent in Michigan alone. Since the unemployment insurance fund in New York is funded through a tax on employers, General Motors was forced to subsidize its own striking workers. That company estimates that about $5,250,000 in unemployment compensation was paid by New York to GM strikers.

The principal author of the Wharton study states:

"It seems obvious that if strikes become injurious only to one party (management) because the other party (labor) is being subsidized by the government, a strike will not serve its purpose of inducing a reasonable settlement."

Public policies which permit strikers to obtain welfare have serious financial impacts on Government and the taxpaying public and add additional burdens to our troubled welfare system.

Various case studies related in the Wharton study show that some strikers, thanks to welfare benfit payments, have received almost as much income while on strike as when working.

There is only one remedy. Congress must simply declare strikers ineligible for tax supported benefits. Of course, there will be a few hardship cases, but they will be well within the capacity of organized labor to care for.

The committee bill marked the first attempt by the Senate to begin to strike a balance in union rights and duties in financing strikes. The House of Representatives this year attempted to meet part of the problem by a rider to the agriculture appropriations bill which denied food stamps to strikers. This move failed.

The present situation developed because while the American taxpayer was asleep, the unions were working hard in the welfare area. Back in the World War II days, the unions set up a community service department and worked to get a union man on every community service board throughout the country. He is now the liaison man the union contacts before the strike starts. Consequently, today, when a strike occurs, welfare people are ready with food stamps, aid to dependent children, public welfare, and other benefits. The union makes sure the strikers know of all the various welfare benefits they can collect and procedures are streamlined to make it easy for them to obtain these benefits.

Mr. President, I believe that Congress should take action to stop union abuse of our welfare system. Organized labor is big enough and certainly rich enough today to take care of itself.

This amendment is intended to protect the millions of taxpaying Americans who object to the public financing of strikes. Quite often strikes are not in the public interest, and all too often strikes result in hardship for the general public, not to mention ultimate higher costs for goods and services. It makes no sense for the government to maintain a program which encourages strikes and long work stopages. Tax funds should not be used to finance strikes.

SEVERAL SENATORS. The yeas and nays, Mr. President?

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, "Shall it pass?"

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), and the Senator from Connecticut (Mr. RIBICOFF) 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 Louisiana (Mrs. EDWARDS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Rhode Island (Mr. PELL), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Delaware (Mr. BOGGS), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), 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 Colorado (Mr. DOMINICK), the Senator from Connecticut (Mr. WEICKER) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

If present and voting, the Senator from Delaware (Mr. BOGGS), the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. HATFIELD), the Senator from Colorado (Mr. ALLOTT) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 68, nays 5, as follows:

[No. 536 Leg.]

YEAS—68

Aiken	Gambrell	Nelson
Bayh	Gravel	Packwood
Beall	Griffin	Pastore
Bellmon	Gurney	Pearson
Bennett	Hansen	Percy
Bible	Hart	Proxmire
Brock	Hartke	Randolph
Brooke	Hruska	Roth
Buckley	Hughes	Saxbe
Burdick	Inouye	Schweiker
Byrd, Harry F., Jr.	Jackson	Scott
Byrd, Robert C.	Javits	Smith
Cannon	Jordan, N.C.	Sparkman
Case	Jordan, Idaho	Spong
Cook	Long	Stafford
Cooper	Magnuson	Stennis
Cotton	Mathias	Stevens
Cranston	McClellan	Symington
Dole	Miller	Taft
Ervin	Mondale	Talmadge
Fong	Montoya	Thurmond
Fulbright	Moss	Tunney
	Muskie	Williams

NAYS—5

Allen	Fannin	Stevenson
Chiles	Mansfield	

NOT VOTING—27

Allott	Eastland	McGovern
Anderson	Edwards	McIntyre
Baker	Goldwater	Metcalf
Bentsen	Harris	Mundt
Boggs	Hatfield	Pell
Church	Hollings	Ribicoff
Curtis	Humphrey	Tower
Dominick	Kennedy	Weicker
Eagleton	McGee	Young

So the bill (H.R. 1) was passed.

Mr. LONG. Mr. President, I move that the vote by which the bill was passed be reconsidered.

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

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I have a series of motions to make. First I ask unanimous consent that the bill, H.R. 1, be printed with the amendments of the Senate numbered, and that in the engrossment of the amendments of the Senate to the bill the Secretary of the Senate be authorized to make all necessary technical and clerical changes and corrections, including corrections in section, subsection, and so forth, designations, and cross references thereto.

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

Mr. LONG. Mr. President, I move that the Senate insist on its amendments to the bill, H.R. 1, and ask for a conference with the House thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. LONG, Mr. ANDERSON, Mr. TALMADGE, Mr. BENNETT, and Mr. CURTIS conferees on the part of the Senate.

Mr. MANSFIELD. Mr. President, first, I want to extend my commendation to the distinguished Senator from Louisiana (Mr. LONG), chairman of the Finance Committee, for the superb job he has performed in handling this most difficult, complicated, and complex piece of legislation.

Of course, we always expect such management on the part of the distinguished Senator from Louisiana, but I think that his forebearance, his understanding, and his consideration of all concerned was outstanding over the past week during which this measure was being debated.

To the distinguished Senator from Utah (Mr. BENNETT) I want, likewise, to extend my commendation for his patience and for his understanding and cooperation. I think that both Members represented their committee with distinction. Both Members represented the Senate well.

Mr. SCOTT. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. I am delighted to yield to the distinguished minority leader.

Mr. SCOTT. Mr. President, I would like very much to state that I am entirely in accord that this is one of the most difficult measures which could come before us. It has been handled with consideration for all Senators in a very thorough and careful manner. We are all very grateful to the distinguished Senator from Louisiana (Mr. LONG) and the distinguished Senator from Utah (Mr. BENNETT).

ORDER FOR ADJOURNMENT UNTIL 11 A.M.

Mr. MANSFIELD. Mr. President, for the information of the Senate, instead of coming in at 9 o'clock this morning, I ask unanimous consent that when the Senate adjourns this morning, it come in at 11 a.m. today.

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

HOLDS ON BILLS

Mr. MANSFIELD. Mr. President, for the information of the Senate, holds on

bills prior to October 2 will be called up at any time, whether the Senator who has a hold on the bill is here or not.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the calendar, beginning with No. 1206 up to and including 1212.

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

AUTHORIZATION OR SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON LABOR AND PUBLIC WELFARE FOR INQUIRIES AND INVESTIGATIONS

The resolution (S. Res. 371) authorizing supplemental expenditures by the Committee on Labor and Public Welfare for inquiries and investigations was considered and agreed to, as follows:

Resolved, That Senate Resolution 235, 92d Congress, agreed to March 6, 1972, is amended as follows:

(1) In sections 2 and 6, strike out "$1,433,000" wherever it appears and insert in lieu thereof "$1,483,000".

(2) In section 3, strike out "$993,000" and insert in lieu thereof "$1,028,000".

(3) In secton 4, strike out "$440,000" and insert in lieu thereof "$455,000".

AUTHORIZATION FOR ADDITIONAL EXPENDITURES BY THE COMMITTEE ON LABOR AND PUBLIC WELFARE FOR ROUTINE PURPOSES

The resolution (S. Res. 372) authorizing additional expenditures by the Committee on Labor and Public Welfare for routine purposes was considered and agreed to, as follows:

Resolved, That the Committee on Labor and Public Welfare is authorized to expend from the contingent fund of the Senate, during the ninety-second Congress, $25,000 in addition to the amount, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946.

AUTHORIZATION FOR SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

The resolution (S. Res. 374) 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 was considered and agreed to, as follows:

Resolved, That Senate Resolution 256, Ninety-second Congress, agreed to March 6, 1972, is amended as follows:

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

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

ADDITIONAL COPIES OF THE REPORT OF THE COMMISSION ON THE ORGANIZATION OF THE GOVERNMENT OF THE DISTRICT OF COLUMBIA

The concurrent resolution (H. Con. Res. 679) 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 was considered and agreed to.

ADDITIONAL COPIES OF HEARINGS ENTITLED "CORRECTIONS"

The concurrent resolution (H. Con. Res. 681) to provide for the printing of 1,000 additional hearings entitled "Corrections," parts I through VI, was considered and agreed to.

AUTHORIZATION FOR PRINTING "SEPARATION OF POWERS AND THE NATIONAL LABOR RELATIONS BOARD; SELECTED READINGS" AS A SENATE DOCUMENT

The Senate proceeded to consider the concurrent resolution (S. Con. Res. 98) to authorize the printing of the manuscript entitled "Separation of Powers and the National Labor Relations Board; Selected Readings" as a Senate document was considered and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the manuscript entitled "Separation of Powers and the National Labor Relations Board: Selected Readings", prepared for the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary by Doctor James R. Wason of the University of Maryland, formerly specialist in labor economics and relations, Economics Division, Legislative Reference Service, the Library of Congress; and the Congressional Research Service and the Library of Congress, in cooperation with the staff of the Subcommittee on Separation of Powers, be printed as a Senate document.

SEC. 2. There shall be printed for the use of the Senate Committee on the Judiciary one thousand additional copies of the document authorized by section 1 of this concurrent resolution.

The title was amended, so as to read: "Concurrent resolution authorizing the printing of the manuscript entitled 'Separation of Powers and the National Labor Relations Board: Selected Readings' as a Senate document."

NORMA J. GRIST, EDYTHE M. EBERSOLE, AND PAUL W. HUMMER

The resolution (S. Res. 375) to pay a gratuity to Norma J. Grist, Edythe M. Ebersole, and Paul W. Hummer was considered and agreed to, as follows:

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.

EQUAL EDUCATIONAL OPPORTUNITIES ACT OF 1972

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 1042, H.R. 13915, an act to further the achievement of equal educational opportunities, and I ask that it be laid before the Senate and made the pending business.

Mr. JAVITS. Mr. President, will the distinguished majority leader yield to me?

Mr. MANSFIELD. Yes, indeed.

Mr. JAVITS. Mr. President, this is a critically important measure to many Americans and a major issue in terms of the policy of the country. The distinguished Senator from Michigan (Mr. HART) and I joined in an effort to consult with various Members of the Senate who had an interest with respect to the bill, generally in opposing it.

After consultation with the Senator from Michigan and consultation with the leadership, and in deference—and I know the leadership understands this, but it should be spread publicly on the RECORD—to the feelings and commitments of both the majority and minority leaders that no point would be made about taking up the bill and that we should deal with our problems in opposition, in connection with the bill being taken up, the leadership having made the analogy to us of the fact that there was no need for a motion to take up on the Consumer Protection Agency bill, the Senator from Michigan and I have decided that we should allow the matter to stand as the majority leader has expressed it.

However, I do wish to make one observation, if the majority leader will indulge me, that I was fearfully late but I know that he is deeply interested how this business goes and the order of business.

From our point of view, I would say to the Senate, it would be much more logical if we opposed a motion to take up because, really, what we are arguing, in the first instance, is that this matter not having been referred to any committee—it was put right on the calendar—and being a matter of such high caloric quality for millions of people in the country and its tremendous social implications, and with only a few days left to go in the session, we believe it is quite unwise and inappropriate to take up such a bill. That would be the logic of our presentation. But, in view of the fact that there are many remedies open to us, including a motion to commit to a committee, or to recommit to a committee, or even after the time for the pending business, out of deference for and confidence in the leadership, the Senator from Michigan (Mr. HART) and I decided that we would not interpose an objection to that procedure.

Mr. MANSFIELD. Mr. President, I appreciate the statement of the Senator from New York.

(The routine morning business transacted during the day is printed here, as follows:)

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution:

H.R. 5838. An act to designate certain lands in the Lava Beds National Monument in California, as wilderness;

H.R. 9198. An act to amend the act of July 4, 1955, as amended, relating to the construction of irrigation distribution systems;

H.R. 11047. An act for the relief of Donald W. Wotring;

H.R. 13533. An act 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; and

H.J. Res. 1263. A joint resolution authorizing the President to proclaim October 30, 1972, as "National Sokol Day."

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, October 5, 1972, he presented to the President of the United States the following enrolled bills:

S. 1475. An act to authorize the Secretary of the Interior to provide for the restoration, reconstruction, and exhibition of the gunboat *Cairo*, and for other purposes; and

S. 2770. An act to amend the Federal Water Pollution Control Act.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON RURAL ENVIRONMENTAL ASSISTANCE PROGRAM

A letter from the Assistant Secretary of Agriculture, transmitting, pursuant to law, a report on the rural environmental assistance program, for the fiscal year ended June 30, 1971 (with an accompanying report); to the Committee on Agriculture and Forestry.

REPORTS OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a secret report on the United States efforts to increase international cooperation in controlling narcotics trafficking (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Greater Benefits to More People Possible by Better Uses of Federal Outdoor Recreation Grants", Bureau of Outdoor Recreation, Department of the Interior, Department of Housing and Urban Development, dated October 5, 1972 (with an accompanying report); to the Committee on Government Operations.

PUBLIC SERVICES IN ACADIA NATIONAL PARK, MAINE

A letter from the Deputy Assistant Secretary of the Interior submitting a copy of a proposed amendment to the concession contract under which The Acadia Corporation will be authorized to continue to provide facilities and services for the public in Acadia National Park, Maine (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORT ON DEFECTOR ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered in the cases of certain defector aliens (with accompanying papers); to the Committee on the Judiciary.

TEMPORARY ADMISSION FOR CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered relating to the temporary admission of certain aliens (with accompanying papers); to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, with an amendment:

S. 3174. A bill to provide for the establishment of the Golden Gate National Recreation Area in the State of California, and for other purposes (Rept. No. 92-1271).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, without amendment:

S. 3930. A bill to provide for the conveyance of certain mineral rights in and under lands in Onslow County, North Carolina (Rept. No. 92-1272).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with amendments:

S. 3627. A bill to authorize the Secretary of the Interior to sell certain mineral rights in certain lands located in Utah to C. R. Jensen of Sandy, Utah, the record owner thereof (Rept. No. 92-1273).

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

S. 1524. A bill to amend title 12, District of Columbia Code, to provide a limitation of actions for actions arising out of death or injury caused by a defective or unsafe improvement to real property (Rept. No. 92-1274).

CHANGE OF REFERENCE

Mr. THURMOND. Mr. President, I ask unanimous consent that the Committee on Armed Services be discharged from the further consideration of S. 4029, a bill to amend section 4 of the Internal Security Act of 1950, and that it be referred to the Committee on the Judiciary, since it more appropriately falls within the purview of that committee's jurisdiction.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. ANDERSON (for himself, Mr. ALLOTT, Mr. BENNETT, Mr. BIBLE, Mr. CANNON, Mr. CRANSTON, Mr. DOMINICK, Mr. FANNIN, Mr. GOLDWATER, Mr. HANSEN, Mr. MONTOYA, Mr. MOSS, Mr. McGEE, and Mr. TUNNEY):

S. 4063. A bill to authorize the Secretary of the Interior to implement a program for the control of salinity in the waters of the Colorado River System, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MATHIAS:

S. 4064. A bill for the relief of Asuncion Ventura-Rumi. Referred to the Committee on the Judiciary.

By Mr. MILLER:

S. 4065. A bill to amend chapter 4 of title 23 of the United States Code, relating to highway safety, to provide a standard distress symbol for physically handicapped drivers. Referred to the Committee on Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ANDERSON (for himself, Mr. ALLOTT, Mr. BENNETT, Mr. BIBLE, Mr. CANNON, Mr. CRANSTON, Mr. DOMINICK, Mr. FANNIN, Mr. GOLDWATER, Mr. HANSEN, Mr. MONTOYA, Mr. MOSS, Mr. McGEE, and Mr. TUNNEY):

S. 4063. A bill to authorize the Secretary of the Interior to implement a program for the control of salinity in the waters of the Colorado River system, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

COLORADO RIVER BASIN SALINITY CONTROL ACT OF 1972

Mr. ANDERSON. Mr. President, I join several of my colleagues in introducing, for appropriate reference, a bill to authorize the Secretary of the Interior to implement a program for the control of salinity in the waters of the Colorado River system, and for other purposes.

Mr. President, the salinity of the Colorado River under the pressures of increasing use of the stream has risen sharply in recent years. Increasing salinity is of obvious concern to the water users of the lower basin who must cope with lower water quality and the problems it represents to the agricultural, municipal, and industrial applications dependent upon the resources. In the upper basin, potential water users are threatened by the management consequences which may result if continued depletions result in unacceptable degradation of water quality. The river represents a principal water supply of seven States, and in the arid Southwest, water is often the limiting resource without which the lands, minerals, and social potential of the region must remain untapped.

The salinity problem of the Colorado River, therefore, is a national problem of considerable importance. Furthermore, the last beneficial diversions of the waters of the stream are those made in Mexico. The sharply increased salinity of water deliveries to Mexico under the treaty of 1944 have become a matter of international concern. The salinity of the Colorado River has been a matter of continuing negotiations between the United States and Mexico for many years and it was an item of major concern in the talks between President Nixon and President Echeverria of Mexico in June of this year.

Salinity control on the Colorado River presents a difficult challenge. Nearly half of the salt contributed to the River above Hoover Dam is from natural sources. A significant part of the salinity concentration results from evaporation from the stream and reservoir surfaces and is largely uncontrollable. The rest is the result of depletions for beneficial uses which are essential to the life of the region and of return flows from those uses. The return flows are often diffused and impracticable to capture and treat.

At the meeting of the Seventh Conference in the Matter of Pollution of the Interstate Waters of the Colorado River and its Tributaries which was held in April of this year, the Secretary of the Interior proposed a program for the control of salinity from a number of identi-

fied and reasonably concentrated natural and man-made sources. The program offers the best hope for immediate action to stem the continuing degradation of the quality of the stream. The conferees from the seven Colorado River Basin States and the Environmental Protection Agency have endorsed the program.

The measure which I introduce today is based upon the program proposed by the Secretary. The measure would direct the Secretary to expedite his investigations, which are already in progress, of a number of promising opportunities for salinity control works and programs in the basin. Contingent upon a finding of feasibility, and after an opportunity for congressional review, the measure would authorize the Secretary to proceed with a number of the control measures thus far identified.

Mr. President, my colleagues who join me in cosponsoring this bill and those Members of the House of Representatives who, I understand, will introduce a companion bill shortly are cognizant, as I am, that this Congress is near to adjournment. We are introducing this measure to acquaint the members of both houses with the problem and with a constructive recommendation for action. We also wish to convey to the Congress and to the executive branch our sense of urgency that definitive Federal action be taken at the earliest possible time. It is our hope that this proposed bill will serve as a basis for serious discussion and as a first step for early congressional consideration of this matter in the next session.

Mr. ALLOTT. Mr. President, I join the distinguished chairman of the Subcommittee on Water and Power Resources (Mr. ANDERSON) in sponsoring the proposed Colorado River Basin Salinity Control Act of 1972. It should be understood that the bill introduced today is a discussion draft. Being introduced this late in the 92d Congress, it is not expected nor anticipated that action will be taken on this legislation. While I am informed that the draft has been tentatively approved by the Committee of Fourteen, there are certain matters which the bill admittedly does not address. Nevertheless, the bill should be recognized as a first legislative step toward a solution of the salinity problem of the Colorado River.

Mr. President, the introduction of this bill is not merely a gesture; rather, it is one more indication of the desire and good faith efforts of interested persons up and down the entire reach of the Colorado River to find realistic solutions to the problems of increasing salinity. Earlier this year at my request, the Public Works Subcommittee of the Appropriations Committee agreed to increase funds to study potential projects leading to the reduction of salts in the Colorado and its tributaries. In addition, on September 28, 1972, the Senate approved a bill authorizing several feasibility studies. One of those studies concerns the modernization of the Uncompahgre Project in Colorado. Such modernization if approved, could result in a substantial reduction in the salt loading of the Gunnison River, a major tributary of the Colorado River.

I have mentioned these matters to show that there is sincere interest, backed-up by effort to deal effectively with salinity in the Colorado. It should be noted that those mentioned are merely the most recent activities in this regard. Other activities have included: irrigation seminars to improve irrigation methods and thereby reduce salt loading; pilot projects on canal lining to reduce percolation and salt loading; and construction of by-pass channels for very saline waters.

Mr. President, I share the interest of the congressional delegations from all the States of the Colorado River Basin in arriving at an early and reasonable solution to the salinity problem of the Colorado River. Such a solution is important to the future of my home State of Colorado as well as the other Basin States.

Mr. BENNETT. Mr. President, it is a privilege to cosponsor the Colorado River Basin Salinity Control Act of 1972 with the distinguished Senator from New Mexico (Mr. ANDERSON), who has served so ably as the chairman of the Senate Interior Subcommittee on Water and Power, and my other colleagues from the Colorado River Basin States.

The salinity problem of the Colorado River is basinwide and its resolution lies in the Federal Government and all seven of the Colorado River Basin States.

Earlier this year representatives of the Environmental Protection Agency and the seven States recommended that salinity increases in the river be minimized through a salinity control program known as the Colorado River Water Quality Improvement Program. Its objective is to maintain salinity concentration at or below levels presently found in the lower main stem of the Colorado River. It is recognized that salinity is a basinwide problem that needs to be solved while the upper basin continues to develop its compact-apportioned waters.

Mr. President, it might be well at this time to point out that one of the results of consumptive use of water for any purpose is to increase the concentration of dissolved solids, or the salinity as it is commonly called, of the water that remains in the stream. Regardless of whether the water is used for consumption by people, industries, or agriculture, the result will be the same and the remaining water will have a higher concentration of salts than the original supply. In short, the result of water consumption is to decrease the amount of water carrying the same quantity of salts, which increases the salinity concentration; thus the remaining water is degraded.

In addition, when water is transferred from the headwaters of one basin to another, the downstream reaches of the exporting river experience water degradation from increased salinity. This occurs because the headwaters removed carry very few dissolved solids, and this relatively pure water is no longer available in the exporting river for diluting downstream accretions of salts.

In 1776, Escalante noted that in the Colorado River Basin there are several natural springs highly degraded by heavy salt loads. As much as 50 percent of the river's total salt load has been estimated as coming from these natural sources.

The bill we introduce today would implement on an accelerated basis a salinity control program to minimize salinity increases in the river.

The Bureau of Reclamation would have the primary responsibility for investigation, planning, and implementing the basinwide salinity control program and should assign a high priority to LaVerkin Springs, Paradox Valley, and Grand Valley water quality improvement projects with the objective of achieving stabilization of salinity levels on the Lower Colorado River at the earliest possible date.

In addition, the Office of Saline Water would contribute to the program by assisting the Bureau of Reclamation as required to appraise the practicability of applying desalting techniques; and the Environmental Protection Agency would continue its support by consulting with and advising the Bureau of Reclamation and accelerating its ongoing data collection and research efforts.

In order to achieve this salinity policy, the long-range program of the Bureau of Reclamation should be directed toward achieving reduction of salinity concentrations that would otherwise exist at Imperial Dam to the extent of at least 120 mg./l. in 1980, 355 mg./l. in 1990 and 405 mg./l. in the year 2000.

Mr. President, because of the emergency nature of the increasing concentration of dissolved solids in the waters of the main stem of the Colorado River downstream from Lee Ferry, high priority must be given to accelerating the investigation, planning, and construction of salinity control works and procedures of the salinity control program so that we can meet our commitment to Mexico and at the same time protect the interests of the Colorado River Basin States.

Mr. CRANSTON. Mr. President, I am pleased to join with my colleagues from the seven Colorado River Basin States in cosponsoring legislation to authorize a program to control salinity concentrations in the water of the Colorado River.

The major objective of the program would be to maintain salinity concentrations at or below levels presently found in the lower mainstem of the Colorado River. Currently, according to the Bureau of Reclamation, the average salinity at the headwaters of the Colorado River is less than 50 milligrams per liter (mg./l.) and progressively increases downstream until, at Imperial Dam, the concentration reaches 856 mg./l. Projections for future salinity levels without a control program suggest that values of 1,250 mg./l. or more will occur at Imperial Dam by the year 2000. One projection foresees such a level being reached as early as 1980.

Should these increases in salinity levels occur, the agriculture in the Imperial, Coachella, Gila, and Yuma Valleys would be severely threatened. In addition a poorer water quality would be diverted to the Metropolitan Water District of Southern California and the Las Vegas Valley Water District, causing further economic losses to the very large block of domestic water users in California and Nevada. Finally, an effective control program, in addition to benefiting agricultural and domestic water users, will also be of international

significance by benefiting water users in the Republic of Mexico where the salinity concentrations of the Colorado River have seriously damaged crops, and increased international tensions.

The legislation being proposed authorizes the accelerated implementation of the 10-year program for improving the quality of Colorado River water proposed by the Bureau of Reclamation in February 1972. According to the Bureau's estimates, the proposed program could remove a total of 3 million tons per year of salt or its equivalent from the river.

The legislation authorizes an initial phase of the water quality improvement program which consists of the construction, operation and maintenance of salt removal programs at three major point sources: La Verkin Springs, Utah; Paradox Valley, Colo.; and Grand Valley, Colo. These three projects would be capable of removing each year at least 80,000, 180,000, and 140,000 tons respectively from the Colorado River system. Total capital costs of the three projects would range between $130 and $150 million.

Mr. President, while I fully support the objective of this legislation, I do have some reservations about certain provisions contained in it. I am sufficiently concerned about the implications of the language in section 301(b), to advise my colleagues of my opposition. This particular section authorizes the Secretary of the Interior, 90 days after advising of his finding of "feasibility", to begin construction of salinity control projects on any of 13 additional source control projects.

Such an automatic authorization raises several questions in my mind. First, I believe it clouds the applicability of the National Environmental Policy Act requirement of an environmental impact statement. Second, it implies that the salinity sources where projects are proposed are all noncontroversial. Once feasibilty is determined, a term which is not defined in the bill, the project construction could commence without any further congressional authorization. While I can appreciate the need to move quickly on this proposed salinity control program, I hestitate to erode further the power of Congress by placing additional discretionary authority within the Department of the Interior.

I am aware of a considerable amount of local opposition to the proposal to construct salinity control facilities at Blue Springs on the Navajo Indian Reservation. Several other salinity sources proposed for project studies under this bill may well also engender public concern or opposition. I am, therefore, cosponsoring the Colorado River Basin Salinity Control Act of 1972 with the understanding that I am opposed to section 301(b) which gives, in essence, a blanket authorization for the construction, operation, and maintenance of such projects to the Secretary of the Interior.

I have discussed this matter with Senator Tunney, and he joins in my objection to section 301(b). In addition, I fully agree with his statement that since this legislation will not be enacted this year, it should be reintroduced in the 93d Congress with a definition and a thorough evaluation of irrigation needs as well as a provison calling for careful review of the current and projected use of the Colorado River water throughout the seven-State basin.

Mr. TUNNEY. Mr. President, today, I join as a cosponsor of the Colorado River Basin Salinity Control Act of 1972. For the past eight years in Congress, I have represented both cities and major farming areas which are heavily dependent upon the Colorado River for their water supply. The Imperial and Coachella Valleys are two of the Nation's most important farming areas solely because irrigation water is available from the Colorado River. Los Angeles, San Diego, Riverside and scores of other southern California cities and towns have utilized water from the Colorado River to supplement local supplies. Much of the region can be attributed to the Colorado River. The region will continue to rely upon it in the future.

California is not the only State which relies upon the waters from the Colorado River. Six other States in the Colorado River Basin, as well as areas in Mexico, are also heavily dependent upon the river for their water supplies. The development necessary to meet the various needs of all these people has brought with it increasing salinity levels in the river.

With salinity levels approaching maximum tolerable limits for municipal and agricultural uses, there is little question but that we must embark on a program to seek effective solutions to this problem.

This act reflects efforts undertaken jointly by the Environmental Protection Agency, the Bureau of Reclamation and the States of the Colorado River Basin. This joint effort has resulted in a comprehensive 10-year program by the Bureau of Reclamation to maintain salinity concentrations at or below present levels found in the lower main stem of the Colorado. I firmly supported increased funding for this study and I believe that it is now important that we undertake at least the initial stages of the work.

This bill will also permit us to begin work on the LaVerkin Springs project on the Virgin River in Utah, the Paradox Valley project on the Dolores River in Colorado, and the Grand Valley irrigation improvement program in Colorado. Completion of these projects will prevent an estimated 400,000 tons of salt from entering the Colorado River each year. Further, the Secretary of Interior is directed to accelerate the remainder of the study program which is set out in the Bureau of Reclamation's study, "Colorado River Water Quality Improvement Program."

No action on the legislation can be taken this session. Next session I expect that the bill as reintroduced will include definition and thorough evaluation of irrigation needs as well as an overall river basin plan. I have discussed this with Senator CRANSTON and he fully agrees with these concerns, as do I with his objection to section 301(b).

By Mr. MILLER:

S. 4065. A bill to amend chapter 4 of title 23 of the United States Code, relating to highway safety, to provide a standard distress symbol for physically handicapped drivers. Referred to the Committee on Public Works.

Mr. MILLER. Mr. President, I am pleased today to offer a bill which will help assure the growing numbers of handicapped drivers in this country a greater degree of safety on our streets and highways. All of us are aware that the mobility of those who are handicapped is increasing greatly. Efforts are being made to make buildings, public facilities and public transportation more accessible and convenient for them. A growing number of the handicapped, however, are independently mobile and it is this group that my bill will aid.

In my State the Younkers Memorial Rehabilitation Iowa Center and the Des Moines Independent Community School District have been operating a program to help handicapped persons learn to operate their own automobiles. This effort has been quite successful, serving as a model for other areas of the country wishing to develop similar programs.

Like all of us behind the wheel, the handicapped face the always present possibility of a mechanical breakdown or accident. Unlike the rest of us, they may not be self-sufficient in such circumstances and, indeed, it may be impossible or very hazardous for them to get out of their car and seek help. My bill would authorize the Secretary of Transportation to prescribe a flag or symbol for handicapped drivers to display under such circumstances. I am confident that if the average motorist knows someone who has pulled off the road is handicapped he will at once do his best to render whatever aid of which he is capable.

Mr. President, at least six States, including my own State of Iowa, now have statutes providing for the issuance of such a flag for eligible drivers. More States may have passed such laws recently, and there is no question that Federal action is necessary to make these symbols uniform. The National Highway Traffic Safety Administration has promulgated the uniform orange triangle for slow-moving vehicles and is in the process of promulgating regulations for nonenergized warning devices. My bill would add one more such device to that list, for a most deserving group. I might add that our disabled veterans are benefitting from these driver training programs and will also benefit from passage of this bill.

In closing, Mr. President, I would be remiss if I did not mention the contribution to this piece of legislation of Mr. LeRoy Rotschafer of the Des Moines Public School System. Earlier in my remarks I noted that the Iowa Legislature had passed legislation on this subject. Mr. Rotschafer motivated that action and, seeing the need for Federal action, approached my office with this idea. I am pleased, as are all of my colleagues, when a constituent comes forward with such a worthy idea. Mr. Rotschafer is immediately involved with helping train

the handicapped to drive in Des Moines and with the work of the Younkers Rehabilitation Center which I mentioned earlier. Obviously this serves as another example to many that "the system" does work when our citizens fully participate.

MERGER OF PROFESSIONAL BASKETBALL LEAGUES—AMENDMENT

AMENDMENT 1709

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

Mr. MANSFIELD submitted an amendment intended to be proposed by him to the bill (S. 2373) to authorize the merger of two or more professional basketball leagues, and for other purposes.

LOWER ST. CROIX RIVER ACT—AMENDMENT

AMENDMENT NO. 1710

(Ordered to be printed and referred to the Committee on Interior and Insular Affairs.)

Mr. NELSON (for himself and Mr. MONDALE) submitted an amendment intended to be proposed by them jointly to the bill (S. 1928) to amend the Wild and Scenic Rivers Act by designating a segment of the St. Croix River, Minnesota and Wisconsin, as a component of the national wild and scenic rivers system.

NATIONAL HOUSING—AMENDMENT

AMENDMENT NO. 1711

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

Mr. BROOKE submitted an amendment intended to be proposed by him to the joint resolution (H.J. Res. 1301) to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages under the National Housing Act.

AUTHORIZED NUMBER OF OFFICERS IN THE AIR FORCE—AMENDMENT

AMENDMENT NO. 1712

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

Mr. PROXMIRE submitted an amendment intended to be proposed by him to the bill (H.R. 14542) to amend the act of September 26, 1966, Public Law 89-606, to extend for 4 years the period during which the authorized numbers for the grades of major, lieutenant colonel, and colonel in the Air Force may be increased, and for other purposes.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1674

At the request of Mr. GRAVEL, the Senator from Hawaii (Mr. FONG) 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.

AMENDMENT NO. 1687

Mr. PACKWOOD. Mr. President, I ask unanimous consent that two more of our colleagues be listed as cosponsors of the amendment I submitted yesterday, amendment No. 1687, to provide for tax equity for unmarried individuals. Earlier today, the Senator from Connecticut (Mr. RIBICOFF) and the Senator from West Virginia (Mr. RANDOLPH) indicated their desire to join 18 other Senators and myself in sponsoring this amendment to the debt ceiling legislation, H.R. 16810.

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

ADDITIONAL STATEMENTS

MAYOR WILLARD FRASER, OF BILLINGS, MONT.—IN MEMORIAM

Mr. MANSFIELD. Mr. President, the recent death of Mayor Willard Fraser, of Billings, Mont., was a great shock to his many friends and the people he represented. Willard Fraser was a colorful and energetic mayor, who did much to improve life in Montana's largest city.

A number of fine tributes have been paid to Mayor Fraser, but perhaps one of the best was given at the funeral service by a long-time friend, Hal Stearns, editor and publisher of the Times-Clarion, in Harlowton, Mont. Hal and Willard shared a keen interest in the Big Sky Country, and this is reflected so well in the Hal Stearns eulogy.

Mr. President, I ask unanimous consent that Mr. Stearns' eulogy be printed in the RECORD.

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

EULOGY FOR WILLARD FRASER, SEPTEMBER 23, 1972

(By Harold G. (Hal) Stearns, Harlowton, Mont., editor, Times Clarion, president Montana Historical Society)

The moving finger writes and having writ moves on.

With deep affection and fond recollection we gather to pay homage to a friend (and a newspaperman's delight).

I come from 100 miles away, a trifling distance compared to many to pay my respects on your behalf as well.

Why is a small town country editor entrusted with the honor of expressing the grief of so many of his fellow townsmen? I feel because I am symbolic of how far ranging was his influence. He was my mayor too.

Also as spokesman for the Montana Historical Society I am acknowledging his being in himself living history, one who reveled in Montana's glorious past. One who was determined that we of today would be dedicated to emulating the great deeds of our illustrious ancestors. As Robt. Kennedy said, some men see things as they are and ask why he dreamed of things that never were and asked Why Not?

Who is there left to mourn for Logan was the plaintive cry of the Cayugan bereaved by the loss of his entire family. Had Willard been at that tragic scene he would have consoled the lonely redman. For he was God inspired to go wherever there were men in need of solace.

As a student—he never ceased to learn. As a soldier he did his duty. As a man of intellect and curiosity and concern, and as a public servant—He knew no prejudice. And this can be seen today by the presence of hundreds of mourners. As his body lay in state people of all walks of life, of all races came to pay their final respects. No matter their faith, they had faith in him.

We are here to bury his mortal remains
But his spirit and dreams will never be interred.
He was my friend—your friend
We loved him for his human foibles.
Unless we make allowances for our friends deficiencies we betray our own.
Willard would say with Robert Frost—Forgive O Lord my little jokes on thee, and I'll forgive the great big one on men.
When men such as Willard died
Their place we may not well supply
Tho ye among a thousand try
With vain endeavor.
He dared new trails—he marched to different drums than common men.
He saw with Frost Two roads diverged in a woodland—He—
He took the one less traveled by—And that made all the difference.
And he had the wisdom to see one could do worse than be a swinger of birches.

This was a man of many parts and seasons—We on earth are good or bad as mood moves us, wrote Ruskin. In color our acts are seldom pure white
Neither wholly black, but generally steel gray.
Caprice-temper-accident all act upon us—The north wind of hate
The simoon of jealousy
The cyclone of passion beats and buffets us, Pilots strong and pilots cowardly, stand at the helm by turn, But sometimes the south wind softly blows.
The sum comes out by day, the stars by night. Friendship holds the rudder firm and love makes all secure.
Such is the life of man
A voyage on life's unresting sea.

As with Turner the English artist immortal
Sport was sometimes made of his originalities—But for merit there is recompense in sneers and a benefit in sarcasm and a compensation in hate
For when these things get too pronounced
The champion appears.
New York's Mayor LaGuardia said
When I make a mistake I make a beaut—and so he did
And so did our friend damning the torpedoes and urging fire when ready, Gridly.

But a beaut can also be an elevation
an eminance
And so Willard was—he towered.

Little mortals cannot deny him his place as a Big Man with big visions—big dreams—no little ones.
He ranged to St. Louis to dedicate the Gateway Arch and reforged links of long ago with where civilization headed westward 167 years ago
I saw his entrancing easterners of fame at the Baconian Dialogues in Minnesota—with delightful tales of Treasure land's lore and splendors.
And many of us retraced with him the trail of Lewis and Clark down the Yellowstone.
This man built bridges of understanding between every hamlet in Montana
and from Billings Mont. to Billings Germany
He was not content with vindicating Major Reno of 1876—his interests ranged from archeology to 20th century art
He saw too the needs of battling for the young and old, the homeless—the citizenry of 1972
He was truly with the ever changing scene.

My thots are with the dead
With him I live in long past years
His virtues love
His faults as well.

My hopes are with the Dead
Anon our place with him shall be
And we with him shall travel on
Thru all Futurity.

Yet leaving here a name I trust
That will not perish in the dust.
I pray thee Angel said Abou ben Adem
Write me as one who loves his fellow man

The angel wrote and vanished
The next time came again with a great awakening light
And showed the names whom love of God had blest
And lo Ben Adem's name led all the rest.

He lives—he wakes, tis death is dead, not he.
Mourn not for Adonais
Thou young dawn
Turn all thy dew to splendor
For from thee the spirit is not gone.

As we go home
Tell them of him and say
For your tomorrow
He gave his today.

WHY BILL TO EXTEND GRADE STRENGTH FOR AIR FORCE FOR 4 MORE YEARS SHOULD NOT BE PASSED IN ITS PRESENT FORM

Mr. PROXMIRE. Mr. President, the Air Force is trying to push a bill through the Senate at the last minute, on which there have been no Senate hearings, which would continue the scandalous situation which provides more high ranking military officers today than at the height of World War II.

ALL CHIEFS AND NO INDIANS

The bill, H.R. 14542, extends the present situation in which there are all chiefs and no Indians for another 4 years. That situation is one in which there are more three- and four-star generals and admirals in uniform today than at the peak of World War II. There are more colonels, lieutenant colonels, Navy captains and commanders for a 2.1 million man military force in 1972 than for a 12.1 million man force in 1945.

I say that the bill should properly be called "A bill for the relief of certain high ranking military officers."

As the House Defense Appropriations Committee said a year ago, while there were 900,000 fewer officers in uniform then than in 1945, there were 6,000 more colonels, Navy captains, and commanders.

TWELVE OFFICERS FOR EVERY AIRPLANE

Today in the Air Force there are more than 12 officers—not officers and enlisted men, but officers—for every airplane. It has 124,000 officers and 10,000 planes. In fact, there are twice as many colonels and lieutenant colonels as there are total planes and missiles in the Air Force.

At the present time the Air Force has one officer for every six enlisted men. There are more lieutenant colonels in the Air Force than second lieutenants, and twice as many majors as second lieutenants.

PENTAGON HAS BEEN DRAGGING ITS FEET SINCE 1959

In 1959, 13 years ago, the Pentagon promised to come forward with some permanent legislation to solve the problem of the grade creep. But the proposed defense officers management system—DOMS—is mired down at the Pentagon because of military politics. The Navy and Army are equally, if not more at fault, than the Air Force.

But, now the Air Force proposes to extend this scandalous situation for another 4 years instead of coming to grips with it.

EXTENSION TO 1 YEAR WOULD FORCE ACTION

If Congress allows that to happen, it will give up all its bargaining chips to bring this problem into line. My view is that the law should be extended for only 1 year, instead of 4, so that before June 30, 1973, the Pentagon will be forced to come forward with their proposals which are supposed to have been in the works for more than a decade.

Unless the Air Force will agree to a 1-year extension I plan to fight this bill to the end in the Senate.

I ask unanimous consent that the views of Representative OTIS PIKE, from the House report on this bill, be printed at the conclusion of my remarks. Representative PIKE deserves great credit for alerting the public to this issue and for providing such excellent supporting material.

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

MINORITY VIEWS OF CONGRESSMAN OTIS G. PIKE ON H.R. 14537

The Air Force, according to the most recent figures available, has 9,676 planes. To fly these 9,676 planes, it had, as of February 29th of this year, 124,124 officers, including 14 4-star generals, 40 3-star generals, 152 2-star generals and 212 1-star generals. It had 6,307 colonels, 15,228 lieutenant colonels, and 23,962 majors.

The bill which we have before us has just one purpose—to allow the Air Force to continue to have for an additional four years more colonels, lieutenant colonels, and majors, than are allowed by the basic law passed by Congress, the Officer Grade Limitation Act of 1954.

The last time we excused the Air Force from complying with the basic law was in 1966. Thanks to the exemption given them by Congress in 1966, the Air Force in the ensuing five years, managed to accomplish the following: While cutting the total number of officers by 4,805, they, nevertheless, were able to create 39 more lieutenant colonels, 170 more colonels, and 1,672 more majors. The Air Force today has 1,031 more colonels, 4,510 more lieutenant colonels, and 2,177 more majors than permitted by an officer force of 125,000 under the Officer Grade Limitation Act of 1954.

All of the services since World War II have undergone a grade creep which has at times become a grade gallop, but none of our services has galloped further than the Air Force. In all of the Department of Defense, 13% of our men in uniform are officers—13% of the Army are officers, 12% of the Navy are officers, 10% of the Marine Corps are officers, but 17% of the Air Force are officers. Within this already enlarged officer structure, the Air Force has 37% of its officers in the grades of colonel, lieutenant colonel, and major, compared to only 29% of the Army and 33% in all the services combined.

Secretary of the Air Force Seamans testified before the Armed Services Committee this year that the Air Force has 4,400 field grade officers (colonel, lieutenant colonel, and major) assigned to other than Air Force activities. Many of these activities may require such rank, many undoubtedly do not.

We are all aware of the handsome, charming and articulate 2-star general who serves as the head of Legislative Liasion for the Air Force, telling us what the Air Force wants us to know. This may or may not be an essential function, but I suspect that it is more essential than many of them.

Fewer of us, however, are aware that the Air Force has more lieutenant colonels than second lieutenants, and almost twice as many majors as second lieutenants.

While a great deal of testimony was heard in the Committee to the effect that it is the colonels, lieutenant colonels, and majors of the Air Force who are fighting the war in Vietnam, the statistics are as follows: 20% of the Air Force's casualties in the war in Vietnam from January 31, 1961 through July 31, 1971, were enlisted men, 15% of their casualties were majors, only 3% were lieutenant colonels, and less than 1% were colonels. All the rest were lieutenants and captains.

The Air Force claims that they have to have more high ranked officers because their equipment is so complex and sophisticated. Yet asked to name the most sophisticated equipment in the Air Force Secretary Seamans named the Mark II avionics system of the FB–111 aircraft and admitted it was maintained by enlisted men and operated by lieutenants and captains. This is not a bill for the benefit of the enlisted men, lieutenants and captains.

The Air Force has other incentives than a bloated rank structure by which it can retain and does retain its higher ranked officers.

The testimony before the Committee was to the effect that the majority of the colonels are excused from flying, but still draw flight pay. The question was asked of General Dixon, "Do you think it is a proper procedure to continue to pay flight pay to people who are not flying?" General Dixon replied, "I think it is a proper procedure."

The serious issue which transcends this bill is the fact that not the Air Force alone, but throughout our entire military establishment we have more and more brass and fewer fighting men. We have more and more fat and less and less muscle.

A great place to make a small beginning toward the very difficult task of reversing this situation would be with this bill right here, right now, by voting it down.

OTIS G. PIKE.

PROFILE OF EUGENE COWEN

Mr. SCOTT. Mr. President, in the latest issue of Broadcasting magazine, I noted a profile of Eugene Cowen, vice president for the Washington office of American Broadcasting Co. We in the Senate know Gene Cowen. We know the exceptional job he performed here working with each of us as the administration's representative and as a Deputy Assistant to President Nixon for congressional relations. Mr. President, I ask unanimous consent that the profile of Mr. Cowen be printed in the RECORD.

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

ABC'S MAN IN WASHINGTON SHAPES THE JOB TO HIMSELF: EUGENE SHERMAN COWEN

There are, it seems, as many styles of representing the networks in Washington as there are network representatives in Washington. There is NBC's Peter Kenney, the senior of the three, who goes about his work with the sureness of a polished, professional politician. There is CBS's Richard Jencks, the man of august presence and profound knowledge of the broadcasting business and communications law. And there is ABC's Engene Cowen, the new man on the scene, who might be termed the quiet man.

Quiet. Friendly. Low key. These are some of the terms those who know him use in describing Mr. Cowen, who has been ABC's Washington vice president since January. But there are other terms, too—able, skill-

ful, hard-working, fair-minded; a little light, still, in his knowledge of the broadcasting industry, but experienced in and knowledgeable about Washington's major industry—government.

Even the full catalogue of terms may be deceptive; it still seems to conjure up the image of the guy Leo Durocher said always finished last. And that isn't Gene Cowen. In the past 20 years, he moved from a job as a reporter in Newhouse's Washington news bureau to the second tier of assistants at the White House and, finally, to the position of Washington vice president for one of the major networks.

Mr. Cowen considers the position ideal. "If I could have created a job for myself," he says, "this would have been it." After all, the job pretty much is what the man makes it. There are certain basic responsibilities, such as keeping ABC abreast if not ahead of developments affecting it and the industry so that it can plan accordingly; heading off trouble where possible, and supplying members of Congress and government agencies with information they need or that he thinks it would serve ABC's interest that they have.

What's more, the job seems to suit his temperament as well as training. Congress and the bureaucracy are filled with men of pride, not to mention vanity, who are aware of the strength their positions give them and are sensitive to efforts on the part of those seeking support for their private interests. They can be moved, by force of logic or flattery, or by appeals to the public interest or to a shared bias or point of view. But pressure doesn't work. "Anyone who tries to strong-arm you," one member of the FCC said recently, "you throw 'em out the door," Gene Cowen, the commissioner added, doesn't present that problem.

Credibility, reasonableness and intelligence are the Washington representative's most valuable coin. And according to those who have known him over the years, Mr. Cowen has his share of the loot. "He doesn't come over gung-ho, but he knows the issues before he talks to you," says one Senate staffer. "He doesn't kid you about knowing every aspect of a problem if he doesn't. That's one of his strengths."

Mr. Cowen has been studying the workings of government from a variety of vantage points since 1952—first as a reporter after moving up from Newhouse's *Syracuse* (N.Y.) *Herald-Journal* to the news bureau, then as news secretary to then-Representative Frances Bolton (R-Ohio) for three years; as an information officer at the Housing and Home Finance Agency and later the Department of Health, Education, and Welfare, for two years; as an aide to Senator Hugh Scott (R-Pa.), for 10 years, the first eight as news secretary, the last two as administrative assistant and, finally, as a White House assistant.

"I knew Bryce Harlow from the Eisenhower days," Mr. Cowen said in explaining his shift to the White House. "He saw me at the inaugural ball, after Nixon's election, leaned over and said, 'Uncle Sam needs you.'" Mr. Harlow was then head of White House congressional liaison, and wanted Mr. Cowen for his staff of presidential assistants. By the time he left the White House, Mr. Cowen was a deputy assistant, whose principal responsibility was the Senate.

Mr. Cowen was recruited for ABC by Everett H. Erlick, group vice president and general counsel who had been conducting a talent hunt for a replacement for Alfred Beckman, who was to retire early because of poor health. Two friends, one in government, the other in broadcasting, suggested he talk to Mr. Cowen. He did—and drew a ready response; as Mr. Cowen said the other day, "I was happy at the White House, but you can't spend your life there." Mr. Erlick then did a careful check, and found that the Republican-connected Mr. Cowen was well regarded by those to whom he would represent—ABC—including Democrats on Capitol Hill.

For Mr. Cowen, representing ABC is less hectic than representing the White House, at least so far.

But the responsibilities are different. As he says, the job of a Washington network vice president "shapes itself around the personality of the man." And to a former newsman who had spent 20 years in Washington and around politicians and bureaucrats, he feels that one of his major tasks is to explain official Washington and ABC to each other in terms of broadcast news—ABC's in particular. For Washington, he says, is preoccupied with news.

One problem, he says, is that few in Washington realize that news and public affairs are red-ink operations for the networks. He is doing what he can to impress that fact on members of Congress (the implication, of course, is that the networks must be profitable in order to continue to support their news and public-affairs operations). And to sharpen up ABC's image as a purveyor of public-affairs programs he makes it a point, whenever ABC schedules one, to write "tune-in" letters to members of the House and Senate he feels would be particularly interested.

As for corporate ABC, he feels his job is to impress on it the fact of Washington's preoccupation with news. He hopes that in the business decisions it makes, ABC will opt for emphasizing its news promotion in Washington.

Off his background, Mr. Cowen can be expected to make these points—as to the financial losses involved in news and public-affairs operations and the importance of such programing to a network's image in Washington—earnestly and logically, if quietly.

THE 175TH ANNIVERSARY OF CANTON, MASS.

Mr. BROOKE. Mr. President, this coming Sunday the city of Canton, Mass., will celebrate its 175th anniversary.

This is an important date for this community of more than 17,000 industrious citizens.

Canton has played an important role in the history of this Nation. It was originally the site of a powder mill, founded by Paul Revere, which made gunpowder for the American forces in the Revolutionary War and the War of 1812.

Canton was also the site of the Nation's first copper rolling mill, established by Paul Revere in 1808. This mill turned out the rolled copper for the famous statehouse dome in Boston, and made the boilers for Robert Fulton's first steamboat.

Today the Plymouth Rubber Co. is Canton's major employer. Many other industries also thrive there, employing 6,500 people with an annual payroll of more than $50 million.

The people of Canton have long been concerned with the preservation of their scenic environment and recreational opportunities. Part of the city is contained within the Blue Hills Reservation, providing swimming, fishing, hiking, riding, and a multitude of sports and entertainment for the people of the entire region.

Canton has a bright future, as well as an illustrious past. I am sure that Senators will join me in saluting Canton, Mass., on the occasion of its 175th birthday.

FISHBOWL PLANNING: A NEW CONCEPT

Mr. DOLE. Mr. President, perhaps no Federal undertakings are so widely known or have such clearly understood effects as the construction projects of the Army Corps of Engineers. Dams, waterways, river improvements and flood control projects have significant and easily recognized local impact, and they have often given rise to spirited controversy. In addition to substantive questions such as whether and where these projects should be constructed, dispute and discord often arise over the procedures by which these projects are considered and the extent to which citizens are able to have meaningful participation in the planning and decisionmaking process which accompanys them.

The Corps of Engineers has sometimes been criticized for conducting its planning and evaluation of local projects behind a procedural curtain, raising it only to reveal the finished product which is then immune from public suggestions for alteration or reconsideration. These criticisms are unfortunate, but it is encouraging to note that the Corps of Engineers is not unresponsive to this public concern, nor is it unwilling to seek more active and effective citizen participation in its work.

The September issue of Civil Engineering—ASCE—which by the way is its special environmental engineering annual, contains an article by Corps of Engineers Col. Howard L. Sargent, Jr., on "Fishbowl Planning" in the Seattle, Wash. Corps District. This concept appears to offer substantial hope for giving Corps' planning processes a major input of citizen involvement which will result both in better public works projects and improved community attitudes toward them. I believe the fishbowl planning concept is to be commended as a progressive and constructive contribution to the workings of our Government. 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:

FISHBOWL PLANNING IMMERSES PACIFIC NORTHWEST CITIZENS IN CORPS PROJECTS

(By Howard L. Sargent, Jr.)

(NOTE.—Traditionally, public-works planners have been secretive, oftentimes springing "The Plan" for a dam, flood-control project, waste-treatment plant, or other public works on an unsuspecting public a short time before construction. True, public hearings are held. But these often seem more a ritual for the citizen to vent his steam, than a forum for involving him in the planning. Rarely do planners spell out alternatives. And with a construction deadline closing in, they have little time to consider citizen objections or suggestions.

(Commendably, the U.S. Army Corps of Engineers' Seattle District is pioneering a new approach to water-resources planning, an approach that involves interested citizens in project planning right from the start. Known as "fishbowl planning," because all choices and arguments are made highly visible throughout a study, it's been successfully used for the past two years. Other planners could profit from Seattle District's lead.)

The traditional way engineers go about planning a public works project leaves little room for the citizen to be heard. Engineers would first define the "problem", then "objectives" or "goals". Finally, they would develop "The Plan" to attain these goals.

Of course eventually, the public gets a look at "The Plan" in public meetings or hearings. Presentation is oral. And a thick study docu-

ment is available for inspection, should some persistent citizen have the energy to labor through it. Oftentimes, engineers do not show the public alternate plans; and if they do, written copies are not available for public scrutiny. Questioned about alternatives, the planner is likely to answer: "We looked at other ways to solve the problem, but there was little support for any of them."

In sharp contrast to this secretive method is a new planning approach now being used by the U.S. Army Corps of Engineers' Seattle District. It's called *fishbowl planning*. It's already been applied to 16 river-basin and other water-resources studies in the Seattle District, which covers the Washington coastal area, the Puget Sound basin and the upper Columbia River basin—to the continental divide in Montana.

GOAL OF FISHBOWL PLANNING

The main goal of fishbowl planning is to insure that planning for public works projects is highly visible to all interested organizations and individuals. Concerned citizens are actually involved in the planning from the *start*. They play an important role in developing public works plans. *Fishbowl planning* is not a tactic to give the public the illusion of participation. Says the president of the Puget Sound League of Women Voters, Mrs. Jo Yount: "Fishbowl planning conducted by the Corps of Engineers' Seattle District—is almost revolutionary." In effect, fishbowl planning lets the public peer over the planner's shoulder as he progresses with his work.

We avoid the terms "problems", "objectives", and "goals". Why? For each alternative, there is a unique set of problems. Stated another way, each alternative attains a unique objective. The proponent of each alternative defines problems and goals differently. Avoiding these terms speeds up planning: there is no need for a problem—definition or objective-setting phase. Instead, there is early emphasis on identifying alternatives, and evaluating the *degree* to which each attains a variety of desirable objectives.

One problem with traditional planning is that the public can express its views only at public meetings. And although the citizen's position is written into the record of the hearing, busy officials may never read them. Likewise, public-agency comments on a proposed project are buried in appendices reviewing officials are unlikely to read.

How does fishbowl planning work? There are four main communication channels: *workshops; public meetings; citizens committees;* and an easily obtained document, the *public brochure* (See box 1).

THE PUBLIC BROCHURE

The *public brochure* depicts alternatives suggested by local people and agencies in public meetings, workshops, correspondence and personal contacts with study managers. Parties outline *alternatives*, giving *pros* and *cons*. These are summarized in the public brochure. There are two pages for each alternative: The left page describes the alternative, often including a map or sketch. The right page has two columns, *pros* and *cons* (See box 2). Anyone can propose an alternative. Do we get flooded with proposals? Not usually. Rarely do alternatives exceed a dozen.

Similarly, anyone may enter a *pro* or *con* in the public brochure. Rebuttal space is provided in the column across from each pro and con. In this way wild charges are brought down to earth. Each pro and con carries the name of the person or organization contributing it. Thus their position is known to all. Giving credit also satisfies a person's need to be recognized. Our experience shows that this reduces emotional statements in public meetings and workshops. The comments of a potentially emotional speaker are read well before each workshop and public meeting.

One page of the brochure lists the names of all people who have made comments on each edition of the brochure. This helps identify groups that should be participating—but aren't. We urge them to make their views public.

In a typical Corps study, we hold four public meetings. The public brochure is updated a half dozen times and mailed to all interested parties, specially just before each public meeting. Two special sections are added to the brochure after public meeting 2. In the first, each alternative is carefully examined to see the degree to which is helps meet a series of desirable objectives (See Table I). Three achievement levels are used: high, intermediate, and low. Is there controversy about this table? Not much, since no attempt is made to evaluate the relative importance of the several objectives.

The other section added to the brochure identifies the one or two alternatives selected for technical checkout, such as geology, hydrology, or a prediction of effects on fish and wildlife. The district engineer discusses each alternative in turn, giving reasons for selecting or rejecting the alternative for the detailed checkout. In the final version, these discussions of alternatives include the results of the checkouts and are the basis of the district engineer recommendation to higher authority.

During the technical checkout of one or more alternatives the broad pro and con debate on *all* alternatives continues. Doing well in a technical evaluation does not preclude an alternative being rejected later for nontechnical reasons.

Under traditional planning, the detailed checkout would be completed and study funds exhausted before the public became aware of the planner's choice. Fishbowl planning exposes the planner's choice to public critique, *before* expenditure of study funds (See box 3).

Prior to a public meeting at Ephrata, Washington, in December 1971, the Seattle district engineer announced in the brochure his intention to focus on alternative 6A. As a result of comments in the public meeting, the Seattle District made a detailed checkout of Alternative 6 as well as 6A. And a brand new alternative (Alternative 8) suggested by a city councilman was placed under consideration.

Conducting a detailed technical checkout of all alternatives would be too expensive. In the Ephrata study, for example, two alternatives *not* selected for detailed checkout involve dams. Making geological examinations of dam sites, including foundation corings, would consume a large proportion of study funds.

WORKSHOPS

Workshops are used to get the public brochure ready for the next public meeting. Workshops differ from public meetings. In a public meeting all alternatives are discussed. But a workshop may not cover all alternatives. Another difference: in a public meeting as many people as possible speak; but with fewer people, a workshop provides a better chance to exchange ideas.

Our workshops are always open to the public. We favor a workshop in which invited interest groups discuss alternatives. After two or three hours of discussions spectators are free to speak. Allowing spectators to express their views is important: some of them may have been chagrined at not being invited participants; allowing them to speak out helps overcome bad feelings. A workshop helps clarify points in the brochure. Also, it improves rapport among interest groups. Often a group will soften its position. The proponent of an alternative might find that a minor modification, unimportant to him, gains him increased support from another group. In both public meetings and workshops we are informal, emphasizing free discussions. This is in sharp contrast to the public hearing associated with traditional planning. There, the emphasis is on letting the public voice its views—not on getting answers.

CITIZENS COMMITTEES

CITCOMS are made up of people from local government agencies and interest groups. The CITCOM for the Snohomish River Basin study, for example, includes representatives from the League of Women Voters, the county, Sierra Club, several planning commissions, several cities, chambers of commerce, a port, Washington Environmental Council, labor unions, an Indian tribe, flood control districts, and farmers.

These committees, however, are not debating groups. Nor do they vote on proposed alternatives. Rather they recruit citizen discussion leaders, citizens who defend a particular alternative (and comment on other alternatives) in workshops and public meetings. CITCOMS also pass study information along to interested groups. The Corps study manager gives CITCOMS administrative help. Box 4 is a typical meeting agenda. Interviews that CITCOM conducts are valuable to the Corps planner. During an interview a committee member often encourages a reluctant local or regional planner to get his alternatives written into the brochure.

BOX 1.—FISHBOWL PLANNING VERSUS TRADITIONAL PLANNING

	Fishbowl planning	Traditional planning
Public meeting 1—Held at early point in study to determine the concerns, opinions, and preferences of all interests. No alternatives presented by planner	×	×
1st draft public brochure—A description of preliminary alternatives, with pros and cons mailed to interested parties for comment, shortly after public meeting 1	×	
Workshop series 1—To prepare brochure for public meeting 2 (i.e. modify and add alternatives, pros and cons)	×	
2d draft public brochure—Mailed to interested parties for comment	×	
Public meeting 2—To debate the full range of alternatives	×	
3d draft public brochure—Mailed to interested parties for comment	×	
Added: Analysis of alternatives; and rationale for selecting 1 or 2 alternatives for detailed technical checkout		
Workshop series2—To prepare brochure for public meeting 3	×	
4th draft public brochure—mailed to interested parties for comment	×	
Public meeting 3—To debate tentative decision to conduct a technical checkout of 1 or 2, alternatives, while continuing debate on all alternatives	×	
5th draft public brochure—Mailed to interested parties for comment	×	
Workshop series 3—To discuss results of technical checkout of 1 or 2 alternatives and prepare brochure for public meeting 4	×	
Formal-letter coordination with public agencies	×	×
6th draft public brochure—Mailed to interested parties for comment	×	
Public meeting 4—To discuss results of technical checkout and tentative selection of 1 alternative	×	×
Final version public brochure—Mailed to interested parties as report summary	×	

BOX 2: ALTERNATIVES, WITH PROS AND CONS—BIG QUILCENE RIVER FLOOD DAMAGE PREVENTION STUDY

Alternative 4: Levees to protect residential area.

Levees in alternative 3 would be extended downstream to high-tide line. Excessive sediment deposits would be removed from the channel. Riprap would be provided for entire length of levees. Annual removal of sediment in vicinity of tide line would be necessary.

Pro

4. Protect sea life. Tendency of river to change course at its mouth, causing damage to oysters and other sea life, would be reduced. (C. Smith)

Con

*4. Damage spawning beds. Levees on river banks could create excessive constriction of the river, causing increased flow. This would cause accelerated gravel movements, detrimental to spawning beds and aquatic habitat. (Dept. of Game)

Pro

13. Provides valuable protection. Would protect oyster beds with a potential average production valued at $75,000 per year (before packing).

Con

**13. Additional protection required. Would encourage further development in the flood plain area, making it necessary to provide further flood protection while destroying fish and wildlife habitat. (U.S. Fish & Wildlife)

BOX 3: ADVANTAGES OF FISHBOWL PLANNING

Early citizen and agency involvement.

Public brochures available before meetings and workshops—public and agencies come to meeting prepared. Easy to add and revise alternatives and pros and cons.

Pros and cons clearly visible.

Alternatives debated repeatedly—brochure updated after each meeting. All alternatives treated as co-equal until late in study.

Early feedback to proponents of alternatives—they can see support or resistance building, and modify proposals to gain support.

Facts—not votes—emphasized—comments probed to determine facts and reasoning behind support for a particular alternative.

Participation publicly recorded—public brochure available to everyone; all comments identify contributor.

BOX 4: CITIZENS COMMITTEE MEETING AGENDA

1. Study status report.
2. Determine if additional alternatives should be studied, by interviews with local and regional planners.
3. Identify other interest groups who should participate.
4. Recruit additional citizen discussion leaders.
5. Identify interest groups that need additional information.

FISHBOWL PLANNING IN PRACTICE

Is fishbowl planning merely a showpiece or does it really work? "It's a vast improvement over the past," believes Ann Widditsch, formerly the water-resources chairman for the Washington State League of Women voters and now a member of the Washington State Ecological Commission. In the past, only two public hearings were held on a proposed project, one at the beginning of planning and one at the end. Usually, says Mrs. Widditsch, citizens didn't even know about the initial hearing. But with fishbowl planning, she says, "we now have a chance to affect a study any time during its course. People are being heard—far more than in the past. But most studies haven't progressed far enough yet to really see what the impact of citizen participation has been."

In sum, Mrs. Widditsch likes the idea of fishbowl planning, she feels that the concept is good. Her only suggestion on the fishbowl-planning format is that a place should be made in the public brochure for citizen comments that don't fall neatly into 'pro' or 'con.' (e.g. citizen comments about where we stand now, where we're going, etc.) The acid test, though, is how Corps study managers actually carry it out. "I'm not sure all Corps study managers," she says, "know how to carry out fishbowl planning. Some are very good but others are not that enthusiastic. They go through the motions. They're not quite ready to bring the public in on planning. They still see the public as a nuisance."

The Seattle branch of the Sierra Club is withholding its judgment on the effectiveness of fishbowl planning. The key questions in many people's minds, says Sierra's David Kechley, are these: Is fishbowl planning a new approach to public planning or merely a cosmetic approach to cover the old planning methods? Will the Corps scrap some of its pet projects—e.g. the Snoqualmie dam, a flood control project planned for a long time but not yet built—because of the outcome of public workshops? Will fishbowl planning really affect decision-making or will results be predetermined by the Corps? Says Kechley: "Only time will tell."

Another view comes from marine engineer John E. Kelly of Seattle. As a representative of the Duwamish Boat Owners Association, he attempted to persuade the Corps in its Seattle Small Boat Harbor Study that the best location for a new marina would be at Kellogg Island. DBOA prefers this site because: its members have moored their boats there for several years; it's in freshwater, which means that, unlike at many of the proposed saltwater sites, marine bores would not eat away at boat hulks; and it would cost much less to build the marina there than at other proposed locations.

While conceding that their recommendation will ultimately be rejected, Kelly says, "We were heard. We had every opportunity to present our case. But we were not able to persuade the Port of Seattle to give up its plan to create an industrial site there." How does Kelly feel about fishbowl planning now that his proposed alternative has all but been rejected? "Fishbowl planning," he says, "is great! I've seen a good deal of citizen involvement, from housewives to agency heads. It's a very good thing to get these many viewpoints. It avoids a one-sided approach."

THE CORPS VIEW

According to the Seattle District Corps of Engineers' chief of navigation and coastal planning, Peter Denny, citizens are most helpful in screening out *unacceptable* alternatives. In the Seattle Small Boat Harbor Study, for example, citizens found several unacceptable because of resulting traffic congestion, noise, costs, or because they wanted the shoreline for a park.

Regrettably, says Denny, citizens don't suggest that many alternatives. "Unless you give them something to chew on, response is quite limited." On one occasion, according to Denny, the Corps put forward no alternatives and instead merely asked the citizens, "What should we do?" Result? No response. Says Denny: "So we then put forward our proposals and got them to respond. But it's very rare for a citizen to come forward with an original idea. They don't put forward many alternatives, nor even that many pros and cons. Many citizens don't have the background to comment intelligently. And they don't want to stand up and be ridiculed for their ideas. But the fact that citizens show up at meetings in good numbers does show that they are keenly interested in water-resources planning. Despite the limited suggestions by citizens, the fishbowl-planning meetings inform citizens much better than in the past and enable us to establish a much better rapport with local groups."

Asked to cite a case where a citizen had suggested an alternative that actually was adopted. Denny replied: "I can't think of one."

*Con rebutted by a pro.
**Pro rebutted by a con.

ANNOUNCEMENT OF POSITION ON VOTE

Mr. STENNIS. Mr. President, I regret very much that on yesterday, October 4, I inadvertently missed a vote. The bells in my office did not sound, and I was not otherwise notified of the impending vote. I was in my office at the time.

The vote is recorded on page 33641 of the CONGRESSIONAL RECORD for October 4. A motion was made to recommit H.R. 1, the proposed Welfare and Social Security Amendments, with instructions that it be reported forthwith to embody the Ribicoff-administration compromise welfare program. The motion was tabled by a vote of 44 yeas to 41 nays.

I especially regret missing this very important vote. Had I been present I would have voted in favor of the motion to table.

PRESCRIPTION DRUG PRICES

Mr. MOSS. Mr. President, competition has proven to be the most effective spur to business efficiency, innovation, and low prices. But, I have been concerned for some time with the prohibitions on prescription drug price advertising existing in many States. These prohibitions represent a departure from our national economic policy and do not appear to be justified by the public need.

Survey after survey shows that price differentials in pharmacies from city to city vary up to 1,200 percent for the same amount of an identical drug. The only reasons that these kinds of differentials exist is that the consumer is unaware of their existence.

It has been suggested that the price advertising of prescription drugs would endanger the public health. As a severe critic of rampant over-the-counter drug advertising, I for one do not believe that price advertising can be equated with pushing drugs. The arguments against price posting and price advertising are strawmen for the real argument: Economics and professional prestige. Back in March, one of the Washington retail drug chains placed an advertisement listing the retail prices of its 40 largest selling items. A competitive chain responded with a full page advertisement implying that the Federal Government was about to force retailers into spending money to lure people into using dangerous drugs. This is nonsense.

As Erma Angevine, executive director of the Consumer Federation of America stated in a letter to the President of this large drug chain—

To my knowledge, the most the Federal government has done is to urge repeal of certain state laws prohibiting the advertisement of drug prices. Nobody is telling Drug Fair or any other firm to advocate the use of appetite depressions, tranquilizers, or birth control pills. In distorting the real issue of prices, you have permitted your firm to feed on the worst fears of the public. In this outlandish appeal, you raise false issues clearly intended to produce an emotional backlash. I find it impossible to comprehend your contention that knowledge of drug names and prices will increase drug traffic and the solution for the abuse problem today is concealing the names from young people. Even at the elementary school level, drug education programs include factual information about drugs, including names. Drug prices are the issue as you well know. We are among those who believe the public must have full information—in this case proper names and prices—if it is to make intelligent decisions.

Mr. President, this subject is definitely one worth considerable attention by Congress. It is my hope that we will be able to explore the issue more fully in the 93d Congress, and eliminate this unfor-

tunate restriction which only serves to hurt the consuming public. I ask unanimous consent that an article published in Newsweek for September 18, 1972, be printed in the RECORD.

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

RETAILING: KEFAUVER'S REVENGE

Ever since the Kefauver hearings began delving into the inner workings of the drug industry in the late 1950s, it has been an open secret that the prices of prescription drugs can vary by staggering amounts from one pharmacy to the next. But for the most part, attempts to reform the system have had scant success. One reason is that 27 states actually contribute to the high-price boondoggle by forbidding drugstores to advertise their retail prescription prices, thereby denying customers the chance to make comparisons.

In the past couple of years, however, there have been growing signs that this artificial price structure may be beginning to crumble. Four states—Pennsylvania, Florida, Oregon and Wisconsin—have overturned their regulations against price advertising, and the city of Boston last year passed a law that druggists must publicly post their prescription prices. And some of the strongest proponents for change are drugstores themselves. Last October, the 180-store Osco Drug chain began challenging the advertising prohibitions in several Midwestern states where it operates, and last week Pathmark, a supermarket chain with 74 drug outlets, said it was filing suits to overturn the ban in New Jersey, New York and Connecticut.

Ploy: Neither Osco nor Pathmark has gone so far as to advertise prescription prices in newspapers, but both post prices inside their pharmacies. "This is information permissible under phase two," says Stuart Rosenthal, assistant to the president of Pathmark, "and Federal law supersedes state law." An Osco spokesman says many states have let the posting matter drop, at least until price controls end.

If the Osco-Pathmark efforts snowball, small druggists fear that the big chains will use prescriptions as a loss leader to build total sales, thus endangering the small stores' profits. Given the size margins on most prescription drugs, however, it would seem that even relatively cut-rate prices would leave adequate margins for all. And for its part, Pathmark denied any plans to sell anything at a loss. "We don't think this will be the undoing of the small pharmacist," said Rosenthal. "They offer services, such as delivery and credit, that we don't. There's room for small pharmacists just as there is room for small grocers. What we do see being undone are some of the tremendous spreads in prices—1,000 per cent in some cases."

KANSAS REVENUE SHARING ALLOTMENTS

Mr. DOLE. Mr. President, general revenue sharing, one of the most far reaching of many governmental reforms proposed by President Nixon, has passed the Senate and House, and now the agreement of the conference committee is awaiting final congressional approval.

General revenue sharing promises to be one of the most significant single efforts ever undertaken to improve State and local government and reduce the redtape, delay, and inefficiency of a huge centralized Federal bureaucracy. By turning $33.5 billion of taxes collected by the Federal Government over the next 5 years back to the States and localities which have severely limited sources of revenues, general revenue sharing will enable local solutions to local problems to be designed and implemented with a speed and on a hand-tailored basis which has been impossible to date with cumbersome Federal programs.

General revenue sharing is a major breakthrough in the long and often frustrating struggle to make government in America more responsive, more responsible, and more efficient for our people. In the State of Kansas and in its cities, towns, and counties—just as in every other part of the country—support and interest have been broadly based and widespread.

State officials, mayors, county commissioners, and, most importantly, the taxpayers have given general revenue sharing their enthusiastic endorsement. Their confidence and support have been well placed. Under the formula adopted in the conference report, a total of $52.8 million will be provided to Kansas in the first year of general revenue sharing, with one-third going to the State government and two-thirds passing through to city, county, and other local government units. It is difficult to describe the impact these funds will have and the benefits they will bring to citizens of Kansas. Of course, improvements in State and local government and the relief of pressure for ever higher State and local taxes will be the most convincing evidence of revenue sharing's value, but at this time perhaps the best illustration would be simply to show where and in what amounts this first year installment of $52.8 million will go.

Therefore, I ask unanimous consent that the preliminary estimates of the distribution of general revenue sharing funds in Kansas, as determined by the conference report formula, be printed in the RECORD.

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

Revenue sharing funds for Kansas

[In dollars]

Total State grant to all locals	35,230,945
Amount returned to Kansas State government is	0
Allen County area	247,152
Allen County government	133,400
Total to all cities over 2,500	62,900
Total to all cities under 2,500	39,476
Total to all townships	11,375
Iola City	62,900
Anderson County area	193,304
Anderson County government	158,637
Total to all cities over 2,500	22,797
Total to all cities under 2,500	8,855
Total to all townships	3,014
Garnett City	22,797
Atchison County area	435,782
Atchison County government	208,985
Total to all cities over 2,500	178,223
Total to all cities under 2,500	16,964
Total to all townships	31,621
Atchison City	178,223
Barber County area	147,391
Barber County government	83,373
Total to all cities over 2,500	16,895
Total to all cities under 2,500	16,072
Total to all townships	31,052
Medicine Lodge City	16,895
Barton County area	515,929
Barton County government	229,010
Total to all cities over 2,500	193,687
Total to all cities under 2,500	41,757
Total to all townships	51,474
Great Bend City	154,235
Hoisington City	39,453
Bourbon County area	307,699
Bourbon County government	193,305
Total to all cities over 2,500	94,383
Total to all cities under 2,500	12,062
Total to all townships	7,948
Fort Scott City	94,383
Brown County area	265,705
Brown County government	164,624
Total to all cities over 2,500	33,833
Total to all cities under 2,500	37,754
Total to all townships	29,493
Hiawatha City	33,833
Butler County area	706,501
Butler County govt	106,611
Total to all cities over 2,500	195,596
Total to all cities under 2,500	75,243
Total to all townships	49,052
Augusta City	39,688
El Dorado City	155,908
Chase County area	77,494
Chase County govt	68,599
Total to all cities over 2,500	0
Total to all cities under 2,500	6,935
Total to all townships	1,960
Chautauqua County area	105,554
Chautauqua County govt	79,511
Total to all cities over 2,500	0
Total to all cities under 2,500	19,590
Total to all townships	6,453
Cherokee County area	490,002
Cherokee County govt	370,266
Total to all cities over 2,500	85,004
Total to all cities under 2,500	12,997
Total to all townships	21,735
Baxter Springs City	30,019
Columbus City	28,063
Galena City	26,922
Cheyenne County area	96,777
Cheyenne County govt	79,744
Total to all cities over 2,500	0
Total to all cities under 2,500	11,458
Total to all townships	5,574
Clark County area	65,852
Clark County govt	49,888
Total to all cities over 2,500	0
Total to all cities under 2,500	10,285
Total to all townships	5,680
Clay County area	224,888
Clay County govt	126,764
Total to all cities over 2,500	46,521
Total to all cities under 2,500	18,231
Total to all townships	33,372
Clay Center City	46,521
Cloud County area	386,203
Cloud County govt	216,036
Total to all cities over 2,500	56,222
Total to all cities under 2,500	23,521
Total to all townships	10,424
Concordia City	56,222
Coffey County area	168,200
Coffey County govt	117,502
Total to all cities over 2,500	0
Total to all cities under 2,500	24,029
Total to all townships	26,669
Comanche County area	61,441
Comanche County govt	43,008
Total to all cities over 2,500	0
Total to all cities under 2,500	12,698
Total to all townships	5,734
Cowley County area	598,368
Cowley County govt	319,577

Revenue sharing funds for Kansas—Cont.

[In dollars]

Total to all cities over 2,500	212,817
Total to all cities under 2,500	15,412
Total to all townships	50,562
Arkansas City	124,704
Winfield City	88,114
Crawford County area	665,609
Crawford County govt	343,173
Total to all cities over 2,500	250,360
Total to all cities under 2,500	69,734
Total to all townships	2,341
Girard City	26,506
Pittsburg City	223,855
Decatur County area	113,422
Decatur County govt	76,994
Total to all cities over 2,500	0
Total to all cities under 2,500	18,628
Total to all townships	17,800
Dickinson County area	394,042
Dickinson County govt	201,186
Total to all cities over 2,500	110,104
Total to all cities under 2,500	41,606
Total to all townships	41,146
Abilene City	76,465
Herington City	33,639
Doniphan County area	203,530
Doniphan County govt	175,649
Total to all cities over 2,500	0
Total to all cities under 2,500	25,790
Total to all townships	2,091
Douglas County area	882,345
Douglas County govt	420,188
Total to all cities over 2,500	377,376
Total to all cities under 2,500	19,605
Total to all townships	65,176
Baldwin City	22,829
Lawrence City	354,547
Edwards County area	104,167
Edwards County government	72,203
Total to all cities over 2,500	0
Total to all cities under 2,500	20,119
Total to all townships	11,846
Elk County area	87,727
Elk County government	72,290
Total to all cities over 2,500	0
Total to all cities under 2,500	10,731
Total to all townships	4,706
Ellis County area	517,717
Ellis County government	306,303
Total to all cities over 2,500	158,614
Total to all cities under 2,500	36,728
Total to all townships	16,072
Hays City	158,614
Ellsworth County area	139,754
Ellsworth County government	84,242
Total to all cities over 2,500	0
Total to all cities under 2,500	27,026
Total to all townships	28,486
Finney County area	255,275
Finney County government	134,685
Total to all cities over 2,500	114,312
Total to all cities under 2,500	2,102
Total to all townships	4,176
Garden City (city)	114,312
Ford County area	361,179
Ford County government	192,217
Total to all cities over 2,500	124,117
Total to all cities under 2,500	15,419
Total to all townships	29,426
Dodge City (city)	124,117
Franklin County area	438,861
Franklin County government	299,050
Total to all cities over 2,500	104,696
Total to all cities under 2,500	28,935
Total to all townships	6,181
Ottawa City	104,696
Geary County area	419,843
Geary County government	224,887
Total to all cities over 2,500	180,847
Total to all cities under 2,500	9,795
Total to all townships	4,314
Junction City	180,847
Gove County area	83,592
Gove County govt	76,257
Total to all cities over 2,500	0
Total to all cities under 2,500	11,043
Total to all townships	2,292
Graham County area	108,033
Graham County govt	91,144
Total to all cities over 2,500	0
Total to all cities under 2,500	13,541
Total to all townships	3,349
Grant County area	135,547
Grant County govt	96,547
Total to all cities over 2,500	36,747
Total to all cities under 2,500	0
Total to all townships	2,253
Ulysses City	36,747
Gray County area	112,689
Gray County govt	81,577
Total to all cities over 2,500	0
Total to all cities under 2,500	14,348
Total to all townships	6,764
Greeley County area	41,362
Greeley County govt	33,731
Total to all cities over 2,500	0
Total to all cities under 2,500	3,207
Total to all townships	4,424
Greenwood County area	207,857
Greenwood County govt	143,574
Total to all cities over 2,500	27,876
Total to all cities under 2,500	17,368
Total to all townships	19,039
Eureka City	27,876
Hamilton County area	62,464
Hamilton County govt	47,225
Total to all cities over 2,500	0
Total to all cities under 2,500	12,057
Total to all townships	3,182
Harper County area	178,978
Harper County govt	130,606
Total to all cities over 2,500	22,572
Total to cities under 2,500	21,594
Total to all townships	4,206
Anthony City	22,572
Harvey County area	496,628
Harvey County government	273,072
Total to all cities over 2,500	137,224
Total to all cities under 2,500	59,613
Total to all townships	26,719
Newton City	137,224
Haskell County area	83,497
Haskell County government	66,618
Total to all cities over 2,500	0
Total to all cities under 2,500	14,006
Total to all townships	2,873
Hodgeman County area	60,531
Hodgeman County government	51,655
Total to all cities over 2,500	0
Total to all cities under 2,500	4,492
Total to all townships	4,385
Jackson County area	230,833
Jackson County government	184,209
Total to all cities over 2,500	22,329
Total to all cities under 2,500	13,712
Total to all townships	10,583
Holton City	22,329
Jefferson County area	177,105
Jefferson County government	145,324
Total to all cities over 2,500	0
Total to all cities under 2,500	23,402
Total to all townships	8,379
Jewell County area	138,685
Jewell County government	119,278
Total to all cities over 2,500	0
Total to all cities under 2,500	15,482
Total to all townships	3,925
Johnson County area	690,239
Johnson County government	366,114
Total to all cities over 2,500	0
Total to all cities under 2,500	309,024
Total to all townships	15,101
Fairway City	6,190
Leawood City	4,998
Lenexa City	21,290
Merriam City	22,037
Mission	13,983
Mission Hills City	822
Olathe City	106,959
City of Prairie Village	24,766
Roeland Park City	10,109
Shawnee City	19,678
Overland Park City	65,195
Kearny County area	69,285
Kearny County govt	59,494
Total to all cities over 2,500	0
Total to all cities under 2,500	9,495
Total to all townships	297
Kingman County area	202,058
Kingman County govt	127,513
Total to all cities over 2,500	21,641
Total to all cities under 2,500	7,505
Total to all townships	45,400
Kingman City	21,641
Kiowa County area	92,957
Kiowa County govt	72,645
Total to all cities over 2,500	0
Total to all cities under 2,500	14,952
Total to all townships	5,360
Labette County area	519,341
Labette County govt	321,606
Total to all cities over 2,500	130,892
Total to all cities under 2,500	58,019
Total to all townships	8,825
Parsons City	130,892
Lane County area	61,554
Lane County govt	54,114
Total to all cities over 2,500	0
Total to all cities under 2,500	3,382
Total to all townships	4,059
Leavenworth County area	650,505
Leavenworth County govt	289,806
Total to all cities over 2,500	296,974
Total to all cities under 2,500	32,823
Total to all townships	30,902
Leavenworth City	283,363
Lansing City	13,612
Lincoln County area	104,190
Lincoln County govt	83,199
Total to all cities over 2,500	0
Total to all cities under 2,500	12,213
Total to all townships	8,778
Linn County area	176,682
Linn County govt	144,335
Total to all cities over 2,500	0
Total to all cities under 2,500	21,745
Total to all townships	10,601
Logan County area	86,726
Logan County govt	54,147
Total to all cities over 2,500	0
Total to cities under 2,500	25,467
Total to all townships	7,112
Lyon County area	489,885
Lyon County govt	291,290
Total to all cities over 2,500	179,746
Total to all cities under 2,500	17,037
Total to all townships	1,812
Emporia City	179,746
McPherson County area	425,181
McPherson County govt	239,038
Total to all cities over 2,500	94,463
Total to all cities under 2,500	29,716
Total to all townships	61,964
Lindsborg City	30,676
McPherson City	63,787

Marion County area	316,868
Marion County govt	239,524
Total to all cities over 2,500	21,851
Total to all cities under 2,500	45,599
Total to all townships	9,893
Hillsboro City	21,851
Marshall County area	291,832
Marshall County govt	177,180
Total to all cities over 2,500	33,693
Total to all cities under 2,500	38,144
Total to all townships	41,815
Marysville City	33,693
Meade County area	111,694
Meade County govt	62,805
Total to all cities over 2,500	0
Total to all cities under 2,500	43,357
Total to all townships	5,531
Miami County area	353,711
Miami County govt	250,186
Total to all cities over 2,500	11,672
Total to all cities under 2,500	9,590
Total to all townships	22,263
Osawatomie City	17,194
Paola City	54,478
Mitchell County area	182,139
Mitchell County govt	94,808
Total to all cities over 2,500	43,196
Total to all cities under 2,500	18,763
Total to all townships	25,371
Beloit City	43,196
Montgomery County area	719,971
Montgomery County government	337,872
Total to all cities over 2,500	304,458
Total to all cities under 2,500	37,927
Total to all townships	39,714
Cherryvale City	48,755
Coffeyville City	165,097
Independence City	90,606
Morris County area	129,773
Morris County government	102,775
Total to all cities over 2,500	0
Total to all cities under 2,500	26,091
Total to all townships	908
Morton County area	81,315
Morton County government	22,580
Total to all cities over 2,500	0
Total to all cities under 2,500	5,854
Total to all townships	52,880
Nemaha County area	268,888
Nemaha County government	164,866
Total to all cities over 2,500	0
Total to all cities under 2,500	68,040
Total to all townships	35,983
Neosho County area	341,601
Neosho County government	266,224
Total to all cities over 2,500	57,346
Total to all cities under 2,500	16,147
Total to all townships	1,283
Chanute City	57,346
Ness County area	108,942
Ness County government	94,589
Total to all cities over 2,500	0
Total to all cities under 2,500	13,883
Total to all townships	471
Norton County area	165,312
Norton County government	92,939
Total to all cities over 2,500	40,167
Total to all cities under 2,500	12,680
Total to all townships	19,525
Norton City	40,167
Osage County area	264,952
Osage County government	155,740
Total to all cities over 2,500	21,672
Total to all cities under 2,500	43,920
Total to all townships	43,620
Osage City	21,672
Osborne County area	130,561
Osborne County govt	85,205
Total to all cities over 2,500	0
Total to all cities under 2,500	24,644
Total to all townships	20,711
Ottawa County area	140,595
Ottawa County govt	109,273
Total to all cities over 2,500	0
Total to all cities under 2,500	28,119
Total to all townships	3,203
Pawnee County area	192,917
Pawnee County govt	110,135
Total to all cities over 2,500	51,667
Total to all cities under 2,500	8,847
Total to all townships	22,269
Larned City	51,667
Phillips County area	179,365
Phillips County govt	95,209
Total to all cities over 2,500	35,548
Total to all cities under 2,500	21,728
Total to all townships	26,880
Phillipsburg City	35,548
Pottawatomie County area	227,036
Pottawatomie County govt	153,988
Total to all cities over 2,500	19,205
Total to all cities under 2,500	23,287
Total to all townships	30,556
Manhattan City (Part)	6,879
Wamego City	12,326
Pratt County area	107,796
Pratt County govt	37,426
Total to all cities over 2,500	49,243
Total to all cities under 2,500	6,784
Total to all townships	14,343
Pratt City	49,243
Rawlins County area	99,892
Rawlins County govt	78,013
Total to all cities over 2,500	0
Total to all cites under 2,500	18,343
Total to all townships	3,536
Reno County area	941,999
Reno County govt	430,989
Total to all cities over 2,500	367,773
Total to all cities under 2,500	78,540
Total to all townships	64,697
Hutchinson City	367,773
Republic County area	193,238
Republic County govt	154,897
Total to all cities over 2,500	22,880
Total to all cities under 2,500	13,916
Total to all townships	1,542
Belleville City	22,880
Rice County area	280,144
Rice County govt	174,163
Total to all cities over 2,500	29,945
Total to all cities under 2,500	33,452
Total to all townships	42,584
Lyons City	29,945
Riley County area	549,942
Riley County govt	256,446
Total to all cities over 2,500	278,668
Total to all cities under 2,500	27,735
Total to all townships	32,094
Manhattan City (part)	278,668
Rooks County area	173,453
Rooks County govt	108,193
Total to all cities over 2,500	23,018
Total to all cities under 2,500	25,068
Total to all townships	17,174
Plainville City	23,018
Rush County area	116,355
Rush County govt	88,978
Total to all cities over 2,500	0
Total to all cities under 2,500	22,345
Total to all townships	5,033
Russell County area	214,383
Russell County govt	132,756
Total to all cities over 2,500	33,048
Total to all cities under 2,500	11,623
Total to all townships	36,956
Russell City	33,048
Saline County area	982,146
Saline County govt	448,757
Total to all cities over 2,500	509,229
Total to all cities under 2,500	17,108
Total to all townships	7,053
Salina City	509,229
Scott County area	125,838
Scott County govt	81,982
Total to all cities over 2,500	43,856
Total to all cities under 2,500	0
Total to all townships	0
Scott City	43,856
Sedgwick County area	4,263,197
Sedgwick County government	1,849,892
Total to all cities over 2,500	2,272,467
Total to all cities under 2,500	68,267
Total to all townships	72,571
Derby City	35,447
Haysville City	55,010
Mulvane City (part)	20,365
Valley Center City	22,583
Wichita City	2,139,061
Seward County area	315,660
Seward County government	204,878
Total to all cities over 2,500	104,385
Total to all cities under 2,500	2,226
Total to all townships	4,172
Liberal City	104,385
Shawnee County area	1,970,741
Shawnee County government	672,869
Total to all cities over 2,500	1,239,629
Total to all cities under 2,500	21,121
Total to all townships	37,131
Topeka City	1,239,629
Sheridan County area	87,750
Sheridan County government	77,018
Total to all cities over 2,500	0
Total to all cities under 2,500	8,628
Total to all townships	2,104
Sherman County area	138,146
Sherman County government	84,467
Total to all cities over 2,500	35,571
Total to all cities under 2,500	1,795
Total to all townships	16,314
Goodland City	35,571
Smith County area	153,647
Smith County government	124,327
Total to all cities over 2,500	0
Total to all cities under 2,500	24,774
Total to all townships	4,546
Stafford County area	135,138
Stafford County government	92,844
Total to all cities over 2,500	0
Total to all cities under 2,500	17,119
Total to all townships	25,175
Stanton County area	52,004
Stanton County government	47,984
Total to all ctiies over 2,500	0
Total to all cities under 2,500	2,075
Total to all townships	1,945
Stevens County area	95,458
Stevens County government	73,705
Total to all cities over 2,500	11,758
Total to all cities under 2,500	919
Total to all townships	9,016
Hugoton City	11,758
Sumner County area	535,571
Sumner County government	354,262
Total to all cities over 2,500	71,928
Total to all cities under 2,500	54,255
Total to all townships	55,126
Mulvane City (part)	9,504
Wellington City	62,424
Thomas County area	158,512
Thomas County government	72,722
Total to all cities over 2,500	57,768
Total to all cities under 2,500	8,421
Total to all townships	19,601
Colby City	57,768

Revenue sharing funds for Kansas—Cont.

[In dollars]

Trego County area	100,870
Trego County government	65,175
Total to all cities over 2,500	0
Total to all cities under 2,500	19,002
Total to all townships	16,693
Wabaunsee County area	131,371
Wabaunsee County government	88,593
Total to all cities over 2,500	0
Total to all cities under 2,500	18,215
Total to all townships	24,563
Wallace County area	50,367
Wallace County government	42,283
Total to all cities over 2,500	0
Total to all cities under 2,500	6,840
Total to all townships	1,244
Washington County area	210,313
Washington County government	124,442
Total to all cities over 2,500	0
Total to all cities under 2,500	37,445
Total to all townships	48,425
Wichita County area	74,447
Wichita County government	17,036
Total to all cities over 2,500	0
Total to all cities under 2,500	2,364
Total to all townships	55,047
Wilson County area	257,337
Wilson County government	202,355
Total to all cities over 2,500	43,377
Total to all cities under 2,500	7,070
Total to all townships	4,535
Fredonia City	12,426
Neodesha City	30,951
Woodson County area	108,397
Woodson County government	93,021
Total to all cities over 2,500	0
Total to all cities under 2,500	15,626
Total to all townships	248
Wyandotte County area	3,074,737
Wyandotte County government	1,383,928
Total to all cities over 2,500	1,667,741
Total to all cities under 2,500	6,006
Total to all townships	17,062
Bonner Springs City	21,362
Kansas City City	1,646,379

REVENUE SHARING IN CONNECTICUT

Mr. RIBICOFF. Mr. President, during the consideration of the revenue-sharing bill, H.R. 14310, in the Finance Committee and on the Senate floor, there was much debate on how that new money should be distributed. Because the problems faced by the urban States are more expensive, I supported efforts to include an urbanization factor in any formula. Unfortunately, the full Senate did not concur.

The conferees on the revenue-sharing bill have now arrived at a final formula for determining the distribution of $5.3 billion to the States and localities of the Nation.

Of that $5.3 billion the State of Connecticut will receive a total of $66.2 million with $22.1 million allocated to the State government and $44.1 million divided among the cities and towns.

I ask unanimous consent that a table listing the amounts received by Connecticut localities be printed in the RECORD.

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

Revenue sharing in Connecticut

[In dollars]

Total State grant to all locals	44,116,438
Amount returned to Connecticut State government is	93,129
Fairfield County area	9,211,352
Fairfield County government	0
Total to all cities over 2,500	5,430,537
Total to all cities under 2,500	25,237
Total to all townships	3,755,578
Bridgeport City	2,619,799
City of Danbury	708,060
Norwalk City	830,356
Shelton City	210,200
Stamford City	1,061,121
Bethel Town	216,167
Brookfield Town	48,836
Darien Town	71,319
Easton Town	21,739
Fairfield Town	608,963
Greenwich Town	414,886
Monroe Town	182,374
New Canaan Town	76,778
New Fairfield Town	20,346
Newtown Town	204,481
Ridgefield Town	202,759
Stratford Town	1,003,579
Trumbull Town	394,153
Westport Town	153,382
Wilton Town	61,014
Redding Town	29,808
Weston Town	30,282
Hartford County area	13,626,839
Hartford County govt	0
Total to all cities over 2,500	6,265,517
Total to all cities under 2,500	0
Total to all townships	7,361,322
Bristol City	1,170,772
Hartford City	3,334,147
New Britain City	1,760,599
Avon Town	58,676
Berlin Town	208,919
Bloomfield Town	221,705
Burlington Town	29,518
Canton Town	66,148
East Granby Town	41,880
East Hartford Town	1,138,507
East Windsor Town	102,953
Enfield Town	829,071
Farmington Town	138,269
Gladstonbury Town	262,793
Granby Town	65,164
Manchester Town	677,125
Marlborough Town	33,203
Newington Town	285,835
Plainville Town	338,753
Rocky Hill Town	139,954
Town of Simsbury	136,174
Southington Town	560,772
South Windsor Town	285,618
Suffield Town	104,730
West Hartford Town	728,957
Wethersfield Town	292,684
Windsor Town	322,895
Windsor Locks Town	272,567
Litchfield County area	1,768,424
Litchfield County govt	0
Total to all cities over 2,500	546,447
Total to all cities under 2,500	32,595
Total to all townships	1,189,383
Torrington City	484,893
Winsted City	61,553
Harwinton Town	12,567
Litchfield Town	63,925
New Hartford Town	20,394
New Milford Town	162,271
North Canaan Town	23,747
Plymouth Town	123,728
Salisbury Town	15,798
Thomaston Town	96,615
Washington Town	10,594
Watertown Town	209,406
Winchester Town	200,406
Woodbury Town	40,330
Middlesex County area	1,370,322
Middlesex County govt	0
Total to all cities over 2,500	535,373
Total to all cities under 2,500	652
Total to all townships	834,297
Middletown City	535,373
Chester Town	27,593
Clinton Town	111,635
Cromwell Town	85,692
Deep River Town	29,200
Durham Town	35,427
East Haddam Town	37,646
East Hampton Town	149,345
Essex Town	21,206
Haddam Town	43,149
Middlefield Town	24,798
Old Saybrook Town	113,088
Portland Town	93,301
Westbrook Town	34,859
New Haven County area	12,800,500
New Haven County govt	0
Total to all cities over 2,500	8,781,835
Total to all cities under 2,500	21,615
Total to all townships	3,997,050
Ansonia City	334,374
Derby City	200,872
Meriden City	885,850
Naugatuck Borough	374,960
New Haven City	2,905,607
Waterbury City	2,284,316
Milford City	1,073,100
West Haven City	742,755
Beacon Falls Town	45,683
Bethany Town	28,011
Branford Town	305,972
Cheshire Town	192,743
East Haven Town	530,030
Guilford Town	135,173
Hamden Town	874,484
Madison Town	39,652
Middlebury Town	40,447
North Branford Town	192,242
North Haven Town	303,305
Orange Town	108,331
Oxford Town	32,663
Prospect Town Hall	41,817
Seymour Town	206,814
Southbury Town	64,176
Wallingford Town	643,093
Wolcott Town	176,573
Woodbridge Town	35,842
New London County area	3,061,270
New London County govt	0
Total to all cities over 2,500	1,294,418
Total to all cities under 2,500	20,341
Total to all townships	1,746,510
Colchester Borough	10,271
Groton Borough	48,947
Jewett City Borough	19,582
New London City	649,607
Norwich City	566,012
Colchester town	76,772
East Lyme town	108,340
Griswold town	163,799
Groton town	520,148
Lebanon town	44,236
Ledyard town	145,211
Lisbon town	17,579
Montville town	131,388
North Stonington town	51,189
Old Lyme town	49,259
Preston town	29,439
Sprague town	49,383
Stonington town	166,484
Waterford town	114,987
Tolland County area	1,216,283
Tolland County govt	0
Total to all cities over 2,500	26,962
Total to all cities under 2,500	0
Total to all townships	1,189,320
Stafford Springs Borough	26,962
Town of Bolton	26,071
Columbia town	28,424
Coventry town	114,572
Ellington town	92,457
Hebron town	15,656
Mansfield town	267,431
Somers town	39,123
Stafford town	61,244

Tolland town	89,173
Vernon town	414,805
Willington town	11,138
Windham County area	968,319
Windham County govt	0
Total to all cities over 2,500	354,559
Total to all cities under 2,500	0
Total to all townships	513,759
Danielson Borough	42,108
Putnam City	89,353
Willimantic City	223,099
Brooklyn town	47,285
Canterbury town	7,779
Killingly town	153,126
Plainfield town	61,446
Pomfret town	14,044
Putnam town	114,072
Thompson town	22,060
Windham town	102,353
Woodstock town	31,465

URGENCY OF PASSAGE OF CRITICAL ENVIRONMENTAL BILLS

Mr. PACKWOOD. Mr. President, I have spoken frequently about the urgency to move ahead on some of our critical environmental bills. And it was with relief that I witnessed the approval of the Water Pollution Control Act Amendments Conference Report on yesterday; and the passage of the compromise pesticide bill earlier.

Another essential piece of legislation is still wandering around as though lost—the surface mining legislation. The Surface Mining Reclamation Act of 1972, S. 630, has been reported by the Committee on Interior and Insular Affairs, and is awaiting Senate action. Unfortunately, I believe S. 630, as it was reported, falls far short of not only our hopes, but also of our urgent needs. In fact, it falls so far short that many public interest groups have contacted my office expressing deep concern—some indicating that they would even prefer no bill to S. 630. These groups feel that while S. 630 promises many things, it will, in fact, accomplish little or nothing. They are deeply concerned that instead of regulating all minerals, as it claims, it provides gaping loopholes for oil and gas and possibly oil shale; that while it promises to focus on reclamation of mined lands, it fails to adequately define reclamation, require that it be achieved, and fails to set standards to achieve the undefined goal. They cannot understand the reasoning that totally exempts open pit mining from any reclamation requirements; placing the burden of proof on the permitting agency rather than the operator to demonstrate that the operator cannot reclaim the mining site according to the reclamation plan, with only 30 days to do it. They are extremely concerned that the Secretary of the Interior rather than the Administrator of the Environmental Protection Agency is given primary Federal jurisdiction, even though the major adverse environmental effects of stripping involve air and water quality, which clearly come under the purview of the EPA. They have questioned why Indian lands and some public lands are excluded from the bill.

Mr. President, these 20-some public interest groups have raised some very critical environmental questions about S. 630, and have in effect endorsed the House bill, H.R. 6482, as an equitable test for regulation although it would not phase out all surface coal mining. They are opposed to S. 630 in its present form.

Mr. President, it is my understanding that the distinguished Senator from Washington (Mr. JACKSON), chairman of the Interior and Insular Affairs Committee, plans to offer a substitute for S. 630. I hope this is true, and that it will clear up some of these questions, for the country is in desperate need of effective strip mining legislation. Strip mining as it has been generally practiced in the Nation is a disgrace and a national tragedy. In some areas of our country its uncontrolled and unrestricted practice has wrought total or near total devastation to the land, the water, the people, and their society. It has caused an outcry to rise from the very hearts of those Americans locally affected, who are the ultimate victims, and are left with nothing but barren land, and ugly scars.

Mr. President, the Coalition Against Strip Mining, comprised of some 20 National and State organizations, has prepared a detailed summary of why S. 630 as reported is not acceptable. I ask unanimous consent that the summary be printed in the RECORD.

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

APPALACHIAN STRIP MINING INFORMATION SERVICE

WHY S. 630, "SURFACE MINING RECLAMATION ACT OF 1972," MUST BE DEFEATED

S. 630, as reported to the Senate floor by the Senate Interior Committee, is an incredibly weak and evasive piece of legislation which would baptize present destructive practices of strip mining by immersion into a complex system of Federal-state regulation. This bill fails to protect the property rights of surface owners. The bill sets no objective standards for reclamation. The bill enmeshes Federal and State administrators in a four-stage administrative implementation plan which will thoroughly tangle both in meaningless red tape, will frustrate conscientious operators looking for standards to comply with, and will thoroughly obfuscate the public. The public is carefully shielded from knowledge of permit applications and the conduct of Federal or State supervision. And the whole mess is placed under the jurisdiction of the Department of the Interior, which has already demonstrated it's inability to enforce it's present supervisory role over strip mining on Indian and Federal lands.

This bill, which reads like it were drafted by the mining industry, was whipped through the Sub-Committee on Minerals, Materials and Fuels in one morning, then whipped through the full Interior and Insular Affairs Committee in seven minutes. It is an insult to the people of Appalachia, the midwestern farmers, the ranchers of the northern plains, and the American Indians whose personal safety and welfare are threatened while their environment is being destroyed by strip mining. It would be particularly tragic if any Senator were to vote for this bill because of its ostensible purpose to control the devastation which is raising a national outcry. The pressure for meaningful strip mining legislation is growing. Congress can and will do better than this in the next session if it is not hoodwinked into accepting the first pig-in-a-poke offered to it.

Below are summarized 1) those provisions of S. 630 which frustrates meaningful strip mining regulations and 2) those provisions, not included in S. 630, which are essential for an effective law.

1. THE BOOBY-TRAPS IN S. 630

Administered by Interior. Section 101 (a) (1): Administration of the law is given to the Secretary of the Interior. While this is not necessarily a fatal flaw in a bill like H.R. 6482 as approved by the House Interior Committee, where rigorous standards and procedures are set forth for the Secretary, it is assured disaster for S. 630. Interior has long demonstrated its production and industry biases, and its inability to achieve effective enforcement of the Federal Coal Mine Health and Safety Law. The recent GAO report also documents Interior's inadequate regulation of strip mining on Federal and Indian lands, over which it presently holds jurisdiction, and its inability even to enforce those regulations which it has promulgated. Since S. 630 mandates no higher standards to Interior, no better results should be expected.

No reclamation standards. Section 101 (a) (4): "Reclamation" is defined as "the reconditioning or restoration of an area" affected by strip mining. Neither in the definition nor anywhere else in the bill are there propounded any objective standards or goals for this "reclamation" process. Indeed, most of the destructive practices now being conducted under the guise of ineffective state "reclamation" standards, which have caused the outcry leading to Federal legislation, would be completely permissable under this bill. Regarding to original contour is not required, elimination of highwalls is not required, successful maintenance of new planting is not required, etc. See Sec. 204.

Indian lands exempted. Section 101 (a) (14) and (15): Federal lands and Indian lands are specifically exempted from the provisions of this bill. Thus the bill would give no protection to the Indians whose lands are being ravaged in the West, and might give no protection to the public interest on other lands owned by the Federal government.

Weak Federal authority. Section 102 (4): This bill sets forth the purpose of giving initial regulatory responsibility to the States. The States have already proved their inability, in nearly all instances, to regulate strip mining successfully. The purpose of Federal legislation ought to be to establish initial Federal responsibility and then to permit the states to assume jurisdiction if they can meet the Federal standards.

Administrative monster. Section 201(a): A four-stage administrative monster is created, consisting of 1) Federal interim plans, 2) State interim plans, 3) [final] Federal plans, 4) [final] State plans. Every strip mine operator will have to comply with at least two such plans in succession and some may encounter four plans in succession—each with significantly different substantive requirements and administrative procedures. The real "planning" of strip mining and reclamation will thus become virtually impossible during the initial years of implementation of this act. Both the Interior Department and the States will be consumed by the process of developing standards, rules and regulations (many requiring changes in some state laws) for an "interim" plan, and then immediately doing the whole process over again for a final plan. Even the weak provisions of the bill are likely to be compromised as Federal sanction is given to ineffective state systems as an "interim" plan, which sanction will then be used as precedent to undermine the quality of the final planning. Meanwhile the public will be left in total confusion. This is the type of administrative structure which the giants of industry can learn to navigate, then to control, while the small operator is squeezed out and the affected public is frozen out. These comments also apply to Section 205.

Evasive language. Section 203(a) (1) & (2): Any timeliness in the reclamation cycle is diluted by legislative reference to "delays beyond the control of the permittee," and reclamation standards will be meaningless which merely "minimize potential effects on the environment and public health and welfare."

(b) (14): Likewise the Secretary is required to establish guidelines "so that the degree of reclamation required can be determined." This language clearly contemplates no more than partial amelioration of the devastation caused by strip mining.

(b) (5) (H): The regrading and revegetation standards are to "minimize erosion and contamination of surface or ground water." Some states already require no contamination (e.g., Pennsylvania). Here there is no standard.

No reclamation required. Section 204: The face of coal seams (a primary acid producer) need only be covered "generally;" high walls and spoil peaks need only be "minimized"; and indeed, under (b), any other evasion can be attempted from even these minimal standards. There is no requirement for regarding to original contour or terracing, no elimination of high walls, to salvaging topsoil, no requirement on the quality or performance of vegetation, no limitation on the steepness of slopes which can be mined, or over which overburden can be pushed—indeed nothing which would change mining practices in the least regulated states in any significant manner.

Section 205: See comments on Section 201, above.

Open pit mining exempted. Section 206(b) (7): "Open pit mining" is exempted from reclamation planning requirements. It is precisely in open pit mining, where reclamation may be more difficult to achieve because of the large volume of material removed from one place, that advance planning for reclamation and final land use is particularly important. This exemption leaves significant parts of surface mining unregulated.

Burden of proof on administrator, rather than applicant. Section 206(b) (8) & (9): This requires that "a permit shall be issued unless the State regulatory authority determines that reclamation of the surface area as required pursuant to this Act cannot be accomplished with existing technology." This is the single most damaging requirement in the bill because it places the burden of proof upon the state agency rather than upon the operator proposing to mine. It directly conflicts with Pennsylvania law, which requires the operator to satisfy the state that he can perform acceptable reclamation, rather than the other way around. It directly conflicts with Section 11 of the West Virginia law which gives to the state agency the power to delete certain areas of the state from strip mining in advance of permit applications if the state finds that such areas are not susceptable to acceptable reclamation. This bill would, instead, force the state to make a written determination of fact in each instance, to make that determination within a 60-day period (sub-paragraph 9), and to make a determination which would withstand subsequent court challenge. Requiring the state to prove within the time limit that the reclamation proposed under an application is impossible to achieve is, in effect, rendering it impossible for a state to deny a permit application in a manner which would withstand subsequent court test. All existing state limitations on the rapaciousness of strip mining—weak and ineffective as they are—are effectively removed by paragraphs (8) and (9). It is also noteworthy that these time-limits effectively prevent practices which are common in some states and which should be required in all: 1) thorough public notification of a proposal to strip mine, and 2) public hearings following upon public protest of such proposal.

Revisions destroy planning process. Section 206 (b) (11): This section permits the operator to revise any part of his reclamation plan at any time. The burden of proof is again on the regulatory authority to show that "reclamation of the surface area as required pursuant to this Act cannot be accomplished by the revised reclamation plan." Including in the bill unlimited right of the operator to revise his plans after he has begun mining makes the original planning process, such as it is, totally meaningless. Not all states currently permit such revisions, and some which permit revisions permit them only with respect to certain specified and limited details. It will be totally impossible for the state to enforce orderly reclamation planning if it is subject to the imperatives of this paragraph.

Inspection only twice a year. Section 206 (b) (12): Inspections are only required twice a year. West Virginia now requires inspections every 15 days. Frequent inspections are essential to protect the public and the environment; they should be required by any Federal statute.

Federal approval of State plan not required. Section 206 (c): Although ostensably state plans must meet Federal guidelines under this bill, in fact Federal approval of state plans is not required. This section requires that a state plan go into effect four months after submission if the Secretary fails to take action upon it. This is the perfect loophole for getting inadequate state plans into operation. It means that there are no guarantees that any standards will be met under this Act.

Prior permits remain valid. Section 206 (d) and 207 (d): "Permits issued pursuant to . . . State plan shall be valid under Federal administration." "Assumption of administration . . . by a State . . . shall not invalidate permits issued by the Secretary." These provisions insure that in hundreds of cases stripping can continue in violation of more stringent regulations imposed in a transfer from Federal to state administration, or vice versa. Once a permit is secured from somebody, the operator is safe from the application of this Act. While it is just to have some provisions to protect the operator's rights under a previous permit, a sound statute should provide a mechanism for the revision of permits to bring them into conformity with current administration, rules and regulations.

Enforcement provisions inconsistent. Section 209 (a) (1), (3), (4): The enforcement provisions of subparagraph (1) are inconsistent with the provisions of sub-paragraphs (3) and (4) in this same section. Sub-paragraphs (3) and (4) direct that when the Secretary finds a violation he shall issue a compliance order, which order, "shall take effect immediately." Sub-paragraph (1), however, requires the Secretary first to notify the violator, then to wait thirty days, then to issue a compliance order or initiate a civil action. It would be impossible for the Secretary to comply with each of these sub-paragraphs simultaneously. Sub-paragraph (1) should be stricken from the bill.

No criminal penalties, civil fines too small. Section 209 (b) (1) & (2): The act provides for no criminal penalties for violation of its provisions. Civil penalties are limited to $1,000 a day for violations of the law, and $10,000 for falsification of information. These penalties are so small as to provide an inducement to large operators to risk the consequences of violation.

Orphan lands: No priorities, no public participation. Section 301: The section on orphan lands authorizes the Secretary to purchase lands for reclamation, to reclaim them, and to sell them again to private parties. The principal revenues for this program will come from the sale of the lands themselves. Thus the incentive will be high to purchase those lands which are most readily saleable. There are no priorities in this section requiring the Secretary to purchase first those lands which pose the greatest danger to the public because of their unreclaimed condition. Nor are there any requirements for public notification of purchase or of the reclamation plan, nor for public hearing, so the public in an area might have some voice in the type of reclamation or the use to which reclaimed lands are put.

2. CRITICAL OMISSIONS IN S. 630: COMPARISON WITH H.R. 6482

Reclamation standards. S. 630 contains no meaningful reclamation standards. H.R. 6482, as reported by the House Interior Committee, defines reclamation as "the process of restoring an area of land affected by coal mining to a condition that it may be used for the purpose for which it was used prior to coal mining or other useful purpose." Such reclamation generally must include "backfilling" to approximate original contour," which is carefully defined, or "terracing" which would also eliminate the highwall and provide no grade steeper than 25°. Segregation of top soil is required and vegetation must be "stable and perpetual."

Indian lands. S. 630 excludes Indian lands and certain other public lands. H.R. 6482 applies to surface mining on all lands.

Surface rights. S. 630 does not protect the rights of the surface owner. H.R. 6482 requires written permission from the surface owner be furnished by the applicant to mine before a permit can be granted. This is a critical condition in Kentucky and in western Federal lease areas. In both areas, ancient mineral severance leases have been interpreted to give the mineral owner unlimited access to strip and destroy the surface belonging to another party, without permission or compensation. The rights and livelihood of farmers and ranchers are thus destroyed.

Public participation. S. 630 shields the public from effective knowledge of the private arrangements between government agencies and the strippers. H.R. 6482 requires—before a permit can be issued or before a bond can be released—notification of intention in local newspapers and notification of local governing bodies, opportunity to protest, and a hearing if requested by an affected party. These are essential provisions to protect the public's right to participate in decisions which profoundly affect their lives and property.

Burden of proof. S. 630 places the burden of proof on the State or Federal agency to show that a proposed stripping would be in violation of the law. H.R. 6482 requires that "the applicant for a permit shall have the burden of establishing that his application is in compliance with the applicable State and Federal laws."

Slope regulations. The unregulated depositing of spoil material on steep slopes is the greatest single cause for the environmental deterioration and threats to personal safety and property associated with strip mining. S. 630 contains no slope regulations. H.R. 6482 includes two slope regulations. One would prohibit removal of overburden from slopes steeper than 20°. The other prohibits the permanent placement of spoil material on downslopes below the coal outcrop steeper than 14°. Either provision would eliminate the major cause of public outcry, and the latter does so without categorically prohibiting mining.

Areas unsuitable for mining. S. 630 contains no provision permitting Federal or State designation of areas as unsuitable for surface mining. H.R. 6482 permits such Federal or State designation, following a hearing, and a finding that "it is not economically or physically possible to reclaim the land or . . . the mining will cause irrevocable or lasting injury to the environment of the area." Provisions are also included for deleting smaller areas from a permit application if environmental standards cannot be maintained.

Federal supervision. Under S. 630 the Sec-

retary of Interior does not even have to approve state plans—he must only refrain from disapproving before they go into operation. Under H.R. 6482 thorough Federal review is required of both the proposed state regulations and the ability of the state to enforce its regulations, including a hearing within the state. Continual federal monitoring of state enforcement is required, including spot on-site inspections, and bi-annual hearings in the state.

SURFACE MINING RECLAMATION AND REGULATION

Mr. MOSS. Mr. President, for over a year and a half the Committee on Interior and Insular Affairs and my subcommittee on minerals, materials, and fuels, in particular, have been wrestling with the problems of surface mining regulation.

Ten bills were introduced in the 92d Congress and the committee has now produced four committee prints representing the combined efforts of the subcommittee membership and that of the chairman. Even at this late date in the session we are still seeking the best solution to a very difficult and complicated problem and we are urgently, actively and most sincerely working toward a bill which will protect the environment and allow us to obtain the minerals necessary to the operation of our society.

The need for legislation is clearly illustrated in a newspaper story from the Los Angeles Times of September 29, using the State of Montana as the stage upon which the drama of control of surface mining is now focused, I ask unanimous consent that the story be printed in the RECORD.

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

GREAT COAL RUSH: WILL IT RAVAGE MONTANA'S LAND?

(By Joan Sweeney)

SOME RANCHERS BATTLE TO SAVE RANGE BUT LAW FAVORS MINING COMPANIES

SARPY CREEK, MONT.—Thirty miles from Custer's Last Stand, rancher John T. Redding is staging one of his own to keep the isolated, unpredictable land he has worked for the past 56 years.

Lawyers tell him his stand is as futile as Custer's.

His land lies in the path of the great coal rush that has swept eastern Montana, a sparsely populated area where skies are breathtakingly blue and water is precious.

The region is in danger of having its relaxed, rural way of life altered drastically by coal strip mining and proposed power projects to supply electricity not only for the area but for states as far away as Missouri and Iowa.

At Sarpy Creek, Westmoreland Resources wants to strip-mine Redding's land, for the low-sulphur coal beneath it.

LAW ON ITS SIDE

And Westmoreland has Montana law on its side.

Redding, like many other ranchers and farmers in eastern Montana, owns only the surface. At Sarpy Creek, the Crow Indians hold the mineral rights and have leased 30,876 acres to Westmoreland.

Under Montana law, private mining companies can seize the surface land through condemnation if the owner will not sell.

Redding was 12 years old back in 1916 when he and his family walked miles through snow, 2 and 3 feet deep, to reach their homestead.

Through good years and bad, through deadly winters and even deadlier drought. Redding stuck it out. During the depression, he watched as his neighbors abandoned their parched land for the greener fields of Washington and Oregon, but he stayed.

WANTS TO CONTINUE

He still wants to stay, but he says Westmoreland's agents have told him to sell at its price or have his land condemned. So far he has refused.

"They said, 'If you don't take this offer, we will take you to court, condemn you and you won't have anything," Redding's son, John R., said bitterly.

Westmoreland does not want all of his land, but Redding said he would be left with only hilltops and no water.

Lawyers that the Reddings consulted advised them to sell. Some of their neighbors, like Merle Cox, already have.

Cox is a taciturn bachelor, seemingly emotionless, his face weathered by 23 years on his ranch. "They said if I didn't sell they'd condemn it and take it, so I went and seen a lawyer. He said they could do it. It looked like selling was the only thing I could do," Cox said.

Montana law, written before statehood when mining was the territory's only industry, gives private companies holding the mineral rights the power of eminent domain to condemn the surface lands. The 1961 Montana legislature expanded the law to include strip mining.

A company can bring action in state district court to condemn a piece of land, and the judge then appoints three commissioners to assess the damages to be paid the owner.

John W. Northey, deputy Montana attorney general, said it had never been determined by the state's Supreme Court whether the mining company must pay the value of the land or merely for damage to it.

When the U.S. government opened eastern Montana land to homesteaders, it generally retained the mineral rights. The Indians, the Burlington Northern Railroad and the state also own mineral rights to extensive tracts.

The homesteaders knew when they claimed the land that they did not own mineral rights.

"At that time, I don't think anybody ever heard of strip mining," the younger Redding said. "If there was going to be mining, it would be underground, and it didn't worry them."

A spokesman for Westmoreland headquarters in Billings declined to discuss the firm's present or future operations.

POLLUTION LAWS

Some other mining officials believe that the only reason the ranchers refuse to sell is to try to extract a higher price for their land. And it is true that, although some ranchers see strip mining as destroying their way of life, others are happy to sell.

The national energy shortage, pollution laws banning high sulfur fuels and new technology have combined to suddenly make western coal, which is low in sulfur, sodium and ash, highly attractive. Also important is its vast quantity—an estimated 1.45 trillion tons within 6,000 feet of the surface in the Fort Union formation of Eastern Montana and Wyoming and the western Dakotas alone.

Economics dictates that this coal, which lies in thick seams relatively near the surface, should be removed by the cheaper method of strip mining, which uses giant shovels that can gulp 114 cubic yards of earth with one bite.

Opponents fear the mining could trigger an environmental crisis.

DAMS PROPOSED

They say that not only would strip mining chew up land now devoted to agriculture, the area's present economic mainstay, but that proposed energy plants with their enormous needs for water could stymie other industrial and agricultural development in the semiarid area. An Environmental Defense Fund study calculates that the mean annual flow of the Yellowstone, the main river, could be reduced as much as 81% by such plants' needs. And in dry years, the river's flow is only half of its average.

To supply enough water for the plants, the Bureau of Reclamation proposed damming the Yellowstone, building as many as nine reservoirs, and constructing an extensive network of large aqueducts.

"The Yellowstone River is an exceptional trout fishery and the only major uncontrolled river in Montana," said James Posewitz of the Montana Fish and Game Department. "One of the major issues is going to be whether we dam the Yellowstone."

POWER NEEDS SEEN

The North Central Power Study, a joint project of the U.S. Bureau of Reclamation and some 35 utilities, proposed 42 mine mouth, coal-burning power plants—21 in eastern Montana, 15 in Wyoming (which would require Montana water), four in southeastern North Dakota and one small plant in both South Dakota and Colorado.

The plants would produce 53,000 megawatts of power.

Even with the coal's low sulfur content and proposed federal standards for such plants, they would still produce approximately 2.1 million tons of sulfur dioxide a year, according to the EDF study.

"This material will, in turn, yield an as yet unspecified mixture of sulfurous and sulfuric acids to be deposited downwind on farmland and communities," the study added.

It calculated the plants would produce anywhere from 94,500 to 787,500 tons of fly ash a year and as much as 1.87 million tons of nitrogen dioxide.

The prevailing wind most likely would carry the pollution eastward across the wheat fields and prairies toward the Black Hills.

"The Black Hills—they'll be black, black with soot," said Rep. George Darrow, a member of the Montana House of Representatives, the chairman of the state's Environmental Quality Council and a geologist.

Montana Power is constructing two 350-megawatt units at Colstrip, Mont., where its subsidiary, Western Energy, is strip-mining. It is using the first of the proposed mine mouth plants.

An alternative to these plants, which some consider obsolete and inefficient, is gasification plants that turn the coal into synthetic pipeline gas. Steam generators convert only 30–40% of the coal's energy into electricity while gasification has a 60% efficiency rate. Possible pollution from gasification plants includes sulfur compounds, ammonia, hydrogen cyanide and hydrogen chloride.

PLANTS PLANNED

Two gasification plants are under consideration for Dawson County, one near Hardin and another near Sarpy Creek, all in southeastern Montana.

Another possibility, given additional technology development, is multiproduct complexes that produce electricity, liquid and gas fuels and petrochemicals. Their coal and water demands would be enormous.

It is the multiproducts complexes that could touch off a population explosion. A Bureau of Reclamation memo estimated the area's population could increase during the next 15 years by another 280,000 to 912,000 persons. The population of the entire state was only 694,409 in the 1970 census.

The amount of strip mining already under way is small—primarily in the Decker Birney area and near Colstrip where both Western Energy and Peabody Coal Co. have pits—but it is expected to mushroom in the next few years.

Most of the coal is shipped out of state, sometimes a long way out. Burlington North-

ern recently transported 20,000 tons of coal 1,730 miles from Colstrip to a Tennessee Valley Authority plant

State Lands Commissioner Ted Schwinden said, "This represents a continuation of what has been the traditional history of Montana—exploitation of its resources with a minimum of economic benefit to the state.

"We are left with a hole in the ground and the resource is gone forever."

Strip mining is not new to Montana. In 1923, the Northern Pacific Railroad (now Burlington Northern) began strip-mining coal for its steam locomotives at Colstrip and continued until 1958.

PLANNING URGED

South of Colstrip, the old NP spoils banks still rise like giant lumps of white dough, arid and eroded, against the blue sky. Only occasional tufts of weeds decorate them. Some fear these are a harbinger of eastern Montana's future landscape.

Rep. Darrow believes the coal development "has to be done with far more advance planning and forethought" than there has been.

"The mining could be accomplished with a minimal amount of land disruption," he said. "We don't need to open up a dozen mines simultaneously and have scattered fragmented exploitation."

Only now is some effort beginning toward finding answers and toward planning for what most regard as the inevitable.

TASK FORCE FORMED

Mrs. John Cross of Glendive told a meeting of the Economic Development Assn. of Eastern Montana: "Events are happening so fast that few Montanans fully realize what effect the so-called coal development is going to have on their lives and on their environment. We will soon be in the position of locking the barn after the horse is stolen."

A task force of state agencies was recently formed to provide comprehensive planning that would consider social, economic and environmental factors.

The Bureau of Land Management, meanwhile, is delaying action on lease applications.

"Why lease further areas when you don't know what you are doing?" one Bureau official in Billings said.

No such concern is expressed by the Bureau of Indian Affairs, which has granted leases and options on nearly 600,000 acres of Crow and Northern Cheyenne Indian land in Eastern Montana.

M. W. Babby, Indian Affairs assistant area director in Billings, indicated he feared that unless the coal was exploited now it would become valueless when new energy sources were found.

"We are going ahead and leasing it," he said. "It is an asset, and there are indications coal will be a salable product for only a few years."

A recent General Accounting Office report noted that the BIA takes the position the Environmental Protection Act does not apply to Indian lands and environmental impact statements are not required for coal exploration and mining projects.

The report criticized both the BLM and the BIA for failing to comply with Interior Department and environmental regulations for coal leasing and reclamation.

Perhaps the biggest question is whether the land can be reclaimed at all without constant and endless care and fertilization.

Optimists point to the experiment of Richard L. Hodder of the Montana Agricultural Experiment Station, financed by Western Energy at its Colstrip mine. He is studying various combinations of contouring, surface shaping, fertilizing and vegetation.

Hodder believes strip mining and reclamation can be one continuous process. In his method, when earth is removed to get at coal, it is used to fill any adjacent hole where a vein already has been mined. The spoil banks are then contoured, fertilized and planted as part of the reclamation project.

"I think reclamation is very possible over the long haul," he said. "Certainly I have demonstrated that it is on the short haul . . . I think the potential is very great for producing more than what the area produced previous to mining."

But a rancher in the area said, "With the amount of fertilizer they are spreading on, I could grow grass on a roof."

Hodder said, "We are trying to reproduce a country similar to what is here now—not the flat-topped buttes—but less high highs rounded in such a irregular fashion that they will fit into the natural landscape."

Hodder warned that reclamation work had to start before extraction did and continue simultaneously. Core samples must be analyzed to determine whether topsoil should be stockpiled and what kind of vegetation will grow best on it.

If reclamation is done this way, with good design work and aerial seeding and fertilizing, Hodder estimated the cost per acre at $250 to $500. Otherwise, it could run well above $1,000 an acre.

The Burlington Northern has begun reclaiming the old NP spoil banks at Colstrip and estimates it will cost $1 million for one thousand acres—$1,000 an acre.

Montana law required that companies post bonds to guarantee reclamation. But Northey said the maximum limit is $500 an acre. This could be less than the cost of reclamation.

THE PROPOSED McGOVERN DEFENSE BUDGET—BLUE PRINT FOR DISASTER FOR THE FREE WORLD

Mr. FANNIN. Mr. President, the proposed McGovern defense budget is more than just a blueprint for disaster for the Free World, it is a grand design for unemployment and economic chaos within our Nation.

This is especially true in my own State of Arizona.

In recent months the unemployment rate in Arizona has run at around 4 percent, well below the national average. I would attribute this to our great climate, eager and industrious workers, and the talented management of our industry.

There was a time when the economy of Arizona was closely tied to defense spending and the operation of military bases within the State. In the past two decades there has been a great diversification of industry in Arizona but the military program still is a major element in the economy of the State.

Estimates I have received show that Arizona would lose more than 20,000 jobs as a result of cutbacks proposed in the McGovern budget. This includes the loss of about 5,500 military positions, 2,700 civil service jobs, and 11,800 industry workers.

As of midsummer there were some 405,000 Arizonans holding down jobs, both agriculture and non-agriculture. So it would appear that Senator McGOVERN would mandate the abolition of approximately 5 percent of the jobs in my State.

This would be disastrous for cities such as Tucson—Arizona's second largest metropolitan area, which relies on Hughes Aircraft and on Davis-Monthan Air Force Base for much of its employment. Hughes is a major missile producer and the largest private employer in southern Arizona. Davis-Monthan Air Force Base fed some $109 million into the Arizona economy during the last fiscal year. Tucson is a great city with a tremendous climate, located on scenic desert with the majestic Santa Catalina Mountains as a backdrop. But perched on top of Mount Lemmon in the Catalinas is an Air Force radar station which must serve as a constant reminder that the future of Tucson is tied in with its military installations.

Tucson is the home of a great university, and it also is quite naturally a haven for easterners who want to escape the torment of winter. But neither the University of Arizona nor the tourist industry are adequate to maintain a healthy economy. Hughes Aircraft and Davis-Monthan provide the other two corners necessary to make a four-square economy for Tucson. If the McGovern budget would not wipe out these two institutions, it certainly would severely reduce them.

South of Tucson is Fort Huachuca, an important Army post which provides an economic anchor for Cochise County.

To the west, along the Colorado River, the Yuma area gains employment from the Marine Air Station and the Army Proving Ground.

And in the Phoenix area we have Luke and Williams Air Force bases, we have Motorola and Sperry and AiResearch and other employers—large and small—that provide thousands of jobs to perform contract work for the military.

The McGovern defense budget would result in a loss of $302 million for Arizona in terms of military prime contracts and Department of Defense estimated payrolls. Of this, $164 million would be in prime contract awards. These estimates I might add, are based on 1972 fiscal year figures.

Senator McGovern has complained loud and often about unemployment in the United States. He says that the recent 5.5 percent is too high. I will not debate that point. But I must wonder why Senator McGOVERN would take a State like mine, with 4 percent unemployment, and purposely boost unemployment to at least 9 percent.

Actually, the unemployment figure for Arizona would go much higher as a result of the McGovern military budget. The unemployment toll would be much higher than the 20,000 direct job loss which I have mentioned. Economics tells us that there is a multiplier effect: for every job directly lost, there would be an additional 1 to 1½ other jobs indirectly lost. Grocery clerks, automobile mechanics, and other dependent civilian employers would lose their livelihood, too. So, the job loss in Arizona could run as high as 50,000.

Mr. President, I certainly would not propose that we have a wasteful or an unnecessarily high military budget just to provide jobs—not in Arizona or anywhere else. Defense spending has not been, nor should it be, a type of welfare or a make-work program. Heaven only knows that we already have plenty of these jobs in the Federal bureaucracy. The defense budget should provide us with the security that we must have to maintain our freedom and to carry out our obligations to the free world. It is not my intention to debate that point

here this morning. I believe that former Democratic Secretary of State Dean Rusk stated the situation well when he said:

I did not say that Senator McGovern was insane, I said that the policy of almost complete reliance upon a nuclear deterrent was insane because it simply lacks credibility, and I think this is major problem for us.

Mr. President, my point this morning is the economic impact of the McGovern defense budget.

This budget would not only turn us into the No. 2 power in the world, it also would throw 1.8 million Americans out of work in the process.

Laid off nationwide would be 588,000 in the military, 321,000 in the civil service and more than 900,000 in industry.

Senator McGOVERN proposes to close some 500 military bases nationwide in 1 year. This would include nine of the 34 Strategic Air Command bases along with three shipyards. He wants to shut down 30 percent more bases in 1 year than have been closed in the past 4 years. This would impose a simultaneous severe hardship on 500 local economies—with obvious damage to the national economy.

Senator McGOVERN proposes a cut in appropriations for research and development of between $3 and $4 billion.

As Secretary of Defense Melvin Laird has said, Senator McGOVERN's cuts in research and development "would seriously weaken our industrial and technological base by eliminating or seriously reducing efforts on basic technology, advanced technological development and management support. These cuts would reduce facilities and eliminate thousands of jobs for scientists and technicians actively engaged in tasks related to our technological capabilities."

Nowhere would the McGovernite defense cuts wreck more havoc in our economy than in my neighboring State of California—with its aerospace, technological orientation. As Senator HUBERT HUMPHREY, once the leader of the Democrats, put it in the California primary:

Not only are Senator McGOVERN's (defense cut) proposals a serious threat to the security of our Nation, but they are, indeed, a direct threat to the economic security of working families and the economic viability of the State of California.

In California, 264,000 men and women would lose their jobs, including 53,000 military, 45,000 civil service and 166,000 in industry. It has been estimated that more than 100,000 Californians would have to migrate to other States in search of work.

Specifically, the McGovernite cuts would threaten these jobs in these programs:

F–14 and Phoenix programs: 11,200 jobs.

B–1 program: 19,200.

Minuteman III: 9,200 jobs.

Poseidon/Trident program: 8,400 jobs.

One other thing: The McGovernites also want to wind up our space programs. This will mean a job peak of 25,000 jobs on the Space Shuttle program in California will never be attained—and 50,000 Space Shuttle jobs will never be filled nationwide.

If these disastrous defense cuts are ever put into effect, there will be 10 to 15 percent unemployment in California—and the impact of a suddenly depressed giant State will be felt nationwide.

It is not only the West, not only Arizona and California, but the entire Nation which would go into economic shock. For example, consider the State of Ohio where almost 74,000 jobs would be lost—more than 32,000 in the military, 10,000 in civil service, and 30,000 in industry. And these are very conservative estimates. There would be a loss of $664 million to the economy in terms of military prime contract awards plus Department of Defense estimated payrolls, using 1972 as a guide.

Mr. President, the defense budget proposed by Senator McGOVERN is indefensible. It is an invitation to disaster both at home and abroad.

And it comes at a time when the Nixon administration is moving steadily toward our goal of full prosperity in time of peace.

Our overall real gross national product is currently running at 9.4 percent in the most recent quarter for which we have data. Since the new economic policy, there have been 2.2 million new jobs, and real weekly earnings are increasing at the rate of 3.8 percent per year.

President Nixon has said that this election offers the clearest choice of the century. It is clear that for hundreds of thousands of our men and women, the election is offering a harsher, personal choice—a choice between jobs or no jobs.

As President Nixon warned in his acceptance speech at Miami Beach:

Our opponents have proposed massive cuts in our defense budget which would have the inevitable effect of making the United States the second strongest nation in the world . . . we should not spend more on defense than we need. But we must never spend less than we need.

What we must understand is, spending what we need on defense will cost us money. Spending less than we need could cost us our lives or our freedom.

EXTENSION OF AUTHORITY FOR CERTAIN HOUSING PROGRAMS

Mr. GAMBRELL. Mr. President, recently the Committee on Banking, Housing and Urban Affairs met in executive session to consider House Joint Resolution 1301, a measure to extend the authority for certain existing housing programs through June 30, 1973. In view of the failure of the House of Representatives to act on the Housing and Urban Development Act of 1973, passage of House Joint Resolution 1301 is essential in order to prevent the lapse of authority for these housing programs.

Another consequence of the failure of the House to act on this year's housing bill is that Congress will have to turn its attention to new housing legislation early next session. One of the matters that Congress will undoubtedly address itself to then concerns problems and abuses that appear to exist in connection with the costs for residential real estate settlements and closings. In S. 3248, the Omnibus Housing Act passed earlier this year, the Senate attempted to deal with these problems by authorizing the Department of Housing and Urban Development to publish standards governing the amounts of closing costs that may be charged for various services provided in connection with real estate settlements.

In contrast to the Senate approach, the House Banking and Currency Committee adopted an entirely different approach to these problems in the omnibus housing bill—H.R. 16704—that was reported to the House of Representatives. In brief, the House approach would have directly attacked the problems and abuses that have been demonstrated by proscribing certain unfair and abusive practices and requiring advance disclosure of settlement costs and procedures. Many of us in the Senate who have had an opportunity to review and consider the House approach believe that it presents a more attractive and more efficient Federal response to unnecessarily high closing and settlement costs than the approach of having the Federal Government get into the ratemaking business. Both of these alternative approaches will, I am sure, be carefully and fully considered next session.

For the future, Congress may well decide not to authorize HUD to fix rates for settlement charges, but instead it might follow the course of action taken by the House committee. This is particularly true in view of the strong feelings of many Members of Congress that Federal rate fixing is an unwise response to the problem of unnecessarily high closing costs. The study which the Department of Housing and Urban Development has made, in this connection, has been valuable, and has prompted the Congress, the lending industry, the title insurance industry, and the organized bar, to consider and develop a number of important reforms, not only in regard to closings, but in regard to the processing of real estate transactions. It is important that all of the interested parties continue to concern themselves with the provision of better service at lesser costs to the average family which makes up the home buying public.

In this context, I think it would be extremely ill-advised for HUD and the Veterans' Administration to commence implementation of their proposed regulations setting maximum rates for settlement charges in FHA or VA-related transactions until Congress has acted on this matter next session. It would be regrettable indeed if HUD and the VA were to embark upon a course of conduct that flies in the face of mounting congressional sentiment and strong indications that the Congress may shortly prescribe reforms of its own covering the entire problem.

While the evaluation of Government closing costs policy continues, I hope that the underlying cause of disruption in the housing market will not be overlooked. In my own judgment and experience, the most significant cause of abuses in the closing costs area has been tight money, or what amounts to the lack of competition among lenders and those involved in the "delivery" of the loan funds. A shortage of money for housing, or for that matter for any development involving real estate, gives

rise to the opportunity for "gouging." I have seen it myself, as a borrower, and as a lawyer for borrowers and lenders.

In fact, the closing costs problem is simply one of many symptoms of the disaster that results from a fluctuating money supply, which itself results from a shortsighted and mismanaged Federal economic policy.

Whenever plenty of housing loan funds are available, legitimate, as opposed to marginal lenders will predominate, and the incidence of abuse will be at a minimum. When money is tight, the incentives for "holdups" increase, and the unsophisticated home-buyer is willing to pay what amounts to blackmail or ransom in order to obtain the funds. This is true whether the ransom happens to be a discount, a service charge, a title or abstract fee, survey charge, an appraisal fee, or an extra charge by whatever description.

And why shouldn't he? The homebuyer has to pay inflated prices at every turn. First, there are high interest costs, then construction costs enlarged by inflation, next higher land prices, and ultimately a whole range of increased charges resulting from governmental economic mismanagement.

In fact, if all closing costs were to be reduced by one-half, it would still not amount to as much as the increase in interest charges resulting from inflation and tight money, not to mention the increased costs of land and building materials.

To set the HUD bureaucracy to work trying to beat down closing costs abuses, is a foolish, if not absurd, misconception of priorities. The Department of Housing and Urban Development should concern itself with a method and means of assuring a continuous supply of money, at reasonable rates, into the housing market. This would result in a continuity of competition among lenders which should, to a large extent, eliminate closing cost abuses. It would also have the effect of stabilizing interest rates, stabilizing the residential construction and delivery systems, and thereby stabilizing the entire economy.

Mr. President, this is by no means the first time I have spoken to my concerns for rational and honest management of our economy. During the Senate debate on the increase in the debt limit last March, I commented that such an important matter should not be disposed of in a perfunctory manner. The same care should be taken regarding the regulation of real estate transacting, and I ask unanimous consent that my comments at that time regarding the closing cost problem be printed at this point in the RECORD.

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

I would like to think that we had economic guidelines in this country upon which others could look and say: "The U.S. Government is not going to get out of hand economically, and we can plan without hedging; we can lend money without going into inflation, with interest rates and other things of this type which have been going on for the last 4 or 5 years."

We have a problem in this country of what at home I would call "running the rabbit." We had hearings yesterday and the day before in the Banking Committee with respect to the efforts of the Housing and Urban Development Department to regulate what is known as settlement costs in real estate transactions. During the so-called tight money days of the late 60's and early 70's, a number of practices arose connected with real estate transactions in which discounts were charged on loans, and there were other inflated items of cost connected with real estate closings that became evident in Government—subsidized and protected real estate activities such as the FHA and Veterans' programs. I was in the field when all this was going on. I was not in Washington reading statistics. I was there, actually involved in these closings. I was not only a lawyer for some of the lenders but I was even a borrower myself. I tried to borrow money personally to buy a house under these circumstances. I have worked with others who were borrowing and lending in the field.

The whole problem of settlement costs arose because money was tight and hard to get. A fellow that wanted to borrow money could be charged almost anything—as a discount, closing cost, survey fee, abstract charge, title insurance—anything else one wanted to charge him. If he could get that loan, he would pay any price to anyone, whether honest or dishonest. That is all there is to the settlement cost controversy.

Yet HUD has spent a year and written two volumes about 6 inches thick each, telling us how to straighten that out.

I would like to see a volume 6 inches thick telling us how to straighten out the whole economy of the country so that we do not have to have tight money and so that we do not have problems of that kind.

To me, it is a disgrace. We cannot "run the rabbit" when we have a 6-inch thick report on how to straighten out closing costs, when, in fact, they may have gone up 50 percent. In other words, 1 percent of a total real estate transaction has gone up 50 percent. That means it has gone up to where it was 1½ percent more on the original. At the same time, the cost of the money went up by almost 100 percent—that is, the interest rate almost doubled. Construction costs went up by at least 20 to 30 percent, and every other cost associated with it—land, everything else, went up at the same time, as a result of tight money.

In other words, to blame the whole problem of real estate transactions on closing costs is absolutely "running the rabbit" while the big game got away. The big game was the loss of economic and fiscal responsibility in this country. That is what we are trying to begin to get at here today with the amendment which the distinguished Senator from Delaware (Mr. ROTH) proposes to offer to the bill.

I would say it would be a national disaster if the debt limit bill were to pass in a perfunctory way, to pass because it had to be passed, with nothing to be said and nothing to be done about the basic problem of adjusting our fiscal and our economic policies in this country.

ADMINISTRATION'S PERFORMANCE ON TAX REFORM

Mr. KENNEDY. Mr. President, no issue now before the country in this election year more clearly demonstrates the arrogance of the administration's current attitude toward the people than the issue of tax reform.

The charade of statements we have witnessed from the administration in recent days and weeks on the question of Federal spending and Federal taxes is a damaging new indictment of the administration's failure to understand the very real grievance that millions of taxpayers rightly have over the unjust burden of taxes they are now compelled to pay.

We have a crisis over tax reform because countless ordinary men and women now realize that our tax laws are unfair. Our present Federal revenue laws are nothing but a giant sieve, full of loopholes through which pour billions of dollars in special benefits each year. The Internal Revenue Code is America's biggest welfare bill of all. But it is the sort of welfare that only Alice in Wonderland can understand, because the greatest benefits of tax welfare go entirely to the richest individuals and the Nation's largest corporations.

The effective tax rates are still progressive, to be sure, but instead of ranging from 14 to 70 percent, as the schedules say, they range instead from only 1 to 32 percent.

The really interesting figures, however, are the figures on tax welfare—the enormous subsidies bestowed by the Revenue Code on upper income taxpayers. There are 6 million families in the "under $3,000" category, yet they receive only $16 each in "tax welfare." The 3,000 families with income over $1 million get over $700,000 in tax welfare each. Put another way, 70 percent of the Nation's families have incomes less than $15,000 a year, but they get only 25 percent of the tax welfare. And the 0.3 percent of the families with incomes over $100,000 get 15 percent of the tax welfare.

It is facts like these that make the case for tax reform so compelling. How can the administration fail to see the need? Or is it just that when Mr. Connally and the other tax barons have the President's ear, the issue seems too remote and unimportant?

We know that problem of critical national budget deficits now before us, the problem of rising Federal deficits that can easily ignite a new round of inflation and economic crisis in the future. To me, however, it is unconscionable for the administration to cast the argument in the take-it-or-leave-it terms of either a ceiling on spending or else a tax increase.

In fairness and logic to the needs of countless taxpayers, our first obligation is to reduce the budget deficits as much as we can through the enactment of tax reforms. We know that substantial amounts of revenue can be raised, if we are serious about tax reform.

GEORGE MCGOVERN proposes to raise a total of $22 billion through the tax reforms he favors—by closing numerous major loopholes in existing laws worth $13 billion to corporations and $9 billion to individuals. A similar plan of tax reform that I support would raise a total of $16 billion.

President Nixon has said he has a plan for tax reform, but he is keeping it a secret. I believe he has the obligation as the leader of this country, and as a candidate for reelection, to tell the people of America where he stands on tax reform. He has the obligation to make his program clear, and he has the obligation to do it before election day.

We know where GEORGE MCGOVERN stands. In a major address last summer in New York City, Senator MCGOVERN discussed in detail his plans for compre-

hensive tax reform, and laid the groundwork for a thoughtful and constructive debate in the weeks ahead.

But we do not know where President Nixon stands on tax reform. Indeed, if he stands where we think he stands, he is for no reform at all, but simply a perpetuation of the existing system—a system of inequities that flouts the principle of our progressive income tax and turns it instead into a Swiss cheese network of interlocking loopholes, deductions, shelters, and safe tax harbors for the special interests and for the few who have wealth and expertise to profit from such laws.

To paraphrase a famous aphorism, our tax laws in their majestic equality allow the poor as well as the rich to invest in State and local bonds, to reap long-term capital gains, to search for oil, and to hire tax lawyers and accountants to navigate their way effectively through the revenue laws.

But we know that only the rich are able to play the loopholes well. Middle and lower income Americans simply cannot afford the substantial sums that are necessary if they are to take advantage of the many different tax shelters that exist. Not only do we have a promiscuous system of tax welfare, but it has a "means" test, too. According to most estimates, the threshold income level for effective use of tax shelters is in the neighborhood of $50,000 a year, far beyond the reach of any ordinary citizen.

An excellent recent study by the Brookings Institution tells the story. According to the findings, the income taxes paid today are extremely modest when calculated on the basis of "effective tax rates"—the percentage of a taxpayer's total income that actually goes for income taxes. The difference between the stated rate and the effective rate gives rise to what we call "tax welfare"—the annual subsidy a taxpayer receives because of the loopholes in the laws:

Overall income	Effective tax rate (percent)	Average annual tax welfare payment
Under $3,000	0.5	$16
$3,000 to $5,000	1.7	148
$5,000 to $10,000	5.3	340
$10,000 to $15,000	8.7	651
$15,000 to $20,000	10.7	1,181
$20,000 to $25,000	12.1	1,931
$25,000 to $50,000	14.5	3,897
$50,000 to $100,000	23.5	11,911
$100,000 to $500,000	29.5	41,480
$500,000 to $1,000,000	30.4	202,752
Over $1,000,000	32.1	720,448

The McGovern prescription for tax reform may seem like strong medicine to those who are now so comfortable with the present system, who enjoy the handsome welfare payments and other subsidies that our tax laws now provide. And, inevitably, of course, it seems like especially strong medicine in comparison to the proposal of President Nixon, who has no prescription at all, but asks only that we perpetuate the present system.

But the McGovern prescription can easily be seen in an entirely different light. It's just what the doctor ordered for the American working man and woman, who know that it is their wages that go today to subsidize the deductions and loopholes for the rich.

And GEORGE MCGOVERN's plan is mild reform, indeed, compared to the results of the Brookings Study, which demonstrated that a truly comprehensive program of tax reform—one that closed all the loopholes—would generate the almost unbelievable total of $77 billion in new tax revenues.

Clearly, when we talk about tax reform, we are not talking in urgently needed funds—dollars that can be used in a variety of ways to help meet all the challenges we face at home and overseas.

Tax reform can provide dollars to reduce the budget deficit; dollars for homes and health and schools; dollars for policemen and drug control; dollars for transportation and the environment; dollars to reduce the soaring burden of property taxes; dollars for revenue sharing with State and local governments—in short, dollars to meet all our urgent national priorities that have already been set in the past, and that will be set in the future by Congress, the administration, and the American people.

It is no accident, therefore, that tax reform is now erupting as one of the most important issues in the Nation this year. It is a powerful mass movement that can no longer be denied.

Wherever we look, we find the tax base being eroded by deductions and exemptions, by windfall subsidies, by questionable incentives for various industries, by benefits that have long since outlived whatever justification they might have had when they were first enacted, and even by sinister loopholes quietly written into the law for the benefit of particular individuals or corporations—"tax fingerprints" that dot the revenue code in silent tribute to the political muscle of the wealthy and the powerful in the Nation.

And, always, it is the ordinary citizen who bears the heaviest burden. In other days, when the role of government and public spending for social programs was much more modest than it is today, the weight of our unfair tax structure may not have been as onerous. But today, the burden is immense, and taxpayers across the country are raising their voices in loud opposition to the rising taxes they have to pay.

The responsibility for our present plight cannot be placed solely on a particular Congress, or any single administration. In many cases, the inequities of the Internal Revenue Code have been accumulating for decades. Some are fossils from the earliest laws enacted after the 16th amendment to the Constitution conferred the power on Congress to levy the income tax.

At the same time, however, it is clear that the Nixon administration must bear a major share of the blame, because of the way in which it has opposed every meaningful effort for reform in recent years. Twice in the past 3 years—in the Tax Reform Act of 1969 and in the Revenue Act of 1971—we have seen that the only thing the Nixon administration calls reform is a plum for business and a crumb for everyone else, a program that benefits the super rich and their big campaign contributors and the Nation's largest corporations, but that does nothing to ease the backbreaking burden of taxes the ordinary citizen has to bear.

At virtually every step of the legislative process, the only suggestions for reform actually ventured by the administration were weaker than those already widely supported or approved in the House and Senate. The signal from Mr. Nixon was as clear in 1969 as it is in 1972. The administration was not serious about tax reform.

In 1969, in the face of this strong hostility from the administration, the momentum of the movement began to die. It did not revive until the primaries in this election year so clearly showed that the people want reform in every section of the country, north and south alike.

We know that the road to reform is not an easy one. We know that we shall have the strong opposition of every special interest group. We know that, as Prof. Stanley Surrey stated so perceptively in testifying on the 1969 reforms:

> There is no one so pessimistic about the future of the country as an industry or taxpayer faced with losing a tax preference.

But we also know that millions of our citizens are optimistic about the future of the country, if only we can have reform. The people are aroused. They will have the chance to speak on November 7, and if Richard Nixon keeps his plan a secret until then, he does so at clear and present peril to his reelection.

RESEARCH AND DEVELOPMENT—THE FUTURE OF OUR NATIONAL SECURITY

Mr. ROTH. Mr. President, the Senator from South Dakota (Mr. MCGOVERN) is proposing in this election campaign to slash our appropriation for research and development by $3 or $4 billion. And although this might seem like a small cut—a very small slice of the $32 billion he wants to take out of our national defense budget—this might turn out to be, in Shakespeare's words, "the unkindest cut of all."

Research and development, of course, are the future of our national security—and infinitesimal expenditures can make the difference between survival and surrender—one or more generations from now. The tank, which now seems so outmoded, was the instrument of victory in the First World War. The Spitfire was the fighter aircraft that won the Battle of Britain. How close might Nazi Germany have come to victory if they had been able to mate their amazing V–2 rocket to a deliverable nuclear warhead?

I served in the U.S. Army in the Second World War, in the Pacific theater. I sometimes wonder how many of my comrades might not have come home—if our R. & D. specialists had not done their job for their country in Los Alamos and Oak Ridge.

Senator MCGOVERN's approach to R. & D. reminds me, to some extent, of those well-meaning men who opposed the industrial revolution throughout the 19th century. The same opposition can be seen in this century. The New York Times,

for example, on December 10, 1903, ran an editorial urging Samuel Langley to give up his experiment with the airplane.

Said the Times—

We hope, that Professor Langley will not put his substantial greatness as a scientist in further peril by continuing to waste his time, and the money involved, in further airship experiments.

One week later, to the very day, the Wright Brothers changed history at Kitty Hawk—and Professor Langley went on to become one of the fathers of naval aviation.

In 1921, the New York Times, recommended that Robert Goddard give up his work on rockets because the rockets could not get off the ground. This was because of the natural laws relating to action and reaction, said the Times, and Professor Goddard—and I quote the Times—"seems to lack the knowledge ladled out daily in high school."

But, in all fairness to the Times, and with no reference to the fact they have endorsed Senator McGOVERN to be our President, I would comment that the opponents of R. & D. have always been with us. On August 17, 1807, Robert Fulton tried out his steamship, the *Clermont*—and later he recalled:

The morning I left New York there were perhaps not 30 persons in the city who believed that the boat would ever move one mile an hour or be of the least utility.

Well, as U.S. Senator from Delaware, I have strong opinions about the unwisdom of Senator McGOVERN'S overall posture on national defense and international relations. As a representative of my constituents, and as a man with two young children, I prefer the posture of President Nixon, who says:

The American eagle must not become the ostrich.

"Come Home America" means many things to many people, but to me, it simply means one thing. Isolationism. And, as we have seen, isolationism means appeasement. And, in our own lifetimes, isolationism means war.

I know—because I have lived this.

Even while maintaining a strong defense, with his prudent reduction of our ground combat involvement in Vietnam, with his thrifty attitude toward other factors, President Nixon has been able to trim the defense budget from $78 billion to $54 billion in terms of 1968 dollars.

President Nixon has been able to reverse the spending priorities he inherited from his predecessors. In fiscal year 1973, 45 percent of our Federal budget will be spent on human needs and 31.8 percent on defense needs—an almost exact reversal of the priorities pertaining in 1968.

But President Nixon said in his acceptance speech—and I wholeheartedly endorse his words and his reasoning:

What we must understand is, spending what we need on defense will save us money. Spending less than we need could cost us our lives or our freedom.

President Nixon, in contrast to his opponent, is increasing budgetary authority for research and development—because President Nixon realizes that what is invested in R. & D. today, will save lives tomorrow. Specifically, the President has an increase of budgetary authority for $767 million more for R. & D. over the 1972 budget, and he is putting the money to work for our country right now.

Senator McGOVERN'S slash of $3 to $4 billion would, as Defense Secretary Laird puts it—and he is the man closest to the situation:

Seriously weaken our industrial and technological base by eliminating or seriously reducing efforts on basic technology, advanced technological development and management support. These cuts would reduce facilities and eliminate thousands of jobs for scientists and technicians actively engaged in tasks related to our technological capabilities.

As President Nixon said in his acceptance speech:

The choice in this election is between change that works and change that won't work.

I strongly believe that the change of $3 to $4 billion in R. & D. proposed by Senator McGOVERN is a change "which won't work," a change which will lead us in the wrong direction and may well jeopardize the security of the Nation.

THE HAZARDS OF CIGARETTE SMOKING

Mr. MOSS. Mr. President, on the UPI wire yesterday, I saw a news item which I ask unanimous consent to have printed in the RECORD. Every day that goes by brings additional word from all corners of the globe concerning the health hazards of cigarette smoking and the efforts being made by various governments of the world to deal with this urgent public health problem.

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

SMOKING

HELSINKI.—The Finnish people are such heavy smokers that by 1980 all hospital space will be occupied by men and women with diseases caused by tobacco, a delegate attending a Nordic conference against smoking said today.

The conference arranged by the Nordic Council ended the two-day meeting today with a call to the Finnish Government to ban cigarette advertising and allocate funds for an information campaign about the health hazards involved.

THE 25TH ANNIVERSARY OF INVENTION OF THE TRANSISTOR

Mr. CASE. Mr. President, this year brings among other anniversaries of note the 25th anniversary of the invention of the transistor.

It was on December 23, 1947, in my own home county of Union, that this remarkable invention became a reality.

I ask unanimous consent that a statement prepared for me be printed in the RECORD.

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

THE INVENTION OF THE TRANSISTOR

A noteworthy milestone will be observed on December twenty-third of this year, one meriting nationwide attention because of its impact on our nation, as well as the world.

That date will mark the silver anniversary of the invention of the transistor.

The transistor revolutionized the electronics industry, replaced bulkier, less reliable vacuum tubes, and provide the technological foundation for integrated circuits, which have extended the transistor's impact on our daily lives.

The transistor was the key that unlocked an age of new, sophisticated, more reliable, cost depressing communications systems. It made practical the space age of earth satellites for intercontinental communications, or for weather and ecological surveillance, and opened the era of space exploration. Without the transistor, we may not have found it practical to place men on the moon, or at least to view them at work from the comfort of our living rooms.

The transistor gave us the modern computer, which has become so essential for business and is having an accelerating impact on the lives of all our citizens in providing a growing array of services to man.

The transistor gave us the wallet-sized portable radio, convenient enough to provide entertainment for an outing on one of our glorious New Jersey beaches, and equally convenient in the pocket of a farmer to apprise him of world events as he works his remote western fields.

The transistor has given us navigational and radar systems necessary for jet flight, and vital electronic components for our national defense. It has given us more dependable wrist watches, toys for our youngsters, lasers and other research tools for our scientists. The list of its benefits is endless, limited only by the breadth of your imagination. It has enhanced the very lives of our citizens, for example, by providing aids to the hard of hearing, pacemakers for those with heart defects, the communications technology for transmitting an electrocardiogram to a distant consultant over the telephone, and many sophisticated tools for members of the medical profession.

We are pleased that the transistor came from this land, representative as it is of world leadership in science and technology.

And we are particularly proud that the transistor came from the State of New Jersey, which has made so many contributions to mankind.

The transistor was born two days before Christmas, twenty-five years ago, on a laboratory bench in Murray Hill, New Jersey, the headquarters site of Bell Laboratories, the research and development unit of the Bell System.

Its birth came, not by the haphazard accident that fiction often ascribes to the inventive process, but in a concentrated project by the inventors and their assistants. In their mission-oriented research, stimulated by the recognition that increasing telephone system capacity would have to be accommodated in the years to come, they set out to find a replacement for vacuum tubes in telephone applications. They found it in the transistor.

While the achievement drew scant attention from the press of that day, popular recognition of its significance has grown steadily ever since. In 1956 the three inventors of the transistor, John Bardeen, William Shockley, and Walter Brattain, received the Nobel Prize in Physics for their work.

After that December day when the three scientists succeeded in amplifying an electrical signal by sending it through a very specially prepared crystal of germanium, a Bell Labs task force took over the job of making the transistor a practical device.

In the Bell System transistors and other solid-state devices derived from them have made possible more reliable and cheaper microwave radio, and buried coaxial systems for sending calls across country. These devices also made possible large computer-

like electronic central offices that switch customers calls. Transistors and other solid-state devices were also crucial in the operation of the Bell System's experimental communication satellites, Telstar I and II, and are used in modern undersea cable systems linking the U.S. with Europe and the Caribbean.

Since the invention of the transistor Bell Labs and Western Electric have continued to develop new solid-state technologies, some of which paved the way for integrated circuits. Containing hundreds of transistors and other electronic components on tiny chips of silicon, integrated circuits have ushered in the "solid state age", opening up still more markets for electronic devices.

To date Western Florida Electric, manufacturing and development unit of the Bell System, has manufactured over 500 million separate transistors and over 7 million integrated circuits. Semiconductor technology is also being used in the Bell System to produce memories for computers, TV cameras, and solid-state lasers.

And in the broader view, the transistor has created a multi-billion dollar electronics industry. In 1971, sales of all types of solid-state devices in the United States, Europe, and Japan reached $2.5 billion. The forecast for 1972 is $2.7 billion. In 1971, 13.8 billion solid-state devices were sold, of which 9 billion were transistors. And people employed within the United States alone by business and industries engaged in solid-state technology number in the millions.

Solid-state devices have had an impact on a multitude of markets including military, commercial equipment and systems, medicine, education, broadcasting, musical instruments, automobiles, navigation, test and measuring instruments, industrial control and automation, aerospace and telephone communications. Solid-state technology has meant better and more reliable telephone service. Today, more long-distance and overseas telephone calls can be made faster and at lower cost than in the past.

Thus, the impact of the transistor on our lives, on our fortunes, on our health, on our wellbeing, on our frame of mind, has been phenomenal. And it is certainly fitting this Christmas season that we reflect on that Christmas 25 years ago when three inventors, and others, bestowed a gift of inestimable value upon us, and in fact, upon future generations.

THE SPENDING CEILING AS A PHONY BUDGET ISSUE

Mr. HUMPHREY. Mr. President, in a thoughtful and provocative column in today's Washington Post, Hobart Rowen pinpoints the issues involved in the administration's all-out effort to obtain a $250 billion budget ceiling. He says:

The Administration ought to quit playing politics, and buckle down to the important job of deciding what tax program will put its fiscal house in order.

Drawing on analyses of Government spending prepared by experts from the American Enterprise Institute and the Brookings Institution, Mr. Rowen demonstrates the utter futility of using the spending ceiling as a realistic method of fiscal management.

It is clear, as Mr. Rowen points out, that the Nixon administration has made enough commitments that a tax increase will most likely be necessary in the next 2 years. Lacking the courage to level with the American people about this realistic possibility, the administration is involved in a cynical election year game to put the blame for the eventual tax increase on the Congress.

John Erlichman and others have already stated that without a spending ceiling, the administration will have to resort to a tax increase. I believe that Members of Congress have the obligation to expose this scheme for what it is: Political blackmail.

Mr. President, I ask unanimous consent that Mr. Rowen's column be inserted in the RECORD.

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

[From the Washington Post, Oct. 5, 1972]

PHONY BUDGET ISSUE

(By Hobart Rowen)

White House aide John Erlichman and other administration officials are now trying to blame any future tax increase on irresponsible congressional spending.

This is a phony issue, as Mr. Erlichman and all of the technicians in the Office of Management and Budget know.

The fact, which is recognized by nonpoliticians within the government, and practically everybody outside, is that an increase in federal taxes sometime in the next two years is virtually a certainty because of commitments already made by the Nixon administration.

The administration could consult, for example, its former Treasury specialist on economic affairs, Murray Weidenbaum. Prof. Weidenbaum, a Republican, has been making a series of forthright speeches on budget realities. In his latest, sketching out the "hard fiscal facts of life," Weidenbaum said: "We have literally mortgaged available federal revenue for many years into the future."

The same situation would confront Sen. McGovern, should he be elected. But the Republicans are promoting the notion that a wave of a magic budget-cutting wand will solve the problem. The idea doesn't survive non-partisan scrutiny.

Take one example cited by a conservative research group, the American Enterprise Institute: based on bills already passed, and on legislation proposed by the Nixon administration, the actual spending total, in Fiscal 1975, two years from now, will be $301 billion, up $51 billion from the $250 billion expenditure ceiling Mr. Nixon is trying to squeeze out of Congress.

That doesn't take into account Mr. Nixon's promise (State of the Union Message) for a federal education program, or any other new initiatives—just what's already been cranked into the spending machine.

It covers an increase of $10 billion for defense; $19 billion for income security; $6 billion for health; $5 billion to expand existing education programs; and $5.3 billion for revenue sharing.

Says the AEI report: "The picture that emerges is a rather grim one for the Nixon administration."

To meet its self-imposed test of maintaining a "full employment balance," says the research group, would require "tax increases of some $21 billion in (fiscal) 1975, $13 billion in 1976, and $6 billion in 1977."

This analysis matches almost exactly the projections made earlier by the Brookings Institution. But the administration tends to brush Brookings aside as a haven for Democrats out of office.

Facts don't have a political bias. The administration's problem is that it won't face up to the tax issue during the election. Instead, it talks of a watertight ceiling on expenditures.

Former Budget Director Charles Schultze of Brookings—a McGovern adviser, a Democrat, and an economist of unimpeachable integrity—pointed out the other day the impractical nature of Mr. Nixon's proposed $250 billion ceiling.

If Congress were to limit spending to $250 billion for fiscal 1973, Schultze points out, it would have to cut $7 billion to $10 billion from Mr. Nixon's January proposals. But by the time a ceiling goes in effect, five months of the fiscal year would have elapsed, requiring cuts of $12 to $15 billion at an annual rate.

Where would they come from? Certainly not from defense, already trimmed $3.6 billion from Secretary Laird's requests. And it is not possible, for legal or political reasons, to touch Social Security, veterans benefits, interest on the debt, public assistance, unemployment compensation, or revenue-sharing.

That leaves Erlichman & Co. about $75 billion in such programs as grants-in-aid to the states for education, manpower training, health, pollution control, urban mass transit and similar objectives. These would have to be slashed about 20 per cent to bring the total budget with a $250 billion ceiling. It just is not a realistic concept. The Administration ought to quit playing politics, and buckle down to the important job of deciding what tax program will put its fiscal house in order.

THE CALAMITY HOWLERS WHO LISTEN TO THEIR OWN JEREMIADS

Mr. SCOTT. Mr. President, an article by William H. Stringer, published in yesterday's Christian Science Monitor, raises some points which I have tried to make in this Chamber. As Mr. Stringer so succinctly concludes:

But the calamity howlers have been listening to their own Jeremiads so intently that they haven't noticed that a voting majority has decided that the country isn't in such bad shape—requiring untried hands at the helm—after all.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

CHANGE OF MOOD

(By William H. Stringer)

There's an interesting explanation as to why President Nixon is so far ahead of Senator McGovern in the presidential polls. And why some of the news media have been so amazed about this and have been having trouble understanding it. It's something besides shrewd tactics vs. bungling, or a comparison of personalities.

It's just simply that America's basic mood has been changing, and Senator McGovern and some of the media and some of the intellectuals haven't discovered this.

Look at the recent interview with Herman Kahn, director of that "think tank" known as the Hudson Institute, carried in the Intellectual Digest magazine. His argument, as I understand it, is that those opinion leaders, that segment of the upper middle-class comprising the prestige newspapers, some television commentators, many educators, and some students, are "out of touch with reality." There's a big credibility gap between them and the average middle-class American.

* * * * *

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

Now where are these people, by no means a voting majority, out of phase with America? Mr. Kahn lists some fundamental items. For instance, most Americans are very much against compulsory big-scale school busing to achieve integration. This isn't being against blacks, or against good school-

ing for everybody. No polls show a backlash against blacks. But for years Americans have bought homes to be near neighborhood schools. They resent being told that being for the neighborhood school is being racist. A lot of blacks are against busing too. And there is no proof that busing has helped education appreciably, if at all.

Mr. Kahn lists crime in the streets. In most countries it is still plenty safe to stroll the streets at night. Americans want this same freedom. And they resent those who deride law and order as a phony issue.

* * * * *

Or take even the war in Vietnam. The opinion polls show a solid majority supporting the nation's present Vietnam policies. No doubt we should be far more sensitive about civilian casualties. But the public evidently thinks there's a case for preserving South Vietnam's right to self-determination, however flawed its government may be. The average citizen, shrewder than the elite journalist, knows which side in Vietnam is responsible for prolonging the war and launching new offensives.

Add this all up, and more, and it's the public's mood changing, or perhaps the deep-down outlook of the average savvy "square" American reasserting itself, against all the street marchings and drum-beatings of a very articulate but very unrepresentative minority which sought to persuade the nation that it was out-of-date and immoral and heartless and so on.

* * * * *

Perhaps, as Life magazine says editorially, most voters have a stake now in the preservation of the system. Since they are middle-class, political and social solutions that seem to offend middle-class values are not likely to be accepted. They have a stake in progress, but they intend to control the pace of progress. They don't want evolution that is almost revolution in its impact on human institutions.

It would be a good thing if one candidate or the other would discuss America's motives and aims, where it is going, and what its leadership can accomplish in this modern world. We could stand some lifting up of our sights and insights.

But in this campaign season the country has discovered that it is not in terrible trouble. Solid prosperity is breaking out. Inflation in the United States is much less than what Europe is facing. Most of the troops are home from the war. Sure there is poverty in Appalachia and unequal education and some joblessness and the Watergate caper and much unfinished business. But the calamity howlers have been listening to their own Jeremiads so intently that they haven't noticed that a voting majority has decided that the country isn't in such bad shape—requiring untried hands at the helm—after all.

WORLD POPULATION YEAR

Mr. PACKWOOD. Mr. President, it is with a great sense of encouragement that I have watched the recent trend in this Nation's birth rate, and the slowly falling fertility rate from last year's 2.4 to the current level approximating 2.1, the so-called replacement rate. If this reduced fertility rate continues for another several decades, the Nation may be on its way to achieving a stabilized population.

I am also encouraged that the Nation, in slowing our population growth, appears to be accepting a leadership role in the international community. The undeveloped and underdeveloped worlds face an intensely more serious threat than we do here in the United States, but unless we practice what we preach, we can hardly be expected to have any credibility in aiding others meet the challenge of rising demands on their resources.

Mr. President, the United Nations recently took a bold and important step forward in bringing the problem of unrestrained population growth more prominently into the international public's eye by designating 1974 as World Population Year, and by announcing sponsorship of a World Population Conference. These steps should be applauded by all who care about the kind of world we are leaving to future generations.

Mr. President, the Population Crisis Committee, which has been very active and effective in promoting public education on the implications of continued population growth, has recently addressed an open letter to all Members of the Senate on the occasion of the United Nations announcement, I ask unanimous consent that it be printed in the RECORD, along with a New York Times story on our lowered birth rate, and speeches by U.N. Secretary General Waldheim and Secretary General of the Conference Antonio Carrillo Flores, on the subject of World Population Year and the World Population Conference.

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

POPULATION CRISIS COMMITTEE,
September 29, 1972.

To the Members of the Senate of the United States:

DEAR SENATOR: During the week of September 18th two events of real significance took place.

The first was truly historic. For the first time in the history of the United States, or I believe, of any other large country in modern times, our country's birth rate was reported at the replacement level for the first six months of this year. At an average of 2.1 per couple, which allows for those men and women who have no children, this means that two children per couple just replace their parents.

The baby boom that followed World War II has greatly increased the present numbers of actual and potential parents so that even at the present replacement level birthrate, it would be many years before this country's population stops growing and zero population growth is actually reached.

For about fifteen years the U.S. birth rate has been steadily declining as more and more parents have realized that a smaller family is in the best interests of the family circle itself. From the national point of view the Rockefeller Population Commission in its recent report to President Nixon advocated zero population growth at as early a date as practicable as being in the best interests of our country since it would make easier sensible solutions of so many of our present day social problems.

The other event was potentially of even greater world significance.

Secretary General Waldheim of the United Nations announced the designation by the General Assembly of 1974 as World Population Year, and also that a World Population Conference would be sponsored by the United Nations in August 1974.

At the same time he announced the appointment of Antonio Carrillo Flores, former foreign minister of Mexico, as the Secretary General of the Conference.

The Conference will offer a world forum two years from now at which it is planned the nations of the world will consider the facts of the population explosion, outline their own population policies and hopefully agree on a world plan of action looking toward a humanitarian solution.

I lived in Mexico for six years from 1953 to 1959 when Antonio Carrillo Flores was Finance Minister. Later he served in Washington as Mexican Ambassador. From *1964 to* 1970 he was Foreign Minister. He is one of Mexico's most distinguished citizens.

When I lived in Mexico I came to know Dr. Carrillo Flores well, both officially and socially, and later saw him less frequently as Ambassador and then as Foreign Minister. From personal experience I can attest that he will make an ideal Secretary General to prepare the plans and carry through this most important world meeting of governments.

Fortunately the Mexican Government in recent months has changed its attitude on this problem and now openly supports family planning and responsible parenthood, and was given its endorsement to Dr. Carrillo Flores' appointment. I am sure that he will successfully carry through the preparations for this important event, and I am very hopeful that the Conference itself will mark the most important event dealing with the population problem. Hopefully, it may even mark the beginning of a world trend toward the population stabilization that is already being indicated by current birth rates here in our own country.

Enclosed are copies of the *New York Times* article of September 24, 1972 on the present U.S. fertility level, as well as of the announcement by Secretary General Waldheim and a statement by Antonio Carrillo Flores referring to the UN World Population Conference.

Sincerely yours,

WILLIAM H. DRAPER, Jr.

[From the New York Times, Sept. 24, 1972]

FERTILITY LEVEL IN NATION CLOSE TO ZERO GROWTH—FEDERAL DATA SHOW RATE AT 2.1 CHILDREN PER WOMAN OF CHILD-BEARING AGE

(A milestone indicated, but 70 years are needed to prove trend toward a constant population)

(By Jack Rosenthal)

WASHINGTON, September 23.—For the first time, fertility in the United States has dropped to the replacement level—the threshold of zero-population growth.

According to new findings by two Federal statistical agencies, the current total fertility rate has reached the milestone level of 2.1 children per young woman of child-bearing age.

Although this is the rate said by population experts to be necessary in holding the population constant, the end of population growth in the United States could not be expected until the rate had been in effect for about 70 years.

APPROACHING ZERO

The reason is that the number of births depends both on the rate and on the number of women of child-bearing age, a number that is certain to grow for some years because of the large number of girls already born. Until the base stops growing, the population will continue to rise.

Not until every girl now born completes her child-bearing years and her daughters have sustained the 2.1 rate would births exactly offset deaths, bringing the nation to the goal of the zero-population-growth movement.

No expert is willing to predict that this will occur. On the contrary, demographers assume that the birth rate can swing up as abruptly as it has swung down in the last five years.

But the signs that the nation has reached a population milestone appear undeniable. Campbell Gibson, a leading Census Bureau fertility analyst, said today: "This is certainly the first time the fertility rate has reached the replacement level for as long as six months."

NEW SURVEY NOTED

This was documented in one way by the results of a new Census Bureau survey of birth expectations conducted last June and published today. It showed that married women aged 18 to 24 expected to have an average of 2.3 children each.

If the finding is adjusted to account for women who are single and for possible overstatement of birth expectations, it would translate into the symbolic number of 2.1 children.

More evidence that the nation has reached the replacement level came from actual births as reported by the National Center for Health Statistics. Total births in the first half of 1972 dropped 9 per cent from last year, even though there are 3 per cent more women of child-bearing age.

The nation's general fertility rate, consequently, dropped to 73.1 births per 1,000 women aged 15 to 44. That is lower than the full-year figures for any year to date. In the low full year, 1936, the rate was 75.8 births. In the high year, 1957, it was 122.9.

SMALLER POPULATION

If young women continue bearing children at the rate now reported, a Census Bureau analysis indicates that the lifetime average of children per woman would be, again, 2.1 children, and, continuing this assumption, the future population of the nation would be considerably smaller than has been estimated.

Population projections for the year 2000 have ranged well over 300 million. Continuation of the current trend until then—though this is highly uncertain—would mean a population, including immigrants, of about 270 million. It is now about 209 million.

The current 2.1-child figure might be further depressed slightly in the short run because the proportion of young women who stay single is increasing. Demographers assume that just as many women will eventually marry as do now, but later marriage and child-bearing would slow population growth.

Nevertheless, in the view of experts, a population 'bomb' is still ticking in American society, one that could easily be exploded by a change in child-bearing desires.

A dominant reason is that some age groups in the population are far greater than others. For example, 20 years ago, there were about 1.1 million women aged 18. Ten years ago, there were 1.4 million. Now, there are 1.9 million.

With so many potential mothers, even a small upward change in child-bearing could significantly increase the size of the population.

OTHER IMBALANCES

The imbalance among age groups is the reason that, even if women have an average of 2.1 children each, it would take some 70 years to achieve a stable population size. Just as there are many more young women of child-bearing age now than 20 years ago, there are also more young people than old.

For young people now to have fewer children would begin to even out some of the age group imbalances. But it would still take years for other imbalances, involving people now living, to disappear.

For example, regardless of future births, there are already about 2 million girls who will be in 18 in 10 years, but fewer than one million women at age 70.

The current imbalance was illustrated by the figures of the National Center for Health Statistics for the first half of 1972. Though births dropped 151,000 in 1971, to 1.6 million, they still exceeded deaths in the same period by 600,000.

The new census study of birth expectations, Series P–20, No. 240, may be obtained from the Government Printing Office in Washington. The 1972 birth data are contained in the monthly vital statistics report, Vol. 21, No. 6, which may be obtained from the National Center for Health Statistics in Rockville, Md.

STATEMENT BY UNITED NATIONS SECRETARY-GENERAL ON WORLD POPULATION YEAR

Following is a statement made today at United Nations Headquarters by Secretary-General Kurt Waldheim:

My purpose today is to talk to you about another important United Nations initiative.

It is impossible to think of solutions to the major problems confronting the world—economic development, pollution of the environment, improvement in the quality of life, even disarmament—without some reference to population trends. The evidence is all around us. In the development countries, with two thirds of the world's people and some of the highest rates of population growth, there are insufficient schools, textbooks and teachers for children reaching school-age; not enough vocational training places; a shortage of jobs for the untrained and unschooled young adults.

The industrialized nations have not been immune to demographic pressures: swollen cities, the drain of talent from regions of low development to centres of affluence, heavy internal migrations, have all left their mark.

The problems of a world population which is growing, and of people on the move, are of infinite complexity. No single solution applies to the region which is unable to provide a decent living for its people, and the area whose development requires a rising labour force.

The twenty-fifth General Assembly recognized the international importance of current demographic trends by asking the Secretary-General to proclaim a World Population Year. I take great satisfaction in announcing today that 1974 will be so designated. Its highlight will be a World Population Conference, although many subsidiary events will be scheduled.

It is my hope that the World Population Year and Conference will rank in the history of the United Nations among the great events of the seventies and that they will bring us appreciably closer to the day when the world can say that the demographic problems facing us are understood, and actions to solve them are under way.

Population, development and environment make up an important element in the construction of a new economic and social order which, along with the maintenance of peace, constitutes the principal challenge of our generation. The United Nations is again taking the leadership, as it did earlier this year in Stockholm by the Conference on the Human Environment, and in Santiago recently through the Conference on Trade and Development.

It is my hope that the World Population Conference will deal with all aspects of the demographic problems facing us.

This includes, most emphatically, moral ones. From the start of its involvement in population matters, which now dates back some years, it has been a fundamental tenet of the United Nations that there must be freedom of choice for individuals to shape their family life according to their beliefs and aspirations, and for Governments to pursue the policies that are most in keeping with the physical and spiritual welfare of their people.

But sound policies also require detailed knowledge. The dimensions of the problem are well known. Each year 127 million children are born, each year 95 million come of school age and each year 19 million reach age 65. These totals are likely to rise steeply in the years ahead as more young adults swell the ranks of potential parents, and improved medical care advances life expectancy. At 2 per cent a year, the rate of world population growth is now more than double the rate in 1940. It may still rise. Each nation, each community, each family must assess in detail how these trends affect their hopes for higher living standards, a better education, and greater health and happiness.

The over-all preparations for the World Population Year in 1974 are in good hands: those of Mr. Rafael Salas, Executive Director of the United Nations Fund for Population Activities. Mr. Salas came to the United Nations after serving as a member of the Philippine Government for many years and is an outstanding administrator, who has built the Fund into an effective international body in a very short time.

It gives me also great pleasure to announce that Dr. Antonio Carrillo Flores of Mexico has agreed to serve as Secretary-General of the World Population Conference. Dr. Carrillo Flores served for many years in the Government of Mexico as Minister for Finance and Minister for Foreign Affairs. He is another example of the good fortune of the United Nations in securing the services of distinguished and experienced persons to carry out important and demanding tasks.

The World Population Year and Conference should help both Governments and individuals to make the necessary judgments. But to fulfill the hopes we place in them, the preparatory work must get under way right now. Today I am asking Member Governments to set in motion the broadest and most comprehensive possible plans to participate in the World Population Year in such a manner that they will not only have strong representation at the Conference, but that the aims of the World Population Year become widely known and discussed within their own countries, so that the insights gained will be useful not only in the formulation of national plans, but become part of the daily lives of their people.

STATEMENT BY ANTONIO CARRILLO FLORES, SECRETARY-GENERAL, UNITED NATIONS WORLD POPULATION CONFERENCE—AUGUST 1974

The World Population Conference to be sponsored by the United Nations in 1974 will be a most historic occasion. Let us hope that the governments of the world will be participating actively in this international gathering with the common purpose of documenting demographic facts, reporting on national population policies, and discussing the international implications of population growth and change.

The International Declaration on Human Rights and several General Assembly resolutions have affirmed many basic human rights for the world's people, including in particular the right of parents freely and responsibly to determine the number of their children. The United Nations and its specialized agencies stand ready to respond to requests of governments and to help transform this human right into human reality.

The Stockholm Conference on the Human Environment has demonstrated that, whatever be the social group, the economic system, or the political organization, all governments share the common commitment to improve the quality of life for their citizens. Improving the quality of life as related problems of population is the basic purpose of the World Population Conference.

The Conference, of which I have the honor to be Secretary-General, will bring both governments and United Nations' agencies together to explore at mid-point in the Second United Nations Development Decade how best to deal with population problems in order to further economic and social progress.

It is my hope, as has already been suggested by the Economic and Social Council of the United Nations, that the Conference without impinging on national sovereignty will reach general consensus on a World Plan of Action which will point the way toward a better life for many throughout the entire world.

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972

Mr. WILLIAMS. Mr. President, I want to express my strong support for the conference report on the Federal Water Pollution Control Act Amendments of 1972, as it represents a most significant stride forward on the road to restoring our environment.

The legislation commits the Nation to the extensive struggle necessary to end the degradation of our waterways and to restore them to a clean, swimmable state. The conferees in both the Senate and House who worked for nearly 5 months in preparing this conference report are to be commended. Their efforts virtually assure the development and conservation of clean waters as it combined most of the strengths of the two original bills.

It establishes as a goal the end of community and industrial discharges into the Nation's waterways by 1985 with firmer interim deadlines of 1977 for the employment of the best practicable technology and 1983 for the employment of the best available technology. Such national pollution standards provide the essential base for our attack on dirty rivers, lakes, and oceans.

To insure that our communities and industries meet these goals, the bill gives the Environmental Protection Agency considerable power to curb discharges throught a permit system with penalties authorized for violations.

Besides the power to control the issuance of discharge permits, EPA is given the authority to apportion the appropriated money among the States on the basis of need. Under the grant program, the Federal Government will pay 75 percent of the total cost of a pollution abatement facility.

In addition to making new strides by setting national discharge regulations and controls, the legislation commits an unprecedented amount of Federal funds to the task of cleaning our waterways. The bill authorizes the expenditures of up to $18 billion during fiscal years 1973, 1974, 1975, plus nearly $7 billion on reimbursement for plants which have already been completed or started, and for research and development.

One section of the bill which is particularly interesting to me and my constituents in New Jersey concerns ocean discharges. It has been estimated that nearly 90 percent of the sewage sludge dumped into U.S. coastal waters each year is dumped within 6 miles of the New Jersey coast. The deleterious effect of this regular dumping off Sandy Hook and Cape May has resulted in the creation of "dead seas" where marine life fit for human consumption cannot survive.

I am most gratified that the bill includes a section establishing new regulations for ocean dumping which will provide an effective and workable approach to solving this problem. The section includes major features of the bill I introduced early in this session of Congress, S. 1011.

The conference report immediately prohibits the dumping of toxic materials, including biological, chemical, and radioactive warfare materials in offshore, ocean areas. Furthermore, it sets standards under which a permit can be issued by the Administrator of EPA for any discharge of sewage sludge into the contiguous zone or the oceans. These standards will take into account the effect of disposal of pollutants on human health and welfare, on marine life, and on recreational and economic values.

For my State of New Jersey, the most densely populated State in the Nation, the bill should provide the long-range solution to the very serious and long-neglected problem of ocean dumping. This condition, in which we have allowed the ocean waters which wash on some of the finest beaches in the Nation to be used as cesspools, has gone unchecked for far too long. It has reached the regrettable point now where two vital industries in our State—tourism and shellfishing—are seriously threatened. Beyond that, ocean dumping of sewage wastes poses a very real and imminent danger to the health of millions of New Jerseyans and visitors from other States.

Mr. President, I take this opportunity to commend the members of the Senate Committee on Public Works for their exceptional work and commitment which has resulted in possibly the most significant environmental legislation to be passed in the history of Congress. We are indeed fortunate to have a committee that has the sensitivity, determination, and foresight to develop and insure passage of this strong legislation. Special praise is due the Senator from West Virginia (Mr. RANDOLPH), the distinguished chairman of the Public Works Committee, and the distinguished Senator from Maine (Mr. MUSKIE), the chairman of the Air and Water Pollution Subcommittee. Without the able leadership of these two men, I am sure that we would not have had the opportunity to enact such firm and comprehensive legislation.

THE DEEP THINKERS AND THE ENERGY GAP

Mr. HANSEN. Mr. President, in the CONGRESSIONAL RECORD of September 11, 1972, I included as a part of my remarks on the subject "The Total Energy Mess" a copy of the weekly staff letter of David L. Babson & Co., Inc., dated July 20, 1972, which commented on the Nation's energy problems. Among other things, that weekly staff letter pointed out that between 1970 and 1985—First, U.S. energy demand will double, second, $375 billion will have to be invested in new energy production and distribution facilities, and third, oil imports will grow as a deficit factor in our balance-of-payments position to an annual magnitude of $25 billion to $30 billion unless we take immediate steps to maintain a greater level of domestic self-sufficiency in oil and gas production.

A recent Babson weekly staff letter dated September 28, 1972, is captioned "The Oil Companies, The Energy Gap—And The Deep Thinkers." This issue of the letter comments on the role of petroleum in our Nation's energy picture. The article points out that 75 percent of our Nation's energy requirement is derived from oil and gas. It states that America must not only increase its capacity for crude oil and gas production but must also markedly increase its refining and transportation capacity as well.

Mr. President, the article asserts that petroleum industry tax payments "will continue to balloon" and refers to the fact that the Tax Reform Act of 1969 raised the industry's annual tax bill by $600 million, and foreign taxes jumped $4 billion to a total of $12 billion in 1971 alone. The letter discredits the myth of "oil billionaires" by pointing out that the oil industry's return on investment is below the average for all U.S. companies while the petroleum industry's share of taxes paid out of revenues—excluding sales and excise taxes—is larger than average. It goes on to state that the industry's retained earnings are no longer sufficient to provide the capital needed for expansion.

The letter quotes from a recent speech by Harvard Prof. A. J. Meyer who said in part:

Vilifying oil companies remains a noble academic and political tradition. All of us play a self-destructive role in the energy drama. Yet to provide for oil needs alone in soaring world energy demand will require the companies to commit over $500 billion in new investment during the coming decade. . . . Whether one likes oil companies or not, there is at the moment no workable substitute for them in sight.

The article concludes by stating that most of the industry's problems stem from restrictive, confusing, and up in the air Government policies in respect to exploration incentives, antipollution laws, and import controls.

Mr. President, oil and gas are essential sources of supply in meeting America's vital energy needs. Our national security in terms of military strength and diplomatic independence is contingent on secure supplies of petroleum. Economic growth and the improved job opportunities it affords to our people depend on an adequate supply of petroleum. The standard of living enjoyed by American consumers hinges on the availability of energy supplied largely by oil and gas.

It is imperative that Senators and other Government officials recognize the economic realities that bear on the ability of the petroleum industry to provide our Nation with its petroleum needs. These realities must be translated into governmental policies that will create an environment enabling the petroleum industry to find the new oil and gas reserves necessary to meet our future requirements. If we do not pursue a policy predicated on economic reality, the impending energy crisis will be the creation of the Federal Government—a most dubious and dangerous course, indeed.

Mr. President, I ask unanimous consent that the text of the recent Babson letter be printed in the RECORD.

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

THE OIL COMPANIES, THE ENERGY GAP—AND THE DEEP THINKERS

The integrated oil companies will be in the forefront of the changes that will have to take place in order to avert the impending energy gap. Over the coming decade, these firms will continue to provide the lion's share of the nation's energy.

The end results needed in this vital part of the economy are simple and clear-cut: a) the discovery and development of big oil and gas reserves in politically secure areas; b) substantially higher investment in new refining and marketing capacity; and c) the creation of supplemental forms of energy at economically viable costs.

Finding the means of accomplishing these objectives is what the so-called "energy crisis" is all about. Some of the strain will be alleviated as fuel prices are forced upwards from their bargain levels of the past. And the leading petroleum companies have the size and expertise to innovate effectively. But their progress will be severely hampered unless they can operate within the framework of a new energy program coordinated at the national level.

This whole field has become bogged down in a morass of outmoded and conflicting regulations and policies which have reduced the incentives to develop new energy supplies. With our domestic resources already declining in the face of continually expanding demand and with developmental "lead times" exceptionally long, a shift in public thinking is needed now—and not five or ten years from now.

In a keynote speech before the Middle East Institute, Professor A. J. Meyer of Harvard University, who is a petroleum specialist of international repute, made the following points:

"A crucial element in the international energy drama is ourselves, all of us. We daily bring into our homes new gadgets requiring more power generated, in all likelihood, from high sulfur oil or other polluting fuels. We resist heroically any attempts to raise energy costs to consumers although these are still at real levels lower than in 1940.

"We watch with clinical detachment while the Federal Power Commission maintains gas prices at levels which discourage exploration, encourage uneconomic consumption, make import arrangements difficult to conclude and virtually guarantee a series of gas crises.

"Overnight our news media (and the deep thinkers in Sproul Plaza and Harvard Square) develop passionate concern for the mating habits of Alaskan caribou and campaign noisily against the intrusion of Arctic pipelines into this essential activity.

"As per capita electric consumption edges upward inexorably, we join conservation groups to block power production by nuclear plants. We continue to fill our tanks with high-octane rather than no-lead gasoline. We overheat our homes and open our windows to cool them.

"We applaud our elected representatives as they decide oil producing companies in the Middle East as part of their vote gathering, and make moderation by these nations in energy matters more difficult. Vilifying oil companies remains a noble academic and political tradition. All of us play a self-destructive role in the energy drama.

"Yet to provide for oil needs alone in soaring world energy demand will require the companies to commit over $500 billion in new investment during the coming decade. But their modest yearly rates of return on investment (ranging from 8% to 12%) simply do not permit them to generate such funds.

"Whether one likes oil companies or not, there is at the moment no workable substitute for them in sight. The energy-hungry world, as well as the producing governments, both need them desperately."

1. Demand and Supply: Oil demand in the U.S. is expected to continue expanding at 4–5% annually into the 1980's. Overseas growth should moderate from the 9% pace of the past decade as the economies in Europe and Japan become more service oriented. Nevertheless, worldwide oil consumption is projected to rise by around 7% per year.

This means that the Free World's current annual requirements of 16.4 billion barrels will double to 22 billion barrels by the early 1980's. At present, total proven reserves are 530 billion barrels, of which 350 billion or 66% are located in the Arab-bloc countries. For this reason, the U.S., Europe and Japan will increasingly have to rely upon production in this unstable region.

The exploration for new oil has been greatly reduced in countries where profit incentives have become almost non-existent, such as Libya, Iraq and Venezuela. The companies are concentrating their search in the North Sea, Alaska and Canada, where undiscovered oil pools exist. But even if they turn out to be major finds, they will still be only a drop in the bucket compared with the 250 billion barrels the Free World will consume in the next ten years.

2. Earnings Growth and Capital Expansion: The worldwide oil business has literally hundreds of public and private concerns involved in its various facets. However, the industry's overall progress can be gauged by the results of the 15 companies listed on Page 4. This group accounts for nearly three-fifths of domestic crude oil and natural gas production and one-half of worldwide oil output. In the early 1960's, its earnings per share increased, on average, by 8% annually. Over the past five years, however, the growth in earnings has been only 1% per year despite a 9% uptrend in revenues. In the first half of 1972, the group's profits declined 6%.

The problems of recent years can be traced to a combination of unsatisfactory product prices and rapidly escalating costs. In the U.S., gasoline prices have been inadequate because of competition from lower-cost independent operators. Overseas results have been hurt by chronically weak prices which have offset huge gains in volume.

The strongest impetus to earnings has come from oil and gas production. In the years ahead, declining U.S. output will have to be replaced by huge quantities of much less profitable imported crude. Some companies owning major new reserves in such areas as the North Slope, the Santa Barbara Channel or the Gulf or Mexico will be able to increase their domestic production, but most will not.

At the same time, tax payments will continue to balloon. In this country, the Tax Reform Act of 1969 raised the industry's annual tax bill by $600 million. In 1971 alone, foreign taxes jumped $4 billion to a total of $12 billion. The major producing countries abroad now take over 80% of the government/industry profit split. The situation is so far out of whack in Venezuela that Royal Dutch's second-quarter tax rate there was 102%.

Negotiations now being held would give the OPEC governments 20% ownership of oil production. Such "participation", which is only a start, is a clear indication that the tax burden will continue to mount.

Meanwhile at home, politicians are leading the public to believe that they are being gouged by "oil billionaires". More and more elected officials are advocating the further reduction and even elimination of the tax incentives that were originally given to encourage the search for oil and gas.

Few realize that the oil industry's return on investment is below the average for all U.S. companies, while the share of taxes paid out of revenue (excluding sales and excise taxes) is larger than average. Moreover, the industry's retained earnings, depletion and depreciation are no longer sufficient to provide the capital needed for expansion. The companies have had to borrow substantial sums and the typical debt to capital ratio has doubled in the past decade.

Industry managements are responding to the difficult operating climate as profit-conscious business enterprises. Without cooperation, they alone cannot solve the world's energy problems. So at a time when they ought to be rapidly boosting domestic capital spending, they actually reduced it 9% in the first half of 1972.

The need for substantially increased capacity is not just in crude oil and gas production. A Shell Oil study estimates that 58 new refineries of the 160,000 barrels per day size will be required before 1980. Yet there is only one such facility under construction today.

A big deterrent is that environmental restrictions have made it virtually impossible to obtain site approval for building a refinery on the East Coast. And despite the long lead times in plant design and construction, the industry does not yet know what type of gasoline the Environmental Protection Agency will specify for the late 1970's.

In the distribution area, two major firms—Atlantic Richfield and Phillips Petroleum—are in the process of divesting large numbers of gasoline stations. Obviously, no company wants to expand its refining or marketing capacity when the opportunity of making a reasonable rate of return on investment is lacking.

Conclusion: Some industry problems—as in gasoline marketing—were self-inflicted and must be remedied internally. But most stem from restrictive, confusing and up-in-the-air government policies in respect to exploration incentives, anti-pollution law and import controls. These must be resolved at the national level to enable the companies to plan sufficiently ahead to provide the nation's growing energy needs—75% of which are derived from oil and gas.

The 15 leading integrated companies shown below are financially strong and should be able to improve their earnings modestly in the years ahead. If the much-needed incentives are forthcoming, the outlook would be greatly enhanced, especially for those firms which can find significant new oil and gas reserves:

	Earnings per share			1967–72 gross rate (percent)	P/E ratios			Current yield (percent)
	1972E	1971	1970		Current	1967–71	1962–66	
Amerada Hess	$3.70	$3.70	$3.22	+11	13	14	11	0.6
Atlanta Richfield	3.25	3.73	3.64	−4	19	20	12	3.2
Continental	3.10	2.78	3.06	+2	11	13	15	4.4
Gulf	2.50	2.70	2.65	−2	9	10	13	6.5
Marathon	2.60	2.96	2.83	+1	12	14	15	5.2
Mobil	5.60	5.33	4.77	+7	12	11	12	4.0
Phillips	1.85	1.78	1.58	−5	19	16	15	3.6
Royal Dutch	3.45	4.04	3.94	+1	11	10	11	5.1
Shell	4.00	3.63	3.52	−3	12	14	15	4.9
Standard Oil of California	6.20	6.02	5.36	+4	11	11	14	4.3
Standard Oil of Indiana	5.30	4.95	4.55	+5	14	13	13	3.2
Standard Oil of New Jersey	6.90	6.77	5.91	+4	12	12	15	4.9
Standard Oil of Ohio	3.00	3.23	3.55	−4	26	20	12	3.4
Texaco	3.40	3.32	3.02	+3	10	12	16	4.7
Union	2.90	2.80	2.80	−4	11	12	13	4.8
15 companies average	3.85	3.85	3.63	+1	13	13	13	4.2
S. & P. 500 independents	6.20	5.36	5.03	+3	17	17	17	2.9

MORE FOG FROM THE ADMINISTRATION ON ITS AGING "POLICY"

Mr. KENNEDY. Mr. President, yesterday, several Senators sharply and, I believe, justifiably criticized the administration for its policies of neglect over the past 4 years toward the Nation's elderly.

The response from the Senate minority leader evidently was written in the same offices where those policies have been concocted for the past 4 years.

Without attempting to respond to the statement line-by-line, I do believe it is worth noting some of the more egregious and deceptive statements of so-called administration "initiatives."

STATEMENT

Signed into law social security increases amounting to more than a 51 percent rise since 1969.

FACT

If the administration's initial proposals for social security had been adopted, rather than those of the Congress, older Americans would have received 18 percent, not 51.8 percent in additional benefits. The average retired worker's annual benefits would be $600 less if the administration's proposals had been accepted.

This year, the administration recommended a 5-percent increase in social security benefits while Democratic Congressman MILLS and Senator CHURCH spearheaded a drive for a 20-percent increase. Despite administration opposition, there bill was enacted into law on July 1, 1972. If the administration's proposals for social security benefits had been adopted over the past 3 years, the poverty rolls would have been increased by 1.5 million older Americans.

STATEMENT

Signed S. 1163 initiating a new national nutrition program for the elderly.

FACT

On March 10, 1971, I introduced S. 1163, nutrition for the elderly. It was opposed by administration witnesses at the subcommittee level and it was opposed at the full committee level. After passage by the Senate, the House Republican minority leader objected to its immediate consideration by the House, thereby delaying its passage several months. Only after its overwhelming adoption by both Houses did the administration decide to try to take credit for a bill it had opposed from the day it was introduced.

STATEMENT

Reaffirmed his commitment to relieve the burden of property taxes.

FACT

Property taxes have increased by one-third since Richard Nixon took office. The administration also opposed the Eagleton amendment to the Revenue Act of 1971 which would have given tax credits up to $300 for elderly homeowners or renters.

STATEMENT

Requested that the monthly $5.80 medicare supplementary premium fee be eliminated . . ."

FACT

The administration has not proposed but imposed an additional part B premium of 45 percent, raising the level from $4 to $5.80 which elderly Americans have to pay today. Also, he has raised the deductible for hospital insurance by 55 percent from $44 to $68. And it has proposed 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.

STATEMENT

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.

FACT

For 3 years, the administration opposed such action and only this year have they been willing to support funds going from the highway trust fund to mass transportation. However, they opposed the Kennedy-Weicker amendment which would have permitted $2.4 billion rather than $800 million to be used for that purpose.

STATEMENT

. . . and asked the Secretary to develop specific suggestions for helping States and localities use a portion of these resources (mass transit) for the elderly.

FACT

Public Law 91–453, the Urban Mass Transportation Act of 1970, contains a provision which was an amendment by Congressman BIAGGI and which requires that mass transit systems be made accessible to the elderly. At the time, the administration opposed any requirement that funds be spend for this purpose.

STATEMENT

Make housing money more readily available for older Americans.

FACT

The administration has phased out section 202, housing for the elderly program which did not have a single failure in its 22 years in existence. This action came over the opposition of every elderly group and the White House Conference on Aging. The administration also opposed having an Assistant Secretary for housing for the elderly, which the White House Conference recommended.

STATEMENT

Tripled the retired senior volunteers program to $15 million.

FACT

For 2 years, the administration did not request a single dime to fund this program and the Congress had to fund it over the administration's objection. Last year, the administration originally requested $5 million for RSVP. The increase to $15 million came as part of an amendment I introduced to the fiscal 1972 supplementary appropriations bill which was adopted by the Senate on December 3, 1973.

STATEMENT

Doubled the foster grandparents program to $25 million . . . ."

FACT

The administration originally requested $7.5 million for this program in fiscal year 1972, a cut of nearly 30 percent from the fiscal year 1971 level. The amendment I introduced on December 3, 1971, and which was adopted, raised the appropriations level to $25 million.

STATEMENT

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.

FACT

The Emergency Employment Act contains provisions which require, as a matter of law, that elderly persons be given such consideration. Finally the administration opposed enactment of the Emergency Employment Act, a bill that it is now seeking to take credit for.

STATEMENT

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.

FACT

The administration vetoed the OEO bill which contained increased authorizations for green thumb, senior aides, and other operation mainstream projects. Also, the President declared a year ago that these programs should be changed from their present demonstrations basis to "a broader national basis." Yet the administration opposed S. 555 which would create not 10,000 jobs but at least 40,000 jobs this year and 60,000 next

year. And instead of $16 million it would have been $250 million over 2 years. And it would have changed these programs from demonstration to permanent and nationwide.

STATEMENT

Increased the 1972 budget of the Administration on Aging to $100 million for 1973—to provide . . . services.

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

FACT

For the first 3 years of this administration, each year's requests for the Administration on Aging was less than Congress had appropriated the year before. Last year on December 3, 1971, I introduced an amendment to the supplementary appropriation bill which raised the level of funding under the Older Americans Act to $100 million.

The administration during its years in office has taken four of the six programs away from the Administration on Aging leaving it a virtual shell. The Older Americans Act extension passed by a Democratic Senate this week restores to the Administration on Aging its rightful role as the major focus for the elderly within the Federal bureaucracy.

These are merely reaffirmation of the fact that for 3 years the administration ignored the elderly. And now in the fourth year, the election year, it has decided to try and claim for everything a Democratic Congress did for the previous 3 years, despite the administration opposition.

ON BANNING GENOCIDE

Mr. PROXMIRE. Mr. President, the Genocide Convention has lain dormant in the Senate of the United States for almost 24 years. During this time 75 other nations have become party to this document which upholds the most sacred of all human rights: the right to live. How can our Nation with its commitment to the support of human rights still hesitate in making an international commitment against mass murder?

The September 26 issue of World magazine contains an enlightening article by William Korey which traces the history of the Genocide Treaty. Mr. Korey is director of the B'nai B'rith United Nations office and has written extensively on human rights issues. In view of the pressing importance of the Genocide Convention in the last days of the second session of the 92d Congress, I ask unanimous consent that Mr. Korey's article be printed in the RECORD.

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

ON BANNING GENOCIDE: "WE SHOULD HAVE BEEN FIRST"

(By William Korey)

Last December, Senator William Proxmire, the crusading legislator from Wisconsin, rose in the chamber of the upper house to remind his colleagues of a disturbing if sad truth: There is not a single proposal before the Senate that has been before the Senate as long as the genocide convention. The successful battles against the SST who, since 1967, has conducted a marathon of almost daily speeches calling for Senate ratification of human-rights treaties, told the legislators that "this genocide matter has been pending before the Senate for twenty years."

The subject had actually been on the agenda of the world conscience for an even longer period. It was in the fall of 1946 that a lonely and intense ex-public prosecutor of Warsaw with a brilliant record in international law and a flair for foreign languages arrived at United Nations headquarters in Lake Success to tilt with the powers-to-be. Dr. Raphael Lemkin was his name and he came not only to define his newly coined term, genocide ("Genocide comes from the Greek, *genos*, meaning race, and the Latin, *cide*, meaning killing. It is the mass murder of people for religious or racial reasons.") but to convince the world organization that an international treaty to outlaw genocide must be adopted.

Lemkin may not have represented any government or any organization; but he gave expression to an idea whose time had come. The holocaust with its six million Jewish dead in Nazi crematoria was fresh enough to stir a profound sense of guilt and to prick mankind's uneasy conscience. Lemkin himself was a personal witness to the genocidal carnage. He and his brother were the sole survivors of a Polish-Jewish family, which had numbered almost seventy persons. Relentlessly and singlemindedly, the shabbily dressed "unofficial man"—as he liked to call himself—buttonholed delegates pressing his case, ultimately convincing the United States ambassador, Warren R. Austin, along with other U.N. representatives. On December 11, 1946, the General Assembly unanimously adopted Resolution 96(I), which declared "that genocide is a crime under international law" and called for the drafting of an international treaty that would forever ban this crime.

It was not until two years later than Lemkin would see the fulfillment of a dream and of his arduous lobbying in the corridors of the U.N. On December 9, 1948, the General Assembly, meeting at the Palais de Chaillot in Paris, by unanimous vote approved the Convention on the Prevention and Punishment of the Crime of Genocide, which formally outlawed "acts committed with an intent to destroy, in whole or in part, a national ethnical, racial, or religious group, as such." Among the enumerated "acts" besides genocide itself were any attempt or any conspiracy to commit genocide, and complicity in, or direct and public incitement to commit genocide. Genocide was understood to mean not only physical liquidation. Causing serious "mental harm," inflicting "condition of life calculated" to bring about "the physical destruction of a group in whole or in part," and imposing measures intended to prevent reproduction of the group were also covered by the convention. Rulers and public officials could not claim immunity. They were as much subject to its terms as private individuals. Nor could genocidists seek asylum on grounds that their crimes were political. Extradition was required from contracting parties to the treaty. The President of the General Assembly, Herbert V. Evatt, was to note the historic significance of the convention: "In this field relating to the sacred rights of existence of human groups, we are proclaiming today the supremacy of international law once and for all."

Reporters, searching for Lemkin after the vote was over, found him hours later sitting alone in the darkened chamber, his eyes filled with tears of happiness. But the joy was to be short-lived. For the country of his adoption, to his keen disappointment, would not during his lifetime ratify the genocide convention. Lemkin died in August 1959, at the age of fifty-eight, worn out by burdensome labors that by then had won the treaty some three score ratifications.

Chief Justice Earl Warren, in December 1968, told an American audience that "we as a nation should have been the first to ratify the genocide convention. . . . Instead, we may well be near the last." Today it is all but forgotten that, in fact, the United States played a key role in the drafting of the treaty that was reflected in the text itself. Formulated in terms of familiar Anglo-American legal theory and couched in the language of traditional common-law concepts, the treaty drew upon the precise wording of common-law crimes long accepted in American jurisprudence. Most important, it was the United States that insisted that a specific *intent* to commit genocide must be proven before an offender could be punished. And the American delegation led the fight for its adoption. The chief of the delegation, Assistant Secretary of State Ernest A. Gross, shortly before the final vote, told the General Assembly:

"In a world beset by many problems and great difficulties, we should proceed with this convention before the memory of recent horrifying genocidal acts has faded from the minds and conscience of man. Positive action must be taken now. My government is eager to see a genocide convention adopted at this session of the Assembly and signed by all member states before we quit with our labors here."

The United States delegation was among the first to sign. Only two days after its adoption, the formal American signature was appended to the treaty.

For a time, it seemed that U.S. ratification would come swiftly. On June 16, 1949, President Truman transmitted the genocide convention to the Senate, asking for its consent. A subcommittee of the Senate Foreign Relations Committee held public hearings in January and February 1950, during which an administration spokesman, Deputy Undersecretary of State Dean Rusk, testified that ratification was necessary to "demonstrate to the rest of the world that the United States is determined to maintain its moral leadership in international affairs and to participate in the development of international law on the basis of human justice."

In May 1950, the subcommittee reported favorably on the convention to the full committee; but at the same time, to meet some objections from segments of the legal profession as well as from conservative political forces, the subcommittee recommended that four "understandings" and one "declaration" be embodied in the resolution consenting to ratification. One "understanding" (later termed a "reservation") was designed to clarify the words "in whole or in part" in the key section of the convention defining genocide. Some feared that a single lynching might be sufficient to bring the clauses of the treaty into play. The "understanding" explicitly noted that the genocidal acts must be done "in such manner as to affect a substantial portion of the group concerned." A second "understanding" aimed at meeting criticism of language in Article II, which included in the definition of acts of genocide the "causing of serious . . . mental harm to members of the group." The subcommittee proposed that "mental harm" be defined as a "permanent physical injury to mental faculties." The third "understanding" took account of concern registered in some quarters that the phrase "complicity in genocide" was too vague. The subcommittee defined it as "participation before and after the facts and aiding and abetting in the commission of the crime of genocide." The final "understanding" was minor.

The most important clarification was designed to meet objections that the treaty might deleteriously affect federal-state relations by sapping the authority of states on criminal matters. The proposed "declaration" met the constitutional issue by noting that the Senate considers ratification to be an exercise of the federal government to define and punish offenses against the law of nations, expressly conferred by Article I, Section 8, Clause 10, of the United States Constitution."

But even these clarifications—which many thought unnecessary since they were self-evident—failed to elicit positive action by the full committee. A resurgent nativism, expressed in the McCarthy movement, was already in full swing, developing into a powerful force that in turn provided sustenance and support to those groups that felt that our sovereignty might be undermined by the United Nations and the legal instruments it was forging. Bolstering the resistance was the registered formal opposition to treaty ratification by the prestigious American Bar Association.

The newly elected Eisenhower Administration put an end to all further discussion of the genocide convention and, indeed, to any other human-rights convention. Secretary of State John Foster Dulles told the Senate Judiciary Committee in April 1953 that genocide "could better be reconsidered at a later date, arguing that the Soviet Union had not yet ratified the treaty. But even when the USSR did accede to it in 1954, no change in Dulles's policy was forthcoming. The secretary of state had already told the Senate that, with reference to the protection of global human rights, the Administration favored "methods of persuasion, example, and education rather than formal undertakings," such as U.N. human-rights treaties. The Dulles formulation was aimed at depriving the influential supporters of Senator John Bricker of a major argument in their efforts to restrict the treaty-making powers of the President. Bricker's followers had raised an alarm over possible ratification of the proposed U.N. Covenants on Human Rights.

However, the disintegration of McCarthyism as an effective political force and the collapse of Bricker's efforts did not prompt either the administration or the Senate to take any step in reasserting American leadership in the human-rights field. What has been described as a "lingering Brickeritis" appeared to infect the upper legislative chamber for the next fifteen years. It was a costly malaise. The United States found it difficult, if not impossible, to champion any human-rights project at the U.N. The Soviet Union, usually on the defensive when the issue of more effective implementation machinery concerning human rights was proposed at the U.N., could and would charge the U.S. with hypocrisy. In January 1964, for example, when the U.S. member of the Subcommission on Prevention of Discrimination, Morris Abram, advocated "forceful measures of implementation" in dealing with racial and ethnic discrimination, his Soviet colleague had but to remind the body that the U.S. was not even a contracting party to the genocide convention. The embarrassed American responded, with an obvious air of discomfort, that he could only "regret, of course, that my country has not ratified the convention on genocide."

Two years later, Abram, while serving on the U.N. Commission on Human Rights, vigorously endorsed a Costa Rican proposal that would have marked a significant breakthrough in the area of international human-rights enforcement. The proposal involved the creation of an independent office, the high commissioner for human rights, who would function as a kind of international ombudsman. The Soviet Union's response was devastating. Its representative pointed out that in view of the fact that Americans "resolutely refused to accept legal obligations" through ratification of human-rights treaties, it was "almost indecent" and certainly "hypocritical" for the U.S. to advocate the establishment of special human-rights institutions in the international field. Shortly afterwards, *Pravda* (April 24, 1966) drove the point home, adding a special nuance for public consumption. It was "no accident," the Communist Party organ commented, that the U.S. has not ratified the genocide convention since "racial and national oppression is still very widespread in the United States of America."

Soviet charges have not fallen on deaf ears. Indeed, many delegates at the U.N., including those from friendly and neutral states, find the U.S. posture incomprehensible. In testimony before a subcommittee of the Senate Foreign Relations Committee in March 1971, former Justice Arthur J. Goldberg recalled:

"When I was United States ambassador to the United Nations, I was often asked to explain our failure to ratify the genocide convention. Frankly, I never found a convincing answer. I doubt that anyone can."

The U.S. status has been marked by a kind of splendid if increasingly uncomfortable isolation. Seventy-five governments have ratified the treaty including the overwhelming majority from Europe, Latin America, and Asia. All the other great powers and virtually all the world's democratic regimes are on the roster of ratifiers.

Not until the summer of 1963 did the U.S. administration begin to be concerned about its tarnished image. On June 10, President John F. Kennedy, in his remarkably perceptive American University speech, formulated the axiom that "peace, in the last analysis, is a matter of human rights." During the following month, he formally broke with the Eisenhower policy by sending three international human-rights treaties—on slavery, forced labor, and political rights of women—to the Senate urging their adoption. But he carefully avoided pressing on the genocide issue even though a White House spokesman noted that "we share the views that prompted President Truman to urge consent of the Senate."

The emergence of a more favorable atmosphere in Washington prompted over fifty labor, religious, and civic groups to form in 1964 the Ad Hoc Committee on the Human Rights and Genocide Treaties. The coalition sparked a nationwide campaign to oblige the American government to commit itself more vigorously to the strengthening of international law in the field of human rights. The impact of the ad hoc committee was especially felt during International Human Rights Year in 1968. A blue-ribbon committee of lawyers chaired by retired Supreme Court Justice Tom Clark, denounced as "anachronistic" the traditional argument of various leaders of the American Bar Association that the treaty-making power of the executive should not be used for human-rights purposes.

Even within the American Bar Association, the stern opposition that had heretofore paralyzed any meaningful alteration of the Dulles policy was beginning to erode. Every section and committee of the A.B.A. with specialized competence in the area of human rights or the rule of law endorsed, during the past few years, ratification of the genocide treaty. These include the Section of Individual Rights and Responsibilities; the Section of International and Comparative Law; the Section of Criminal Law; the Section of Judicial Administration; the Section of Family Law; and the Standing Committee on World Order Under Law. In addition, a number of past presidents of the A.B.A. have swung their support behind ratification.

As with the recognition of Communist China, it was the conservative Richard M. Nixon who sensed the emergent stirrings for a decisive break with the past. On February 17, 1970, the President called on the Senate "to consider anew this important convention." He stated that ratification was necessary to "demonstrate unequivocally our country's desire to participate in the building of international order based on law and justice." Both the secretary of state and the attorney general had advised him that "no constitutional obstacles" to ratification exist. The administration turn-about was, in large part, the product of effective lobbying by a dynamic and attractive young Republican lawyer from New York, Mrs. Rita Hauser. If service as a key member of the American delegation to the U.N. convinced her of the need for U.S. ratification, a number of years of experience in the vineyard of politics suggested to her that there were, indeed, not insignificant political fruits to be plucked as a result of a changed administration attitude.

But the citadel of legal opposition, the American Bar Association, although severely weakened by a conservative president's strong endorsement of the genocide treaty, nonetheless refused to reverse its previous stand. Meeting in Atlanta on February 23, 1970, its house of delegates, after an intense and at times emotional debate lasting three hours, reaffirmed its opposition by an extremely close vote of 130 to 126. Two old arguments were reiterated. The first held that genocide is largely a domestic matter and therefore not appropriate to the treaty-making power. The argument not only contradicted the historical experience of Hitlerism; it mocked constitutional procedures that permitted treaties concerning migratory birds, the hunting of seals, and the traffic in narcotics, but not mass murder. The second principal point was that ratification would alter the balance of authority between the states and the federal government. The fact of the matter is that the Constitution does give Congress the power to "define and punish . . . offenses against the law of Nations," and genocide, quintessentially, is an offense against the law of nations. Besides, the power of the federal government in this area has been confirmed in the Civil Rights Acts of 1957 and 1964 and the Voting Rights Act of 1965.

Other charges were made: that the Black Panthers would accuse federal officials and police of genocide; and that Communist countries would use the treaty as an excuse to bring military and civilian personnel before alien courts. It apparently made little difference to advocates of these opinions that, as Mrs. Hauser noted in her rebuttal. Attorney General John Mitchell himself had examined every possible objection to the treaty before extending his support. But the A.B.A. failed to convince the Senate Foreign Relations Committee. In May 1971, it concluded that "we find no substantial merit in the arguments against the convention,"' and voted ten to four to recommend that the Senate, subject to various "understandings" mostly recommended in 1950, "give its advice and consent to ratification of the genocide convention by an overwhelming vote."

International considerations were decisive for the Senate committee. Favorable witnesses had argued that United States ratification of the genocide convention would remove a stain upon our national escutcheon and end the consistent embarrassment that American representatives are compelled to suffer in international forums—especially when, on those limited occasions, they are prepared to advance constructive proposals for the promotion of global human rights.

Most important, adherence to the genocide convention, it was emphasized, would enable the United States to help shape the rule of law over the long run. The threat of genocide remains a real possibility in various sectors of the globe. And once unleashed, it could ignite a conflagraton as it did in Europe in the late thirties and, more recently, on the Indian subcontinuent. We ignore it at our peril. Certainly this warning constituted Raphael Lemkins legacy to mankind.

When, in December 1971, Senator Proxmire, joined by Senator Jacob Javits, pressed the Majority Leader, Senator Mike Mansfield, to put the treaty on the Senate calendar, Senator Mansfield demurred on grounds that "a propitious time . . . has not arisen." He wanted evidence of "sufficient numbers" of supporters before he would call it up. On February 24, 1972, eight days after Attorney

General Mitchell transmitted to Congress a formal legislative proposal to implement the convention, Senators Proxmire, Javits, Frank Church, and Hugh Scott asked their colleagues to sign a petition that would demonstrate their commitment to ratification. Assurances were given that once a "constitutional majority" of fifty signatures were obtained, the Senate leadership would then call up the treaty for advice and consent. At the present moment, fifty-three Senators have already signed the petition. Several more have privately offered their support. The required two-thirds of these present and voting needed for ratification would appear to be at hand.

In testimony before a Senate subcommittee in March 1971, Arthur J. Goldberg, speaking on behalf of the Ad Hoc Committee on the Human Rights and Genocide Treaties, said: "It is inconceivable that we should hesitate any longer in making an international commitment against mass murder." The observation is even more appropriate today.

PERFORMANCE OF INTERSTATE COMMERCE COMMISSION

Mr. TAFT. Mr. President, I have been critical of the performance of the Interstate Commerce Commission for over a year. Almost every week we receive new reports of ways in which this agency is bogged down in redtape or otherwise failing to discharge its public responsibilities.

In the July 1972 issue of Trains magazine, John G. Kneiling discussed the ICC in his regular column. In view of the difficulties facing America's railroads and the regulatory attitude of the ICC toward these difficulties, his article is properly entitled "Nero."

In the October 1972 issue, George W. Hilton wrote an article entitled, "What Does the ICC Cost You and Me?"

I ask unanimous consent that the articles be printed in the RECORD.

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

[From Trains, July 1972]

NERO

(By John G. Kneiling, P.E., Consulting Engineer)

As the railroad industry slides nearer the brink, its leading lights fiddle with trivia. One week's grist from a trade paper (March 13, 1972, *Traffic World*) suggests the nature, importance, and scope of what consumes attention.

Start with a piece about Penn Central. Reportedly PC received court permission to ask the ICC for permission to abandon 343 miles of track. PC management had to go through the business of petitioning the court for permission to ask the ICC. The court allowed the filing and set its own hearing date. (This set in motion quite a process—ask the court for permission to ask.) Then came two hearings on each abandonment—one in the court, and one at the ICC. For what? Thirty-seven segments adding up to 343 miles. Ten are longer than 10 miles; 5 are shorter than 1 mile. Seventeen have not been used for some years—as far back as 1961.

This is ridiculous. Following these procedures at this rate will take longer than the time available to trim the industry down to fighting weight. And remember, the cost of all that paper-pushing has to be borne by a trade struggling to stay alive.

WHY?

One reason: A lot of bureaucrats in the industry as well as in Government regard all that paperwork as a way to "earn" a living without going out into the real world.

Rock Island was permitted to cut rates on some meat products. Packers and some other railroads opposed the action. The ICC's examiner said, "Shippers . . . prefer motor carriers not only because their service is more flexible but because few, if any, freight claims for damage have to be filed."

The best answer to motor-carrier competition the railroad trade could think of was to cut rates, and then the rails argue about that. Will railroadmen ever learn that poor service is unsalable—even if it's free? The freight rate is peanuts in meat distribution economics, and rail rates already are below truck rates on important segments. Does no one understand that the need is to find a better way to do the work, not to hassle endlessly about obsolete ideas?

In the same week's reports, the ICC reportedly allowed PC to abandon six pieces of track totaling 13.7 miles, subject to employee protection. The abandonment petitions had been filed sometime before, and docket numbers are not consecutive—suggesting that a mass of paper was involved and that each application was laboriously processed separately. This is for six fragments, none of which had service in operation.

During that same week, the ICC ordered refunds of some weekend demurrage collected during the previous year. This means that because someone could not make up his mind, railroad must go back over old paper for refunds.

DAMNED IF YOU DO . . .

The ICC in the same week hassled two roads for complying with its own order. In a merger case, the ICC ordered the grant of trackage rights to a third line. So the lines involved complied—and were hauled on the carpet. It seems they had failed to apply for permission to comply. Someone somewhere must be playing games. What would be the roads' positions if the ICC denied permission to comply with its order? In point of fact, the ICC required railroads to return to the previous situation—which was not in compliance with the ICC's order.

There was one bright spot, but it immediately was dimmed. The ICC's enforcement bureau suggested that in merger cases requirements of attrition and recall of labor be forbidden. The ICC noted that PC had to call back 3,649 men who were not needed, and that when these persons were integrated into the work force, quality and quantity of work deteriorated.

This finding should have been no surprise. Men who hold jobs doing work no one needs tend to be men of limited usefulness. A common observation is that overstaffed operations tend to produce poor-quality work. But the ICC goes on "protecting" employees. Protecting men no one else will hire—men whose presence causes quality and quantity to deteriorate—may be reasonable for the men, but such a crew is no source from which the embattled railroad trade can recruit a conquering army.

The idea of the value of time was illustrated. The Federal government guaranteed a loan to the Reading Company, and Reading went into bankruptcy. So the loan came due and the Government had to pay it—the ICC had guaranteed it under applicable law. Some months after the bankruptcy, the ICC found out that interest was continuing to accrue—at $5,000 a day—and that the ICC had made no plans to pay the loan and to stop the interest.

When a man signs another man's note, the signer must be able to pay off. If he is wise, he makes arrangements to cut his losses by paying promptly. So the ICC now suggests that some legislation be prepared that will avoid such interest payments in the future.

Now they find out!

CRITERIA

The Federal high-speed ground transportation program (which produced Metroliner) had another series of appropriations in the legislative hopper. Among other things, these moneys provide for consideration of areas of high unemployment in awarding research contracts. There is little to show that a contractor in an area of high unemployment is as qualified for creative research work as one whose help comes from a region where the people are making out. Seems to me that the reverse would be more likely.

But maybe Government research is not done to get results—just to hand out checks. In any case, this research money is regarded as being spent "for" railroads—whether the spending is effective or not.

EFFECTS

This sea of paper—this column can only sample the flow—costs money, adds little value to the transport service performed, and does little to protect the public. Most of it just impedes the effective management of the business. Make no mistake—this cost must be borne. The army of paper-pushers, endlessly doodling and filing minutiae, merely adds friction and represents parsitic loads on the flow of goods.

The cost in labor, talent, management time, professional help, and other factors for formal abandonment of trackage fragments probably totals more than the salvage value of the lines. And applying for permission to comply with the regulators' orders . . . mind-boggling, indeed.

Even more to the point, the progress of this enormous flow of trivia through the clogged channels of bureaucracy is incredibly slow. That big group of PC abandonment cases averaged less than 10 miles each, and the six approvals averaged about 2 miles. With 150,000 miles to be abandoned or spun off, are 15,000—or 75,000—cases needed?

At this rate the industry will be dead long before the surgery can be completed.

The same trade paper that week reported on a forum on foreign trade in New York. The theme was "diversion" of U.S. cargo through Canadian ports. The consensus was that diversion is not just a strike phenomenon, but that Canada's relative freedom from regulatory burdens and more productive labor make it possible to offer service that shippers find better and cheaper. Of course, this is not "fair," but that is the way it is. And this is quite a change from the time when considerable Canadian traffic was "diverted" to U.S. ports.

Perhaps someone will find a way to cut out the game playing and get on with recreating a real railroad industry.

While there is still time.

If there is still time.

[From Trains, October 1972]

WHAT DOES THE ICC COST YOU AND ME?

(By Goerge W. Hilton)

(NOTE.—This analysis is a condensation of a paper entitled, "The Costs to the Economy of the Interstate Commerce Commission," written by Author Hilton for the Joint Economic Committee on the solicitation of Sen. William Proxmire.)

The cost of the ICC? Look it up in the Federal budget and you will find it is listed at around 29 million dollars a year. You can ascertain that figure in a few minutes.

The matter is not that simple. A noncompetitive organization of an industry entails extensive cost to the economy, rather like a tax on the public as a whole. A monopoly, as everybody knows, produces a lower rate of output than a competitive industry and at a higher price. This means that a monopoly uses too few resources compared with competitive industry. If the courts break up a monopoly, resources flow from the competitive sector of the economy

into the industry that formerly was monopolized, and society gets a higher output of goods and services—which is known as a welfare gain. Conversely stated, a monopoly entails a welfare loss.

Transportation, however, isn't a monopoly and never has been. Instead, it is an incomplete cartel under the ICC. As I argued in "What Went Wrong and What To Do About It" in January 1967 TRAINS, the ICC was established to stabilize private railroad cartels which had proved themselves chronically unstable under the common law of the time, which was hostile to cartelization. The Act of 1887 was highly imperfect, but Congress patched it up in 1903, in 1906, and in 1910 to the point where by 1914 the Commission was doing what Congress set it out to do: stabilize the railroad cartels, prevent rate wars, and administer collusively set railroad tariffs in which rates were based on the value of the service rather than on the cost of the service. This structure of rates gave the economy an incentive to find alternatives to the railroads that were capable of competitive organization, and the technology of the industry gave the economy an incentive to find something less damaging to cargo than railroading.

Truck and barge transportation arose in response to these incentives, mainly in the 1920's. Congress, which should have swept away the whole cartel, instead expanded it to the trucks and buses in 1935 and to the water carriers in 1940, but with such broad exemptions that the result was a cartel of all of railroading, about one-third of trucking, and less than 10 per cent of barge operation. Further, the cartelizing body, the ICC, has a grossly inadequate set of directives, can't set output quotas, and for the most part, doesn't even realize it is running as a cartel.

In my 1967 piece I stated that cartelization of an industry as big as transportation was inevitably very costly to society, but that nobody had yet made a rigorous estimate of the cost. To some extent this is still true, nobody has attempted an econometric model of American transportation to compare the cost of the present organization with that of a competitive organization. Still, several economists have attempted quantifications of part of the cost to society of the cartel, and one has attempted an overall estimate.

How is a cartel of the character of the ICC costly to society? Most obviously, it results in higher prices and lower rates of output than does a competitive industry. This is the same objective made to monopolies at the outset. In that respect, a cartel is a tax on society in the same way a monopoly is. In one way a cartel isn't as bad as a monopoly, since cartels typically produce at lower prices and higher rates of output than monopolies. In a more important way, a cartel is much worse. The objection to monopoly, as I said earlier, is that the monopoly doesn't use enough resources; the objection to a cartel is that the cartel uses too many, and wastes them in whole or partial idleness. This is far worse; the misallocation of resources through idleness in one big cartel—such as the ICC, petroleum prorationing, or the agricultural price support program—probably is worse than the misallocation from all the private monopoly in the economy.

Any cartel generates idleness. The joint state-Federal price fixing of oil extraction (plus the restrictions on oil imports) gives an incentive to drill oil wells; prorationing gives the wells quotas which keep them in partial idleness. The agricultural price support program creates an excess supply of agricultural products; the Government responds with marketing quotas, acreage allotments, the soil bank, and other devices, all of which tend to keep land in complete or partial idleness. The Civil Aeronautics Board's restrictions on price competition give airlines an incentive to engage in non-price-competition, including frequent scheduling, applications for minor routes, and duplication of routes. The consequence is to fill the airlanes with largely empty airplanes, wasting some extremely expensive capital.

Practically every aspect of ICC regulation tends to produce idleness in the capital in transportation. In railroading, idleness stems from the nature of the rate regulation, restrictions on exit from unprofitable activities, barriers to diversification, and the bias of regulation to present rail technology. The rate regulation, for the most part, is an effort to preserve a tariff structure in which rates were set on the basis of the value of the service to the shipper, which was usually measured roughly by the ratio of value to weight of the commodities. Such a rate structure cannot survive in the face of competition, since the cost of the rival mode—mainly private trucking—becomes the principal alternative open to the shipper, and thus the actual measure of the value of rail service to him. The effort to preserve the traditional rate structures inevitably results in the loss of some rail traffic to trucking, thereby preventing as full utilization of rail plants as otherwise could occur.

On the other hand, the common-carrier obligations of railroads often are used to require the rails to carry items, such as cattle, for which the railroads have lost their advantage compared with other carriers. Cattle-loading pens, all mainly empty, dot the rail system. Restrictions on abandonment of branch lines are partly responsible for the vast mileage of underutilized track in the industry; but more basically, the restrictions on intermodel operation give the railroads an incentive to stick with any branch line that can eke out its variable costs. Since the investment in the line is irrecoverable, and the maintenance of branch lines isn't much, trackage tends to drag on for years. Unrestricted freedom to replace branchlines by containerized or piggyback movements on highways would accelerate disinvestment in the most hopeless sorts of lines.

At least for a limited time, until Congress gives up on the Amtrak program, passenger-related facilities in a low rate of utilization still are around in abundance, amounting essentially to pure waste. Nothing could make Amtrak succeed except a tax of 100 per cent or more on bus and plane tickets. Since there is little prospect of that, it is only a matter of time until Amtrak is wound up.

Idleness of railroad facilities gets the greatest publicity, if only because the industry is worse off financially than the rest of common carriers; but the truckers suffer an underutilization of facilities that is just about as serious. Both railroads and intercity trucking have been estimated to be the equivalent of a manufacturing industry operating at 50 per cent of capacity.

The truckers' idleness isn't underutilization of physical plant in the same way as the railroads', since the truckers have no irrevocably committed capital in the nature of railroad rights of way. Rather, the regulation requires truckers to engage in roundabout movements and semifilled hauls, and especially in empty backhauls. All this follows from the way in which truckers were regulated at the outset. The Motor Carrier Act of 1935 required the issuance of certificates of public convenience and necessity for routes on the basis of regular or habitual service before the passage of the act. If you ran a truck from the produce market in Chicago with vegetables for Schoolcraft, Vicksburg, Tecumseh, Howell, and Bad Axe, Mich., prior to the "grandfather" date in 1935, exactly what you got was a certificate to carry vegetables from Chicago to Schoolcraft, Vicksburg, Tecumseh, Howell, and Bad Axe, Mich. Never mind that the route was roundabout; that it missed South Bend, Kalamazoo, Detroit, and every other major city in the area; or that there probably were more vegetables to move in the opposite direction. A fictional example? Sure, but many a trucker found himself with a less desirable certificate than that. When frozen foods were reregulated under the Transportation Act of 1958, one operator secured a certificate for carrying frozen hushpuppies in one direction only from High Point, N.C., to various points. Mercifully, he was able to have the certificate modified for greater scope, but the nature of the regulation is such as to generate situations of this sort.

It should be clear that a carrier of frozen hushpuppies in one direction only would have plenty of semifilled movements, at best; even more obvious, he'd have to return empty, simply because his certificate gave him no authority for legal movements back to High Point. More important, the Commission would have to prevent him from filling up his trucks on backhauls for rates that would just cover the additional cost, because such movements would undercut the value-of-service rate structures which the truckers adopted (modeled on the railroads' value-of-service rate structures) when they became regulated. Private truckers suffer chronically from empty backhauls, since most of them have one-way business.

Barge operators have some of the same problem of empty backhauls, but since only a minority of their operation is regulated, the problem is not a major one. Rather, the regulation provides that the exemption shall be lost when exempt and nonexempt cargoes are hauled in the same tow (the mixing rule), or when more than three bulk cargoes are moved in the same tow (the rule of three). The mixing rule is temporarily suspended at the moment, but both these rules frequently result in towboats operating with smaller tows than they can handle, thereby producing an idleness of capital similar to that which the railroad and truckers endure.

The waste of resources in idleness produced by regulation is the worst part of that regulation, but probably next is the bias of regulation toward existing rail technology. TRAINS readers may know better than anybody else that existing rail technology entails a low rate of utilization of cars, heavy damage claims, low speeds, extensive investment in yard and terminal facilities for which there is no direct return, and—through putting many groups of employees in a position to tie up the whole operation with a strike—generation of strong unions. The ICC prefers rates on carload lots, and its car-service requirements are based on the presumption of an indefinite perpetuation of this technology.

In a competitive framework, railroad technology probably would have evolved along the lines that TRAINS advocates: integral trains with hopper-car configuration for barge-competitive movements; and containerization of truck-competitive movements with highway haulage for short-distance and terminal operations. The attractions of such an organization of the industry have been exposited in TRAINS numerous times, but how directly the present regulatory framework has prevented moving to such technology seems not to have been recognized.

Unit-train—as distinct from integral-train—technology essentially requires no change in existing technology; such innovation as exists in unit-train operation is merely legal: a rate is quoted for a trainload instead of a carload. As Paul W. MacAvoy and James Sloss demonstrate in their book *Regulation of Transport Innovation* (reviewed in June 1967 TRAINS, page 51), the ICC steadily resisted rates of more than carload lots up to 1939, and allowed them for unit-train coal movements after 1960, when slurry pipelines began to be a serious threat to eastern rail coal movements. The ICC is not entirely to be blamed for this; it has statutory justification for preserving differentials between rail and barge rates, and there is plenty of political pressure to protect the traffic of barge lines.

The Commission was, if anything, even more hostile to the development of contain-

erization. This technology is entirely consistent with competition, since the railroad can charge a fee by weight for the container regardless of its contents. This technology also is pretty simple, and was developed early. The New York Central initiated containerization in 1921, and by 1930 the technique was spreading rapidly. In 1931 the Commission concluded that containerization threatened existing rate structures and, in the case *In the Matter of Container Service* (173 ICC 377), raised container rates so drastically as to truncate the further development of the technology until well after World War II.

As I've said previously in TRAINS ["Ralph in the Roundhouse," page 44, November 1970], present railroad technology of individual cars in flunking a market test. The market mechanism is causing a rapid disinvestment—about one-third in 15 years—in the traditional box cars toward which the regulation is biased. Because the per diem rate is set institutionally by a board, rather than fluctuating on the basis of demand-and-supply conditions, it does not serve the function of rationing the existing supply in peak periods, thereby giving rise to a box-car shortage which becomes successively worse. The ICC, unsurprisingly, currently is seeking powers to force railroads to buy box cars; a bill for a Federal box-car corporation is in Congress; and voices are not absent demanding nationalization of the railroads to deal with the problem. Any of these solutions tends toward making permanent current railroad technology and perpetuating the industry's present problems.

In my 1967 article, I argued that the railroads were declining for five reasons:

1. The technology is damage prone from slack action and switching impact.

2. It is inflexible in being limited to the rails.

3. It is slow, mainly because of loss of time in interchange.

4. The pricing structure is based on value of service instead of cost of service.

5. The irrecoverability of investment in the right of way invites the depredations of tax collectors and unions.

The technology TRAINS recommends essentially deals with all these problems. Integral trains get rid of slack and switching impact. Containers move intermodally, so that no single company is restricted to its own rails. An integrated transportation company based on a rail system can freely resort to truck or barge delivery to offline points, avoiding interchange entirely if it so desires. Conversely, the trains can readily handle containers of nonrail carriers. The technology is consistent with competition, since the main surviving anticompetitive features of railroading stem from interchange. Companies which offer freedom of routing over one another, with extensive joint rates and standardized equipment, necessarily are so habitually drawn together that the line between joint ratemaking and collusive ratemaking on routes on which they otherwise would be rivals is a thin one. If you conceive of a competitive transportation industry as a set of companies operating in the fashion of the White Pass & Yukon ["Integration in the North," page 35, July 1971 TRAINS], moving containers by rail, truck, and ship depending on relative costs, you will have no difficulty in conceiving of competitive organization—especially since anybody would be free to operate trucks and ships in rivalry with the integrated transportation companies. Any effort of the integrated transportation companies to price as monopolies would expand the economic range of trucking.

Finally, the technology TRAINS recommends would deal with the irrecoverability of investment, since it would allow abandonment of most existing rail mileage, and would reduce the number of employees who could tie up the operation with strikes. Trains would be so infrequent and the skill level required for operating them would be so greatly reduced that supervisory personnel could carry the companies over strikes, as they do in the telephone system.

One of the principal attractions of a conversion in technology and economic organization of the type outlined is that freight would move by the means best suited to it. Conversely, one of the principal objections to the present organization of the industry is that freight frequently moves in modes ill suited to it. The ICC, like most cartels, engages in market sharing, enforcing a fairly rigorous separation of the modes of carriage. When the ICC is confronted by a controversy on the appropriate level of rates to be charged by trucks, railroads, and barge lines, it customarily splits the difference. It sets rates of the rival carriers at levels at which each of them can attract some of the traffic in contention. This practice, which is about as habitual as anything the ICC does, follows directly from the nature of the incentives of the commissioners. They are men and women who serve for finite periods, who can't plan on reappointment, and whose most obvious outlet for postcommission employment is in the regulated industry. The Interstate Commerce Act is so vague a set of directives that the commissioners have excessive discretion. A policy of difference-splitting in rate cases is as legal as any other, and it serves to minimize squawk in the industry, thereby safeguarding post-commission employment prospects.

Unfortunately, difference-splitting hardly could be less desirable as a policy for allocating freight among carriers. Setting rates in this fashion prevents the price system from indicating to society the relative costs of movement, and thus prevents the determination of relative prices from allocating freight among modes in accordance with their relative advantages. The proposition is fairly universally accepted that trucks have a comparative advantage for short movements, railroads for long ones. The longer the distance, the greater is the handicap of high labor costs of trucking; beyond some point, the labor costs counteract the higher quality of the trucks' service. Exactly where this point may be is in doubt, because the damage proneness of rail service with present technology varies as a handicap among different commodities. A popular estimate of the point is around 200 miles.

Several economists have argued that the survival of value-of-service ratemaking in railroad tariffs has diverted to trucks large volumes of freight which could be moving by railroad at lower cost to society. As I pointed out in a review in TRAINS [page 55, June 1971] of one of the recent expositions of this view, Ann F. Friedlaender's *The Dilemma of Freight Transport Regulation*, the railroads do not act as though with present technology they have the potential for reattracting massive amounts of truck traffic; rather, when they secure some additional ratemaking freedom, they attempt to reattract barge-competitive commodities for which their adverse damage experience is not a handicap. With a slack-free technology, however, little question exists that they could reattract most of what moves for long distances by truck. The way they act at present—and the way the barge executives act—indicates that railroads probably could attract a considerable volume of bulk traffic either with current or integral-train technology. What does seem clear is that regulation, either directly by enforcing an inappropriate noncompetitive pricing structure or indirectly in perpetuating an obsolete technology, is causing a serious misallocation of resources between modes.

That is it, then. Regulation wastes resources in idleness, perpetuates an inappropriate technology, and misallocates freight between modes. This is costly, but how costly?

The simplest way to estimate the cost is to take as a sample the fall in rates on the most important commodities deregulated by judicial decision in the history of motor-carrier regulation, and on the basis of that to estimate the effect of regulation on the national freight bill. Federal courts in the 1950's declared movements of chicken and frozen foods by truck exempt from ICC regulation. There is no reason to believe that these deregulations were anything but random; that is, the commodities were deregulated merely because of the way the law was written, not because their rates were any higher than any others compared with competitive levels. Chicken rates fell by over 30 per cent and frozen food rates by about 19 per cent. A very conservative estimate would take this as an overall fall in rates of 20 per cent. At least in the case of frozen foods, the quality of the service improved after deregulation, when truckers became more willing to provide multiple destinations; so the fall in rates isn't the whole story.

Taking a 20 per cent fall in rates as representative, and applying it to a national freight bill usually over 25 billion dollars, will give you a rough estimate of the cost at some 5 billion dollars. That is not a satisfactory estimate for several reasons. First, if one sector of a cartelized industry is decartelized, resources will flow into it from the rest of the industry to depress the price below what it would be under competition. Second, no reason exists to believe that *all* rates are above what they would be under competition. There is no presumption that numerous railroad rates below cost would fall under competition. Some rates may be depressed by political pressure on the ICC—although nobody is sure he has identified any. Third, and in the opposite direction from the first two, the elevation in the national freight bill ignores several costs, notably the welfare loss from some goods not moving at all because of the enhanced rates.

Several economists recently have tried to assess the cost of individual consequences of the cartelization in a more rigorous fashion. Professor Friedlaender in her *The Dilemma of Freight Transport Regulation* made an estimate that the costs from the survival of discrimination in tariffs were on the order of 500 million dollars per year, mainly in diverting freight moving over 200 miles from rail to truck. This was an explicitly casual estimate, but in 1969 Robert W. Harbeson of the University of Illinois in the *Journal of Law and Economics* published a calculation of relative costs of movement by rail and truck on the basis of various ICC cost studies of the 1960's, plus data in the Census Bureau's *Census of Transportation* of 1966. From these data he concluded that the use of trucks instead of carload rail transportation as a consequence of regulated tariff structures resulted in an annual economic loss of $1,128,623,300 to $2,921,001,800. Correcting the estimate for the inferiority of the quality of rail service, he put the loss in a range of $1,041,490,710 to $2,833,879,210 per year.

Professor Friedlaender subsequently made a second estimate of the cost to the economy of regulation. In a paper delivered at the American Economic Association meetings in 1970, she figured the cost of excess capacity in railroading in 1969 to have been between 2.4 billion and 3.8 billion dollars. This time she estimated the loss from survival of value-of-service pricing at about 300 million dollars. This is consistent with the usual presumption that the worst costs of the cartel are idleness of capital rather than misallocation of freight between modes.

In their book on unit trains, Paul W. MacAvoy and James Sloss assess the economic loss from the ICC's refusal to allow multicar

rates on coal to East Coast ports at around 9 million dollars per year. This is a good example of how large the costs can be from even a small part of the cartel, merely because the cartelized industry is so huge.

An even better example is an estimate by Karl B. Ruppenthal of Stanford University and his associates of the costs of an inconspicuous change in the barge mixing rule. Unregulated carriers of bulk commodities had made a practice of assembling barges at major junctions or terminals and turning them over to regulated barge lines at a special towing rate. The regulated carriers used the reduced towing rate to fill out tows which were held below the capacity of the towboat by the mixing rule or rule of three. The regulated carrier did not provide the usual obligation of bailment for security of the cargo, and did not deliver the barges. Rather, the barges were returned to the unregulated carrier at a second junction point for delivery to the consignee. The ICC prohibited this entire arrangement as a violation of the mixing rule and in 1967 was upheld by the Supreme Court. Ruppenthal and his collaborators computed that, in reducing the tows of regulated towboats, this change in rules increased costs from 2.3 mills to something between 3.02 mills and 3.34 mills per ton-mile, depending on the size of the tow. Work this out for the barge industry and it amounts to an addition of 207 million to 287 million dollars to the national freight bill.

Prof. Thomas G. Moore of Michigan State University in 1971 put together the estimates of the various costs in these studies into one grand reckoning of the overall cost to the economy. He did not use Harbeson's estimate of the cost of misallocation of freight between modes, but rather developed his own judgment on the basis of some estimates of the ability of the railroads to reattract truck traffic made by Prof. Merton J. Peck of Yale, and on a paper on this subject produced in 1969 by Charles River Associates, a private consulting firm. Peck's estimates led Moore to calculate a saving of 450 million to 900 million dollars from diversion of long-distance freight from truck to rail, and Charles River Associates' figures led him to an upper bound for this estimate of 2 billion dollars. In his over-all calculation, Moore used a best estimate of 900 million dollars; had he used Harbeson's estimate, he would have had a higher figure.

Moore made no appraisals of the cost of diversion of traffic from rail to water carriers and rail to pipeline. Any estimate which skips this is inevitably understated. Moore made an estimate of a welfare loss of 175 million to 400 million dollars from commodities which do not move at all owing to the high level of common-carrier rates. Moore's net estimate is a range of 3.575 billion dollars per year to 6.890 billion with an intermediate estimate of 4.815 billion. Recognizing that his valuation neglects important costs, he suggests an actual range of 4 billion to 10 billion dollars from the cartelization.

Thus, we are back roughly where we started. A careful estimate—and Moore's is the most careful to date—brings us to the general conclusion with which we started, that the cartelization costs society around 5 billion dollars per year, or about $25 for every one of us.

Let nobody say the ICC is ineffective. Anything that can do 5 billion dollars' worth of damage on a budget of 29 million dollars probably is more cost-effective than anything else in the U.S. Government. Nothing that purports to do good is anywhere near that effective.

If the Commission is in the nature of a tax on the economy of some 5 billion dollars, you would reasonably expect a lot of people to be getting rich on the proceeds. The Federal Communications Commission gives away the right to use portions of the broadcast spectrum, and the recipients get rich running television stations. Isn't there something similar stemming from the ICC?

Very little, actually. The operators of major truck lines with general certificates between major points undoubtedly are receiving some monopoly profits out of what otherwise would be a competitive activity. The present organization of trucking gives a considerable incentive to merge companies so as to fill out route networks, and the prices at which companies are transferred indicates a considerable capitalization of monopoly gain. More to the point, the avidity with which the American Trucking Association fights to preserve the present organization of the industry is the best possible indication that the major truckers benefit from the cartelization. In a competitive framework, they would be beset by rate-cutting railroads offering containerized intermodal service and by a vast inflow of independent truckers, mainly from minority groups, offering basic, cheap service. The major truckers are effectively organized politically and constitute the most effective single lobby for perpetuation of the cartelization.

Similarly, the Brotherhood of Teamsters receives substantial benefit from the cartelization. A union in an industry of the character of competitive trucking couldn't accomplish much. Organizing any one employer in such an industry simply will drive him out of business. A union is like a tax collector: It must have a situation in which the employer is earning a return higher than that which would just keep him in the industry. A union then can confiscate the excess—which is known as an economic rent—as a gain for the union. The only way to generate any economic rent in trucking is to organize the industry noncompetitively, so that firms have some degree of monopoly earnings. Accordingly, the Teamsters uniformly are in favor of any cartelizing effort in trucking, and support ICC regulation with uneclectic loyalty.

The railroad unions still may receive some of the same benefit, but the railroads have declined so greatly that noncompetitive organization probably doesn't still do their unions much good. What the railroads secure from the present organization of the industry is mainly an antitrust exemption, but this is enough to cause most railroadmen to support the cartelization. This seems to be irrational; they would be better off in a competitive framework. At minimum, the cartelization isn't making any railroadmen rich.

In fact, such enrichment as it may produce for truckers and Teamsters, or anybody else, for that matter, is trivial compared with the production of just plain waste. Moore estimates that about a quarter of the income generated in transportation represents waste. What the cartel does mainly is to keep in transportation people and capital that otherwise would be doing something else. Many of the people in this situation feel a vested interest in the cartelization. A lawyer whose whole practice is ICC-related and who has achieved a nice mansion in Chevy Chase with a membership in the local country club understandably feels that the present organization of transportation works to his benefit. It does only in a limited sense. If the ICC didn't exist, he would have specialized in some other type of law, and presumably have done equally well. Similarly, several thousand people—the Commission's career employees, traffic men in industry, a large percentage of the personnel of the carriers—are specialists in the technical details of the operation of the cartel. Their on-the-job training and whatever courses they may have taken in ICC practice are an investment in human capital, on which they receive a return in income. But if the ICC didn't exist, they would have made their investment in human capital in some other form of knowledge, and would be gaining their return on that. Since they have made the investment in the ICC's processes, they would suffer capital loss from decartelization and so constitute a political force for preservation of the present arrangements.

So, in the main, what we get for our 5 billion dollars is just waste. But there are enough people who receive a benefit from the present organization of transportation—or think they do—that we are likely to continue suffering from it for a good long time.

ISOLATED AMERICA

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD a paper entitled "Isolated America," written by Hamilton Fish Armstrong.

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

ISOLATED AMERICA

(By Hamilton Fish Armstrong)

Seventy-five years ago, Archibald Cary Coolidge, who later became the first Editor of *Foreign Affairs*, wrote a book with a theme and title entirely novel at that time, "The United States as a World Power." In it he made the first attempt to define the new role in the world then rapidly being assumed by the United States. He remarked that all nations divide mankind into two categories—themselves and everybody else. And he said that Americans would be just as prone as others to cherish the pleasing belief that they had grown great by their own virtues and the favor of a kindly Providence, whereas the progress of other states was marked by unscrupulous rapacity; hence, they would demand that American statesmen keep sharp watch lest nefarious foreigners take advantage of their good nature and honest simplicity. The accuracy of Mr. Coolidge's analysis was corroborated before long by the alacrity with which the American people accepted the idea that they had come into World War I altruistically, in order to make the world safe for democracy ("American" democracy); and again by their readiness to suppose that President Wilson and his advisers at Paris had been bamboozled by wily European statesmen. The latter conception was promoted by American isolationists who depicted the League of Nations as a naive and useless affair and a trap to involve us in Old World power politics.

The war in Vietnam has been the longest and in some respects the most calamitous war in our history. It has rent the American people apart, spiritually and politically. It is a war which has not been and could not be won, a war which was pushed from small beginnings to an appalling multitude of horrors, many of which we have become conscious of only by degrees. The methods we have used in fighting the war have scandalized and disgusted public opinion in almost all foreign countries.

Not since we withdrew into comfortable isolation in 1920 has the prestige of the United States stood so low. Following Harding's sweeping victory and his announcement that Wilson's League was "now deceased," the League of Nations passed out of the minds of most Americans. Having won the war for their allies, as they put it, Americans considered that they were entitled to attend to their own affairs exclusively. The world was stunned. The United States had won glory by turning the tide of battle in Europe and moral stature by sponsoring, through President Wilson, a program for organizing the peace that the world craved. In their disillusionment, Europeans did not forget America's achievements in the war or minimize what the American Relief Administration and other organizations continued to do in feeding the starving and restoring

the wreckage in devastated regions. But something was gone from the picture that the world had formed in wartime of Americans; their adventurousness, their willingness to take risks had disappeared. There were Americans, too, who felt that the American dream had paled and who had twinges of conscience that their country was taking no part in the endeavor to make a new war less likely.

Efforts were made before long to demonstrate that the United States was on the side of peace even though it would not share the alleged risks of becoming a member of the League of Nations. One effort was made in Coolidge's administration, the second in Hoover's. In the summer of 1928 Secretary of State Kellogg took part in negotiating what became the Pact of Paris, the purpose of which was, in the popular phrase, to "outlaw war." It aimed to establish peace by fiat and was acceptable to the U.S. Senate because its signatories were not committed to take any concrete action to prevent aggression. It was harmless except to the extent that it led the American public to suppose that something effective had been done to compensate for the refusal to participate in the League. A second effort to show that the United States was on the side of peace was made by Secretary of State Stimson in January 1932. The League had been struggling vainly to find means to curb the Japanese invasion of Manchuria. Stimson sought to back up the effort by committing the United States to a policy of not recognizing the fruits of aggression. The plan was well intentioned, but its effect in slowing the Japanese invasion was nil.

This was not a period in which the United States was influential in world affairs. Materially, it was a Great Power in capital letters; morally, its greatness did not shine. When the Great Depression overwhelmed the United States, as all nations, Roosevelt's spectacular measures of reform gave the American people hope and trust again, but there was little energy left to think about the troubles and dangers of others. The European landscape was black. A new arms race set in. Hitler's advent was a portent of what was to come. Roosevelt made an effort to have the Neutrality Act amended so that the United States need not, by insisting on its rights as a neutral, break a blockade set up by members of the League against an aggressor; the possibility that it would recognize a blockade would be a powerful deterrent to aggression. The Senate refused.

Through the interwar years the picture of the United States in the eyes of the world remained much as it had been after the Senate killed the proposal to join the League, refused to ratify the Treaty of Versailles and rejected the Tripartite Pact which promised France protection against fresh German attack and which she had accepted as a substitute for seizing territorial guarantees of her own on the Rhine. Nor did it ratify the Protocol of the World Court. American policy was looked upon as quirky and unpredictable.

II

In the first issue of *Foreign Affairs* Elihu Root expressed a fairly obvious fact in picturesque language: "When foreign affairs were ruled by autocracies or oligarchies the danger of war was in sinister purpose. When foreign affairs are ruled by democracies the danger of war will be in mistaken beliefs." It is notable that Mr. Root, having in mind the collapse of four great autocracies following the First World War, referred to autocracies in the past tense, an error of which we soon became aware.

Since the United States is not an autocracy nor is it an oligarchy in the formal meaning of that term, the Vietnam War did not originate in what Mr. Root called sinister purpose. Did it, then, originate in mistaken beliefs? If we did indeed start down the road to war unwittingly and in ignorance, and if we failed to notice the points at which our leaders went wrong in time to curb or deflect them from a doomed failure, what are the characteristics of our society which account for our having been left in such a pitiable situation?

Discussions of the issues raised by these questions, indeed the discussion of all the problems of American foreign relations, are being carried on today in a denatured terminology. The rhetoric of good words and high ideals is everywhere heard; but the opponents of selfish or provincial attitudes are at a disadvantage which they did not face formerly and do not altogether recognize now. The words used to express the highest aspirations have become shopworn. Calls to duty or endeavor like those uttered 50 years ago by Woodrow Wilson today sound hollow and meretricious. The phrases have been used and abused too long.

It was in that period of American public euphoria, misleadingly called "normalcy," that *Foreign Affairs* was founded. Its purpose was not to promote specific policies, however laudable, but to increase the interest of the American public in foreign policy as such and stimulate their consciousness that they were an integral part of a world society and had a concern for its welfare as a whole. To anyone who had a share in that enterprise there seems to be a similarity in the situation then and now. Actually, however, the forces at work are very different. The risk today is not that the American people may become isolationists; the reality is that the United States is being isolated.

In these conditions, an attempt to write other than cynically about the present situation of the United States seems bound to be an exercise in futility. Yet the attempt must be made. Unless we evaluate and not merely enumerate the elements in our society as they condition the quality of our foreign policy we shall not make progress in changing what we feel is wrong with it. And wrong it must have been. Not, in the experience of the present writer, since the Harding era when we denied our enlightened self-interest and retreated from responsibility in our foreign relationships, while confessing to scandal and tawdry commercialism at home, has the world had such a poor opinion of us. American principles, which sometimes were characterized as naïve but in general were respected as sincere and humane, now are freely called hypocritical and self-serving; the weight of American material and military power, looked to in the past as a mainstay of world stability is now mistrusted and feared.

III

Once again in the Second World War the United States saved Western civilization. The victory won, it took the lead in forming the United Nations and the Senate voted membership in it almost unanimously. It is now one of the two superpowers, unassailable in nuclear strength. Nevertheless its political power is less than its material power and its prestige is tarnished.

Our methods of fighting the Vietnam War are what have chiefly fanned world opinion against us. But there are other causes of resentment too. Radical changes in the structure of our foreign policy undertaken recently without notice to friends and allies have strengthened a feeling that Americans policies are conceived for American purposes only. Gratitude for the immense sums given for foreign aid since the war, and especially for the help given Europe in the Marshall Plan, has largely evaporated. Just as the war has sharpened all our internal conflicts, so it has accentuated foreign criticism of American civilization and intensified the resentment of foreign governments that the United States seems more and more to ignore their political interests and economic needs.

In the summer of 1971 President Nixon announced without warning that his National Security Adviser, Henry Kissinger, had been secretly consulting with Premier Chou En-lai in Peking and that he himself was planning a visit there shortly. A month later, he announced that he had unpegged the dollar from gold and ordered a ten percent surcharge on imports; this our allies considered contrary to international agreement. These actions, and to a lesser degree the later announcement that the President also planned to visit Moscow, confirmed the feeling in many foreign offices that American policy was erratic and egocentric.

The President's goal was to come to live-and-let-live terms with two great nations that had long sought to undermine our position in the world and that were hostile to our social and political system. His grand hope was to end the remnants of the cold war with Soviet Russia and make progress toward curtailing the arms race; and to open contacts with the People's Republic of China, with which we had no diplomatic relations and with which we had once come close to war on behalf of our protégé Taiwan. The objectives were admirable, provided the endeavor did not involve sacrificing friendships and alliances with peoples with whom we had had close ties, some of them traditional and in a sense sentimental, some economic and commercial, some rooted in similar concepts of constitutional government, democracy and freedom. In his preoccupation with methods of attaining the goal, and in his excitement as he seemed to near it, the President lost sight of the proviso. The result was a chaotic situation. The stability of the monetary system was further undermined, with our NATO allies among those most adversely affected. Canada, an essential friend and neighbor, Japan, the rising power in East Asia, and India, the largest Asian democracy, were alienated.

The approach to Peking was not precipitate; it had been carefully prepared. But the announcement that the President would go there in person was made in a way that caused maximum embarrassment to the Japanese government. We had been pressing Tokyo to have as little as possible to do with "Red" China, "our mutual enemy." In so doing, we had opened Premier Eisaku Sato to domestic attack for sacrificing Japan's interests to those of the United States. Suddenly he found himself bereft of his excuse for having taken a position opposed in many influential circles. He felt betrayed.

Japan deserves consideration in the forefront of American foreign policy in her own right. Japan is now the world's third industrial power. Japan provides the second largest market, after Canada, for American goods, and a third of her foreign trade is with the United States. "Japan is our most important ally," said President Nixon on February 25, 1971. Our recent policies do not reflect a full awareness of these facts.

The end of our long-time friendship with India came about as a by-product of our efforts to please the People's Republic of China by averting our faces while the army of China's protégé, Pakistan, bloodily repressed a revolt in the eastern half of the country. India was overwhelmed by an influx of refugees from East Pakistan and took the occasion to help weaken her traditional enemy Pakistan and establish the independence of East Pakistan as Bangladesh, meanwhile accepting the support of the Soviet Union in exchange for the peevish "neutrality" of the United States. Our maneuvering included the futile naval demonstration—plainly directed more against the Soviet Union than India—of sending the *Enterprise* sailing up the Bay of Bengal (and down again). The gainer was the Soviet Union, which signed a treaty of mutual support with India and secured new facilities on the Indian Ocean, where the Soviet fleet will now face the American on better terms.

Canada is our neighbor and, we have al-

ways assumed, our staunch friend. The British used to take us for granted, a fact that irked us considerably; the Canadians have been similarly irked that in our eyes Canada is a natural extension of our culture and a part of our economic domain. This has been particularly exasperating because it is based largely on fact. Our periodicals sell in Canada almost to the exclusion of the local product. We have provided the greater part of the capital for developing Canadian raw materials and have acquired majority control of Canadian industries.

The increasingly uncomfortable character of the Canadian-American relationship remained unrecognized by the American public and apparently was given scant consideration in Washington, as shown when President Nixon made his economic and financial announcements, and Secretary of the Treasury Connally at once began negotiations with Canada (as with many nations) in an effort to see that the United States derived maximum benefits from its new economic policy. In the talks with Canada he stressed the need to "rectify" Canada's favorable balance of trade with the United States, and demanded changes in the 1965 pact which allowed Canadian-manufactured automobiles to be shipped across the border duty-free.

Canada pointed out that not only had she suffered annual deficits in overall trade with the United States in the 20 years before 1970 but that for the five years before 1971 she had suffered deficits in the automobile trade up to $625 million. Was Canada to understand that the United States was prepared to trade with her only when she incurred a deficit, and required concessions from her when (for a change) the United States incurred a deficit? And how was Canada, with a trading deficit, to pay the immense sums of interest, dividends and transportation costs arising out of American investments in her industries?

The effort to improve the overall American trade balance and balance of payments, even if this meant resorting to protectionist measures, was of course connected with the financial drain of the war in Vietnam. Canadian public opinion was strongly critical of the war and this increased the opposition to American efforts to secure Canadian concessions to help pay for it. Canadian official resentment was exacerbated by Secretary Connally's seeming lack of understanding for Prime Minister Trudeau's difficulties in submitting to American demands when Canadian elections were in the offing. (American officials are not the only ones that must take account of elections.) In general, Canada simply put down the controversy as an example of the usual self-centered approach of Americans toward their northern neighbor.

Our isolation from other peoples is the reverse of 50 years ago; today we are the object, not the subject.

IV

Our age finds it convenient to simplify everything. "Know thyself," a difficult proposition, is supplanted by "Know everybody," not "everybody" as diverse types but as a single prototype—glands, psyches, behavioral reactions and all. That we take refuge in generality is not surprising. Our society has become so complex that the multiplicity of its individual problems overwhelms us. To save our self-respect we turn from the un-understandable particular to the perhaps understandable general.

What is called for is a resolute attempt at complication, as the events detailed above indicate. Interactions must be understood as well as facts. Science and technology are adding to the world's problems, not solving them. Something better than a hit-or-miss relationship must be established between the knowledge amassed by scientists in a multitude of fields and the decision-making processes of those who guide political action. How are discoveries in physics to be related to population trends, urban blight, television addiction, substitutes for standard nutritional resources? The answers will not come out of a computer because judgment as to utility and aesthetic choice cannot be fed in along with the facts. Robert Oppenheimer once said to me that physics had become so recondite that the formulae that demonstrate one scientist's conclusions often remain intelligible only to himself. How, then, is a statesman knowing nothing of science to choose between alternative recommendations regarding, say, the development of ballistic missiles, presented to him by scientific advisers who may not know possible variations in fundamental factors involved?

Those who watched the negotiators at the Paris Peace Conference of 1919 struggle to find a realistic and usable pattern of the events that were transforming the world around them, and so to act to forestall new tragedy, redeem promises and justify hopes, were conscious that the leaders assembled there, men on the whole of unusual caliber and in some cases unusual idealism, were unable to come to grips individually with more than a single fraction of the problems they faced. Single minds could not encompass such complexities. Since then the condensation of time and space has magnified the complexities and made each component problem more immediate.

This ought to temper our criticism of our leaders as we look back at the remnants of half-understood policies and stumbling actions that strew the path of our involvement in Vietnam. It does not make us feel a need, however, to be lenient in our judgment where they disguised disasters in clichés or cloaked the miseries of millions of refugees, harried hither and yon under a rain of bombs, under comfortable terms like "resettlement" and "reëducation."

It must be made less likely—for it can never be made impossible—for American leaders again to take the country into war unawares. Proposed legislation to limit executive power to conduct an undeclared war by requiring the President to obtain congressional approval of his action within 30 days is misleading; in 30 days a war will have achieved a momentum of its own and will have introduced complications in relations with third powers that neither the public nor Congress will know how to limit or terminate. And of course no domestic legislation can prevent foreign attack, nuclear or otherwise. The prescription for reform is not written in specific terms. If we assume that mistaken beliefs, in Mr. Root's terms, have been responsible for the failure of the American democracy to curb actions of its leaders that are leading to war, the prescription is stunningly large and recovery can come only slowly as a result of a multitude of actions that could give our country a sense of direction again.

The direction is not backward, in nostalgia, to the virtues of our forefathers, except that we will draw from them an adventurous spirit and in that spirit will answer the question, "What is wrong?" with the answer they gave, "Let's do something about it." The direction is forward, to recognize and accept the present ills of our society and to set about curing them—by rehumanizing ourselves, by readopting civility as a part of good behavior, by recognizing that history can inform the future, by encouraging the growth of élites in many fields, not in order to copy them snobbishly but to set intellectual standards to which everyone may in some degree aspire, by asserting that aesthetics is an essential element in art, by reëstablishing learning as opening doors to choice, by leavening the mediocrity of our culture with snatches of unorthodoxy, by welcoming diversity of opinion as an essential element of strength in a democracy.

Is this a dream? The crudeness brought by the mechanization of modern life says, yes it is. But science need not be against us, nor need we be against science. Almost 40 years ago Newton D. Baker wrote in *Foreign Affairs:* "The triumph of science in the material world encourages us to do some laboratory work with the human spirit. A peaceful world would have been less amazing to George Washington than wireless telegraphy. We must not think too well of atoms at the expense of thinking too ill of men." If we accept that adjuration we may recover our self-confidence and self-respect and regain for our nation the standing in the world's estimation it once possessed.

TELEVISION SPORTS BLACKOUTS

Mr. SCOTT. Mr. President, National Football League Commissioner Pete Rozelle today testified before the Senate Commerce Subcommittee on Communications on the subject of television sports blackouts. Because I believe his remarks on this subject are so important in the consideration of any new legislation, 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:

STATEMENT OF COMMISSIONER ROZELLE

My name is Pete Rozelle. I am Commissioner of the NFL. I am appearing here today to oppose the enactment of Senate Bill 4010 or of any of the other pending Senate bills having the same or a similar purpose.

I have with me Art Rooney, President of the Pittsburgh Steelers, Gerald Phipps, Chairman of the Denver Broncos, and Jim Finks, Vice President and General Manager of the Minnesota Vikings. Also present today is the League's counsel, Hamilton Carothers.

I want to assure you that the comments I am about to make are not simply my own views on this situation. My comments have the unqualified support of each of the 26 member clubs of the NFL.

I think I understand how a Congressional proposal of this character originates. It has the appearance of offering something to the American public free of charge. And, viewed in its most superficial light, it has the appearance of being a proposal which can offer this public benefit without doing damage to anybody.

But these premises are, as we see it, quite in error. Indeed, almost every Congressional statement I have read to date on this subject proceeds on the basis of some very fundamental misunderstandings as to substantially every phase of the matter.

Perhaps the best way for me to begin would be to list some of the statements put forward in support of this proposal and make a brief comment about each.

We hear, for example, this proposal continually referred to as a "blackout" issue. The fact is that it is not a blackout issue at all. NFL home territories are no longer blacked out on television on Sunday afternoons even when the home team is playing a game at home; two or three NFL games are telecast in each home territory each Sunday afternoon. This proposal therefore does not deal with blackouts—it is an effort to prescribe by statute *which* NFL game must be telecast in what area on what occasions.

To say the least, this strikes me as a rather unprecedented proposal. I am not aware that Congress has proposed this for any other form of public entertainment.

We also read statements to the effect that this proposal resolves a significant antitrust issue. The fact is that the member clubs' practice of not telecasting locally the same games being played locally has never presented any antitrust issues—any more than a

similar decision by the Kennedy Center, the Barnum & Bailey Circus, or the promoters of a boxing match would.

We read that this practice by the member clubs was successfully defended in an antitrust case during the 1950's, but that conditions have now changed, and the basis for the court's decision can no longer oe justified. But the fact is that this particular member club practice has never been the subject of litigation and was not even questioned by the Antitrust Division at that time—which is precisely what, I am informed, the Assistant Attorney General in charge of the Antitrust Division said yesterday.

We have read statements to the effect that the source of the League's present practice is an antitrust immunity granted to the League by an Act of Congress in 1961—when the fact is that the practice of not televising local games locally has never required any antitrust immunity and Congress never intended to deal with it in 1961.

So I think you must agree with me that there are some very fundamental misunderstandings about the legal context of this proposal.

Even more importantly, we think the supporters of this bill are operating with some equally significant misconceptions as to the predictable effects of this bill and as to the circumstances existing in this particular form of entertainment—which is what professional football is.

We read, for example, that all NFL games are regularly sold-out and that it is no longer feasible for the members of the public to obtain tickets to NFL games—when this is simply not so. The fact is that there are only a limited number of NFL cities where this is the case. In most NFL cities tickets for NFL games are available to the public up to the time of kickoff.

We also hear the statement that the practice of not televising local games locally unfairly deprives home territory fans of their proper share of NFL game telecasts—when the average NFL home territory receives 74 free NFL game telecasts each season, the League and many outsiders are already concerned with the problem of oversaturation and too much television, and the proposal is simply to add additional game telecasts to this tremendous schedule.

We are told that a justification for this proposal can be found in the fact that many NFL clubs play their games in municipally-owned stadiums—when municipal stadium authority interests would, we are clear, be as much damaged by this bill as would the NFL member clubs themselves. Substantially every NFL stadium lease is based on percentage of gate receipts and many stadium authorities have a direct financial interest in all or a portion of the parking fees and concessions.

We are told that the enactment of this bill would not in any way affect ticket sales by the member clubs—when there is not a single member club of the League that believes this and all of the League's experience argues to the contrary.

If you are inclined to dispute this, just remember that what you are proposing here is a statutory guarantee to every member of the American public that he will be able to see one, two, three or seven home games of his choice either on television in the comfort of his home or by appearing at the team's local ticket office at any time before 1 p.m. on the Friday preceding any weekend game.

This proposal could create some of the strangest Friday morning ticket lines in the history of public entertainment—with everyone jockeying to remain at the end of the line.

We are told that local telecasts of local games would not affect game attendance when the tickets have already been sold and that in any event the League's only interest is in selling tickets to NFL games—when each member club has a very strong interest in achieving full attendance at its games even when all of the tickets have been sold and all of the League's experience supports the proposition that local telecasts of local games can have a dramatic impact on attendance even where tickets have been sold.

We are told that the proposal would not negatively affect the member clubs in any other way—when the proposal would in fact destroy the value of the clubs' radio rights and introduce factors of speculation and confusion into the sale of the member clubs' television rights.

We are even told the proposal would add to the clubs' sources of income—which amounts to the rather remarkable contention that the clubs are stubbornly and for no rational reason resisting the opportunity to make more money.

The League is also told that the proposal is entirely practical—when fact issues could arise in half-a-dozen or so League cities every weekend—visiting club ticket returns, standing room stadiums.

Now what are the facts?

Professional football differs from other professional sports in a variety of ways. Among the most significant is that it simply cannot be played often. An NFL club's entire regular season consists of 14 games. A baseball team's regular season consists of 162 games, a basketball team and a hocky team play around 80 games.

Because of this, football has to *maximize* attendance. It can't offset well-attended games against games which are not well-attended. An entire regular season home game schedule consists of only seven games and full-houses at each of these games become a football club's *minimum* objective.

It is surprising how many people do not focus on this single factor. A comparison of the crowds at football games and at other sports contests gives a totally false impression.

One of the results of this is that every cost factor is compressed into the same limited game schedule. And that includes stadium rentals. If you had chosen to examine Judge Lehr on this yesterday, you would have found that the Kansas City Chiefs will produce revenue for the stadium authorities in 1972 at a figure of $590,000 in rental alone, that the stadium authorities get 50 percent of the concessions and the parking, that the Chiefs are responsible for all maintenance, staffing, and care of the stadium (estimated at $500,000 annually), and that the Chiefs "nut" for the stadium use annually will run at about $2.4 million per year (in rent, upkeep and principal and interest on their own investment in the stadium). And this is for only eleven games.

Still another factor which distinguishes football is the manner in which television is used. Relative to the number of games actually being played, football offers more television than any other professional sport. The fans in each NFL home territory have access not only to all of the away games of their home teams, but, as an average, a total of 74 NFL game telecasts.

And that concerns me—as it does many other observers of professional football, within Congress and without, who feel that the game is already over-exposed and that there is a real risk of football following the path of professional boxing, which killed itself by TV oversaturation.

And now Congress is proposing to enact a statute making it mandatory that we invade this last precinct of non-telecasting—the home territory of the home team when the team is actually playing at home.

Now let's turn to the $64 question—which seems to be:

"You can't get a ticket, so why not put it on TV?"

How many games were actually sold out? Fifty-two National Football League games in the 1971 season were not sellouts. Only five, including the Super Bowl, of eight post-season games sold out. And, we ask you to remember, in no case did the public anticipate the possibility of local TV and many of these were achieved by ticket sales taking place right up to the moment of kickoff. Only 9 teams are sold out for their remaining games at the present time.

Despite the fact fans know NFL games will not be televised locally, there are more than one million unsold tickets available for the remaining eleven weeks of the season.

The 17 teams which are not sold out have a total of 904,238 seats available plus 120,073 standing room tickets.

The Super Bowl Champion Dallas Cowboys alone still have 118,480 for their remaining six home games. The New Orleans Saints, with a 78,000-seat, 130-million dollar Superdome under construction, have 129,118 left for just five games at their present location.

Cleveland has nearly 28,000 tickets remaining unsold for a game with Houston on November 5.

The trouble, I think, lies in the fact that many of you gather your impressions of NFL ticket sale circumstances from the abnormal rather than the typical franchise situation—as in Washington, for example, where the situation resembles no other situation within the League.

A major contributing factor to the current interest in professional football has been our television policy—regional telecasts of the away games of each home team (which is not the most economic method of presenting games on television), outside games of other teams liberally offered, and a firm restraint with respect to telecasts which are or may be competitive with the actual game being played locally.

Over-exposure is a potential danger that we have watched carefully in the past decade. Only last December we included a question on it in a special public opinion survey conducted at our expense by Lou Harris. A cross-section of sports fans were surveyed in 1,991 households—as you know, a considerably higher sampling than in the widely accepted political polls—with the following result:

AMOUNT OF PRO FOOTBALL ON TV

[In percent]

	Total football fans	Men	Women
Too much	21	17	27
Too little	7	9	5
About right amount	71	73	67
Not sure	1	1	1

In relation to the over-exposure question, we have watched closely experiences in other sports. Here are some striking examples relating both to over-exposure (best described as too much TV) and to local telecasts of events:

BOXING

We all remember the "Friday Night Fights," but how about the Wednesday Night Fights, the Saturday and the two Mondays? That is correct. At the peak of TV boxing popularity—from January 1953 to January 1955—there were five weekly network boxing telecasts. By May 1958 there were two, by September 1964 there were zero. The sport simply ate itself with overexposure.

BASEBALL

In 1971, with local television available, the seven games of the major league baseball divisional playoff had a total of 74,596 unsold seats. An additional 7,963 went unsold for the sixth game of the World Series and another 4,846 for the seventh and deciding game of the Series.

BASKETBALL

The taxpayers of Nassau County built a modern arena in suburban New York City at a cost of $28,000,000. It opened last spring, although still not completely finished, to meet the demands of the fans who wished to see the surprising New York Nets in the American Basketball Association playoff. On Friday, May 12, a sell-out 15,241 fans attended a playoff game. With more seats completed, there were 15,890 on May 15. Neither game was televised locally. Then, on May 20, for the seventh and deciding game for the ABA Championship paid attendance was only 10,484 with the game on television locally. Similar circumstances existed in Virginia and Utah—two of the ABA's strongest franchises—when the games were televised locally.

A recent collegiate experience with the blackout is most startling. The Georgia at Tulane game on September 23, a regional NCAA telecast, was shown locally in New Orleans and prior to the day of the game we understand only 3,000 tickets had been sold for the 80,000-seat Tulane Stadium.

Contrary to popular public opinion, pro football is not without its own TV-induced attendance problems.

In 1970, the Baltimore Colts concluded the regular season with a record of 51 consecutive sellouts. Then with television available in the Baltimore area from a Washington station, attendance dropped by 20 percent—10,500—for the divisional playoff game with Cincinnati. And for the more important Conference championship game with Oakland the following week in much better weather, 5,300 seats went unsold because of the same TV circumstances.

The above experiences highlight the myth that proclaims all important professional sports contests are sellouts.

There is another factor. Conservatively—and some fans in Washington would probably argue with the count because D.C. Stadium is not included—15 of the 26 NFL Stadiums are considered cold-weather playing sites. Others, like San Francisco and Oakland, are often plagued by rain in late season.

The "no-show" situation is one the NFL is constantly on guard against. Anyone who has watched NFL football on television—particularly games at night when sound carries—is most certainly aware of how much fan participation adds to the excitement and emotion of the sport and to the performance of the teams.

We do not want "no-shows"—persons who purchase tickets and then do not use them. And we will get them in ever-increasing numbers if local telecasts are made mandatory even under sellout conditions.

Consider some of these illustrations, all of which happened with home games blacked out:

The New York Giants each season average 2,000 no-shows per game. Last December 19, a cold, overcast Sunday, 15,134 persons who purchased tickets failed to attend a game with the Philadelphia Eagles.

The New York Jets had 42,525 no-shows for their seven games in 1971, including 16,275 for a game with the Miami Dolphins on rainy October 24. This is not an isolated experience. On November 10, 1968, 24,941 who purchased tickets stayed away from a game with Houston, and on December 3, 1967, there were 29,242 no-shows when the Jets played Denver on a cold, rainy day.

New England in the first year in a new stadium had 23,843 no-shows, including 11,137 as early as October 10 for a sellout with the Jets on a day of driving rain.

There are many, many more illustrations that could be made that occurred in recent seasons throughout the League—even in non-cold weather sites like Atlanta.

The point, however, is that, despite the popularity of professional football, there are many persons who purchase tickets and then do not attend games. The number would soar if games previously blacked out were announced for television, and it should be obvious that persons then would soon stop buying tickets.

In my opinion, the bill being here proposed would in essence be self-defeating. It would virtually assure that in a period of a few years' time there would be no such thing as a sellout and therefore no local television. At the same time it would have made non-buyers of former fans.

Stadiums would also be affected. Rentals are usually based on percentages of the gross. NFL teams ordinarily do not participate in parking income or concessions—which goes either to the stadium authorities or to the baseball tenant. Where they do, the stadium authorities usually receive a sizeable percentage.

As a result, seven NFL teams operate under stadium leases which either prohibit home telecasts or require landlord approval before any home game is telecast.

The city of Cincinnati is guaranteed $500,000 per year from parking at Riverfront Stadium—by a private business concern—no matter how many fans actually drive their cars to the games. This is a contract obviously based on persons showing up for the games, not just buying tickets.

Robert F. Kennedy Stadium in Washington, which is run by the District of Columbia Armory Board through an act of Congress, and which has only the football Redskins as a professional team to attract large crowds, also controls concessions, parking and advertising. Despite capacity crowds which now fill RFK to watch a winning team, there is little chance this would continue under the proposed bill. If ticket holders discover two days before a game that they can stay at home and watch on television or if every fan knows that he is guaranteed the right to see any game of his choice either at home or by visiting the Redskins' office at any time before 1:00 p.m. on Friday, in a few years both ticket sales, attendance, concessions and parking will be affected—to the serious detriment of the stadium itself.

Again and again, the point has been made by proponents of this bill that only games sold out 48 hours in advance would be affected and therefore the bill will do no damage to anybody. But human nature is such that when people get accustomed to having something free they are not likely to be enthusiastic about paying for it on other occasions. As one sports writer has described the present bill, it is a little like a Supermarket announcing that if it sells a certain amount of steaks by Friday, it will give them away over the weekend. Steak sales are not likely to be very promising for the first five days of the week.

There have been six Super Bowls played. The fourth and the sixth were in the city of New Orleans.

Each year after the first (in Los Angeles) we were asked if we were going to have a closed-circuit showing of the game at locations in the city in which it was going to be played so that local persons without tickets could see it on television.

Each time until last January we chose not to in the belief that such an undertaking would not be successful. After the fourth game (in New Orleans) a closed-circuit TV company filed suit against the NFL over our refusal to sell closed-circuit rights.

Last year we permitted that company and others to bid on the sixth game in New Orleans where fans had seen four of the five previous Super Bowls free on home TV.

The result was simply that persons did not buy what they had gotten free in the past. Though tickets were priced at $5 less than stadium tickets, only slightly more than 1,600 fans attended the closed circuit showing which had a total seating capacity of 14,000. The closed-circuit promoter lost more than $25,000 because he failed to understand the psychology of the fan who already had gotten something for nothing in the past.

If home games were to be telecast, many NFL member club radio contracts would be in jeopardy. Metromedia Radio, which has four of our member club contracts, indicated to me that "if blackouts were lifted" it might cause a situation where the club would have to purchase time from the stations to get the broadcasts on the air. Regional radio networks would have to be dropped because the cost factor doesn't justify continuing losses.

It is conceivable that the cancellation of regional radio networks could have seriously damaging effects on smaller radio stations because of a lack of professional football programming availability. It is also important to note that the member clubs participate in many local public service promotions with radio stations along their networks. Many of these promotions are charitable and this blackout measure could result in harming public service efforts for the future.

The 26 member club radio stations have invested over 3 million dollars in NFL game rights. Current ratings on radio broadcasts show an eighty percent drop in audience when the radio station must compete with a telecast of the same game. Wherever this bill applied, the very existence of these broadcasts would be seriously jeopardized.

In short, I think substantially every premise on which this bill proceeds is in error and that experience under it would prove just that. But by that time it will be too late.

I have talked a great deal. I think for a more personal appraisal of the impact of this bill on football clubs, I would like you to hear directly from the owners of the franchises who have accompanied me here today.

AN INSIDER'S ACCOUNT OF THE WATERGATE BUGGING

Mr. TUNNEY. Mr. President, today's edition of the Los Angeles Times contains a very interesting interview with a man named Alfred C. Baldwin III. I think my colleagues would find it particularly informative about the conduct of politics in this country. The Romans had a saying which I think applies very well in this case: "The thing speaks for itself."

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

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

[From the Los Angeles Times, Oct. 5, 1972]

AN INSIDER'S ACCOUNT OF THE WATERGATE BUGGING

(By Alfred C. Baldwin III, as told to Jack Nelson)

(NOTE.—Baldwin was a key government witness before the grand jury that indicted men in the Watergate case.)

NEW HAVEN, CONN.—Across the street in the Democratic National Committee offices I could see men with guns and flashlights looking behind desks and out on the balcony.

It was a weird scene at Washington's Watergate complex. The men were looking for several persons, including my boss—James W. McCord Jr., who was security director for both President Nixon's Reelection Committee and the Republican National Committee.

A short while later McCord and four other men, all in handcuffs, would be led by police to patrol cars and taken to jail. And a White House consultant would rush into my motel room across the street from the Democratic offices and peer down on the scene before fleeing the area.

I had been using a walkie-talkie and acting as a lookout for McCord and his men, who were engaged in a bugging operation. For three weeks I had monitored conversations on a tapped phone in the Democratic offices.

My mission had been to record all conversations. McCord appeared to be especially interested in any information on Sen. George McGovern and the Democratic Party chairman, Lawrence O'Brien, and anything having to do with political strategy.

When the Committee for the Reelection of the President hired me for security work with Mrs. Martha Mitchell, nothing was said about eventual espionage missions involving electronic eavesdropping.

But then the man I worked directly under, Jim McCord, was not given to long explanations about anything. You would have to know McCord to understand what I mean.

Like myself, McCord is an ex-FBI agent. But he also served 20 years in the Central Intelligence Agency and he is one of those ex-CIA agents who do more listening than talking. When he wants you to do something else, he just tells you. No buildup or anything.

When McCord was ready to switch me from protecting John Mitchell's wife to other security work, he simply told me that the President's reelection committee had other work for me. Contrary to some press reports, I got along fine with Mrs. Mitchell during the days I protected her. She is a vivacious person and I found working with her fascinating.

But I felt any work with the reelection committee would be fascinating and I like Jim McCord.

I NEVER questioned McCord's orders. I felt he was acting under orders and with full authority. After all, his boss was John Mitchell, the committee director and former attorney general of the United States. And his superior was President Nixon.

If that was not enough to impress me with McCord's authority of official standing, we were surrounded by former White House aides, McCord said were "on loan" to the committee.

My involvement with the committee began May 1 when McCord telephoned my home in Hamden, Conn. He had secured a résumé I had filed with the Society of Ex-FBI Agents in New York and had reviewed it and several other résumés on file with this society. He felt that because of my age, background and marital status—I am 36 and single—I was best suited for the position.

He said they (the committee) needed someone immediately so I took a plane to Washington that night and registered at the Roger Smith Hotel where we met the next morning. He emphasized that although the job was temporary, it could be a steppingstone to a permanent position after President Nixon's reelection.

We walked a block down the street to the Reelection Committee headquarters at 1701 Pennsylvania Ave., a block from the White House, and McCord took me on a tour of committee offices on several floors. As different persons passed, McCord would say things like, "that's so and so, he's from the White House" or "there's another one who's on loan from the White House."

We went to the office of Fred LaRue to get approval for my employment and McCord said, "Mr. LaRue is over from the White House. He's John Mitchell's right-hand man."

LaRue was friendly enough, but very businesslike. McCord read some brief data he had jotted down on the back of an envelope: "Al Baldwin, ex-FBI agent, former Marine captain, law degree, taught police science. . . ."

LaRue looked me up and down. I was in standard FBI dress—conservative suit, white shirt and tie and black, wing-tipped shoes. Our conversation was brief. I think he asked if I was prepared to travel and I said, "yes sir." He replied, "okay, that's fine."

McCord later issued me a loaded .38-snubnosed police special and said, "you'll wear this." I had no permit or official identification and questioned whether I was authorized to carry it.

He handed me a card bearing his name and the name of the reelection committee and said: "You're working for the former attorney general and there's no way a policeman or any other law enforcement officer is going to question your right to carry that weapon. But if you have any problem, have them call me."

In McCord's office at committee headquarters I noticed extensive electronic equipment—walkie-talkies, television surveillance units and various other devices. The top to a fancy briefcase was open, exposing considerable electronic equipment. I was told it was a debugging unit.

McCord told me I would be accompanying Mrs. Mitchell on a trip to Michigan and New York. He issued me $800—eight brand new $100 bills—and said it was for food, drinks, tips and incidental expenses for the trip.

In Michigan, where Mrs. Mitchell attended several affairs, we were joined by LaRue. He mentioned to me at one point that the pistol I was carrying had once been his weapon. As far as I knew, he was not in security work and I did not know why he would have needed a pistol. But I asked no questions.

From Michigan we went to New York City. One of the FBI's bullet-proof limousines used by the late J. Edgar Hoover met us at Grand Central Station and took us to a suburban town where we stayed for two days. When we left, the same limousine picked us up and carried us back to Grand Central Station. I was impressed.

The campaign trip lasted for seven days. Upon our return to Washington I was called up to the Mitchell apartment in the Watergate where Mitchell thanked me for the job I had done.

I had expected to leave in two days on another trip with his wife, but McCord said she was not feeling well and the situation was so "delicate" that Fred LaRue was accompanying her. He said he had other security work for me and he advanced me another $500—five brand new $100 bills.

"M'CORD GAVE ME A CODE NAME, BILL JOHNSON"

At McCord's direction, I moved from the Roger Smith Hotel to the Howard Johnson Motel across the street from the Watergate. I checked into Room 419, which he had registered under McCord Associates, the name of his security firm.

McCord gave me a code name, Bill Johnson, and instructed me to investigate antiwar demonstrations that were occurring in Washington about that time. I was supposed to try to learn of any plans of demonstrators to damage Republican headquarters or to disrupt the Republican Convention in Miami in August.

I still had no committee identification, however, and twice authorities had to telephone the committee to establish my credentials. Once a Secret Service agent stopped me at the Capitol and another time security police stopped me at Andrews Air Force Base. Both times the committee vouched for my credentials.

On May 24, after about two weeks of covering demonstrations, I visited my home in Hamden. When I returned to Washington the next day, I found Jim McCord in Room 419 surrounded by an array of electronic equipment, including walkie-talkies and the debugging case that had been in his office at the reelection committee.

A sophisticated receiving set, which McCord later said was worth approximately $15,000, was in a large blue Samsonite suitcase. There was a portable radio with shortwave band and an array of tape recorders and other pieces of equipment.

McCord said, "I want to show you some of this equipment and how we're going to use it." Just like that, no preliminaries and no explanations of why we would use it.

"You'll be doing some monitoring on this equipment," he said, and proceeded to show me how to operate the monitoring unit.

Then he took the room telephone apart and inserted a tap in it. To test the device, he dialed a local number for a recorded announcement. The tap picked up the message.

McCord pointed across the street to the Watergate and said, "we're going to put some units over there tonight and you'll be monitoring them." He didn't have to tell me; I knew the Democratic National Committee offices were in the Watergate.

From the balcony outside Room 419, I watched McCord walk across Virginia Ave. and enter the Watergate complex. Subsequently he appeared at a window of the Democratic offices and I could see at least one other person and perhaps two with him.

McCord later returned to the motel room and said, "we've got the units over there." He began adjusting the monitoring unit.

We were not sure whose telephones had been tapped. They had tapped one telephone they believed belonged to Lawrence O'Brien and had tapped another one they hoped belonged to a staff official close to O'Brien.

McCord finally picked up a conversation on one phone on the monitoring unit. At first we thought the phone was used by a man named Spencer, then we decided it was used by a man named Oliver. Finally, we realized it was used by a man named Spencer Oliver, who happened to be coordinator of the state Democratic Party chairmen.

A number of persons besides Oliver used his phone too. Over the next three weeks I would monitor approximately 200 telephone conversations. Some dealing with political strategy and others concerning personal matters. With several secretaries and others using the phone, apparently in the belief it was one of the more private lines in the Democratic offices, some conversations were explicitly intimate.

"We can talk," a secretary would say, "I'm on Spencer Oliver's phone."

McCord told me two men who were working with him were coming into the motel room and he would introduce us by code names since we were all involved in security work. He introduced them as Ed and George. I have since learned they were G. Gordon Liddy and E. Howard Hunt Jr., former White House aides.

McCord explained the monitoring devices and other electronic equipment to Liddy and Hunt. They stayed a short while, then left.

On May 26 McCord told me "We're going into another area tonight."

About midnight McCord and I left in his car and headed toward the Capitol. He was driving and holding a walkie-talkie, which he hooked on and held out through the car window. He finally contacted another unit as we neared the Capitol and said we were approaching the area.

He told me to keep an eye open for a Volkswagen, there was someone in it who would be working with us. On a street near the Capitol we passed a small building bearing a McGovern headquarters sign and McCord pointed and said, "That's what we're interested in right there."

Not until then did I realize the target was McGovern headquarters. An upstairs light was on and a drunk was standing in front of the building..

McCord pointed to a row of buildings across the street from McGovern headquarters and said, "We're trying to rent a place over there where you'll be doing the same thing you're doing in the other place."

As we passed a parked car about a block from McGovern headquarters, a voice came in over McCord's walkie-talkie: "You just went by us, did you see us?"

McCord replied that he had and pulled our car alongside the parked car. There were people in the front and back seats.

A man stepped from the car, walked over to our car and slid into the seat beside me and started talking to McCord without even acknowledging I was there. It was Liddy, I could not identify the persons in the back seat.

Liddy, who acted as though he was McCord's superior, was carrying an attaché case. But he did not open it. On a subsequent visit to the monitoring room at the motel he inadvertently left the case. The only item in it at that time was a high-powered pellet pistol, wrapped in a towel.

McCord cruised around the McGovern headquarters as he and Liddy talked. Liddy, holding onto his attaché case, expressed concern about a spotlight that illuminated the back of the building and asked, "do you think we ought to take it out?" McCord said he thought it would not be a problem.

McCord and Liddy seemed to be nervous because the Volkswagen had failed to show up and because the drunk was still in front of the building. Finally, about 3:30 a.m., Liddy say, "we can't do it tonight; we'll have to do it another night."

We let Liddy out of his car and McCord drove me back to the motel where I would resume my monitoring activities. There was no set time for monitoring. The Democrats worked weird hours, like on Sundays and some days until 3 or 4 in the morning. And when I was in the room, I was monitoring from the time I got up until I went to bed.

I would keep an eye on the little TV-type screen on the monitoring unit. A constant line ran across the screen when the tapped phone was not in use. When someone started using the phone, the line would scatter and I would quickly put on the earphones.

The first couple of days I monitored it, I wrote a log of the calls in longhand. But after that McCord brought a typewriter and I typed the logs from my notes. I kept them in duplicate and gave both copies to McCord.

Initially, I would write "Unit 118" in the upper right hand corner of the log. But McCord, realizing that this was the actual frequency monitored, told me to use a code number and I started using the number 418.

I would also write the date and page number in the upper right hand corner. In the body of the log on the left side I would designate the time and write "Unit On." Then I would drop down a line and mark the time of the first recorded conversation and specify "call in" or "call out." I would then write the contents of the conversation.

McCord pointed to a row of build- * * * twice a day to pick up the logs. Sometimes the logs would be only a page or two long, but on a busy day they might run to six pages.

When something important in the logs would catch McCord's eye, he would quickly sit down and type up a memo from information in the logs. He would start the memo with "A confidential source reports."

Sometimes when I monitored conversations I thought were especially important I telephoned him at the reelection committee and told him there was something of interest to him. The first couple of times I called I started to tell him about the conversation, but he said, "don't talk about it over the telephone. I'll come over."

A few days after the monitoring began, McCord instructed me to find another room that would give us a better view of the Democratic offices and perhaps help us establish contact with the tap there that we had been unable to monitor.

I checked us into Room 723 with a view directly across from the Democratic offices.

About June 6 McCord left for Miami, advising that he would be gone only a day. The next day he telephoned, however, and said he had been delayed. I replied that I had recorded some important conversations. He did not want to discuss them on the telephone but instructed me to deliver my original logs to an official at the President's reelection committee.

He said to put the logs in an envelope and to staple and tape the envelope. He gave me the name of an official and I wrote it on an envelope. It was someone I believed was superior to McCord, although I can't recall his name, but it was not Liddy or Hunt.

That evening I carried the envelope to the committee headquarters. An elderly guard was on duty in the lobby of the building and he took the envelope, recognized the name on it and said he would see to it that the official received it.

McCord told me that he was in Miami checking on security arrangements being made for the Democratic and Republican conventions. He said that during the Democratic conventions we'd be needed in Miami for monitoring and other security work and that the President's committee had already opened a suite of hotel rooms down there. For about two weeks we had been trying without success to determine O'Brien's whereabouts. Also McCord was interested in the precise location of O'Brien's office since he was uncertain that the tap he had been unable to monitor was actually on O'Brien's phone.

On June 12 McCord told me to visit the Democratic committee offices under my code name to find out what I could about O'Brien's whereabouts and the location of his office. Since I am from Connecticut and familiar with the Democratic Party officials there, I passed myself off as a nephew of our state chairman, John Bailey.

"This is Bill Johnson of Connecticut, a nephew of John Bailey," said a secretary who introduced me around.

O'Brien's secretary said, "Oh, yes, would you like to see Mr. O'Brien's office? This used to be your uncle's office."

It was the first time I knew that Bailey was a former national chairman of the Democratic Party.

I made a mental note of the office's location overlooking the Potomac River, and I asked if anyone knew O'Brien's whereabouts. His secretary said he was somewhere in Miami and subsequently I was furnished O'Brien's telephone number in Miami.

I returned to the motel room and gave McCord the number and we went over a sketch of O'Brien's office. He seemed extremely pleased.

There were also plans to return to McGovern's headquarters on the weekend. McCord said, "You know the place we were at the other night? We've got to go back there."

Later, Liddy and Hunt came into the motel room. With McCord they walked out on the balcony and looked over toward the Democratic offices.

Before Liddy left, he reached into his inside coat pocket and withdrew an envelope containing a thick stack of brand new $100 bills. He counted off about 16 or 18 bills and handed them to McCord, who put them in his wallet.

"FIRST LISTENING DEVICE I HAD SEEN UNATTACHED TO A PHONE"

On Friday evening, June 16, McCord displayed a unit that I thought looked like door chimes. He removed the unit's cover, exposing a sophisticated electronic device.

Then to test the device he put it next to the television set and turned the set on. The unit picked up the television reception. It was a bug, as opposed to a telephone tap, and was the first listening device I had ever seen unattached to a phone.

Later in the evening McCord displayed a shopping bag full of different kinds of tools and equipment—screwdrivers, wires, batteries and soldering irons. The room ended up looking like a small electronics workshop.

McCord indicated to me that in addition to placing new devices at the Democratic headquarters, the unit we had been unable to monitor would either be removed from the offices or put in a new location in the offices.

We both continued working on the devices for some time. During a telephone conversation McCord said he might have to wait until another night to carry out the mission . . . some guy was still working in the Democratic offices.

Suddenly I saw the light in the committee offices go off and I told McCord, "Hey, look. The guy's leaving now."

McCord told the other party that the light had been turned off and that they could proceed. Then he handed me a walkie-talkie and said he was going across the street. He said, "If you see anything unusual, any activity, anybody around, you get on this and let us know."

He took his wallet, change, car keys and other items from his trouser pockets and dropped them on the bed. He left the room with a raincoat over his arm. After he left, I noticed that the listening device that looked like door chimes was missing.

I walked out on the balcony and watched him cross Virginia Ave. and walk into the Watergate complex.

Less than an hour later, the lights on the entire floor above the Democratic committee offices went on. I picked up the walkie-talkie—I don't remember whether I identified myself as "unit 1" or "base"—but I said, "We've got some activity."

A man whose voice I did not recognize—it was not McCord—responded, "What have you got?"

I mentioned the lights going on and he replied, "Okay, we know about that, that's the 2 o'clock guard check. Let us know if the lights go on any other place."

My watch indicated it was 2:15. I figured the guard check was late.

Not long after that a car parked in front of the Watergate and three men got out and went inside. I wondered if that meant anything, but I did not use the walkie-talkie at that time.

Suddenly, a few minutes later, the lights went on inside the Democratic offices. I noticed the figures of three men. At least two of them came out on the balcony. They were casually dressed and were carrying flashlights and guns. I could see one man in the office holding a gun in front of him and looking behind desks.

"WE'VE GOT SOME PEOPLE AND THEY'VE GOT GUNS"

Watching from the balcony outside my room, I grabbed the walkie-talkie and said, "Base to any unit." A voice came back: "What have you got?"

I said, "Are our people dressed casually or are they in suits?"

An anxious voice asked, "What?" I repeated the question.

"Our people are dressed in suits," the voice said.

"Well," I answered, "we've got problems. We've got some people dressed casually and they've got guns. They're looking around the balcony and everywhere, but they haven't come across our people."

The man on the other end sounded absolutely panic stricken now and started calling: "Are you reading this? Are you reading this?"

Receiving no reply, he then added: "They don't have the unit on or it's not turned up. Are you still in the room?"

I replied: "Right."

He said: "Stay there. I'll be right over."

By now, there was all kinds of police activity—motorcycles and paddywagons driving up and guys jumping out of patrol cars and running up to the Watergate. Then I saw two men carrying suitcases casually walking out of the hotel section. I recognized one as Hunt, he glanced up at the balcony where I stood, and then with the other man walked over and entered a car parked in front of the Watergate. The two of them drove away.

Moments later I was contacted on the

walkie-talkie again and told: "We're on the way up. Be there in a minute." I said, "You'd better not park near this building, police are all over the place."

He said, "Okay."

Then I heard a voice from another unit whisper, "They've got us." Then McCord's voice came through: "What are you people? Are you metropolitan police or what?"

Another voice demanded: "What's that?" And then the unit went silent. I tried to renew the contact, but to no avail.

A few minutes later Hunt, wearing a windbreaker, rushed into the room. He was extremely nervous.

"What do you see?" he asked.

I told him I saw McCord and some other men being led away from the Watergate in handcuffs. He walked over, looked down at the scene and then said: "I've got to call a lawyer."

Picking up the phone, he dialed a local number. "They've had it," he told the party on the other end, adding: "Well, I've got $5,000 in cash with me we can use for bond money."

Hunt, hanging up the phone, turned and asked if I knew where McCord lived. I said yes, I had been to his house in Rockville, Md., a Washington suburb. He instructed me to pack all the equipment and take it to McCord's house and asked if I had a place to go.

I said I could go to my home in Connecticut and he said, "Well, get all this stuff out of here and you get out of here. Somebody will be in touch with you."

With that, he threw his walkie-talkie on the bed and rushed from the room. "Does that mean I'm out of a job?" I shouted after him. But he disappeared down the hallway without answering.

LOWERING THE AGE FOR SERVICE IN THE HOUSE AND SENATE

Mr. PERCY. Mr. President, over 10 months ago the Senator from Indiana (Mr. BAYH), chairman of the Constitutional Amendments Subcommittee of the Judiciary Committee introduced Senate Joint Resolution 170. This joint resolution, sponsored in the House by Representative DRINAN, proposes an amendment to the Constitution which would lower the age of eligibility for service in the House and Senate by 3 years.

Article I, section 2, clause 2 of the Constitution requires that all Representatives be at least 25 years of age, while article I, section 3, clause 3 establishes a minimum of 30 years of age for service in the Senate. This joint resolution proposes a 3-year reduction in the age limitation to 22 years of age for service in the House and 27 years of age for service in the Senate.

I feel such action consistent with action taken by this body and three-fourths of the States just over 1 year ago in lowering the voting age by 3 years. I was pleased to be a cosponsor of the joint resolution, now the 26th amendment to the Constitution, which lowered the voting eligibility age by 3 years from 21 to 18. Senate Joint Resolution 170 seems to me to be a reasonable and equitable followup to our earlier efforts, and I am pleased to be a cosponsor of this resolution.

Section I of the proposed constitutional amendment changes the lowest age for qualification for the House of Representatives from 25 to 22 years. Section 2 lowers the age of eligibility for the Senate from 30 to 27 years.

Our young people have been told repeatedly that our governmental system affords all an equal opportunity to work for desired reforms from within. To lower the age of eligibility for service in the House and Senate would further participation of young people in making changes in our Government. The youth of this country, like many of our senior citizens, have too often been overlooked by our democratic system. Far too many have lost faith in being able to influence change which is necessary for a representative democracy to function properly in such a highly skilled and technocratic society as we have. We should provide the opportunity for younger people to serve in our legislative bodies.

When the 26th amendment was added to our Constitution, over 25 million additional citizens became eligible to vote for the first time. Congress and the people of this Nation have recognized that young people are more responsible, better educated, and more aware of our political processes than those of earlier generations.

A great deal of testimony was received by the Constitutional Amendments Subcommittee regarding the changes in the physical and intellectual maturity that have occurred in our population since the Constitutional Convention. The noted anthropologist, Margaret Mead, informed the subcommittee that Americans mature 3 years earlier than at the turn of the century. I have long been aware that wisdom, political or otherwise, is not necessarily increased by advancing years. Many of the younger generation are sophisticated and mature well beyond their years, and persons of all ages are beginning to recognize this fact.

Very little discussion regarding age limitations for service in Congress ensued during the Constitutional Convention in 1787. All that is apparent from a study of both the primary and most notable secondary sources is that the framers of the Constitution agreed there should be some correlation between age and corresponding degrees of responsibility. It has been speculated that since service in the State legislatures was open to those aged 21, the higher age levels for Federal service were reasonable at that time, in light of the more extensive responsibility the framers set for the Federal legislature.

The attitudes of the Founding Fathers on the entire question are very ambiguous; therefore, no accurate theory for the age standards in the Constitution can be ascertained from the legislative history. Even if this amendment were adopted, however 42 States would still have lower age requirements for service in their lower House, while 18 States would have lower limits for upper House qualification.

These age limitations have remained in the Constitution since its adoption. Constitutional history reveals that the Congress has never considered these two clauses, and no previous amendments seeking a change in these age limitations have been offered.

However, at least five amendments to the Constitution since the adoption of the original Bill of Rights have had as their underlying purpose an expansion of the democratic system, opening our system to more and more citizens. Lowering the age limitations for service in Congress would further this goal.

Finally, I must emphasize that I can find few arguments against this proposed amendment. Our young people are subject to the taxes Congress levies on them, the military draft we ask them to accept, and the air we have allowed to become polluted. It is now time to give these young people the opportunity to help decide the future of our Nation. They are the ones who will have to live in this country, and this amendment encourages them to take an active interest in helping to solve our problems. We cannot afford to ostracize ourselves from the innovation, idealism, and creativity these citizens could bring to our chambers.

EAST-WEST TRADE

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD the text of a speech I made before the East-West Trade Council Symposium on National Policy Trends in East-West Trade, earlier today in Washington, D.C.

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

THE FUTURE OF EAST-WEST TRADE

The timing of this conference on National Policy Trends in East-West Trade is most interesting. The signs of U.S.-U.S.S.R. detente are all around us—Foreign Minister Gromyko is even sleeping at Camp David—though we must guard seditiously against euphoria. What would have been regarded as "strange bedfellows" only a short time ago is now accepted and welcomed by most Americans. Clearly, it is even good politics in this presidential election year for the President of the United States to be photographed with the Soviet Foreign Minister one month before the general election.

I welcome the better relationship that now seems possible between the United States and the Soviet Union. I have strongly welcomed and supported the Strategic Arms Limitation Talks (SALT) both in the Senate Foreign Relations Committee and on the floor and was at the White House just this Tuesday for the ceremonies formally putting into effect the treaty limiting defensive missiles which was signed in Moscow last May by President Nixon and Chairman Brezhnev. In addition to lessening tensions between the United States and the Soviet Union, it is my hope that over time this treaty will lead to a reduction in the defense budgets of both countries. While the percentage of the U.S. budget spent for defense is far lower than that in the Soviet budget, U.S. defense expenditures levels remain far too high particularly as the United States is moving into a budgetary crisis situation.

As the participants in this conference are well aware, I have been concerned about the Soviet exit visa policy. Clearly the persons most adversely affected by this outrageous policy are Soviet citizens who also happen to be Jews.

In my mind and apparently in the minds of nearly three-quarters of the members of the U.S. Senate, there is a link between the Soviet exit visa policy and the economic international trade legislation that the U.S. Congress will be called upon to consider if economic relations with the Soviet Union are to improve to the full extent that now seems feasible.

In passing the Vanik amendment, the House of Representatives has given a similar indication. The widespread nature of this

congressional concern raises questions as to the future enactment of such legislation if the present Soviet policy stands.

But for the purposes of the rest of this speech I will refrain from a further discussion of this issue on the assumption that the issue will be resolved before the Congress is called upon to consider the legislative elements involved in any U.S.-U.S.S.R. trade agreement. And let us fervently hope that this will be the case, since no one, in my opinion, should wish for confrontation on this issue; those who might would be abusing and exploiting a very legitimate moral issue—the present Soviet exit visa policy.

Let me now turn to the substantive economic issues. The implementation of a U.S.-U.S.S.R. trade agreement will require far reaching Congressional action. Clearly, the granting of conditional or unconditional "most favored nation" treatment to the non-market economies not now enjoying this status will require Congressional action. The Johnson Act will also have to be revised. The act now prohibits certain financial transactions by private persons in the United States involving foreign governments which are in default of payments of their obligations to the United States unless they are members of the International Monetary Fund (IMF) or the International Bank for Reconstruction and Development (IBRD). It is my understanding that the Johnson Act specifically refers to the making of private loans to such countries and to the purchase or sale of bond securities or other obligations of foreign governments. There have been rulings by past Attorneys General of the United States which have exempted normal commercial trade credits from the provisions of the Johnson Act. However, the present provisions of the Johnson Act would seem to prevent the type of U.S.-U.S.S.R. joint projects which have been mentioned. In addition to the U.S.S.R all countries of Eastern Europe with the exception of Bulgaria and Rumania are in default on their payments to the U.S., thereby coming within the jurisdiction of the Johnson Act.

Secretary Peterson in his excellent report—U.S. Soviet Commercial Relations in a New Era—has raised additional questions with legislative implications such as:

"What is the appropriate way for the U.S. Government to facilitate the co-ordination and implementation of these (long-term credit and investment) decisions?"

"What is an appropriate outer limit of U.S. Government involvement in these projects or to our dependence on Soviet sources of gas?"

"Are new financial institutions needed to finance and perhaps even coordinate these vast joint efforts? Public? Joint U.S.-Soviet?"

There are also questions as to future possible revisions of ExIm bank legislation, Overseas Private Investment Corporation (OPIC) legislation and the Export Administration Act.

As this legislative shopping list is considered, it must be put in the framework of the legislative program that the Congress has already scheduled for itself next year as well as the priorities in the legislative program that will be submitted by the 2nd Nixon Administration.

Clearly, tax reform legislation will be a matter of priority attention before the House Ways and Means Committee and the Senate Finance Committee—Committees which also have jurisdiction over trade matters such as "most favored nation" treatment for non-market economies.

There also has been much speculation that major new trade legislation will be forthcoming in 1973 or 1974. This raises the whole series of questions regarding the relationship of the legislation necessary to implement a Trade Agreement with the Soviet Union to the badly needed, more generalized trade legislation.

Let me give you an example of what I mean. It is my understanding that in this Congress the Administration was reluctant to push legislation granting MFN to Rumania because it feared that this would open the door to the generalized trade legislation and bring on a test of protectionist and isolationist sentiment and perhaps the showdown on the Hartke-Burke bill. A legitimate question to ask concerning the next session of the Congress is whether the protectionist forces which now have gained such strength can be effectively contained. This question is germane whether the Administration decides to send up one overall trade bill package including some form of MFN for non-market economies or whether it seeks the more limited objective of economic legislation solely designed to implement the economic accords reached with the Soviet Union which parallel the SALT accords.

In this regard, it is worth noting that there is growing concern that the turnaround in the U.S. trade account in the years ahead arising from the Smithsonian agreement may not be as large as had first been hoped. Dr. Arthur Burns gave public expression to his concern about the future trade account in a recent appearance before the Joint Economic Committee. There is increasing speculation that the trade deficit for this calendar year may approach $6.5 billion and that 1973 may show a similar deficit. This, of course, will affect the general climate for any trade legislation particularly since the Administration—unlike Dr. Burns—has created an optimistic expectation concerning our future balance of trade position. I believe in well founded optimism—however, optimism for the sake of optimism could help contribute to an adverse legislative climate.

I regard the future legislative battle that is shaping up over trade legislation in the next Congress as being crucial to the future course of the United States and the world over this decade and perhaps the rest of this century. If there is one message that I would like to leave at this conference it is this:

Those interested in promoting better East-West trade must concern themselves with the broader issue of which direction the United States is going to take in its trading relations with the free world. It is a contradiction in terms to feel that we could adopt a protectionist course for our long-time allies in the free world while substantially liberalizing trade relations with the non-market economies. Liberalization of trade with the non-market economies can only be achieved in the context of a further liberalization of trade among the countries of the free world.

I would also caution that those interested in investment possibilities in Eastern Europe and the Soviet Union must concern themselves with the broader issue of what tax treatment will be accorded the American multinational corporation in the years ahead. I fully expect that the present tax rules of the game as they affect the multinational corporation will come under serious challenge in the next Congress. If provisions similar to those of Title I of the Hartke-Burke bill secure Congressional enactment, the whole question of future U.S. investment in Eastern Europe and the Soviet Union may be rendered academic.

Thus, in conclusion, I am convinced that next year will be a watershed year in the course of the international economic policy of the United States. Since the President has gone about as far as he can go in many areas without new legislative authority, the role of the next Congress will be crucial in shaping the future direction the U.S. is to take in its international economic relations. This, in turn, will have enormous repercussions on our political and military relations with all countries. The present and future trends in East-West trade must be viewed in this broader framework. The challenge to us is that better East-West trade relations with non-market economies cannot be promoted, compatible with protectionist trade restraints and investment restrictions as to other countries.

TRIBUTE TO REPRESENTATIVE DWYER

Mr. CASE. Mr. President, Representative FLORENCE P. DWYER was the recipient last Sunday of the Westfield-Mountainside B'nai B'rith Americanism Award. This is indeed fitting recognition of her service in the Congress and of her efforts in behalf of her constituents over the years. The award ceremony was described in an article in the Westfield (N.J.) Leader, and I ask unanimous consent, Mr. President, that the article be inserted in the RECORD at this point.

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

[From the Westfield (N.J.) Leader, Sept. 28]

TWO HUNDRED ATTEND B'NAI B'RITH AWARD PROGRAM FOR DWYER

Over 200 people attended the cocktail reception and Americanism Award program held Sunday evening at Temple Emanu-El here to honor Congresswoman Florence P. Dwyer (R-12th) who received the Westfield-Mountainside B'nai B'rith Americanism Award. Senator Clifford P. Case was the guest speaker and he lauded Mrs. Dwyer's long service in Congress and her efforts in behalf of her constituency.

Dignitaries from all over the county were in attendance including Westfield Mayor Donn Snyder, New Providence Mayor Edward Bien, as well as Norris Kamler, former councilman in Westfield; Fred Ort, councilman-New Providence; Ray Bonnell, councilman-New Providence; Mrs. Joan Geer, municipal chairman, Fanwood; Victor Nemeth, Republican chairman of Garwood, Paul O'Keefe, councilman, Plainfield; Irving Velinsky, former Republican chairman of Plainfield; Richard Schoel, Union County Republican chairman; David Rothberg, councilman, Plainfield; William Conrad, mayor, Kenilworth; and Michael Kisseberth, vice chairman Union County Republican Committee.

Also attending were Jerry English, Democratic candidate for Mrs. Dwyer's seat as well as her opponent Matthew Rinaldo. Mrs. Dwyer is retiring after this session of Congress after serving eight terms.

Other Democrats in attendance included Lawrence Weiss, John Mollozzi and Louis Bender.

Telegrams and letters of congratulations were sent by Governor Cahill, Arthur A. Manner, Assemblyman; Mary C. Kananae, surrogate and Walter E. Ulrich, Freeholder.

The program was chaired by Herbert Ross, past president with a committee including Dr. A. Leon Ackerman, David Bregman, Stanley Daitch, Robert Eisenberg, Joseph Fox, Chester Fienberg, Dr. Burton Feinsmith, Marvin Harlan, Morris Kamler, Dr. Eric Kulp, Daniel Rotte, Dr. Harold Shichman, Dr. Morton Weinstein, Don Wortzel and Robert Wollman.

Mrs. Dwyer's remarks responding to the presentation of the award follow:

"I deeply appreciate this honor, and I shall cherish it always.

"First, because it comes from an organization I have greatly admired and respected for many, many years. B'nai B'rith occupies a critical place in the life of this nation. No other organization has fought more steadfastly or effectively for values which are fundamental to the American way of life: personal freedom, political liberty, and equal opportunity.

"These values can never be taken for granted. They are too precious and, regrettably, too subject to attack for reasons which

sometimes have a superficial appeal. Which is why it is so important to know that B'nai B'rith is always there, ready to fight with courage and understanding.

"And second, because this Americanism Award will help inspire others to a greater willingness to stand up and be counted when that best is being challenged.

"It is deeply gratifying to know that you count me as one who has helped to fight the good fight. If one is known by the friends one makes, I am, indeed, the most fortunate of people."

THE PROPOSED SENATE PARKING FACILITY

Mr. GRAVEL. Mr. President, there apparently is a rather widespread belief that the Senate is about to descend on some of its Capitol Hill neighbors with wrecking bars and bulldozers.

This erroneous speculation was given birth by Senate passage of a bill authorizing the purchase of land in the block north of the New Senate Office Building for future development as a parking facility. The purchase of land and planning studies are the only activities authorized by the bill for this block.

As Members of the Senate know, our side of Capitol Hill is a virtual desert as far as commercial amenities are concerned. Therefore, we are understandably in no hurry to deny ourselves, our staffs, and our visitors the availability of the three enterprises located in the block we will buy—the Monocle restaurant, the Capitol Hill Hotel, and Ann's newsstand.

While the land and buildings in the block may be purchased soon, the Architect of the Capitol has been authorized to lease the facilities to the present occupants until we are actually ready to start building the parking garage.

I recognize the serious parking needs of the Senate, but it would be foolish for us to raze all of the buildings and let the land stand empty until garage plans are made and the project funded.

WILLIAM M. McCULLOCH

Mr. MATHIAS. Mr. President, I rise today to say a word of thanks to a man from whom I have learned a great deal, WILLIAM M. MCCULLOCH. At the end of this Congress, Representative MCCULLOCH will be retiring, and those of us who know and worked with him will indeed feel his absence.

When I came to the House of Representatives as a result of the 1960 election, it was as much a surprise as an honor to be elected to the Committee on the Judiciary. While I had great respect for the committee and tremendous enthusiasm for its mission, I was as green as the hills of Maryland from which I had just come and, obviously, my work on the committee would be shaped by the committee leadership. To the extent that I was able to make any contribution in the 8 years I served, I owe an enormous debt to Congressman MCCULLOCH for the opportunity and the encouragement he consistently afforded me.

In retrospect, they were momentous years. The inventory of the bills enacted into law during that time is not only impressive for its volume but is significant because, unlike much of the work that is done in Congress, it did change the lives of Americans.

Congressman MCCULLOCH was a part of each of these stirring events. His interaction with Dwight Eisenhower, with John Kennedy, with Lyndon Johnson and Richard Nixon, with Charlie Halleck, JERRY FORD, Everett Dirksen, HUGH SCOTT, Bob Kennedy, Nick Katzenbach and many others is a part of every statute enacted. With it all, he stood back and let those of us who served with him on the committee have the privilege of action in the most exciting arena in town.

Those are days we will not forget and achievements that will not be forgotten. I am grateful to BILL MCCULLOCH for having made them possible.

(This marks the end of the routine morning business transacted during the day.)

EQUAL EDUCATIONAL OPPORTUNITIES ACT OF 1972

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of calendar No. 1042, H.R. 13915.

The PRESIDING OFFICER. The bill will be stated by title.

The second assistant legislative clerk read as follows:

Calendar 1042 (H.R. 13915), a bill to further the achievement of equal educational opportunities.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to and the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, this legislation will be on the first track. I would hope that the Senate would cooperate with the leadership so that other legislation—not the supplemental appropriations bill or the debt ceiling legislation—could come up on which agreements can be made and, if time allows, could be taken up later in the day.

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

Mr. MANSFIELD. I yield.

Mr. ALLEN. Mr. President, I deeply and sincerely appreciate the action of the distinguished majority leader.

I realize that he is also acting for the Republican leadership and speaking as the joint leadership in making this matter the pending business to be considered on tomorrow as the unfinished business.

The Senator from Alabama had no doubt whatsoever that the distinguished majority leader would take this action at this time. And I could not ask for a fairer disposition of the matter. It certainly gives the Senate an opportunity to work its will on the bill, and that is all that the proponents of the measure could possibly ask for, that it be laid before the Senate to let the Senate take such action as it sees fit with respect to the bill.

So, I express on behalf of myself and on behalf of all Senators and all Members of the Congress and all people throughout the country that are interested in this legislation our very deep and sincere appreciation to the distinguished majority leader for taking this action at this time.

Mr. MANSFIELD. Mr. President, I thank the distinguished Senator.

INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AMENDMENTS

Mr. ALLEN. Mr. President, I ask unanimous consent, without displacing the pending business, that it be in order for me to make a motion to reconsider the action taken on the conference report on the pesticide bill this afternoon, because we did not move to reconsider the vote by which the conference report was agreed to and move to lay that motion on the table.

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

Mr. ALLEN. Mr. President, I move, having voted with the prevailing side, that the Senate reconsider the vote by which it agreed to the conference report on H.R. 10729, the pesticide bill.

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

The motion to lay on the table was agreed to.

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 objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS MOSS, NELSON, HART, MAGNUSON, HARRIS, ROBERT C. BYRD, AND SCOTT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the two leaders have been recognized under the standing order, the following Senators be recognized, each for not to exceed 15 minutes and in the order stated: MOSS, NELSON, HART, MAGNUSON, HARRIS, ROBERT C. BYRD, and SCOTT.

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

ORDER FOR TRANSACTION OF MORNING BUSINESS AND FOR UNFINISHED BUSINESS TO BE LAID BEFORE THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the foregoing 15-minute orders, there be a period for the transaction of routine morning business for not to exceed 15 minutes with the statements made therein limited to 3 minutes; at the conclusion of which the Chair lay before the Senate the unfinished business.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for today is as follows:

The Senate will convene at 11 a.m. today. After the two leaders have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 mintues and in the order stated: MOSS, NELSON, HART, MAGNUSON, HARRIS, ROBERT C. BYRD, and SCOTT.

Following the foregoing 15-minute orders, there will be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements made therein limited to 3 minutes; at the conclusion of which the Chair will lay before the Senate the unfinished business, Calendar Order No. 1042 (H.R. 13915) a bill to further the achievement of equal educational opportunities.

Conference reports can be called up at any time. Yea-and-nay votes can occur thereon.

ADJOURNMENT TO 11 A.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 11 a.m. today.

The motion was agreed to; and at 1:20 a.m., Friday, October 6, 1972, the Senate adjourned until 11 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate, October 5 (legislative day of October 4), 1972:

INTERSTATE COMMERCE COMMISSION

Rupert L. Murphy, of Georgia, to be an Interstate Commerce Commissioner for the term of 7 years expiring December 31, 1978.

Chester M. Wiggin, Jr., of New Hampshire, to be an Interstate Commerce Commissioner for the remainder of the term expiring December 31, 1973.

HOUSE OF REPRESENTATIVES—*Thursday, October 5, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

And He spoke a parable unto them to the end, that men ought always to pray and not to faint.—Luke 18: 1.

Eternal Spirit, who hast taught us that we ought always to pray and to faint not, we come to Thee for the help Thou alone canst give to our human hearts.

We who are weary would seek rest in Thee.

We who are heavy laden would find strength in Thy spirit.

We who are tempted to take the low road would discover in Thee power to walk along the high road.

We who are anxious and troubled about many things would find peace in Thy presence.

We who dwell in a world of insecurity would find in Thee a security the world cannot give and cannot take away.

Enable us to go forward in the sure confidence that amid the trials and troubles of these times Thou art with us and with Thee is strength for the day and peace at eventide.

In the spirit of Christ we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 5838. An act to designate certain lands in the Lava Beds National Monument in California as wilderness;

H.R. 6318. An act 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;

H.R. 9198. An act to amend the act of July 4, 1955, as amended, relating to the construction of irrigation distribution systems; and

H.R. 13533. An act 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.

The message also announced that the Senate agrees to the report of 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) entitled "Joint resolution to amend the joint resolution providing for U.S. participation in the International Bureau for the Protection of Industrial Property."

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 2280) entitled "An act 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," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MAGNUSON, Mr. CANNON, Mr. HARTKE, Mr. BEALL, and Mr. WEICKER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 15657. An act to strengthen and improve the Older Americans Act of 1965, and for other purposes.

The message also announced that the Senate had passed a bill and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 2952. An act 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; and

S.J. Res. 217. Joint resolution to create an Atlantic Union delegation.

The message also announced that the Senate had voted to override the President's veto of the bill (H.R. 15927) to amend the Railroad Retirement Act of 1937 to provide a temporary 20-percent increase in annuities, and for other purposes, his objections notwithstanding.

CONVEYANCE OF LANDS OF THE UNITED STATES TO STATE OF TENNESSEE FOR USE OF UNIVERSITY OF TENNESSEE

Mr. JONES of Tennessee. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 9676) to authorize the conveyance of certain lands of the United States to the State of Tennessee for the use of the University of Tennessee, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 3, line 2, after "the" where it appears the first time insert: "educational".

Page 3, line 7, after "Tennessee)" insert: ", and if such property ceases to be used for such purposes, as determined by the Administrator of General Services, title thereto shall revert to and become the property of the United States which shall have the right of immediate entry thereon".

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

Mr. HALL. Mr. Speaker, reserving the right to object, will the gentleman explain the amendments added on in the other body?

Mr. JONES of Tennessee. I shall be glad to.

This bill originally passed the House on May 1, 1972, by a vote of 318 to 9.

The Senate amendments add a 'reverter clause" so that the land involved will revert to the United States if it is not used for public educational purposes.

Mr. HALL. It would seem in this instance that the other body had better judgment and fulfilled that which we developed in colloquy on the floor of the House at the time this bill was passed; is that correct?

Mr. JONES of Tennessee. That is correct.