deal with the problems of senior citizens; to the Committee on Government Operations.

289. Also petition of Albert J. Sullivan, Joliet, Ill., relative to redress of grievances; to the Committee on the Judiciary.

290. Also petition of the board of supervisors, Milwaukee County, Wis., relative to aid to families with dependent children; to the Committee on Ways and Means.

# SENATE—*Monday, October 9, 1972*

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

## PRAYER

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

Almighty God, in whose providence men and nations live and move and have their being, we thank Thee for daring men who braved the unchartered seas and found the shores of this continent. We thank Thee for their skills of navigation, their personal daring, their persistent faith, their enduring hope. Reward their fidelity by guiding us to build here an order of life so just and so righteous as to merit divine approbation. As we give thanks for Christopher Columbus, we beseech Thee to set before us worthy goals, motivate us by a love of humanity and give us the chart and compass of explorers of the spirit so that we may participate with Thee in establishing the kingdom whose builder and maker is God.

In the name of the Pioneer of our faith, we pray. Amen.

## THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, October 6, 1972, be dispensed with.

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

## WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

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

## COLUMBUS DAY

Mr. SCOTT. Mr. President, today being Columbus Day, I note the fact that the Congress some time ago established this day as a national holiday and I had the privilege of being one of the cosponsors of that resolution—an action which was pursued in a number of Congresses before it finally became effective.

Ironically, although it is a holiday, those of us who helped create it as a holiday are not able to observe it.

## DEATH OF PRESCOTT BUSH, FORMER SENATOR FROM CONNECTICUT

Mr. SCOTT. Mr. President, I note with great sorrow the passing of a former Member of this body, the Honorable Prescott Bush of Connecticut.

Senator Bush was a much beloved man, a man whom all of us respected and whose company we enjoyed. He was a comrade and a colleague, and an able Senator.

I am sure that the Senators from Connecticut will have more to say in due time, but I did want to note for the benefit of my colleagues this very sad and unfortunate occurrence.

We all grieve and send our condolences to his family and his loved ones.

Mr. MANSFIELD. Will the distinguished Republican leader yield?

Mr. SCOTT. I am happy to yield to the distinguished majority leader.

Mr. MANSFIELD. I should like to join the distinguished Republican leader in expressing my great sense of sadness and sorrow at the passing of our former colleague, Prescott Bush of Connecticut.

Prescott Bush was a very good Senator. He was a man who was respected on both sides of the aisle, a man whom we hated to see leave the Senate—which he did voluntarily.

Now we are faced with the fact that he has passed on to his just reward. So, on this side of the aisle, I want to join the distinguished Republican leader in expressing our deep sympathy to his family in their hour of sorrow.

Mr. SCOTT. I thank the distinguished majority leader.

## ORDER OF BUSINESS

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

## REPORT ON PROGRESS OF CURING DRUG DEPENDENCE

Mr. HUGHES. Mr. President, as chairman of two Senate subcommittees on drug abuse in our society, I consider it my responsibility to report to my Senate colleagues periodically on the status of our Nation's fight to control the plague of drug dependence, ranging from alcoholism to narcotic addiction, in the civilian and military sectors of our population.

When progress has been made, I have tried to point out the achievement and issue the proper credits. When current programs falter or new dangers emerge, I have felt that I have an equal responsibility to report my fears and misgivings. The Senate has been extremely generous in hearing me out on a problem area to which I have devoted many years of my life.

I take the floor this morning because I believe a new and serious danger has emerged at this time. In my judgment, the Nation has drifted into another era of euphoria and complacency about the drug abuse epidemic—in both civilian and military sectors—that is not justified by the facts.

It is true that we have some new and significant initiatives going. But so far as realistically meeting the problems of drug abuse treatment, rehabilitation, preventive education, and suppression of the illicit drug traffic, we are still only a few steps from the starting post.

With this session of the Congress coming to an end, I believe we should all be apprised that the drug problem has not been solved and laid to rest, and that it must remain high on the list of priorities for future work of the Congress.

Time does not permit my covering the entire drug abuse subject this morning, but I do want to make a beginning by discussing some aspects of the drug abuse counteroffensive in the armed services, which was launched a year ago last summer, and in connection with which there is important legislation pending.

In the early spring of 1971, a wave of acute anxiety swept over the Nation because of reports of high percentages of drug and narcotic dependence in our armed services—particularly heroin addiction in Vietnam.

Not only were people apprehensive about the damage of drug addiction to the young men in our armed services, there was the additional fear that the Armed Forces would be releasing thousands of veterans, uncured from their addiction, into the mainstream of an already drug-infested civilian society.

A number of actions were taken in rapid succession in the months that followed. President Nixon announced a national drug offensive; Dr. Jerome Jaffe was appointed to head the special White House office on drugs; the Department of Defense and each branch of the services mobilized their efforts behind the drug offensive; and the urine testing program was quickly installed in the Armed Forces to detect illicit drug users. In the meantime, the Department of Justice and the Department of State were developing new initiatives designed to curb the international flow of illicit drugs supplying our troops in Vietnam and elsewhere.

Since the summer of 1971, the drug counteroffensive in the services has been in full swing.

In the light of the massive effort that has gone into the drug counteroffensive in the military, it is time to ask certain basic questions:

Has the incidence of drug dependence in the armed services been reduced to the point where it is no longer a priority problem?

Has the problem of drug dependent veterans being released uncured into civilian society been adequately met?

Is the urine testing program that appeared to get off to a promising start in 1971 now functioning satisfactorily?

Are adequate safeguards being installed—in response to the warnings many of us issued—against drug users, through their military records, being stigmatized for life and handicapped in their future efforts to obtain employment?

With all due respect to the commendable efforts that have been made by many individuals and agencies, I believe the answer to all of these questions is an emphatic "No."

I say this not in derogation of the vast work that has been put into the military antidrug offensive, much of which has been commendable. I say it because we need to recognize the truth, if we are to proceed along constructive channels, and because the problem remains an extremely serious one to our national well-being and security.

It was generally agreed by both the administration and Congress that when the military drug-abuse program got out of its experimental stages, legislation would be needed to carry out the programs on a continuing basis.

The need was recognized by Congress a year ago when the landmark provisions of title V of the Draft Extension Act were initiated by the Senate and enacted into law.

Title V requires the Secretary of Defense to identify, treat, and rehabilitate members of the Armed Forces who are drug or alcohol dependent persons. Title V acknowledged, in effect, that it is only a first legislative step and called upon the Committees of the Armed Services of the Congress to develop new legislation that would fill out the needs.

At the present time, the Subcommittee on Drug Abuse in the Military has pending before it several bills related to the problem of drug abuse, including alcoholism, among our service personnel and their dependents.

The two principal pieces of legislation are S. 2139, the administration's bill, and S. 2999, which I introduced. Hearings on this legislation were held by the subcommittee in February, March, and April.

None of this legislation will be reported out of the subcommittee in the short remaining days of this Congress. There are basic, substantive differences that will require time to resolve. In the meantime, the subcommittee and its staff have turned up pertinent new information that will require additional hearings.

The administration bill, S. 2139, which is essentially the same legislation the House passed and sent to the Senate as H.R. 12846, does little more than put into law what the Armed Forces have been doing by policy directive and regulation for the past year or more. There are, in my judgment, serious omissions—for example, alcoholism is not included in the programs covered despite the fact that it is known by professionals to be the most damaging and widespread form of drug abuse there is. Moreover, the House-passed bill fails to come to grips with the issues of quality treatment and confidentiality of records. These and other related issues are, however, confronted in S. 2999, but there has been no disposition on the part of the Department of Defense thus far to agree to their inclusion.

When the House passed and sent to the Senate H.R. 12846 last June 12, the bill was hailed by the press as tending to remove any legal impediment to the practice of requiring service personnel to submit to urine testing to determine whether they were using or abusing drugs. To set the record straight, H.R. 12846 contains no such precise authority. In short, it does not touch on the legal and constitutional points involved in mass, involuntary urine testing.

But I am less concerned at the moment with these legal points than with the way the urine-screening program in the military has been and is being conducted—at a considerable expenditure of Federal funds. Obviously, the whole military drug offensive depends, in large degree, on the accuracy of the testing. If the testing is questionable, then the results are questionable and the entire offensive is questionable.

At our hearings, earlier this year, we drew out the information that commercial laboratories doing urinalysis under contract to the Army had poor accuracy rates, far below the contract requirement of 90 to 96 percent accuracy. Nor, as it turned out, has the Army, at any time, invoked penalty clauses in these contracts for noncompliance. Indeed, when the old contracts expired, the Army rewarded two contractors with new, 1-year contracts at even higher prices. Thus, it is no surprise that most of the eight unsuccessful bidders have lodged protests with the General Accounting Office which is now considering them.

In recent months, there has been no consistent or sustained improvement in the accuracy rates among either commercial or military laboratories doing urinalyses for the Armed Forces.

Mr. President, I would like to inform the Senate that the investigators of my subcommittee staff have tried for weeks and months to secure from the Pentagon additional information on the testing and results of these programs. They have been resisted every step of the way by officials of the Pentagon. They have not been given adequate information. The accuracy of the tests is far below the level demanded in the contract. I will have more to say in the Senate about this later this week.

Thus, when the Defense Department claims that it has lowered the level of drug abuse among service personnel, one should bear in mind that these results are based primarily on laboratory results of highly doubtful accuracy. And nowhere is there a greater degree of doubt about their validity than in Vietnam where the highest degree of accuracy is claimed.

In addition to the statistical misuse of the screening program, we have also had reports of abuses by the men and by individual commands. There have been instances of corruption involving the personnel involving the tests who are in positions where they can falsify results. We have heard of officers who used the random selection process to harass individuals whom they wrongly suspected and, on the other hand, there are officers who select for testing only those men known not to be using drugs so that they can submit favorable reports to their units. To the extent that the program is used in any of these ways, the results become meaningless and those who are actually using drugs may go undetected.

Our hearings, early this year, also brought out the fact that, as the numbers of tests increased, so did the number of GI's being administratively discharged for drug abuse. All of them received a code number on their discharge papers which, as matters stand, imposes a permanent stigma on them in the eyes of prospective employers, college administrators, and others. In recent correspondence with me, the Department of Defense has made it plain that it will not abandon this "spin number" stigmatizing practice; on the contrary, the Department may expand it somewhat.

Another matter of concern to me is the fact that the Department of Defense, in concert with the President's Special Action Office for Drug Abuse Prevention, has embarked on a campaign to extend the testing program, with all of its imperfections, to the teenaged dependents of service personnel in Germany, the Philippines, and Thailand. If this is not frightening enough, it has been officially stated by Pentagon sources that the Special Action Office for Drug Abuse Prevention looks upon this idea as a "pilot program" for a further extension of urine testing into "other elements of the civilian sector," which are not specified.

In December of 1971, when I introduced S. 2999, the Armed Forces drug abuse control bill to which I alluded earlier, I said to the Senate:

> I want to state that I believe the Department of Defense and the various services should be given immense credit for the way they have swung into action in the past six months to deal realistically with this unimaginably difficult problem. I have been particularly impressed with the enlightened attitude of the commanding officers.

Mr. President, I would not say that the lights have gone out, but they have dimmed considerably. Glowing official reports of the reduction of drug abuse in the Armed Forces are suspect for being based on inaccurate test procedures. The fears that the testing program would be used to get rid of some of the problem personnel in the services—and return them to the civilian communities to deal with—have been borne out.

The hope that civil rights of service personnel would not be violated and that drug users going out of the service would not be permanently stigmatized through military records as having had drug problems has faded considerably. The concern that the urine testing procedure might be proposed to nonmilitary sectors, at the further risk of imperiling civil rights, has been confirmed. The apprehension that the military services' and the Veterans' Administration's treatment and rehabilitation programs would fall far short of the mark has been confirmed.

Mr. President, I do not want to be negative on this matter.

I believe we will meet the drug prob-

lem—in both the civilians and military sectors—for the simple reason that we have to meet it to survive.

All I am saying is that we are not meeting it with any real adequacy yet. Therefore, for the love of heaven, let us wake up and face it. Let us not declare victory prematurely when the battle is yet in doubt.

The light at the end of the tunnel we have heard about for so long in Vietnam, and the publicity since we have reduced our ground forces in Saigon to approximately 36,000, might indicate that for some reason the heroin problem in the military forces has diminished, but it has not. The testing procedures, according to the information given members of my subcommittee staff, are highly questionable in almost every region of the world.

A recent trip to Europe has entirely borne out this fear about what was happening in the military. In the testing of military dependent personnel and children living in foreign nations, many times when a positive test is returned they are subjected to the law of the land in which they are stationed. Our country and military personnel have agreements with those countries to turn that information over to those countries, and under the law of those countries a civilian dependent can possibly be prosecuted under the laws of that nation rather than under the jurisdiction of the military code, without access to what we are trying to do in the way of training and rehabilitation.

We are falling far short in this country of meeting the mark. At the height of the campaign, with all the debate and discussion, narcotics has gone into some weird corridor where it is no longer discussed. In the discussions concerning Turkey and the poppy, we have lost sight of other regions of the world. We are faced with the Golden Triangle area, where the majority of our fighting has been done in the last 10 years, which has become the main source of refined heroin coming into this country. In spite of the laws that have been passed and the interest expressed, the coordinating office that has been established in the White House, the programs that have been set up by the military, and the laws passed by Congress, we are failing to meet this problem in this country.

I hope that Members of this distinguished body are well alerted to the fact that there is much work yet to do and that we have only begun. I will not say everything we have done is a failure, but it is a small and very weak beginning. People who are seeking office would like to hide this problem under the rug and pretend it no longer exists and that somehow it will go away. It will not go away until we have faced the truth: that it is still a cancer plaguing our society and our military forces.

I thank the distinguished majority leader for yielding additional time to me, and I yield back any time I have remaining.

## THE SITUATION IN VIETNAM, LAOS, AND CAMBODIA

Mr. MANSFIELD. Mr. President, the distinguished Senator from Iowa used an apt phrase when he said that people want to hide the problem under the rug in the hope it will go away. He was talking about the drug problem, and it is a most serious one.

I would like to talk about the situation in Vietnam, Laos, and Cambodia, and it, too, is a most serious one. Too many of our people, I am afraid, would like to see this problem swept under the rug and just go away. But unfortunately for all, this problem will not go away because it remains on our consciences and is a blot on the record of this Nation.

Last week Maj. Gen. Alexander Haig visited Saigon and, according to reports, had some lengthy conferences with President Thieu. This weekend General Haig accompanied Dr. Henry Kissinger, the President's Adviser for National Security Affairs, to Paris, where at the present time, according to published reports, discussions are very likely underway. It would be my hope that these discussions would bear fruit.

It is my recollection that this is the 19th visit to Paris by Dr. Kissinger to meet with Xuan Thuy, Le Duc Tho, and others on the other side.

It is significant that General Haig is accompanying Dr. Kissinger on this particular occasion. Rumors are rife and rampant about the possibility that some kind of settlement will be reached either before or shortly after election day.

Mr. President, all I can say is that I hope these rumors are true, and the sooner this tragedy in which we have been engaged since 1961, according to casualty lists, is brought to a close the better it will be for all concerned. This is not a political matter; it most certainly is an American matter. We are engaged in a war in which we had no business to be in, in the first place. It is basically a civil war. We have been engaged in a conflict in which the interests of this Nation are not involved in any way, shape, or form.

One of the reasons for our becoming involved was to contain China. But earlier this year our President visited Peking, and relationships at the present time with the People's Republic of China are excellent.

There have been a number of other reasons advanced. The Gulf of Tonkin resolution was supposed to give the previous President justification for involving this Nation on a tremendous scale. I have said many times and I say so again that as far as I am concerned the Gulf of Tonkin resolution gave no President—no President, I repeat—that authority or that flexibility. And we know, of course, that since the present President has come into office, the Gulf of Tonkin resolution has been repealed by both Houses.

There are those who say the Southeast Asian treaty was the foundation for our becoming involved in Vietnam. In my opinion nothing could be further from the truth. As one of the three U.S. signatories to that treaty, along with the late John Foster Dulles, Secretary of State, and the late Alexander Smith, Senator from the State of New Jersey, I insisted that any action taken by this Government would have to be through due constitutional process, and that is the treaty.

Due constitutional process has not been followed and therefore, in my opinion, the Southeast Asia treaty furnished no justification whatever for what has happened in Indochina over the past 10 years.

It makes one weep to read the statistics, the cost which this Government has paid by being involved in what was basically a civil war. It makes one shudder to think that up to the 30th of September, 303,404 Americans have been wounded in this misbegotten conflict; that 45,861 Americans have died in combat; that 10,279 Americans have died from noncombat activities. So that from January 1, 1961, to September 30, 1972, the total U.S. dead amount to 56,140 and the total casualties, 359,544. In addition, there are listed 183,172 South Vietnamese dead and 5,186 free world dead; for a total of 188,358 dead.

Also, according to the figures for the other side, as of September 30, 1972, 897,-111 have died. This is a grand total—exclusive of U.S. deaths—of South Vietnamese forces, free world forces, and forces representing the Vietcong and North Vietnamese, of 1,085,469 who have died.

Mr. President, I raise the question: For what? For what?

So this is an issue which will not go away, because in addition to the figure cited, there is damage to a society—one could say to three societies, because the Laotians, the Cambodians, and the Vietnamese represent different groups, with different cultural backgrounds, who are tied together only because they all happen to inhabit the area known as Indochina.

There has been great devastation in all this area, and if my figures are correct, something on the order of three and a half million refugees have been created in these three countries.

Furthermore, on the basis of the finding of professors from a university in Vermont and in Montana, it has been estimated that approximately 21 million craters have been created, mostly in South Vietnam, but also throughout all of Indochina, as a result of the bombings which have been undertaken since the start of this tragic war.

Further, it is a fact, I believe, that three an a half times the tonnage dropped during the Korean war and the entire duration of World War II, both in the Pacific and the Atlantic theaters of operations, have been dropped in this miserable war, this current imbroglio.

These are facts which we have to face up to; even as we are confronted now with the possibility that there may be a peace. I devoutly hope so. I pray that the meetings in Paris will bring about a cease-fire, will bring about an end to this war, will bring about a complete withdrawal from all the countries of Indochina, and will bring about a release of POW's and the identifiable missing in action.

As a result of what has been done in Southeast Asia, it will take years, if not decades, to bring about a rejuvenation, a rehabilitation, perhaps a resuscitation; but the sooner this war is ended, the better it will be for all parties concerned. If it is a choice between a President in Saigon and the POW's and the identifia-

ble missing in action, my choice would be with those who are being held in captivity, who have been forced down and are now incarcerated in prisoner-of-war camps throughout Indochina. They are the ones who should be given the most consideration—and they are—but it is my strong belief that until and unless this war is ended, the possibility of bringing about a release of all U.S. prisoners of war and the identifiable missing in action will be quite remote.

So, in conclusion, Mr. President, let me say that Dr. Kissinger has the hopes and the prayers of the Senate, the Congress, and the country riding on his negotiations, that those negotiations will be successful and that this moral tragedy will be brought to an end forthwith.

## TRANSACTION OF ROUTINE MORNING BUSINESS

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

The Senator from Pennsylvania.

## PEACE EFFORTS AND VIETNAMIZATION

Mr. SCOTT. Mr. President, the prayerful desire of all Americans is for an end to the war, and the President of the United States has until the 20th of January next to bring about, if he can, within his 4-year term, the end of American participation in this war. I believe he can. Of course, no one knows for certain, but that is the undertaking, and that is what I believe will happen.

America's ground combat role officially ended on August 11 with the safe return of the last American ground patrol.

The last American ground combat troops departed from South Vietnam on August 24. Those ground troops that remain will carry out only logistics, advisory, and air intelligence roles.

U.S. weekly combat deaths are the lowest since the U.S. combat forces entered operations in early 1965.

As of September 21, the American troop level in South Vietnam was down to 36,100. This is lower than President Nixon's previously set goal of 39,000 by September 1.

President Nixon announced on August 29 the further withdrawal of 12,000 American troops over the next 3 months to a level of 27,000 by December 1. This represents a reduction of 522,500—or 95 percent of the authorized 549,500—when he took office.

The President has offered Hanoi generous terms, but terms aimed at assuring the people of South Vietnam the right to choose their own Government. These proposals were first made in October of 1971. Hanoi has chosen to insist on terms that would install them as rulers of South Vietnam.

Mr. President, I believe that if other great powers, particularly the Soviet Union, will continue with us in joint efforts to see that neutrality can be guaranteed to the Government of South Vietnam, as well as peaceful existence, this war can be ended on the negotiating track. In any event, it is being rapidly ended on the Vietnamization track.

Mr. MANSFIELD. Mr. President, the words which the distinguished Republican leader just uttered are somewhat encouraging, and I am delighted that the U.S. forces in Vietnam have been reduced from roughly 546,000 to 36,000, and that a further reduction will take place before Thanksgiving of approximately 10,000 to 12,000 men.

But I would point out that the renewed bombing activities has meant an increase in our forces in Thailand, which had been reduced from about 45,000 to 32,000, up again now to about 46,000, and that there has been an increase in the forces of the 7th Fleet as well as in the number of ships, since the renewed bombing was undertaken and since the mining of the harbor of Haiphong and other North Vietnamese ports.

Over all, there is a reduction, but the casualties do continue, and while they have been reduced drastically—and for that I am grateful and thankful—nevertheless we do get the lists of the dead, in some weeks showing none, and in others one or two or three, and every week some wounded, even though all the combat battalions have been withdrawn. In addition, there has been an increase in the number of POW's, with the total number approximately 100 more at the present time than when the bombing began.

It is the hope of all of us, Democrats and Republicans alike, that this war will be brought to a close and that these men will be brought home from all of Indochina—and as far as I am concerned from Thailand as well—and that we will withdraw lock, stock, and barrel, and never again become involved in an action which has cost this country so much in blood and treasure and has caused so much divisiveness, discontent, and dissension at home.

## THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order Nos. 1205, 1215, 1216, 1218, and 1223.

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

## DISTRICT OF COLUMBIA IMPLIED CONSENT ACT

The bill (S. 4059) to provide that any person operating a motor vehicle within the District of Columbia shall be deemed to have given his consent to a chemical test of his blood, breath, or urine, for the purpose of determining the blood alcohol content 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 as used in this Act—

(1) The term "Commissioner" means the Commissioner of the District, or his designated agent;

(2) The term "District" means the District of Columbia;

(3) The term "license" means any operator's permit or any other license or permit to operate a motor vehicle issued under the laws of the District, including—

(A) any temporary or learner's permit:

(B) the privilege of any person to drive a motor vehicle whether or not such person holds a valid license; and

(C) any nonresident's operating privilege;

(4) The term "nonresident" means every person who is not a resident of the District;

(5) The term "nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of the District relating to the operation by such person of a motor vehicle, or the use of a vehicle owned by such person, in the District; and

(6) The term "police officer" means an officer or member of the Metropolitan Police force, the United States Park Police force, or the Capitol Police force, or any other person actually and officially engaged in the performance of police duties in connection with guarding the property of the United States or of the District.

(7) The term "specimen" means that quantity of a person's blood, breath, or urine necessary to conduct a chemical test or tests to determine blood alcoholic content.

SEC. 2. (a) Any person, other than one described in subsection (b) of this section, who operates a motor vehicle within the District shall be deemed to have given his consent, subject to the provisions of this Act, to two chemical tests of his blood, breath, or urine, whichever he may elect, for the purpose of determining blood-alcohol content. However, when the election of a particular test, such as a blood test requiring a physician or registered nurse, causes unreasonable delay or inconvenience, the arresting officer or other appropriate law enforcement officer shall elect which chemical test should be administered. In such a case, the operator can only object to a particular test on valid religious or medical grounds. The tests shall be administered at the direction of a police officer who, having arrested such person for a violation of law, has reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within the District while under the influence of intoxicating liquor.

(b) Any person who operates a motor vehicle within the District of Columbia and who is involved in a motor vehicle collision or accident in which death or personal injury results shall submit, subject to the provisions of this Act, to two chemical tests of his blood, breath, or urine, for the purpose of determining blood alcoholic content whenever a police officer (i) arrests such person for a violation of law, and (ii) has reasonable grounds to believe such person to have been driving or in actual physical control of a motor vehicle within the District while under the influence of an intoxicating liquor. However, when the election of a particular test, such as a blood test requiring a physician or registered nurse, causes unreasonable delay or inconvenience, the arresting officer or other appropriate law enforcement officer shall elect which chemical test should be administered. In such a case, the operator can only object to a particular test on valid religious or medical grounds.

SEC. 3. Only a physician or registered nurse acting at the request of a police officer may withdraw blood for the purpose of determining the alcoholic content thereof. This limitation shall not apply to the taking of a breath or urine specimen. The person tested may, in addition to submitting to the two tests administered at the direction of a police officer, also submit to a chemical test or tests administered to him by a physician, registered nurse, or other person of his own choosing who is qualified to administer such test or tests. The failure or inability to obtain an additional test by a person shall not

preclude the admission of the tests taken at the direction of a police officer.

SEC. 4. Full information concerning the tests admistered under this Act shall be made available to the person from whom a specimen was obtained. Prior to administering the tests the police officer shall advise the operator of the motor vehicle about the requirements of this Act.

SEC. 5. (a) If a person under arrest refuses to submit to chemical testing as provided in section 2(a) he shall be informed that failure to submit to such test will result in the revocation of his license. If such person, after having been so informed, still refuses to submit to chemical testing, no test shall be given, but the Commissioner, upon receipt of a sworn report of the police officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor, and that the person had refused to submit to the two tests, shall revoke his license for a period of six months; or if the person is a resident without a license to operate a motor vehicle in the District, the Commissioner shall deny to the person the issuance of a license for a period of six months after the date of the alleged violation, subject to review as hereinafter provided.

(b) Any person who is unconscious, or who is otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn the consent provided by section 2 of this Act and the two tests may be given; except, that if such person thereafter objects to the use of the evidence so secured, such evidence shall not be used and the license of such person shall be revoked, or, if he is a resident without a license, no license shall be issued to him for a period of six months.

SEC. 6. (a) Whenever any license has been revoked or denied under the provisions of this Act, the reasons therefor shall be set forth in the order of revocation or denial, as the case may be. Such order shall take effect five days after service of notice on the person whose license is to be revoked or who is to be denied a license, unless such person shall have filed within such period written application with the Commissioner for a hearing. Such hearing by the Commissioner shall cover the issues of—

(1) whether a police officer had reasonable grounds to believe such person had been driving or was in actual control of a motor vehicle upon the public street or highway while under the influence of intoxicating liquor; and

(2) whether such person, having been placed under arrest, refused to submit to the test or tests, after having been informed of the consequences of such refusal.

(b) If, following the hearing provided in subsection (a) of this section, the Commissioner shall sustain the order of revocation, the same shall become effective immediately.

SEC. 7. Any person aggrieved by a final order of the Commissioner revoking his license or denying him a license under the authority of this Act, may obtain a review thereof in accordance with section 11 of the District of Columbia Administrative Procedure Act (82 Stat. 1204; D.C. Code, secs. 1–1501 to 1–1510).

SEC. 8. The Act approved March 4, 1958 (72 Stat. 30; D.C. Code, sec. 40–609a) is amended (a) by striking out the subsection designation "a" in the first section; (b) by striking out in paragraph (2) "fifteen one-hundredths", "eight one-hundredths", and "twenty one-hundredths", and inserting in lieu thereof "ten one-hundredths", "six one-hundredths", and "eleven one-hundredths", respectively; (c) by striking out in paragraph (3) "fifteen one-hundredths" and "twenty one-hundredths" and inserting in lieu thereof "ten one-hundredths" and "eleven one-hundredths" respectively; and (d) by striking out subsections (b), (c), and (d) of the first section, and section 2.

SEC. 9. This Act shall be known and may be cited as the "District of Columbia Implied Consent Act".

## CONVEYANCE OF CERTAIN MINERAL RIGHTS, ONSLOW COUNTY, N.C.

The bill (S. 3930) to provide for the conveyance of certain mineral rights in and under lands in Onslow County, N.C., 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 the Secretary of the Interior is authorized and directed, in accordance with section 3 of this Act, to convey by quit-claim deed to the present owner or owners of record all mineral interest of the United States in the following described lands:

All that tract or parcel of land situated, lying and being in Jacksonville Township, Onslow County, North Carolina, within an area formerly owned and developed by the North Carolina Defense Relocation Corporation, known as a part of the Cavenaugh tract, and described more particularly as follows:

Lot 3: Beginning at the southwest corner of the above described tract, said corner being at the intersection of farm roads at gate, and (located south 66 degrees 00 minutes east 11.80 feet from a 7-inch pine and north 44 degrees 00 minutes east 32.50 feet from an 18-inch gum);

thence along the farm road, south 16 degrees 20 minutes west 219.10 feet to a point 12 feet east from the center of road;

thence south 37 degrees 09 minutes west 370.85 feet to a point 4 feet east from center of road;

thence south 46 degrees 28 minutes west 572.15 feet to the middle of said road;

thence south 56 degrees 22 minutes west 869.00 feet to the beginning of the tract herein described;

thence continuing along the said road, south 56 degrees 22 minutes west 700 feet to a point 2 feet southeast from center of road (located north 50 degrees 00 minutes west 10.2 feet from a 3-inch pine and south 37 degrees 00 minutes east 10.00 feet from a 2-inch pine); south 58 degrees 35 minutes west 535.40 feet to an iron pine at edge of woods and field (located south 27 degrees 00 minutes west 21.3 feet from a 12-inch double live oak; south 7 degrees 00 minutes east 22.8 feet from a 22-inch white oak and south 67 degrees 30 minutes east 24.9 feet from the east corner of a tobacco barn); south 58 degrees 38 minutes west 1181.34 feet to a point in middle of old abandoned road (located south 50 degrees 30 minutes west 18.5 meet from a 10-inch pine and north 30 degrees 00 minutes west 12.4 feet from a 12-inch pine); south 59 degrees 05 minutes west 493.5 feet to the intersection of said abandoned road with woods road (located south 31 degrees 00 minutes east 19.8 feet from a 15-inch pine and south 51 degrees 30 minutes west 9 feet from a 7-inch pine), north 83 degrees 11 minutes west 411.20 feet to a point in road (located south 35 degrees 00 minutes east 25.5 feet from a 7-inch pine) south 86 degrees 03 minutes west 179.20 feet to a cluster of small willows and maples on the east edge of New River at wire landing, corner of said Cavenaugh across the river from the Cox estate.

thence the eight following lines with the southeast side of New River; north 9 degrees 59 minutes west 160.78 feet to an 8-inch gum; north 1 degree 22 minutes east 397.05 feet to a 54-inch cypress; north 34 degrees 04 minutes west 202.34 feet to a 48-inch cypress; north 22 degrees 11 minutes west 154.64 feet to a 12-inch gum; north 6 degrees 43 minutes east 117.44 feet to a 28-inch cypress; north 9 degrees 32 minutes west 260.85 feet to a 17-inch gum; north 24 degrees 30 minutes west 67.90 feet to a 16-inch gum; north 34 degrees 53 minutes west 315.40 feet to a double 10-inch birch on the southeast side of intersection of Hall Moon Creek with New River, a corner to O. R. Cowell, and being located across the river from the Cox estate;

Thence the 17 following lines with Half Moon Creek and the O. R. Cowell tract; north 11 degrees 23 minutes east 214.95 feet; north 6 degrees 31 minutes west 206.78 feet to a 10-inch cypress near head of island; north 35 degrees 54 minutes east 156.49 feet; north 0 degrees 27 minutes west 146.08 feet; north 24 degrees 42 minutes east 265.39 feet to center of Half Moon Creek at Shingle Landing; north 26 degrees 37 minutes west 150.85 feet to a point in creek at head of island (located north 75 degrees 30 minutes west 14 feet from a 12-inch ash); north 8 degrees 27 minutes east 385.83 feet; north 14 degrees 09 minutes east 152.49 feet; north 49 degrees 52 minutes east 174.83 feet; north 23 degrees 26 minutes east 211.20 feet to a 10-inch willow on the east side of Half Moon Creek at the site of the old dam; north 27 degrees 07 minutes east 301.79 feet; north 27 degrees 03 minutes east 186.64 feet; north 5 degrees 57 minutes east 104.33 feet; north 45 degrees 15 minutes west 81.68 feet; north 15 degrees 40 minutes west 127.77 feet; north 10 degrees 34 minutes east 205.69 feet to a point in creek (located south 20 degrees 29 minutes east 40.1 feet from a 48-inch cypress); north 37 degrees 30 minutes west 75.82 feet to the center line of the intersection of the fork of Half Moon Creek, corner of said Cowell, and E. L. Greer (located south 72 degrees 00 minute west 20 feet from a black gum);

thence the forty-eight following lines with the east branch of the Half Moon Creek and the E. L. Greer tract; north 48 degrees 39 minutes east 115.64 feet; north 60 degrees 57 minutes east 114.14 feet; north 83 degrees 49 minutes east 66.04 feet to a 10-inch black gum; north 22 degrees 15 minutes east 116.33 feet; north 76 degrees 37 minutes east 114.03 feet; north 26 degrees 30 minutes east 63.21 feet to a 6-inch ash; north 71 degrees 14 minutes east 76.22 feet; south 81 degrees 12 minutes east 67.76 feet; north 71 degrees 19 minutes east 127.66 feet; north 54 degrees 51 minutes east 183.22 feet; north 54 degrees 57 minutes east 120.67 feet; north 0 degrees 24 minutes west 50.67 feet; south 88 degrees 23 minutes east 160.04 feet; south 73 degrees 04 minutes east 171.08 feet to the middle of Half Moon Creek (located north 10 degrees 00 minutes east 20 feet from a double ash); north 87 degrees 47 minutes east 187.07 feet; north 53 degrees 03 minutes east 75.12 feet; north 77 degrees 04 minutes east 235.25 feet to a 10-inch ash on north edge of creek; south 24 degrees 45 minutes east 67.62 feet; north 60 degrees 15 minutes east 127.87 feet; north 23 degrees 04 minutes east 104.23 feet; north 54 degrees 05 minutes east 135.71 feet; south 65 degrees 41 minutes east 79.85 feet to a 10-inch gun on south bank of creek; north 67 degrees 53 minutes east 149.41 feet; north 73 degrees 42 minutes east 54.85; south 22 degrees 42 minutes east 63.98 feet; south 78 degrees 13 minutes east 92.74 feet; north 60 degrees 05 minutes east 54.65 feet; south 42 degrees 34 minutes east 54.84 feet; south 10 degrees 27 minutes west 50.26 feet; south 89 degrees 43 minutes east 50 feet to a small holly on said creek;

thence south 10 degrees 50 minutes east 712.00 feet to a small oak on a branch;

thence with the branch due south 357.00 feet;

thence south 48 degrees 30 minutes west 550.00 feet;

thence south 13 degrees 50 minutes east 300.00 feet;

thence south 8 degrees 55 minutes west

550.00 feet, crossing a farm road to a dead white oak near head of the branch;

thence south 24 degrees 45 minutes east 1528.00 feet to the beginning, containing 285.53 acres, more or less.

Being a part of the same lands conveyed to the North Carolina Defense Relocation Corporation by deed from G. E. Cavenaugh, widower, dated October 15, 1941, of record in book 194, page 440.

SEC. 2. The Secretary of the Interior shall require the deposit of a sum of money which he deems sufficient to cover estimated administrative costs of this Act. If conveyance is not made pursuant to this Act, and the administrative costs exceed the deposit, the Secretary shall bill the applicant for the outstanding amount, but if the amount of the deposit exceeds the actual administrative costs, the Secretary shall refund the excess.

SEC. 3. No conveyance shall be made unless application for conveyance is filed with the Secretary within six months of the date of the enactment of this Act and unless within the time specified by him payment is made to the Secretary of (1) administrative costs of the conveyance and (2) the fair market value of the interest to be conveyed. The amount of the payment required shall be the difference between the amount deposited and the full amount required to be paid under this section. If the amount deposited exceeds the full amount required to be paid, the applicant shall be given a credit or refund for the excess.

SEC. 4. The term "administrative costs" as used in this Act, includes, but is not limited to, all costs of (1) conducting such exploratory programs as the Secretary of the Interior deems necessary to determine the character of the mineral deposits in the land, (2) evaluating the data obtained under the exploratory programs to determine the fair market value of the mineral rights to be conveyed, and (3) preparing and issuing the instrument of conveyance.

SEC. 5. Moneys paid to the Secretary for administrative costs shall be paid to the agency which rendered the service, and deposited to the appropriation then current. Moneys paid for the minerals or mineral interests conveyed shall be deposited into the general fund of the Treasury as miscellaneous receipts.

## AUTHORIZATION FOR THE SECRETARY OF THE INTERIOR TO SELL CERTAIN MINERAL RIGHTS IN UTAH TO C. R. JENSEN, SANDY, UTAH

The Senate proceeded to consider the bill (S. 3627) 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, which had been reported from the Committee on Interior and Insular Affairs with amendments on page 1, line 5, after the word "to", to strike out "C. R. Jensen of Sandy, Utah,"; and, in line 7, after the word "described", to strike out "land:" and insert "land in Utah County, Utah:"; so as to make the bill read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior is authorized and directed to convey, sell, and quitclaim all mineral interests now owned by the United States to the record owner of the surface and a one-half undivided interest in the minerals, in and to the following described land in Utah County, Utah:

Beginning at a point south 151.8 feet and west 0.27 feet from the north quarter corner of section 17, township 5 south, range 2 east, Salt Lake base and meridian, and running thence south 89 degrees, 54 minutes east 62.0 feet; thence north 0 degrees 06 minutes east 152.1 feet; thence north 89 degrees 29 minutes 44 seconds east 70 feet; thence south 0 degrees 06 minutes west 165.62 feet; thence south 89 degrees 54 minutes east 164.97 feet; thence north 0 degrees 06 minutes east 137 feet; thence north 89 degrees 51 minutes east 16.5 feet; thence south 0 degrees 06 minutes west 137 feet; thence south 39 degrees 20 minutes west 135 feet; thence south 51 degrees 07 minutes east 660 feet; thence north 88 degrees 40 minutes west 268.8 feet; thence south 0 degrees 28 minutes 30 seconds west 1,262.9 feet along a fence line; thence north 89 degrees 46 minutes west 364.2 feet; thence south 89 degrees 06 minutes 30 seconds west 133.2 feet; thence north 1 degree 17 minutes 03 seconds east 1,323.2 feet thence east 4.34 feet; thence north 0 degrees 06 minutes east 466.7 feet, more or less to the point of beginning.

SEC. 2. The Secretary shall require the deposit of a sum of money which he deems sufficient to cover estimated administrative costs of this Act. If a conveyance is not made pursuant to this Act, and the administrative costs exceed the deposit, the Secretary shall bill the applicant for the outstanding amount, but if the amount of the deposit exceeds the actual administrative costs, the Secretary shall refund the excess.

SEC. 3. No conveyance shall be made unless application for conveyance is filed with the Secretary within six months of the date of approval of this Act and unless within the time specified by him payment is made to the Secretary of (1) administrative costs of the conveyance and (2) the fair market value of the interest to be conveyed. The amount of the payment required shall be the difference between the amount deposited and the full amount required to be paid under this section. If the amount deposited exceeds the full amount required to be paid, the applicant shall be given a credit or refund for the excess.

SEC. 4. The term "administrative costs" as used in this Act includes, but is not limited to, all costs of (1) conducting an exploratory program to determine the character of the mineral deposits in the land, (2) evaluating the data obtained under the exploratory program to determine the fair market value of the mineral rights to be conveyed, and (3) preparing and issuing the instrument of conveyance.

SEC. 5. Moneys paid to the Secretary for administrative costs shall be paid to the agency which rendered the service, and deposited to the appropriation then current. Moneys paid for the minerals or mineral interests conveyed shall be deposited into the general fund of the Treasury as miscellaneous receipts.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to authorize the Secretary of the Interior to sell certain mineral rights in certain lands located in Utah to the record owner thereof."

## LIMITATIONS ON REAL PROPERTY ACTIONS

The Senate proceeded to consider the bill (S. 1524) 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, which had been reported from the Committee on the District of Columbia with amendments, on page 2, line 10, after the word "the", to strike out "five-year" and insert "ten-year"; and, in line 14, after the word "such", to strike out "five-year" and insert "ten-year"; so as to make the bill read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. (a) Chapter 3 of title 12 of the District of Columbia Code (relating to limitation of actions) is amended by adding at the end the following new section:

"§ 12–310. Actions arising out of death or injury caused by defective or unsafe improvements to real property

"(a) (1) Except as provided in subsection (b), any action—

"(A) to recover damages for—

"(i) personal injury,

"(ii) injury to real or personal property, or

"(iii) wrongful death,

resulting from the defective or unsafe condition of an improvement to real property, and

"(B) for contribution or indemnity which is brought as a result of such injury or death, shall be barred unless in the case where injury is the basis of such action, such injury occurs within the ten-year period beginning on the date the improvement was substantially completed, or in the case where death is the basis of such action, either such death or the injury resulting in such death occurs within such ten-year period.

"(2) For purposes of this subsection, an improvement to real property shall be considered substantially completed when—

"(A) it is first used, or

"(B) it is first available for use after having been completed in accordance with the contract or agreement covering the improvement, including any agreed changes to the contract or agreement,

whichever occur first.

"(b) The limitation of actions prescribed in subsection (a) shall not apply to—

"(1) any action based on a contract, express or implied, or

"(2) any action brought against the person who, at the time the defective or unsafe condition of the improvement to real property caused injury or death, was the owner of or in actual possession or control of such real property."

(b) The table of sections for such chapter 3 is amended by adding at the end the following new item:

"12–310. Actions arising out of death or injury caused by defective or unsafe improvements to real property."

SEC. 2. The amendments made by section 1 of this Act shall apply only with respect to actions brought after the date of enactment of this Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

## ST. CROIX RIVER, MINN. AND WIS.

The Senate proceeded to consider the bill (S. 1928) to amend the Wild and Scenic Rivers Act by designating a segment of the St. Croix River, Minn. and Wis., as a component of the national wild and scenic rivers system, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Lower Saint Croix River Act of 1972".

SEC. 2. Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 907; 16 U.S.C. 1274(a)) is amended by adding at the end thereof the following:

"(9) LOWER SAINT CROIX, MINNESOTA AND WISCONSIN.—The segment between the dam near Taylors Falls and its confluence with the Mississippi River: *Provided*, (i) That the upper twenty-seven miles of this river segment shall be administered by the Secretary of the Interior; and (ii) That the lower twenty-five miles shall be designated by the Secretary upon his approval of an application for such designation made by the Governors of the States of Minnesota and Wisconsin."

SEC. 3. The Secretary of the Interior shall, within one year following the date of enactment of this Act, take, with respect to the Lower Saint Croix River segment, such action as is provided for under section 3(b) of the Wild and Scenic Rivers Act: *Provided*, That (a) the action required by such section shall be undertaken jointly by the Secretary and the appropriate agencies of the affected States; (b) the development plan required by such action shall be construed to be a comprehensive master plan which shall include, but not be limited to, a determination of the lands, waters, and interests therein to be acquired, developed, and administered by the agencies or political subdivisions of the affected States; and (c) such development plan shall provide for State administration of the lower twenty-five miles of the Lower Saint Croix River segment and for continued administration by the States of Minnesota and Wisconsin of such State parks and fish hatcheries as now lie within the twenty-seven-mile segment to be administered by the Secretary of the Interior.

SEC. 4. Notwithstanding any provision of the Wild and Scenic Rivers Act which limits acquisition authority within a river segment to be administered by a Federal agency, the States of Minnesota and Wisconsin may acquire within the twenty-seven-mile segment of the Lower Saint Croix River segment to be administered by the Secretary of the Interior such lands as may be proposed for their acquisition, development, operation, and maintenance pursuant to the development plan required by section 3 of this Act.

SEC. 5. Nothing in this Act shall be deemed to impair or otherwise affect such statutory authority as may be vested in the Secretary of the Department in which the Coast Guard is operating or the Secretary of the Army for the maintenance of navigation aids and navigation improvements.

SEC. 6. (a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed $7,275,000 for the acquisition and development of lands and interests therein within the boundaries of the twenty-seven-mile segment of the Lower Saint Croix River segment to be administered by the Secretary of the Interior.

(b) No funds otherwise authorized to be appropriated by this section shall be expended by the Secretary of the Interior until he has determined that the States of Minnesota and Wisconsin have initiated such land acquisition and development as may be proposed pursuant to the development plan required by section 3 of this Act, and in no event shall the Secretary of the Interior expend more than $2,550,000 of the funds authorized to be appropriated by this section in the first fiscal year following completion of the development plan required by section 3 of this Act. The balance of funds authorized to be appropriated by this section shall be expended by the Secretary of the Interior at such times as he finds that the States of Minnesota and Wisconsin have made satisfactory progress in their implementation of the development plan required by section 3 of this Act.

Mr. JACKSON. Mr. President, I want to urge the Senate's speedy action in passing S. 1928, a bill to designate a segment of the St. Croix River, forming part of the boundary between the States of Wisconsin and Minnesota, as part of our National Wild and Scenic Rivers System.

Today, by approving S. 1928, the Senate took an affirmative step toward the preservation of one of our Nation's outstanding scenic and recreational rivers. It was my privilege, on October 23, 1971, as chairman of the Interior and Insular Affairs Committee to chair a field hearing regarding S. 1928 in the town of St. Croix Falls, Wis., and to see first-hand why so many of the citizens of Wisconsin and Minnesota have advocated national recognition of this segment of the St. Croix River.

This measure is based upon recommendations resulting from a study by the Department of the Interior of the lower St. Croix River and subsequent consultation with the affected States. The bill will provide for designation of the lower 52-mile stretch of the river as a component of the national wild and scenic rivers system to be administered in two segments by the States of Wisconsin and Minnesota, and the Department of the Interior respectively. I should point out that this is one of the last remaining major rivers in the United States which lies within a major metropolitan area and is still relatively unspoiled. The river borders the eastern boundary of the Minneapolis-St. Paul urban area and is within easy access of over 2 million people. Ironically, it is this accessibility which places in jeopardy the features which make this river an outstanding natural resource, and which makes it imperative that the river quickly receive protection under the Wild and Scenic Rivers Act.

The upper reaches of the river which would be designated part of the wild and scenic rivers system provide a very attractive island and gorge environment featuring the famous Dalles of the St. Croix, an area of outstanding scenic and geological interest. In its lower reaches, the river broadens and deepens into a lake-like setting, fronted with a number of communities, summer homesites, marinas and other developments. The waters of the St. Croix are of high quality and provide opportunity for fishing, swimming, boating, and other recreational pursuits. Because of its proximity to the Minneapolis-St. Paul urban complex, pressure for large scale residential and commercial development along the river will become irresistible unless the area is given the blanket of protection provided under this legislation.

Mr. President, the time in which we may act to preserve for future generations the priceless qualities of this portion of the St. Croix River is quickly passing. By forwarding S. 1928 to the House of Representatives, the Senate has taken a most important step towards assuring that our future citizens will be able to partake of the natural scenic splendor which is our heritage.

I urge passage of the bill.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MONDALE. Mr. President, Senate approval of the Lower St. Croix River Act this morning is a great step forward in the effort to save one of the Nation's most beautiful rivers from massive commercial development.

This bill was introduced by the Senator from Wisconsin (Mr. NELSON) and me and was supported by my colleague from Minnesota (Mr. HUMPHREY). It is designed to protect the lower portion of the St. Croix River, which is a boundary river separating Minnesota from Wisconsin by including it within the National Wild and Scenic River System.

This is a measure which both the Senator from Wisconsin (Mr. NELSON) and I have strongly supported for years. It was one of the first proposals I introduced, along with the Senator from Wisconsin, when I came to the Senate nearly 8 years ago.

We were able to adopt, in 1968, as a part of the National Wild and Scenic River System, a portion of the bill which we originally introduced, which protected the northern half of the St. Croix and the Namekagon River coming down through Wisconsin as a part of the Wild and Scenic River System.

This measure, which was adopted today, now covers the lower part of the St. Croix from Taylors Falls down to the confluence of that river with the Mississippi River.

I wish to express my appreciation to the Senate Committee on Interior and Insular Affairs and its chairman, the distinguished Senator from Washington (Mr. JACKSON), and in particular to the subcommittee chairman, the Senator from Idaho (Mr. CHURCH), for their outstanding work on the Lower St. Croix Protection Act.

We are particularly pleased that the chairman of the committee (Mr. JACKSON) personally came to Wisconsin to hear testimony from citizens of my State and from Wisconsin concerning this important measure.

The Senate, in my opinion, has taken advantage of a unique opportunity, by approving S. 1928, to preserve one of the most magnificent rivers in the United States. The famed Dalles of the St. Croix, spectacular rock formations, and richly varied scenery have justly brought national acclaim to the St. Croix River. The river provides recreational and scenic opportunities for sportsmen, boaters, hikers, campers, and those who came simply to enjoy its natural beauty.

The 52-mile river segment from Taylors Falls, Minn. to Prescott, Wis., is widely known as one of the last remaining unspoiled rivers within a metropolitan area. Remarkably, the Lower St. Croix has maintained its natural character despite its proximity to the more than 2 million residents of the Twin Cities and surrounding region. But with visitor use increasing each year, and massive pressure for commercial development, public officials and local residents are convinced of the immediate need for national action to protect the

river—before it is too late. The Lower St. Croix Protection Act is intended to seize a rare and fleeting chance to safeguard this irreplaceable national asset.

A wealth of evidence has been presented in testimony before the Interior Committee in support of approval of S. 1928. Exhaustive review by the Congress, the Department of Interior and the States of Minnesota and Wisconsin, has shown unequivocally the qualifications of the river, the need for Federal action, and the merits of the pending proposal. This bill is backed by the administrations of Minnesota and Wisconsin, the Interior Department and the President, and a bipartisan coalition of the Minnesota and Wisconsin delegations in the House of Representatives. It is our hope that Senate passage of S. 1928 today will permit an opportunity for the House to complete action before Congress adjourns for this session.

With an amendment Senator NELSON and I proposed, which was adopted in committee, the pending bill designates the 52-mile Lower St. Croix River as a component of the national wild and scenic rivers system, to be administered in two subsegments by the States and the Department of the Interior.

Responsibility for administering the upper 27-mile segment from Taylors Falls to Stillwater, Minn., rests with the Department of Interior.

The remainder of the river south to Prescott, Wis., is to be administered jointly by the States of Minnesota and Wisconsin.

To insure full cooperation and coordination between the Federal Government and the States, the Governors will submit an application for designation to the Secretary of the Interior, and Federal land acquisition will commence upon initiation of the State acquisition programs.

A master plan is to be developed jointly by the Secretary of Interior and the States within a year after enactment, detailing the boundaries, specifying plans for acquisition, and providing uniform guidance for administration of the Federal-State protection program. A public hearing would be held upon completion of the master plan, and local input carefully weighed throughout the planning process. Under the plan, protection will be achieved primarily through zoning and easements, with limited land purchases.

An authorization of $7,275,000 is provided for Federal acquisition and development, with $2,550,000 set aside for first year acquisition following approval of the master plan.

Senator NELSON and I originally proposed sole Federal administration of the Lower St. Croix River. A major Federal role in preservation of the river has a long and firm legislative history, with Senate hearings and approval of designation of the entire St. Croix River as a national scenic riverway in the 90th Congress. The Upper St. Croix was designated for protection under the 1968 Wild and Scenic Rivers Act and recognizing the significant national interest in the Lower St. Croix, the House and Senate required under the 1968 act a study of the 52-mile segment for addition to the system.

Mr. President, the official Federal study, completed a year ago, confirmed the immediate national interest in designating the segment from Taylors Falls to Prescott a part of the wild and scenic rivers system, with Federal leadership and a firm commitment of Federal resources, expertise, and management authority to assure an effective protection program. A strong Federal role is essential because the Lower St. Croix is an interstate boundary river, and only the Federal Government possesses the resources and authority to coordinate the independent activities of two States and nearly 40 local jurisdictions.

At a field hearing last October in St. Croix Falls, Wis., and at a Washington hearing in April, the Interior Committee found unprecedented agreement and enthusiasm on the part of State and local public officials, private citizens and conservation groups in support of Federal action to preserve the Lower St. Croix.

Official endorsements were submitted by Minnesota Governor Wendell R. Anderson, Wisconsin Governor Patrick Lucey, the Wisconsin State Legislature, the Minnesota Resources Commission of the Minnesota State Legislature, the St. Croix Intergovernmental Planning Conference, the Washington County Board of Commissioners, the Minnesota-Wisconsin Boundary Area Commission and many more local and State governmental units. I would like to point out that Executive Director Mr. James Harrison of the Minnestota-Wisconsin Boundary Area Commission has worked very effectively in coordinating efforts to protect the Lower St. Croix.

When the Interior Committee asked for Federal agency views on S. 1928 at the April hearing in Washington, the Department of the Interior unexpectedly and inexplicably delivered an initial report which contradicted the findings of its official study team.

At the request of Senator NELSON, Governor Anderson, myself, and a bipartisan coalition of the Minnesota and Wisconsin delegations in the House of Representatives, the Interior Department reviewed its position and found that congressional approval of wild and scenic rivers system designation was very clearly warranted. The Department then met with representatives of the States, including the Governors and the Minnesota-Wisconsin Boundary Area Commission, created by the State legislatures, to draw up a compromise amendment, providing for Federal-State sharing in the costs and responsibilities of the protection plan.

Careful negotiations between the State administrations and the Federal agencies have resulted in a workable compromise which has been reviewed and approved by the Secretary of the Interior and by the Governors of both States. With this amendment, which Senator NELSON and I offered to our bill, S. 1928 has the approval of the Office of Management and Budget and the support of the White House.

In summary, the final proposal now before the Senate is among the most extensively reviewed, widely supported and clearly needed measures of its kind to be offered in the Congress.

But time is critical if our efforts are to succeed, and time is quickly running out. More than $100 million in plans for massive residential and commercial projects are already drafted and stand poised for construction along the gentle banks and scenic bluffs of their beautiful river.

Action now by the Senate can prevent the onslaught of wall-to-wall high rises, the noise and pollution from claiming one of the Nation's most precious, and one of our last unspoiled metropolitan rivers.

Mr. President, I must say that with today's action, I hope the House of Representatives will act in the remaining days to send the bill on to the President so that this river can be saved and be saved in time to be protected for future generations in its present state and its present loveliness.

Mr. NELSON subsequently said: Mr. President, the Senate passage today of the Lower St. Croix River Act, S. 1928, is a major breakthrough in the 7-year legislative effort to save the Lower St. Croix. The action today was taken without any dissenting votes. It followed the Senate Interior Committee approval of the bill late last week.

This important progress is an affirmation and a result of the almost solid front of support for this measure by citizens and public officials in the St. Croix Valley and in the States of Wisconsin and Minnesota, for which this river forms part of the border.

The broad support greatly enhances the chances of this bill for final, favorable congressional action, and I urge a similar effort now in the House to bring quick passage of this bill before the end of this Congress so it can be signed into law.

If the St. Croix bill does not receive final action this Congress, I will reintroduce it at the beginning of the next Congress in January and work once again for speedy action. Senator WALTER MONDALE of Minnesota is cosponsoring this legislation with me.

With committee adoption of an amendment I introduced last week, the bill now has the support of the White House in addition to that of the Governors of the two States.

The amendment, included in the bill as passed by the Senate, reflects a compromise agreement on the terms for adding the Lower St. Croix to the national system.

The compromise was developed by the Department of the Interior and the States of Wisconsin and Minnesota after the Interior Department in April unexpectedly announced its opposition in Senate hearings to the bill as drawn.

Under the compromise agreement, the upper 27 miles of the lower river would be extended Federal protection and the remaining 25 miles would be protected by the States. The 52-mile Lower St. Croix extends from St. Croix Falls to Prescott, Wis., and is almost unique in the Nation in flowing as a little-devel-

oped scenic waterway near a major metropolitan area.

The Senate-passed bill authorizes a $7.2 million appropriation for the Federal portion of the river protection program. In addition, the States' portion would be assisted by Federal funds from the land and water conservation funds.

Under the legislation, the lower river's scenic values would be protected through easements, zoning, limited land purchase, and management plans.

Extending comprehensive protection to the Lower St. Croix, as this bill would do, has broader support than almost any other similar natural area protection project I have ever seen.

Hearings have clearly demonstrated the wide public agreement that the action such as proposed in this bill is necessary to protect the Lower St. Croix.

The list of this measure's backers includes:

The White House;

The Governors of Wisconsin and Minnesota, the two States involved;

By formal action, the Wisconsin Legislature, and the Minnesota Resources Commission of the Minnesota Legislature;

The Minnesota-Wisconsin Boundary Area Commission, established by the legislatures of the two States, and representing local government as well. Mr. James Harrison, executive director of the commission, has worked very effectively in this effort to protect the Lower St. Croix through a cooperative public program;

The St. Croix Intergovernmental Planning Conference, made up of the local governments of the Lower St. Croix Valley;

A river study task force made up of regional Federal officials from the Department of the Interior and other agencies, representatives of the Governors, and of the local governments;

The Metropolitan Council of the Minneapolis-St. Paul area;

Local, State, and national environmental organizations;

Major newspapers of the region, including the Milwaukee Journal, the Madison Capitol Times, the Minneapolis Tribune, the St. Paul Dispatch, and the Red Wing Republican Eagle.

In a second key aspect, this proposal has already had careful congressional consideration extending back over the past 7 years.

In 1965, I introduced the St. Croix National Scenic Riverway bill, which Senator MONDALE coauthored with me. This measure would have extended national protection to the entire St. Croix River.

After Senate committee hearings and favorable action, this measure passed the Senate in September of 1965. The proposal had the support of the Interior Department.

We introduced the St. Croix bill again in January 1967.

At about the same time, legislation was introduced to establish a National Wild and Scenic Rivers System and Senate and House hearings were held on all the riverway protection measures.

In the Wild and Scenic River bill, finally enacted in 1968, Congress actually included in the national system the upper St. Croix, the Namekagon and the Wolf Rivers in Wisconsin.

The Senate-House conference committee on the national system bill agreed to provide for a detailed study of the suitability of the Lower St. Croix for addition to the system. However, it was recognized from the beginning that the lower river was well qualified to be in the national system.

The study of the Lower St. Croix directed by the 1968 Act was completed by the Federal-State-local task force last October and sent to Washington.

In the study, the task force strongly and without qualification recommended designation of the lower St. Croix in the National Wild and Scenic River System and recommended Federal management of the project with State and local cooperation.

Last summer, before completion of its study, the task force held a well-attended public information meeting in Stillwater, Minn., at which its recommendations were well received.

Last May, Senator MONDALE and I introduced the pending bill. To obtain local views on the measure, the Senate Interior Committee held hearings chaired by Senator JACKSON at St. Croix Falls, Wis., last October. Several hundred people attended, and the legislation received wide and enthusiastic support.

In the House, a similar bill was introduced, and this year, the House Interior Subcommittee on National Parks and Recreation visited the area.

In April, the Senate Interior Committee held Washington hearings to hear from public agencies on the bill.

Last week, the President's Office of Management and Budget cleared the proposed compromise agreement which I mentioned earlier. The Senate Interior Committee last Thursday approved the St. Croix bill with the amendment representing the compromise agreement and today, the Senate has passed the measure.

Final action on the St. Croix bill is urgently needed. If comprehensive protection is not extended to the riverway, the St. Croix will eventually become one more city river, its waters poisoned with pollution, its shorelines gutted with indiscriminate development.

The dangers are recognized by all. Today, more than $100 million worth of private development is posed in the lower St. Croix River Valley.

But we still have a choice for the future of this river. We can establish plans and controls to assure that future growth is in harmony with the river's scenic and recreational values. Or we can, simply by doing nothing or walking away from it, let the river be swallowed up by the growing urban pressures and dollar-sign decisions.

With passage of the Lower St. Croix River Act, a major program of protection would be launched, involving all levels of government in a cooperative effort, bringing to bear the resources vitally needed to protect this magnificent natural resource.

## QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislataive 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.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FANNIN (for Mr. ALLOTT), from the Committee on Interior and Insular Affairs, without amendment:

S. 4067. A bill to authorize the Secretary of the Interior to convey certain land situated in the vicinity of Georgetown, Colorado, to Frank W. Whitenack (Rept. No. 92-1281).

By Mr. FANNIN, from the Committee on Interior and Insular Affairs, with an amendment:

S. 1927. A bil to provide for the establishment of the Hohokam Pima National Monument in the vicinity of the Snaketown archeological site, Arizona, and for other purposes (Rept. No. 92-1282).

## ANNUAL REPORT OF THE SELECT COMMITTEE ON SMALL BUSINESS (S. REPT. NO. 92-1280)

Mr. BIBLE. Mr. President, I submit the 22d annual report of the Select Committee on Small Business.

I ask unanimous consent that the report be printed, together with illustrations.

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. HATFIELD:

S. 4068. A bill for the relief of Michael Kwok-choi Kan; and

S. 4069. A bill for the relief of Alemitu Feleke. Referred to the Committee on the Judiciary.

By Mr. PERCY (for himself, Mr. MATHIAS, Mr. HUMPHREY, Mr. PACKWOOD, Mr. RIBICOFF, Mr. HATFIELD, Mr. MONDALE, and Mr. STEVENSON):

S. 4070. A bill to assist States in reforming their property tax assessment systems, and to encourage them to adopt programs of property tax relief for low-income homeowners and renters. Referred, by unanimous consent, to the Committee on Government Operations; and, if reported by that committee, to the Committee on Finance.

By Mr. ROBERT C. BYRD (for Mr. WILLIAMS) (for himself and Mr. BENNETT):

S. 4071. A bill to amend the Securities Exchange Act of 1934 to regulate the transactions of members of national securities exchanges, to amend the Investment Company Act of 1940 and the Investment Advisers Act of 1940 to define certain duties of persons subject to such acts, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. BURDICK:

S. 4072. A bill designating the park established pursuant to the Act of April 25, 1947 (61 Stat. 52), as the "Theodore Roosevelt National Park." Referred to the Committee on Interior and Insular Affairs.

By Mr. HUMPHREY:

S. 4073. A bill for the relief of Mr. Jerome O. Gbemudu. Referred to the Committee on the Judiciary.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PERCY (for himself, Mr. MATHIAS, Mr. HUMPHREY, Mr. PACKWOOD, Mr. RIBICOFF, Mr. HATFIELD, Mr. MONDALE, and Mr. STEVENSON):

S. 4070. A bill to encourage States to reform their property tax assessment systems, and to encourage them to adopt programs of property tax relief for low-income homeowners and renters. Referred, by unanimous consent, to the Committee on Government Operations; and, if reported by that committee, to the Committee on Finance.

THE PROPERTY TAX REFORM AND ASSISTANCE ACT OF 1972

Mr. PERCY. Mr. President, I am introducing today, with the cosponsorship of Senators MATHIAS, HUMPHREY, PACKWOOD, RIBICOFF, HATFIELD, MONDALE and STEVENSON, a bill that would encourage the States to adopt systems of property tax relief for low-income homeowners and renters and to implement needed property tax reforms to make this tax fairer and more equitable.

Our bill would provide Federal grants to the States to cover 50 percent of the cost of State programs of property tax relief for low-income individuals whose property taxes amount to more than 8 percent of their annual income, if States: first, reform property tax administration so as to conform with guidelines specified in the bill, concentrating mainly on professionalization of assessments; second, provide better information to taxpayers on how their property taxes are computed and how the amount of taxes they pay compares with those paid by other taxpayers; and third, provide a method for easy citizen appeal of tax assessments they consider unjustified, and ready public access to property tax records.

The need for programs both of property tax relief to low-income homeowners and renters, and of State property tax reform, is clear.

Property tax relief programs for low-income elderly citizens and others are now being implemented in at least 11 States, according to the Advisory Commission on Intergovernment Relations—ACIR. A table showing these States and the types of relief programs they have implemented follows at the conclusion of my remarks. These relief programs are commonly called circuit breakers.

The need for such relief programs is amply demonstrated. According to the ACIR, for those families with incomes under $4,000, property taxes absorb 7 percent of income nationwide, and take 24.8 percent and 10.2 percent of family income, respectively, in the New York and Chicago areas. Property taxes become even more difficult to bear when family income falls below $2,000. In such cases property taxes are estimated by the ACIR to take 30.8 percent of family income in the Northeast and 22.9 percent in the West.

The public outcry about property tax burdens has been reflected in public opinion polls. In a poll early this year by the Opinion Research Corp., the property tax was overwhelmingly shown to be the most unpopular tax.

The President has responded to this public concern. He has asked the Advisory Commission for a report on the property tax as a means of financing education. He has also recently announced, according to an article in the New York Times of October 6, that he would seek to provide Federal property tax relief circuit breaker programs for elderly citizens.

Thus it seems to me that introduction of this bill is very timely. We should move to encourage States that have not adopted circuit breaker programs to do so, and we should encourage States that have adopted such programs only for the elderly to broaden them to include all low-income homeowners and renters. We can do so, I believe, by offering to pay half the cost of such programs and we can at the same time encourage States to adopt property tax reforms by making Federal aid contingent on such reform.

We are at a critical moment for property tax reform. The revenue-sharing legislation bill will provide new fiscal resources to States and localities. These new funds may well, for a time, lessen the emphasis local governments have traditionally placed on the property tax. We should act now, before outmoded, inefficient, unprofessional, and unfair property tax systems sink again into a kind of oblivion.

The reforms we propose are reasonable and necessary. They are the product of years of study by the Advisory Commission. Their validity has been confirmed by hearings begun in the Subcommittee on Intergovernmental Relations, chaired by Senator MUSKIE. I am assured that we will continue these studies in this subcommittee of the Government Operations Committee.

Mr. President, I ask unanimous consent that a table showing the States that have adopted property for circuit breaker programs, a table showing real estate taxes on a percent of family income, and the bill be printed at this point in the RECORD.

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

TABLE 103.—STATE FINANCED AND ADMINISTERED RESIDENTIAL PROPERTY TAX RELIEF FOR PROTECTING LOW INCOME HOUSEHOLDS FROM PROPERTY TAX OVERLOADS

[The "Circuit-Breaker"]

| State | Beneficiaries description | Income ceiling | Tax relief formula | Form of abatement and estimated per capita cost | Date of adoption | Statutory citation |
|---|---|---|---|---|---|---|
| Wisconsin | Homeowners and renters 65 and older. | $3,700 | See footnote [1] | State income tax credit or rebate; cost—$1.50 (1968). | 1963 | Ch. 71, sec. 71.09(7). |
| Minnesota | Homeowners and renters age 65 and older. | $5,000 | Relief ranges from 100 percent to 8 percent depending on amount of property tax payment (for 20 percent of gross rent paid) and household income. | State income tax credit or rebate; Cost—$0.50 (1968). (This aid is in addition to a general State-financed property tax relief that approximates 35 percent of the homeowner's tax bill.) | 1967 | Ch. 290, sec. 290.0601, et seq. |
| California | Homeowners age 62 and older; no relief for renters. | $10,000 | Relief ranges from 95 percent of tax payment if household income is less than $1,000 to 1 percent of tax payment if household income is $10,000. | State rebate only; cost —$0.40 (1969) | 1967 | Revenue and taxation code Div. E., sec. 19501, et seq. |
| Vermont | Homeowners and renters age 65 and older. | Not explicit | Relief limited to that part of tax payment in excess of 7 percent of household income times a local rate factor that varies by tax rate of local community.[2] | State income tax credit or rebate; cost —$1.25 (1969). | 1969 | H.B. 222. |
| Kansas | Homeowners age 65 and older; no relief for renters. | $3,700 | Same as Wisconsin tax relief formula | State income tax credit or rebate: cost—NA. | 1970 | H.B. 1253. |
| Colorado | Homeowners and renters age 65 or older. | $2,400 single; $3,700 married (in addition net worth during year must be less than $20,000). | Relief limited to 50 percent of the tax payment and cannot exceed $200. the credit or refund is reduced by 10 percent of income over $500 for individuals and 10 percent of income over $1,800 for husband and wife.[3] | do | 1971 | Ch. 138, secs. 138–1–20 and 21. |
| Maine | Homeowners and renters age 65 and older for males and 62 and older for females. (At least 35 percent of household income must be attributable to claimant.) | $4,000 (in addition, net assets) must not exceed ($30,000). | Relief equal to 7 percent of the difference between household income and $4,000. Limited to the total property tax levied, or 20 percent of rent paid. | State rebate only; cost—NA | 1971 | Title 36, ch. 901, secs. 6101–6120. |
| New Jersey | Homeowners age 65 and older | $5,000 (exclusive of social security benefits). | Deduction from tax bill of $160 or amount of tax liability whichever is less. | Reduction of tax bill. 3½ of cost o fdeduction reimbursed to municipality by the State; cost—NA | 1953 (local), 1971 (State-local). | Ch. 172 (Laws 1963) sec. 54:4–8.40–54:4–8.51 ch. 20 (Laws 1971). |

| State | Beneficiaries description | Income ceiling | Tax relief formula | Form of abatement and estimated per capita cost | Date of adoption | Statutory citation |
|---|---|---|---|---|---|---|
| Pennsylvania | Homeowners: age 65 and over; widows age 50 and over; permanently disabled persons. | $7,500 | Relief ranges from 100 percent of tax (maximum $200) when household income is less than $1,000 to 10 percent where such income is between $6,000 and $7,500. | State rebate only; cost—NA | 1971 | Act No. 3, H.B. 192. |

EXHIBIT: STATE FINANCED AND STATE-LOCAL ADMINISTERED PROPERTY TAX RELIEF (SELECTED STATES)

| | | | | | | |
|---|---|---|---|---|---|---|
| owa | Homeowners: 65 and older or totally disabled. | $4,000 | Deduction from tax bill of $125 or amount of tax liability whichever is less. | Reduction of tax bill; cost of deduction paid by State to each taxing district. | 1967 | Ch. 356 (Laws 1967), ch. 1208 (Laws 1970), H.F. 654 (Laws 1971). |
| Oregon | Homeowners | None | Relief based on amount by which property taxes exceed percentage of household income. The percent ranges from 3 percent on income up to $1,500 (maximum relief $400) to 7 percent for incomes in excess of $8,000 (maximum relief $100).[4] | Taxpayers initial tax bill is reduced by the amount of relief granted by the Department of Revenue and the Department pays to the counties the amount of relief granted. | 1971 | Ch. 747 (H.B. 1639). |

[1] Household income—$1,000 or less—relief ranges from 75 percent of amount by which property tax exceeds 3 percent of household income between $500 and $1,000; household income—over $1,000—60 percent of amount by which property tax exceeds 3 percent of household income between $500 and $1,000, 6 percent of income between $1,000 and $1,500, 9 percent of income between $1,500 and $2,000, 12 percent of income between $2,000 and $2,500, and 15 percent of all household income over $2,500. The maximum property tax to be used for this credit is limited to $330. "Rent constituting property taxes" means 25 percent of gross rent paid.

[2] The Commissioner shall annually prepare and make available the local rate factors by arraying all municipalities according to their effective tax rate and dividing the population of the State into quintiles from such array with those having the lowest effective tax rates being in the 1st quintile. The local rate factors shall be as follows: 1st quintile, 0.6; 2d quintile, 0.8; 3d quintile, 1.0; 4th quintile, 1.2; 5th quintile, 1.4. The amount of property taxes or rent constituting property taxes used in computing the credit are limited to $300 per taxable year. "Rent constituting property taxes" means 30 percent of the gross rent actually paid during the taxable year.

[3] For renters, the tax-equivalent amount is considered as 10 percent of the actual rent paid during the tax year.

[4] Persons born before Mar. 1, 1891, with an income not over $3,000 are entitled to relief of the total amount of property taxes on their homestead up to a maximum of $400.

NA–Data not available.

Source: ACIR staff compilation from Commerce Clearing House data.

TABLE 7.—REAL ESTATE TAXES AS A PERCENTAGE OF FAMILY INCOME, OWNER-OCCUPIED SINGLE-FAMILY HOMES, 1971

| Family income | United States total | North-east region | North-central region | South region | West region | New York SMSA | Chicago SMSA | Los Angeles SMSA |
|---|---|---|---|---|---|---|---|---|
| Less than $2,000 | 16.6 | 30.8 | 18.0 | 8.2 | 22.9 | 48.1 | 28.6 | 32.3 |
| $2,000 to $2,999 | 9.7 | 15.7 | 9.8 | 5.2 | 12.5 | 17.4 | 17.7 | 15.4 |
| $3,000 to $3,999 | 7.7 | 13.1 | 7.7 | 4.3 | 8.7 | 24.8 | 10.2 | 12.3 |
| $4,000 to $4,999 | 6.4 | 9.8 | 6.7 | 3.4 | 8.0 | 20.4 | 9.3 | 11.8 |
| $5,000 to $5,999 | 5.5 | 9.3 | 5.7 | 2.9 | 6.5 | 12.5 | 10.0 | 8.5 |
| $6,000 to $6,999 | 4.7 | 7.1 | 4.9 | 2.5 | 5.9 | 12.7 | 9.6 | 8.5 |
| $7,000 to $9,999 | 4.2 | 6.2 | 4.2 | 2.2 | 5.0 | 9.6 | 6.4 | 7.5 |
| $10,000 to $14,999 | 3.7 | 5.3 | 3.6 | 2.0 | 4.0 | 8.0 | 4.9 | 5.3 |
| $15,000 to $24,999 | 3.3 | 4.6 | 3.1 | 2.0 | 3.4 | 6.5 | 3.9 | 4.0 |
| $25,000 or more | 2.9 | 3.9 | 2.7 | 1.7 | 2.9 | 5.1 | 3.4 | 3.6 |
| All income | 4.9 | 6.9 | 5.1 | 2.9 | 5.4 | 9.2 | 6.0 | 6.7 |

Note: This table may not be quoted, published, or reproduced without the express permission of the Advisory Commission on Intergovernmental Relations.

Source: U.S. Bureau of the Census, 1972 Residential Finance Survey, special advance preliminary tabulations prepared for the Advisory Commission on Intergovernmental Relations.

S. 4070

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. This Act may be cited as the "Property Tax Reform and Assistance Act of 1972".

SEC. 2. As used in this Act, the term—

(1) "Secretary" means the Secretary of Housing and Urban Development;

(2) "State" means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

(3) "low-income individual" means an individual or married couple (a) whose property taxes on his principal residence exceed 8 percent of his income, or, in the case of an individual who occupies his principal residence under a lease, 25 percent of whose rent exceeds 8 percent of his income; and (b) whose income does not exceed $12,000.

(4) "income" means income from any source whatever, without regard to the provisions of subtitle A of the Internal Revenue Code of 1954 (relating to income taxes), determined in accordance with such regulations as the Secretary may prescribe.

SEC. 3. Upon application made by any State, the Secretary of Housing and Urban Development is authorized to make payments to that State in accordance with the provisions of this Act if he determines that it is eligible under section 4 to receive such payments. The amount of payments which may be made by the Secretary to any State under this Act during any year is an amount equal to 50 percent of the amounts paid by that State as property tax relief during that year to eligible low-income individuals residing in that State under a program described in section 4(1) of this Act or to eligible local governments where the State has a qualified tax relief plan described in section 404(1) of this Act and approved by the Secretary.

SEC. 4. (a) No State shall be eligible to receive payments under this act, unless the Secretary determines that it is carrying out a program of ad valorem real property taxation meeting the requirements of subsections (b) through (h) of this section under State law.

(b) Any such State law shall provide for—

(1) State government supervision of the assessment of real property subject to ad valorem taxation, and State supervision of property tax administration at the local level;

(2) the establishment of a program of training and certification of individuals charged with the responsibility for appraising and assessing such property;

(3) the assessment and appraisal of real property by such individuals in accordance with regulations prescribed by the State;

(4) the development and maintenance, in accordance with regulations prescribed by the State, of maps reflecting property tax rates and assessments; and

(5) the development and enforcement of a system of real property tax assessment rolls, billing practices, and related administrative practices and records which is uniform throughout the State.

(c) Any such State law shall provide that individuals subject to an ad valorem tax on their real property shall be supplied with statements, not later than 30 days before the date on which payment of that tax is due, which disclose the assessed value of the property, the percentage of value at which the property is assessed, and the rate of tax at which the property is taxed. Each such statement shall also include the results of comprehensive assessment ratio studies of the assessment and taxation of property in the State and in the county, or other political subdivision, within which the property of any such individual is located.

(d) Any such State law shall provide that the State shall undertake comprehensive assessment ratio studies annually of the average level of assessment, the degree of assessment uniformity, and overall compliance with assessment requirements for each major class of real property in each county or other political subdivision in the State. In carrying out such studies, the State shall compute measures of central tendency and dispersion in accordance with appropriate standard statistical analysis techniques. As used in this subsection, the term "average dispersion" means the percentage which the average of the deviations of the assessment ratio of individual sold or appraised properties bears to their median ratio.

(e) Any such State law shall provide that the State shall define the base for real property taxation, and shall establish all exemptions from such taxation. The State shall determine the total assessed valuation of real property in each class of exemption and make that information available to the public.

(f) Any such State law shall provide that the State shall insure the enforcement of its real property tax standards and practices uniformly throughout the State by providing for necessary enforcement personnel and procedures.

(g) Any such State law shall provide that the State shall establish a system of appeals

from the determinations of assessors which will provide for prompt, efficient disposal of such appeals. Under such system a citizen of the State shall having standing to appeal the assessment, rate of tax, or exemption, from tax of his own property or any other real property with respect to which he can demonstrate that the challenge assessment, rate of tax, or exemption may adversely affect himself or others similarly situated. Upon a successful challenge under such system, the State may be authorized to assess the property, set the rate of tax, or provide or withdraw the exemption without the consent of local officials.

(h) Any such State law shall provide that all records of property assessment shall be maintained in such a way and in such places as to be readily accessible for public inspection.

(i) Any such State law shall provide that the State shall reimburse low-income individuals for ad valorem real property taxes, or rent in lieu of such property taxes, paid by such individuals with respect to their principal residence or for payments by the State to local governments to compensate the local governments for lost revenues resulting from a specific low-income exemption from the applicable property taxes. The amount of reimbursement paid to any individual or to any local government for lost revenues from qualified individual exemptions under a State program of reimbursement shall not exceed—

(1) in the case of such an individual who owns his residence, the lesser of $300 per year or the amount of ad valorem real property taxes paid with respect to that residence during that year in excess of 8 percent of his income; or

(2) in the case of such an individual who rents his residence, and with respect to whom it is determined under regulations prescribed by the Secretary that a portion of his rent is based on property taxes payable on that residence by the owner thereof, the lesser of $300 per year or the amount by which 25 percent of his rent exceeds 8 percent of his income.

(j) Nothing in subsection (i) above, however, shall be construed to limit the implementation by States of property tax relief payment programs in amounts in excess of the amounts stated in subsection (i). In such cases, Federal payments will be made to States up to the limits set forth in subsection (i).

SEC. 5. The Secretary shall make a payment under this Act to a State only upon receipt of an application filed by that State at such time, in such manner, and containing reports, in such form and containing such information, as the Administrator may reasonably require to insure that the State continues to be eligible under section 404 for such payments, and shall set forth policies and procedures which assure that Federal funds made available under this Act for any fiscal year are appropriately controlled. Payments made under this Act to the States may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

SEC. 6. The Secretary is authorized to prescribe such regulations as may be necessary to carry out the provisions of this Act, and to provide such advice and assistance to the States as they may request for the purpose of developing ad valorem property tax programs meeting the requirements of section 4.

SEC. 7. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this act.

Mr. JAVITS. Mr. President, I ask unanimous consent that a bill introduced today by Senator PERCY, on the Property Tax Reform and Assistance Act of 1972 be referred to the Committe on Government Operations, and that if and when the bill should be reported, it be referred to the Committee on Finance for its consideration.

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

---

By Mr. ROBERT C. BYRD (for Mr. WILLIAMS) (for himself, and Mr. BENNETT):

S. 4071. A bill to amend the Securities Exchange Act of 1934 to regulate the transactions of members of national securities exchanges, to amend the Investment Company Act of 1940 and the Investment Advisers Act of 1940 to define certain duties of persons subject to such acts, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from New Jersey (Mr. WILLIAMS) and the distinguished Senator from Utah (Mr. BENNETT), I introduce a bill, and I ask unanimous consent that a statement prepared by Senator WILLIAMS be printed at this point in the RECORD.

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

THE SECURITIES ACT OF 1973

(Statement by Senator WILLIAMS)

On behalf of Senator BENNETT and myself, I am introducing a bill to deal with the question of "institutional membership" and other vexing problems which are currently facing the securities industry. This bill represents a bipartisan approach to problems which require Congressional resolution if the industry is to move forward with the development of a central market system that will adequately serve the future needs of public investors.

I am particularly pleased that Senator Bennett has joined me in co-sponsoring this bill. Over the years that we have worked together on the Banking Committee, Senator BENNETT and I have cooperated in the resolution of many difficult issues in a manner that was fair to all competing interests. I hope that our joint efforts on this occasion will be equally productive.

The problem called "institutional membership"—more properly the question of the combination of brokerage and money management—is a complex one. The proposals put forth thus far to resolve the problem have served mainly to exacerbate the controversy. In fact the Department of Justice last week not only opposed the solution which the SEC has been attempting to impose on the industry but also stated that the procedures being followed by the SEC are not authorized by its statutes.

The absence of Congressional resolution of the question seems likely to impede for a long time our progress toward a more efficient and responsive market structure. I believe that, in the bill being introduced today, we have found a formula which resolves the conflicting positions of different segments of the industry, and does it in a way which will assure adequate brokerage service in the future for both individual and institutional investors.

Essentially, this bill will prohibit any member of a stock exchange from effecting any transactions for any institutional account which it manages. An institution would not be prohibited from having a subsidiary or affiliate which was an exchange member, but it would not be able to do any of its portfolio business through that member. Similarly, a stock exchange member could manage or advise pension funds, mutual funds or other institutions, but it would not be able to do any of the brokerage business for those institutions. These prohibitions will eliminate conflicts of interest with which many people are concerned, and will do it in a way which does not discriminate unfairly between those firms which are primarily in the brokerage business and those which are primarily in the money management business.

A substantial number of institutions have obtained memberships on regional stock exchanges for the purpose of reducing the excessive commission costs levied on their beneficiaries under the present fixed commission rates. In recognition of the interests of those beneficiaries, institutions which presently have affiliated stock exchange members will be permitted to continue doing business through those affiliates as long as fixed rates are maintained on transactions larger than $100,000. Under the schedule presently envisioned by the SEC and the New York Stock Exchange, fixed commission above the level should be eleminated within a 12 to 18 months period.

Also, in order to provide an adequate transition period for stock exchange members which presently do a substantial amount of brokerage business for managed institutional accounts, they would be allowed an additional two years to phase out such business. They will be permitted to do up to 20 per cent of their business with managed institutional accounts during the first year after the end of fixed rates on large transactions, and up to 10 per cent during the second year. Thereafter, the full prohibition will become applicable to all firms.

The second question to which this bill addresses itself is the manner in which institutional research should be paid for under competitive commission rates. At present, much of that research is paid for with "soft" commission dollars available under fixed rates. The fear has been expressed that under competitive commission rates, institutional managers would not be able to pay brokers for research services because of their obligation to seek out the firm offering the lowest commission rate for the execution of the order. I do not believe that the law presently prohibits such payments, provided they are properly disclosed and represent compensation for valuable services to the fund. However, it is important that we set this question to rest, so that it does not impede progress toward a fully competitive rate structure.

This bill therefore contains provisions permitting fund managers to pay higher commissions on portfolio transactions for the purpose of obtaining research which they determine to be of value to the fund beneficiaries. Full disclosure of any such payments will be required to insure that this permission is not used to mask reciprocal practices or otherwise divert fund assets.

Finally, the bill addresses problems relating to the sale of management companies which have advisory contracts with mutual funds.

This problem was not considered by the Congress when it enacted the 1970 amendments to the Investment Company Act. Under court decisions at that time, there was no legal bar to the sale of a mutual fund management company, provided no unfair burdens were imposed on the fund shareholders. However, the 1971 decision of the Second Circuit Court of Appeals in the case of Rosenfeld against Black—the "Lazard" case—created uncertainty as to when a management company could be sold at a profit without incurring liability to fund shareholders.

In June, I introduced a bill, at the request of the SEC, which would have permitted such sales under certain conditions and which was designed to protect mutual fund shareholders. One section of that legislation provided

that, for five years, none of the managed funds could have any officer or director who had any interest in the management company. Representatives of the mutual fund industry have urged that this is an unduly harsh restriction, and could result in additional costs to the funds because of the need to hire new people not connected with the management company.

Accordingly, this bill modifies the original SEC proposal by requiring that for three years after the sale of a management company at least 75 percent of the directors of the managed funds would have to consist of persons having no interest in the management company. It would also, of course, contain the other provisions in the original bill designed to prevent overreaching or imposition of additional burdens on fund shareholders. This bill reaffirms the understanding of the Congress at the time it considered the 1970 amendments, that the sale of a management company is legally permissible provided no unfair burdens are imposed on the fund shareholders. I believe this bill contains the provisions necessary to protect fund shareholders against such impositions.

Mr. President, I hope that this bill will receive broad support from all segments of the industry and the investing public, and that it will form the basis of constructive and forward-looking securities legislation in 1973.

Mr. BENNETT. Mr. President, I join with the Senator from New Jersey in sponsoring this legislative proposal because I hope it will bring about the resolution of some major problems which have confronted the securities industry for several years. These include: First, the proper relationship between the brokerage business and money management; second, the proper relationship between research and brokerage commissions; and third, the sale of management companies which have contracts with investment companies.

On June 23, 1970, I sponsored legislation intended to bring the issue of stock exchange membership of institutions not primarily engaged in the brokerage business before the Congress for a decision. More than 3 years have passed, and Congress has not yet taken any official action on this problem other than hearings and studies.

I realize that this is a complex issue which had to be considered fully before a decision could be reached by the Congress, but in my opinion there is certainly no reason for further delay. We have now had several studies and hearings which presented an opportunity for all points of view to be expressed. This proposal takes into account all of the opposing views and is an attempt to work out the differences on the three major issues which I have mentioned. I believe it represents a good faith effort and a significant step in the resolution of these issues. There are particularly strong feelings on the issue of national securities exchange members trading for affiliated accounts and managed institutional accounts because the future structure of securities markets as well as individual firms will be greatly affected by the relationship permitted. Regardless of how difficult it may be, I believe it is the responsibility of Congrses to determine the relationship that will best serve the public. We should also do what we can to make it possible for those firms which are adversely affected by our decision to readjust their operations to meet the new pattern which we establish. Because of the slowness of the Congress to resolve this issue, the Securities and Exchange Commission has taken action to bring about what it feels is a reasonable solution to the problem.

On February 15 of this year, the Commission sent letters to all of the national security exchanges, requesting them to work out rules excluding from membership any organization not doing a predominant part of its brokerage business with unaffiliated public investors. The letter also requested exchanges to recommend ways of excluding from membership any organization whose primary function is to route orders for the purpose of rebating or recapturing brokerage commissions. Even before this request was made by the SEC, one exchange reaffirmed its policy of allowing relatively unrestricted membership. The SEC then determined to bring about a resolution of this problem on the basis of authority contained in section 19(b) of the Securities and Exchange Act of 1934.

On August 3, 1972, the SEC published for comment proposed rule 19b–2, designed to establish the right of any person or entity to exchange membership, provided the primary objective of that membership was to furnish brokerage services for customers other than the member and its affiliates or contribute to the market by marketmaking activity.

On last Tuesday, October 3, the Justice Department submitted its comments opposing the Commission's proposed rule, stating that: First, it would tend to reinforce an anticompetitive commission rate system; second, its purpose rests on an arbitrary distinction between what is "public" and what is "private"; third, it fails to deal with the broader conflicts of interest between money management and brokerage; fourth, it is not supported by evidence showing its necessity to achieve other ends of the Securities Exchange Act; and fifth, its adoption based on present proceedings would not satisfy the opportunity for hearing requirements of section 19(b) of the Securities Exchange Act and the Administrative Procedure Act.

The Securities and Exchange Commission along with other interested parties has been involved in the development of this proposal which we introduce today. This, however, does not mean that the Commission agrees with all of its provisions. I am not sure that anyone agrees with all of its provisions. One of the issues on which there is a difference is the degree to which a brokerage firm may affect transactions for nonaffiliated institutional accounts. This proposal would not permit any such transactions if the member firm has the power to make day-to-day investment decisions even though some other person may have ultimate responsibility for such investment decisions.

It is my understanding that the SEC would prefer to make a determination on transactions for managed institutional accounts on the basis of control by the brokerage firm over the account as shown by the facts in each case. Just how much actual difference there is between these two positions is not clear at this point.

Another point of difference is that this proposal completely separates the brokerage business from institutional money management. The Commission's proposed rule requires that members of securities exchanges do at least 80 percent of the value of their transactions with nonaffiliated persons, thus permitting some combination of money management and brokerage business. Again, it is difficult to determine how much difference there is between this proposal and the position of the Securities and Exchange Commission. The Commission indicated in its statement on the future structure of the securities markets in February of this year that it could not make the determination that money management and brokerage business should be completely separated. The report stated that Congress authorized this relationship and has permitted it to continue. It concluded:

We therefore believe that the conflict of interest problem which is inherent in the combination of money management and brokerage is a matter to be resolved by Congress. Only that body should decide whether or not this potential conflict can continue to be dealt with in the same manner as other conflicts mentioned above, by a combination of disclosure and enforcement of fiduciary obligations, or whether it is sufficiently troublesome to require separation of the two functions.

Mr. President, although the Securities and Exchange Commission recommended a congressional decision, they have not sat idly by to let present problems continue unchallenged. These issues have been so important the Commission felt they must, in addition, take whatever administrative action possible. They have proceeded on the basis that they have sufficient authority to act on the exchange membership issue even though that authority has been seriously challenged. Having been criticized for not acting aggressively enough in the past, it is only natural that the Commission would take action to discharge their responsibilities in this respect, since the question of authority is not settled. At the same time, the Commission has recommended legislation on the issues contained in this bill and I feel sure they will do all they can to assist in the enactment of appropriate legislation.

Mr. President, it is apparent to me that the solution of these major problems can only come about through congressional action. While differences of opinion may exist, we must work out solutions at the earliest possible date. I realize that there is little, if any, possibility of congressional action on this legislation this session, but it is my hope that its introduction at this time will make it possible for us to resolve these issues early in the next session.

---

By Mr. BURDICK:

S. 4072. A bill designating the park established pursuant to the act of April 25, 1947 (61 Stat. 52), as the "Theodore Roosevelt National Park." Referred to the Committee on Interior and Insular Affairs.

Mr. BURDICK. Mr. President, I intro-

duce for appropriate reference, legislation intended to create a national park in North Dakota. The State is currently without a national park or a national monument but has the raw materials at hand.

Presently, 110 square miles of sparsely settled Badlands and prairie uplands along the Little Missouri River have been set aside as a national memorial park in honor of Theodore Roosevelt. Roosevelt, who ranched in southwestern North Dakota during the days when the area was the hub of the open range cattle industry, was quoted as saying:

If it had not been for what I learned during those years spent here in North Dakota, I never in the world would have been President of the United States.

The three individual units of the Theodore Roosevelt National Memorial Park present today, substantially the same environment which Roosevelt experienced in the 1800's—a unique contrast to the gently rolling prairies of the Northern Plains. The Badlands, with its maze of canyons and coulees, interspersed with grassy uplands, is symbolic of a cultural heritage proudly shared by the people of the entire region. But as a "memorial" park this area of scenic, scientific, and inspirational importance has been placed in administrative limbo.

Evidence has reached my office which indicates that the park is not even recorded on some of our tour guides of the National Park system. It is my feeling, and that shared by thousands of tourists who visit the park each year, that the existing Theodore Roosevelt National Memorial Park merits designation as a full-fledged national park. By this redesignation, I hope to focus public administrative and congressional attention to this place of historic and natural wonder.

Mr. President, I ask that a letter written by the North Dakota travel director, Mr. Joseph Satrom, be printed in the RECORD at the conclusion of my remarks.

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

NORTH DAKOTA HIGHWAY DEPARTMENT,
*Bismarck, N. Dak., November 11, 1971.*

Senator QUENTIN N. BURDICK,
*U.S. Senate, Committee of the Judiciary, Washington, D.C.*

DEAR SENATOR BURDICK: Pardon my delay in answering your letter of October 22, 1971, but I have sought additional background information so that I might handle your questions regarding the deletion of the word "memorial" in the title Theodore Roosevelt National Memorial Park with better credentials.

There is little doubt that Theodore Roosevelt National Memorial Park is both a natural and historical wonder and that, although it is much smaller than most national parks, it could gain recognition within either management category. The proximity of the memorial park to the great parks of this region leads me to believe that Theodore Roosevelt Park and the vast badlands of North Dakota could relieve much of the people pressure which exists during the tourist season in these well-promoted natural parks.

I would like the Park Service to recognize Theodore Roosevelt National Memorial Park as being not only unique in that it is the nation's only "memorial" park, but also in that it is a full fledged natural attraction. I would hope that reclassification of the park would give it exposure in publications such as the map of the national parks and monuments which I have attached. It is truly regrettable that the Sinclair Tour the USA Travel Guide by Rand McNally completely omits mention of Theodore Roosevelt National Memorial Park. It seems to be that reclassification without loss of the meaning of the "memorial" to Theodore Roosevelt would serve our interests and the entire purpose of the National Park Service. It may be that the National Park Service can reclassify Theodore Roosevelt National Memorial Park so that it gains inclusion in maps such as the one which I have attached, however, I have been led to believe by Park Service officials that this is not the case.

I appreciate your letter and interest in this matter. Please call on me if I can be of further assistance in this matter.

Best wishes,

JOE SATROM, *Travel Director.*

## ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3750

Mr. ERVIN. Mr. President, I wish to announce that the following Senators have joined in cosponsoring S. 3750, a bill I introduced on June 27, 1972, to protect the constitutional rights of American citizens by prohibiting the Armed Forces from collecting information or conducting surveillance on persons unaffiliated with the Armed Forces: ALAN BIBLE, FRANK CHURCH, ALAN CRANSTON, FRED R. HARRIS, PHILIP A. HART, HAROLD E. HUGHES, HUBERT H. HUMPHREY, MIKE MANSFIELD, FRANK E. MOSS, GAYLORD NELSON, CHARLES H. PERCY, ABRAHAM RIBICOFF, WILLIAM V. ROTH, JR., ADLAI E. STEVENSON III, ROBERT TAFT, JR., JOHN V. TUNNEY, HARRISON A. WILLIAMS, JR.

## EQUAL EDUCATIONAL OPPORTUNITIES ACT, 1972—AMENDMENTS

AMENDMENTS NOS. 1716 THROUGH 1720

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

Mr. DOMINICK submitted five amendments intended to be proposed by him to the bill (H.R. 13915) to further the achievement of equal educational opportunities.

AMENDMENT NO. 1721

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

Mr. BIBLE (for himself and Mr. CANNON) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 13915), supra.

AMENDMENT NO. 1722

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

Mr. MONDALE submitted an amendment intended to be proposed by him to the bill (H.R. 13915), supra.

## TEMPORARY INCREASE IN DEBT LIMIT—AMENDMENT

AMENDMENT NO. 1723

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

Mr. JORDAN of Idaho submitted an amendment intended to be proposed by him to the bill (H.R. 16810) to extend the debt limit and provide for a 1973 spending limitation of $250 billion.

Mr. JORDAN of Idaho. Mr. President, this amendment to the expenditure ceiling provision of H.R. 16810 would provide a method for a proportionate reduction of all appropriations, with the exception of certain irreducible categories of spending, in order to meet the President's request for a 1973 spending ceiling of $250 billion.

I heartily approve the proposed spending ceiling but I do not approve abdication of appropriative powers of the Congress to the President. The limitation proposal as it now stands would be a transfer of congressional power to the Executive that I am not willing to endorse. Moreover this abdication by the Congress is not necessary to achieve what the President wants, viz: a spending ceiling of $250 billion for 1973.

I suggest an alternate plan—one that would retain the appropriative power in the Congress and mandate the President to do certain things.

My amendment would apply only to those appropriations that are not reducible. Certain expenditures of the Federal Government are not reducible. I put them in three categories:

First. Interest

Second. Veterans' pensions, education, hospitalization.

Third. Payments from social insurance trust funds which include social security, medicare, unemployment, and so forth.

Added together these irreducible items total about $98 billion or about 40 percent of the $250 billion spending limitation goal. All remaining expenditures must be reduced proportionately to bring the total within the $250 billion.

For example, assume that the total appropriations made by Congress add up to $257.5 billion. The overrun is $7.5 billion or 3 percent of the $250 billion spending limit.

Since approximately 40 percent of the items are irreducible the entire reduction of $7.5 billion would fall proportionally on the 60 percent—$150 billion—for an effective cut of 5 percent.

Thus the Congress would mandate the President to make the cut uniformly in each department's spending, exclusive of irreducible items above mentioned.

The implementation of such a plan would achieve four goals which I think are desirable:

First. Retain the appropriative power of decision in the Congress.

Second. Restore a measure of fiscal ingrity to the Federal Government.

Three. Lessen the certainty of a tax increase.

Fourth. Avoid the temptation for a President to wield power indiscriminately and without regard for or compatible with congressional spending priorities.

This amendment accomplishes a twofold purpose—the President gets the $250 billion spending limit and the Congress retains jurisdiction of its Constitutional responsibility to control the purse strings.

The Nation would be well served if both were achieved.

## ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1687

Mr. PACKWOOD. Mr. President, I am pleased to announce that the senior Senator from Florida (Mr. GURNEY) and the junior Senator from Utah (Mr. Moss) are joining with 20 of my colleagues and me in cosponsoring amendment No. 1687, intended to be proposed to the debt limit bill, to equalize the Federal tax treatment of unmarried individuals.

I ask unanimous consent that Senator GURNEY and Senator Moss be added as cosponsors of the amendment.

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

AMENDMENT NO. 1700

Mr. BENTSEN. Mr. President, during the debate on my amendment No. 1700 to H.R. 1, the Social Security Amendments of 1972, on October 5, I neglected to add the name of the senior Senator from Texas (Mr. TOWER) as a cosponsor. I ask unanimous consent to have his name added at this time.

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

## ADDITIONAL STATEMENTS

### COLUMBUS DAY

Mr. WILLIAMS. Mr. President, today Americans of all descent will honor and praise one of history's most outstanding feats—the landing of Christopher Columbus on the shores of the New World.

The remarkable adventure by this young and courageous navigator, a man who was unbound by the superstitions of the Dark Ages, opened the door not only to the discovery of the Western Hemisphere, but also to the establishment of this country's civilization.

Columbus Day is a proud and happy celebration for all Americans, regardless of race or ethnic origin. The occasion serves as a true reminder of our diversified heritage, the very foundation of this country.

I was pleased and honored to observe this morning the Christopher Columbus Parade in Newark, N.J., sponsored by the Italian-Tribune-News. The participants of the parade demonstrated the enormous pride that is shared by all Americans in honoring this man. The parade itself symbolized the continued tribute to this gallant Italian that has been passed down for 480 years. During the parade, I found it especially appropriate to recall such great Italians as Amerigo Vespucci, Guglielmo Marconi, Garibaldi, Michelangelo, Giacomo Puccini, and Leonardo da Vinci. Their dedication to Italy and its greatness has been a tradition of all Italians throughout the years. That tradition has been continuously apparent among Americans of Italian descent in their outstanding contributions to this country's way of life.

Mr. President, the United States is a composite of all people of the world. We are a nation of courageous and devoted people. Our Italian-American citizens excellently exemplify this devotion.

It is, therefore, especially significant for all Americans to honor these fine citizens through a memorable tribute to Christopher Columbus.

## RECOMPUTATION OF MILITARY RETIREMENT PAY

Mr. COTTON. Mr. President, last week, on October 4, the House Armed Services Committee held hearings on the recomputation of military retirement pay.

At that time, the distinguished Senator from Florida (Mr. GURNEY) presented his views on the need for legislative action in this area. I ask unanimous consent that Senator GURNEY's remarks before the House Armed Services Committee be printed in the RECORD.

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

STATEMENT OF SENATOR EDWARD J. GURNEY

Mr. Chairman and members of the committee: I welcome the opportunity to speak today in support of the recomputation of military retirement pay. For the record, I have authored and cosponsored several measures in the past which would have provided for recomputation. In this congress, I am a cosponsor to S. 377, providing for full recomputation. Most recently, I cosponsored and actively supported the Hartke recomputation amendment to the military procurement bill. Unfortunately, while the Senate approved this provision, it was rejected in conference.

Mr. Chairman, while I have long been a proponent of full recomputation, I feel that the discussion before us now should center on how we can best provide for our military people. I think most military retirees understand the budgetary constraints we are under, and most feel that the one-time recomputation approach is definitely a step in the right direction.

However, I am not here to speak in favor of any one proposal. There are any number of proposals currently in the Congress from which to choose.

For years, as we all know, nothing was done. Then, on March 10, 1971, President Nixon appointed an interagency advisory committee composed of the Assistant Secretary of Defense for manpower and reserve affairs, the administrator of the Veterans Administration, the chairman of the Civil Service Commission, and the assistant director of the Office of Management and Budget, for the purpose of making recommendations to the Congress on how we might best improve our military retirement system. One of those proposals favors one-time recomputation; several have merit. I am only interested in finding an equitable solution to a long standing injustice.

Prior to 1958 those in the military were entitled, under the terms of their retirement, to 2½% of the current monthly base pay for each year of service up to thirty. Their pay, then, would increase as active pay increased, thus keeping them current with the economy and the cost of living. On June 1, 1958, Congress enacted legislation providing that those who retired before that date were not entitled to any increase based upon the new rates and active pay. Military pay has always been comparatively low in contrast to civilian wages. This is largely due to the liberal military retirement system. Many men accepted the low pay rates in exchange for the benefits of the retirement program. They had every reason to believe that the Government would keep its bargain.

But the Government did not, and military retirees found themselves in the same state as many others in public retirement—having to wait for the infrequent cost of living increases which lagged far behind the actual rise in living costs.

No provision was made to keep faith with those who entered and remained in the service under the old system. Each time we grant a raise to active duty personnel, the gap widens. For instance, a sergeant major retiring today will receive $3,710 more a year than one who retired with equal service in 1958. This is obviously unjust.

Retired military people are in a different situation from retired civilians. The civilian has no further obligation to his former employer, whereas military personnel are subject to recall to active duty. In addition, the military man has limitations placed on his employment and activities.

The salaries received by retired servicemen are not merely payment for past services but are a means of assuring their availability and preparedness for future demands which their Government may need to make upon them.

Thus, these older members of the military community have been placed in the inequitable position of having drawn a comparatively small pay while in service, in anticipation of a generous retirement or retainer pay system, only to see that expectation scrapped for a cost of living system of pay adjustment about the time they entered into their retired status. Under the present system, the retired pay is forever based upon inadequate active duty pay rates previously in effect.

Of all the losses which have been suffered by military personnel, the most damaging has been the failure of the government to honor its obligations, based on the tradition of 100 years of usage, to compute the retirement pay of the retired personnel of the armed forces on the basis of the current base pay of the active duty personnel. Military personnel retire from active service at earlier ages than most civilians. The result, of course, is that active duty, with its higher pay and cash allowances, must be terminated for many persons with growing families at a time when a reduction of income hurts the most.

And then there is another consideration. The Secretary of Defense has announced that, effective July 1973, the draft will be discontinued. Now all we know that, if the volunteer army concept is to succeed, enlistments must continue to go up. Obviously, the incentive of a good retirement plan will help in this regard and if Congress adopts a recomputation formula, prospective volunteers will have greater confidence in the future of the military retirement system. Also, older retirees are good recruiters; to correct the injustice done to them will remove much of the bitterness that they could otherwise convey to potential enlistees.

Then, too, since pay scales at all levels in the American economy are escalating rapidly, providing a higher standard of living, and since the military retiree usually terminates his active career at an early age and becomes dependent for pay increases based solely on raises in the cost of living, he faces his later years with a certainty that his income, as compared to the national average, will become smaller and smaller.

We have, through recent social security increases, corrected a similar problem for civilian retirees. Now is the time to do the same thing for the military.

I am hopeful that this committee will act as quickly as possible to restore the military retiree to the pay status he was assured when he entered the service of his Nation.

Mr. Chairman, in this Congress, there are at least 100 men who have authored or cosponsored recomputation bills. I doubt that any other measure having such widespread support has failed to come before this body for a vote. We should have dealt with recomputation years ago; we have appointed

committees, study groups and boards but have yet to act to correct this problem.

I understand the problems involved with recomputation. Paying our servicemen costs money. Paying for military retirement costs money. But in this day of increased concern for retirees, we cannot allow those who have served this country so well in war and peace, to lag behind younger military retirees who are no more, and no less, deserving of consideration. I would urge this committee to find a satisfactory solution and unlike previous Congresses, to pass upon it. I would urge this committee to take the lead and move as quickly as possible to rectify a situation which is so unfair to our retired military personnel.

## WATERGATE BUGGING CASE—SLOWDOWN AT THE JUSTICE DEPARTMENT

Mr. ERVIN. Mr. President, I share the outrage of our citizenry over the events surrounding the arrest of five men for political espionage inside the Democratic National Committee's headquarters in the Watergate last June.

Aside from the political considerations of this reprehensible affair, the manner in which the case is being handled by the Justice Department only adds to the growing suspicions and lack of public faith in this administration's commitment to justice. Admittedly there are many sensitive questions which must be dealt with within the bounds of the Constitution's strictures. However, I do not believe that by delaying the trial of those individuals already indicted, or blocking proposed congressional investigations, the ends of justice will be served in this case.

Upon learning of the Justice Department's efforts to prevent the House Banking and Currency Committee from looking into certain financial aspects of the Watergate case, I felt compelled to write Attorney General Kleindienst. Inasmuch as the Department's resistance to the inquiry was based on its interest in the rights of the defendants in this case, I pointed out to Mr. Kleindienst that—

> The obvious way to ensure a prompt, fair, and impartial trial and avoid any possible encroachment on the rights of those indicted would be to adhere to the Constitution's Sixth Amendment speedy trial provision. To my mind, any lawyer who is qualified to try cases before a Justice of the Peace court ought to be able to try five men caught red-handed in a burglary within ten days. Certainly there must be someone in the Department or the U.S. Attorney's office who can.

Mr. President, I ask unanimous consent that my letter to Attorney General Kleindienst be printed in full at this point in the RECORD.

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

U.S. SENATE,
*Washington, D.C., October 5, 1972.*

Hon. RICHARD G. KLEINDIENST,
*Attorney General, Department of Justice, Washington, D.C.*

DEAR MR. ATTORNEY GENERAL: I noted with interest the purported reason the Justice Department put forth in opposing the hearings Representative Patman proposed the House Banking and Currency Committee hold on certain aspects of the break-in at the Democratic National Committee offices in the Watergate.

As a lawyer and former judge who has always been concerned with the preservation of constitutional rights for all accused individuals, I was heartened to read of the Justice Department's interest in the rights of the defendants in this case. Granting the Department's concern for the "basic rights of the defendants" in this case, I seriously question whether it was Mr. Patman's hearings which might have jeopardized those rights. As I understand it, he had planned to limit the hearings to those facets of the case particularly under the jurisdiction of his committee, and would not deal with the issues encompassed by the criminal indictments.

It seems to be that a far more serious injury to the defendants' rights and to those of the American people is the absence of a speedy trial in this case. The obvious way to ensure a prompt, fair, and impartial trial and avoid any possible encroachment on the rights of those indicted would be to adhere to the Constitution's Sixth Amendment speedy trial provision. To my mind, any lawyer who is qualified to try cases before a Justice of the Peace court ought to be able to try five men caught red-handed in a burglary within ten days. Certainly there must be someone in the Department or the U.S. Attorney's office who can.

With kindest wishes,
Sincerely yours,

SAM J. ERVIN, JR.,
*Chairman.*

## REVENUE SHARING FUNDS FOR LOCAL PENNSYLVANIA COMMUNITIES UNDER H.R. 14370

Mr. SCHWEIKER. Mr. President, earlier this week I placed in the RECORD, for the benefit of my constituents, the allocation figures for Pennsylvania local governments as presented in the so-called "blue book" supplement to the conference report on the general revenue sharing bill. Since placing these figures in the RECORD, I have discovered errors and omissions; and furthermore, I have received some inquiries from Pennsylvania communities questioning the figures that appear in the "blue book" printout. This printout was prepared for the Joint Committee on Internal Revenue Taxation by the Treasury Department.

I have discussed these errors with James E. Smith, Deputy Under Secretary of the Treasury. Mr. Smith emphasized in his discussion with me that the printout prepared for the Joint Committee is an estimate of allocations to communities and counties with populations of 2,500 or more and should not be regarded by any governmental unit as a final Treasury Department determination of the actual allocation of funds which will be made once the payment process begins. Mr. Smith indicated that at no time during the demanding period of the legislative process did Treasury have the time to undertake the very time-consuming task of data verification for all of the elements of data for all of the communities covered in this printout. That task is ongoing at the present time. Furthermore, since this printout covers only those communities with populations of 2,500 and above, it was necessary for the Treasury to make some rather arbitrary block estimates as to the gross allocation of funds which would be necessary for allocations to the many thousands of communities below that population level. To the extent that those block estimates are in error, there will be resulting changes in the distribution to all communities.

Mr. Smith advised that the value which this printout has, as well as the printouts previously made on the House and Senate versions of the general revenue sharing bill, is to provide first a general range estimate of what any particular community may expect to receive and second, to provide a good picture of the distributional relationship among various units of government within a State or within a county resulting from the application of the within-State formula, which adjusts population by tax effort and inverse per capita income.

He advised me that Treasury is well aware that there may be errors and omissions in this printout, and that the Treasury is determined to develop an adjustment system which will assure that all communities and all affected units of government are fairly and equitably treated.

It is regrettable that it was not made more clear from the beginning that these figures were arrived at with the use of insufficient data in many cases, and that they will be revised. This is particularly true because of the obvious interest every local community has in its share of the revenue-sharing funds.

I strongly urge the Treasury Department to make the corrected figures available to the public at the earliest possible date.

## HOW TO LIVE WITH ECONOMIC GROWTH

Mr. PROXMIRE. Mr. President, in an article published in this month's Fortune magazine, economist Henry C. Wallich deals with the vital question of how to control environmental pollution without unnecessarily stifling economic growth. His central tenet is that we should institute a system of pollution taxes—a concept which I have been advocating for some time.

Mr. Wallich notes that as long as air and water remain free resources, industrial polluters will have no incentive to abate their pollution beyond the external controls which society imposes upon them. These controls—as we now know—tend to be haphazard, ineffective, and inequitable. Far better, Mr. Wallich argues, to let the price system regulate the amount of pollution discharged, by attaching a price to the use of air and water, thus compelling industry to include pollution costs in its total cost picture. The result will be to "internalize the externalities," and will "tend to shift the structure of output toward its low-pollution components."

Mr. President, I ask unanimous consent that Mr. Wallich's very persuasive article, entitled "How To Live With Economic Growth," be printed in the RECORD.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

HOW TO LIVE WITH ECONOMIC GROWTH

Almost suddenly, it seems, the once positive word "growth" has taken on dark, disturbing connotations. Various voices, some of them hard to ignore, have warned us that continued worldwide growth will lead to a hell of degradation and collapse.

Such a warning was sounded early this year in *The Limits to Growth*, by a team of systems analysist at M.I.T. The authors used a computer model of the "world system" to trace out alternative futures under various assumptions. Three of the scenarios, all grim, are represented in the charts at the right. In the second and third charts, it is assumed that virtually unlimited nuclear power greatly increases available resources. (Since the five variables in each chart are measured in different units, no significance should be read into the height of one curve relative to another curve in the same chart.)

Computer modeling of this kind lends an air of rigor and precision to projections that actually involve far from rigorous suppositions. But it would be unwise to disregard the findings on that account. The soft pudding of suppositions encloses a steely core of truth. The earth *is* finite, and therefore the growth of both population and physical output must eventually cease.

The policy implications, however, are far from clear. Despite the precision of the computer tracings, there is uncertainty about time spans. What's more, cooperative global action to suppress growth cannot be considered a real possibility. And in a still-growing world it is very hard to make a case that zero economic growth is the best policy for any particular society.

In this article, economist Henry C. Wallich of Yale University maps a course between do-nothing and stop-everything. A former member of the Council of Economic Advisers, Professor Wallich argues that, if we let it work, the price system acn provide powerful safeguards against the hazards of growth. Fortunately, the measures he advocates would also help protect the quality of life here and now—a bit of cheer in an area that can certainly use some.

The recent warnings about the risks of growth present a troubling dilemma. Are the risks so grave that we must stop growing in the near future? Should we ignore the risks, on the assumption that the ecologists have vastly exaggerated them? Given the stakes, the choice looks awesome. Fortunately, there is a way of avoiding the need to make the choice.

The prospects of running out of food, living space, or raw materials, of suffocating or collapsing by one computerized sequence or another, can be debated till doomsday, whenever that may be. Rather than accept an answer that may be wrong or inconclusive, we can guard against the harmful effects of economic growth by installing appropriate safety devices. If the critics of growth are right in thinking that ultimate limits are only a few generations away (to me this seems unlikely), these safety devices would slow the economic system in the near future and bring it to a halt in good time. If the critics are wrong, the devices will not impede growth, but will monitor the economy for adverse effects of growth.

The safety devices I have in mind take the form of an extended version of the price system. The price system can be made to function as an automatic pilot, or sensor for an emergency brake, that will stop growth when the costs become too high.

THE ROAD TO A STANDSTILL

An enterprise grows so long as it can produce goods for less than it sells them for. It will have a positive return on capital and will continue to invest in plant and equipment. If costs rise to the point where expansion does not pay, the return on capital vanishes, investment stops, and the enterprise ceases to grow.

By generalizing this simple case, economists many years ago arrived at a model of the "stationary state." This is the economy that has ceased to grow, where the processes of production and consumption repeat themselves year after year without significant change. The stationary state is not the implausible construct of some lonely imagination. It is the logical end product of a process in which enterprises keep endowing each worker with a greater and greater volume of tools. The law of diminishing returns then sees to it that investment earnings gradually decline. When returns to capital have come to an end, a state of zero growth begins.

WHO PAYS FOR DEGRADATION

The faster costs increase, the faster returns on capital diminish. If an enterprise has to invest heavily in pollution-abating equipment, if it has to pay more for increasingly scarce raw materials and increasingly costly land, the point of zero return approaches rapidly. But if research and development succeed in pushing that point into the future, growth continues.

If, therefore, we are concerned about the dangers of growth, we should let these dangers find full expression in costs. This is the principle of internalizing the "externalities"—the pollution and other costs of growth that are now borne by the community. Degradation of air, water, or land rests lightly upon the company that does not have to pay for it. It rests lightly, too, upon the consumer of the company's products if he is not charged for the environmental costs.

Concern over such externalities has increased as the environment's capacity to diffuse them has diminished. Critics of the free-enterprise system have found externalities a welcome addition to their repertory of proofs that the market system is defective. They are right in demanding that these costs be taken into account in deciding what should be produced, and in what ways. But their indictment of the price system backfires, because further examination reveals that the best way of internalizing environmental costs is precisely to apply the price system.

The simple-minded reaction to the affront of pollution is to prohibit it. No need then to bother with internalizing environmental costs. The difficulty with this approach is that it sets up all the wrong motivations and is inefficient to boot. Confronted with edicts and regulations, polluters have every reason to prove that they cannot help what they are doing. Different polluters find that their costs of abatement differ unfairly and uneconomically. Perfection, moreover, is inordinately expensive. I doubt very much that many people would be willing to pay what it would cost to restore the waters around Manhattan to the condition in which Henry Hudson found them.

LICENSES TO POLLUTE

The price system sets up the right motivations. Let people pollute, but let them pay for it. Environmentalists' indignation about "licenses to pollute" is misplaced. The price of a license can be set at any level, and it can be set high enough to achieve any standard of cleanliness that is wanted. Given the cost, the polluter then has a full range of choices—pollute and pay, stop polluting by stopping production, invest in antipollution equipment, change his production process, his product, his location. Each polluter, in other words, can work out his own optimum response, depending on his circumstances. This freedom to optimize makes for equity and efficiency.

Setting the right level of tax or fee will present some difficulties, to be sure. For one thing, the response of the polluters to any particular level cannot be predicted with certainty. To the economist, the logical approach would be to set the permissible level of emisisons, discharges, and other damage, and then auction off licenses to pollute to the highest bidders. Those who find pollution the cheapest of all available alternatives will pay what it takes to get the licenses they need. The rest will reform in some manner. But setting fixed prices on pollution, through a trial-and-error process, will accomplish the same results in time.

If the level of pollution is to be kept constant, standards of cleanliness will have to rise as the economy grows. The process of cleaning up is an unending race between the number of sources of pollution and the reduction in pollution per source. Since costs accelerate as 100 percent purity is approached, the outcome of this race has much to do with how far growth can go.

Business spokesmen often argue that subsidies of some sort, such as tax credits or easy financing for antipollution equipment, would be a more promising approach than taxation. And according to a respectable theorem of economics, a tax and a subsidy, both designed to encourage cutbacks of production that pollutes, will have equivalent effects on the level of output. (To the polluter who does not cut back, the loss of the subsidy is the same as a tax.) But in the long run the effects are not the same: a tax tends to drive companies out of the industry, a subsidy tends to attract them.

Subsidies of particular forms of pollution control, moreover, tend to restrict the scope of the polluters' search for alternative solutions. A tax credit for antipollution equipment, for instance, does nothing to encourage shifts to non-polluting processes. Nor does it offer an incentive to keep the equipment operating once it has been installed. Since the costs of operation often are considerable, the results of a subsidy system might disappoint its advocates. On the other hand, tax credits for general R. and D. would not interfere with flexibility of business response.

CHANGING THE OUTPUT MENU

For the sake of both fairness and efficiency, it is important to tax the pollution and not the product. This is the answer to the demand that the government intervene on a grand scale to revise the output menu. In the view of those who favor such intervention, one way to defuse the dangers of growth is to shift toward forms of output that throw off less pollution and make fewer demands on natural resources. From this viewpoint, big artifacts are worse than small. Fashion products are worse than indestructibles. Advertising that increases consumer demands is bad altogether. Work generating income and output is worse than leisure.

Such conclusions involve vast over-simplification. Big cars can be made to pollute less than small (and to be safer). Big objects made of plastic may require less use of scarce resources than smaller objects made of metal. Advertising may promote environmentally sound goods and services. Built-in obsolescence may encourage innovation.

Taxing pollution rather than products allows freedom for all this. In a very broad sense, however, pollution taxes will tend to shift the structure of output toward its low-pollution components.

Any method of internalizing external costs will require some intervention by the political process. Decisions have to be made about admissible levels of pollution and of resource use. The minority that is outvoted by the majority must accept something it does not want—for example, cars that are more expensive, or less efficient, than the market would have produced if left to its own devices. The sweet free-market simplicity of voting with dollars will have been adulterated. But the environmental imperative will have been dealt with at the least possible cost.

The political process can serve to backstop internalization in still another way. To make people pay for the damage they do is the efficient way, but it is also sophisticated, and it will not always have adequate political support. To rally that support, some measure of direct intervention, through regulations, controls, and prohibitions, will probably be needed. These techniques, moreover, may have marginal advantages in cases where fine tuning of the constraints on pollution is called for. Pollution taxes should cut evenly across the board, the fewer exemptions the better, but evenness may entail some unfairness in special circumstances. Detailed regulation can provide relief from special-case hardship.

VIRTUES IN HIGHER PRICES

The reason we have only recently become aware of the need to internalize environmental damage is that until recently it was not necessary to regard air, water, and waste-disposal sites as scarce resources. Their use, or misuse, did not have to be paid for, and therefore did not enter into business cost calculations. On the other hand, scarce natural resources such as raw materials and fuels have always been internal to business cost calculations. Accordingly, one is tempted to assume that the price system can and will take care of the danger of "running out of natural resources," which plays such a prominent part in doomsday theology.

To deal with resource shortages, the price system can activitate an impressive array of mechanisms. When some resource becomes more and more scarce, say copper ore, its price rises and the system responds. The working of lower-grade ores now becomes economically feasible. Search for new ore bodies becomes profitable. So does recycling, as well as substitution of other metals, and the application of research to all these techniques. Where none of these alternatives avails, products containing copper will become more expensive and demand for them will decrease.

How well these processes work depends in large measure on how well the supply and the demand respond to price. It depends also on what economists call the elasticity of substitution—i.e., the extent to which a relative increase in the price of copper turns users to substitutes.

In a long view, the working of the adjustment processes also depends on how far the price system is able to look ahead. The threat of a coming shortage of a metal or mineral should be reflected in its price. The increase in price would activate response mechanisms and give them the long lead they sometimes need.

We know, of course, that the prices of most natural resources today do not reflect expectations of future shortages. The historical evidence, indeed, tells us that the cost of most natural resources has been declining in terms of the capital and labor required to make them available. Past predictions of shortages and steep price increases have so far proved erroneous. Numerous studies of future resource needs and availabilities envision no general shortages for the next fifty years.

It is unsurprising, therefore, that prices of raw materials today do not reflect future shortages. Nevertheless, we cannot be sure whether, given the prospect of shortages at some future time, the price system would in fact respond with sufficient foresight.

THE LOW VALUE OF THE FUTURE

Various factors besides human fallibility suggest that it might not. To invest today in resources to be marketed many years later is a risky business. New technologies, new discoveries, shifts in demand may upset the estimates. A corporation holding potential output off the market in expectation of higher prices in the distant future would be exposed to risks of adverse taxation, expropriation, and other acts of God and man. Discounted at high interest rates, in any event, the present value of the future is not very high. All this offers a presumption, at least, that the price system may be slow in responding to threatened resource scarcities in the future.

This presumption may not be strong enough to call for large-scale government action to conserve resources across the board. A "raw-materials tax," such as that recently proposed by some British environmentalists, would be an assault on the economies of the developing countries, with minimal justification in the existing supply situation. But if the visible picture should change, a resource tax might serve to strengthen the price system for its job of conserving resources. It would contribute to internalizing the resource-depletion cost of growth, just as pollution taxes internalize the pollution cost.

For the time being, all that seems needed is to put an end to some government policies that are positively hostile to good resource management. The political bias is usually on the side of lower resource prices. In the field of public-utility regulation, this bias has been broadly appropriate because government action has been directed toward preventing the exploitation of monopoly. Cost is the proper basis for public control of utility rate. But government commits an elementary error when—as in the case of natural-gas regulation—it applies cost reasoning to a price that really reflects scarcity rather than monopoly. The natural-gas shortage is now demonstrating the consequences of not allowing the price system to do its job. And the recent decision of the Federal Power Commission to permit a little slack in the regulatory leash may be a sign of incipient wisdom.

The oil-depletion allowance, like capital-gains treatment for timber and certain minerals, occupies an ambiguous spot in the resource-conservation picture. If one anticipates a future shortage, it makes good sense to encourage the search for oil. But it does not make good sense to encourage heavy use of oil. What seems called for is a policy that encourages creation of reserves while discouraging use. Heavy current use seems appropriate only if one expects new sources of power to make oil obsolete before most of it is out of the ground, a fate more likely to befall coal than oil.

Examples of bad resource policy abound. The government encourages possible overuse by the way in which it sells or leases mineral rights. It discourages recycling of materials by maintaining special low freight rates for lumber and minerals. Its stockpile program, national security aspects aside, tends to reflect the needs of the moment more than those of the long-run future.

A constructive public policy toward R. and D., public and private, would be part of good resource management. In the field of natural resources even more than in the field of pollution, research is needed to aid the price system in promoting the right kinds of adjustments and susbtitutions. A well-meaning government will be subject to temptation to support research only in particular fields and for particular purposes. Given the unpredictable nature of much research, and the tendency for findings in widely different areas to interact, this temptation should be resisted.

CROWDED CITIES, EMPTY SPACES

The economics and politics of land represent a special aspect of the natural-resource problem. Land is broadly fixed in supply, assuming we do not plan to go underground or build a second floor over the U.S. Here again, the price system does not offer complete assurance of being able to take care of the situation.

As people move into an urban area, real-estate prices and rents go up. Those who do not want to pay the price can move elsewhere. So can those who feel asphyxiated by the congestion. But there is something unsatisfactory about a system that imposes added costs upon a large number of people to satisfy the preference of one individual—in this case, a preference for city life, or for the higher pay available in cities. In most other market situations where the added demand of one person raises the price to all, the higher price calls forth a larger supply. In the case of city land, however, the supply does not increase as rents rise.

A good deal of evidence has accumulated that the price system, if not intrinsically inappropriate, is at least substantially inefficient in dealing with regional crowding. It appears that population movement responds to rising rents and rising congestion only with very long time lags. To some extent these costs of urban living are offset by higher pay. Discrimination, moreover, keeps some blacks who would like to move out of cities with respect to urban crowding seems to be called for. I should involve nothing so repugnant as constraint on the freedom of people to move where they like. But the tax system, the credit system, and farm price supports could well be organized more effectively to induce larger numbers of people to live in the great empty spaces of this country.

ACTIVATING THE BRAKES

The measures I have proposed in the areas of environmental protection, natural-resource management, and land use will not produce an appreciable slowing in the rate of economic growth so long as the costs of growth remain moderate. But I could be wrong in believing that the costs of growth will not increase rapidly in years ahead. If pollution becomes very hard to control, if resources do run out and substitutes cannot be found, if the problems of congestion prove resistant to limited interventions, costs could climb to prohibitive levels. If they were internalized, high costs would activate the brakes that the price system builds into the economy. Investment would decline as its returns diminish, Growth would slow down and perhaps eventually come to a halt.

The declining rate of return would reduce the income of owners of capital. The distribution of income would become much more even. This is an important part of the slowing-down process. Without growth, it would be much more difficult for democratic societies to justify large inequalities of income. Opposition to inequality would no longer be moderated by the general upward movement of incomes, and the high degree of social mobility that growth makes possible.

Because the supply is fixed, ownership of land would present an exception to the rule of declining returns on capital. Rents would rise, and the value of land would rise enormously as interest rates fell. Public policy, through appropriate taxation, would have to extend the evening-up process to land ownership.

A growthless state, in the unlikely event it were reached, would leave many problems unsolved. We do not know how a society like ours would take to it. At present, Americans are not satisfied with the results of the stably rising prosperity over the last twenty-five years, as inflationary wage demands attest. How will people behave when their standards of consumption no longer increase? We do not know how the economy will function at a zero return on capital. Full employment can be maintained only if the government uses, for nongrowth expenditures, such savings as people still want to set aside—savings for which there will be little demand, since borrowed capital will provide no return. An economy based on free markets still seems possible, but the fate of private enterprise becomes obscure.

Any commentary on zero economic growth should add that attainment of a stationary state by the U.S. economy would not do much to solve the growth problems in the rest of the world. Growth-slowing processes will be

at work elsewhere, of course, and ultimately there may be a worldwide cessation of economic growth; but that presupposes, above all, an end to population growth. While low birth-rate patterns already prevail in the industrial countries, the less developed countries have further to go in their population cycles. There are reasons to believe that they may complete the evolution to very low birth rates faster than the industrial countries did, but there is no assurance that this will prove to be so. For people concerned about the long-range consequences of continued growth, the core of the problem surely is the expanding population of the less developed countries.

As for the United States, it has in a sense already completed the evolution to zero population growth. Births still exceed deaths, but this is a detail that reflects the age structure of the population. The total fertility rate has now fallen below the critical replacement level of 2.11 children per woman, which would bring about zero population growth in the first half of the next century.

DEFEATIST "REALISM"

Anyone aware of the stir created by the zero-population-growth movement in the last few years might suppose that the virtual attainment of Z.P.G. in the U.S. would bring solutions to serious environmental problems within view. Unfortunately, this is not the case. Z.P.G. is not in itself an effective remedy for environmental problems. It does not end crowding, because a constant number of people can still dispose themselves in congested patterns. It does not help much with pollution or resource exhaustion, because the per capita income of a stationary population grows faster than that of an expanding population.

As must be abundantly clear by now, I am not an enthusiast for zero economic growth either. In a finite world, to be sure, growth cannot continue indefinitely. But advocates of zero economic growth would guard against the risks and penalties of growth by prematurely denying society the benefits of growth. At this chapter in the human story, it makes much more sense to accept the benefits but adopt protective measures. If they work properly, undesirable effects of growth will induce feedback that slows or halts the particular kinds of growth producing those effects.

This approach to the monitoring and control of growth, moreover, will tend to improve the allocation of resources and protect the environment, whether growth is affected or not. When factories have to pay for polluting waterways, they will do less polluting. Those who tell us that if we want growth we have to put up with its stinks, noises, eyesores, and poisons are sometimes credited with realism, but their attitude might better be called defeatist. There is no inherent reason why rising standards of consumption must be accompanied by declining quality of life.

## THE JACKSON SURFACE MINING AMENDMENT

Mr. BAKER. Mr. President, I take this occasion to commend the distinguished chairman of the Committee on Interior and Insular Affairs (Mr. JACKSON) for his initiative in submitting a substitute bill for S. 630, the Surface Mining Reclamation Act of 1972. I realize that the development of a program to regulate the surface mining industry as regards reclamation of mined sites has been difficult. Senator JACKSON and his staff have worked very hard in the last several weeks to produce a bill which would remedy some of the glaring deficiencies of the bill reported to the floor and to bring the regulatory program of this bill into line with the desperate need for control over the environmental impact of the surface mining industry.

I also want to thank the Senator and his staff for their cooperation with me and my staff in the development of this amendment. While I do not agree with every provision of the amendment, I feel that the introduction of this substitute will greatly enhance the chance of Senate action on an effective surface mining control act during the waning days of the 92d Congress. And I feel that it is imperative that we not delay in responding to this problem.

Almost a year ago Senator COOPER and I introduced a bill to regulate coal surface mining, S. 3000. At the time of its introduction the distinguished senior Senator from Kentucky described the situation in Appalachia as almost a total disaster. In some areas of our States the topography has been so devastated as to be virtually beyond repair. Since the time of introduction of that bill another 100,000 acres of land have been turned in the search for cheap coal. Mr. President, there is nothing cheap about that coal but its market price. In the year that we have been considering legislation on surface mine reclamation as in the years before we turned our attention to this problem, the people of Appalachia have been subsidizing the cost of coal at the expense of their land and environment. If we fail to act on this legislation during this Congress, we will be condemning this region to months more of this unconscionable situation.

I do not advocate the passage of palliative measures. Very frankly, I could not support S. 630 as reported from the committee. Passage of such a measure would hold out hope to the people of Appalachia, but would offer little real prospect for correction of the problem which confronts them.

Neither do I propose to ban strip mining. What we must seek to do in the limited time available to us is to strike the balance between strong and effective reclamation requirements and the need for production of coal for the energy requirements of the Nation. We must internalize the costs of coal production and end of the environmental subsidy which coal enjoys. Presently stripped coal enjoys an advantage over deep mined coal, variously estimated at from $1 to $2 per ton. Effective reclamation need not run any more than that. And at any rate, we cannot allow a portion of the real cost of coal to be paid by the destruction of entire regions of this Nation.

I have felt the despair of the people of Appalachia over the ruining of their land. And now the blight is moving to take also the mountains of the West. If we do not respond to this problem in the time remaining to us, we will be neglecting one of the most serious environmental problems of the era. I hope that the leadership will bring this matter up for consideration in the next several days so that we can debate the issue and evolve a sound program in response to this crisis.

## AGGRIEVED EMPLOYEE SEEKS REDRESS

Mr. ERVIN. Mr. President, the Washington Post of October 2, 1972, contains a column written by Mike Causey which concerns the illegal dismissal of a civilian employee by the Navy in 1962.

The employee's name is Vernon Long, and over the last 10 years he has fervently sought at great personal and financial sacrifice to redress this injustice. For years, Long tried in vain simply to get his complaint heard by either the Navy or Civil Service Commission. The Navy repeatedly refused to listen, preferring to pass the bureaucratic buck to the Civil Service Commission. Only after the Civil Service Commission had heard the complaint, and the case floundered for lack of documented evidence was the Navy pressed into meeting its responsibility to Long. My own office intervened in the case over a year ago, and still the matter is unresolved, despite the fact that the Navy has admitted that Long's case involves proven irregularities.

Long had been a civilian crew member of a ship which was a part of the Military Sea Transportation Service. The captain of that ship ostensibly was attempting to invent a case against a third sailor as exhibiting abnormal mental behavior. He asked Long to sign a statement to that effect, but Long refused. Long also became aware that the captain had altered the ship's log in order to reflect questionable behavior on the part of this third party. The Navy, after much prodding, has itself admitted that the log was altered in such a manner.

Soon after these incidents, Long himself became subject to disciplinary proceedings. He had been ordered by the captain not to play catch with a black crew member. He later disobyed that order, and received a sheet stating that he was being reprimanded for disobedience. Only the order not to play catch was specified on the sheet of reprimand. Long was asked to return the reprimand soon after he received it, because a mistake had been made. Another sheet was returned to him without any reference to disobedience of the order not to play catch. Instead, new charges of disobedience were made which were completely without foundation. Using these charges as justification, the captain ordered Long ashore when the ship reached port. He found himself beached in Japan without travel orders which authorized him to return to the States and without funds. Subsequently, he was dismissed.

Later investigation by the Civil Service Commission and the Navy turned up copies of Long's reprimand sheet and his travel orders which had been forwarded to higher headquarters. The reprimand sheet forwarded to higher headquarters did include the charge of disobeying the order not to play catch, and the travel orders contained an authorization to return to the States. The Navy has acknowledged that these documents were not the same as those given to Long.

The Navy has agreed in fact to give Long his old job back. But they refuse to determine, despite their concessions of foul play surrounding his dimissal that

Long has been the victim of an unjustified or unwarranted personnel action which would entitle him to back pay under the Back Pay Act of 1966. The Navy here is being inconsistent. They admit the unlikely injustice but refuse to give the full redress to which Long is entitled.

The money involved is not insignificant—it could amount to more than $80,000. But award of back pay in this case seems to me to be precisely what was contemplated by Congress as compensation for such errors when the Back Pay Act was passed. I am hopeful that the Navy will grant to Mr. Long the back pay he has coming.

Mr. President, I ask unanimous consent that Mr. Causey's article, entitled "Firing Comes Back To Haunt Navy," be printed in the RECORD.

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

THE FEDERAL DIARY—FIRING COMES BACK TO HAUNT NAVY

(By Mike Causey)

Navy's top civilian personnel boss is wrestling with a case that could make the Caine Mutiny affair seem as mild as an episode from "The Partridge Family."

To his credit, Assistant Secretary for Manpower James E. Johnson has taken on the decision-making chore despite advice from underlings to sweep it under the rug.

The incident involves a Navy civilian crew member of a Military Sea Transportation Service ship who was fired, and almost ruined financially 10 years ago for refusing to go along with an order from his civilian captain that he considered illegal. The man in question, Vernon Long, was third mate of an MSTS ship in 1962 when he ran afoul of his leader. The story goes something like this:

The civilian-operated ship Long served on left an East Coast port bound for the Far East. Somewhere down the coast, the captain decided that one of his top aides was exhibiting abnormal mental behavior, and decided to get rid of him. He asked several top officers to sign statements saying the man wasn't all there. Long refused, he says, because he wasn't qualified to make such a judgment.

After several attempts by the captain to get Long to sign papers, the captain allegedly ordered him to "stop playing catch with that damned nigger," who worked as a crew member. The catch game continued. The crewman, a black, and Long frequently tossed around a softball when off duty aboard ship. After other incidents, including Long alleges, the captain's illegal alteration of the ship's log, Long wrote and asked his wife to contact the MSTS admiral, and tell him what was going on. She did, and the admiral contacted the captain.

At that point, Long says, the captain backdated an order to Long telling him not to communicate with anyone off the ship. He "beached" Long, that is dumped him, in Japan, without money or a return ticket.

Long finally made it back to this country and, after a civil service hearing that upheld the captain, was fired after 17 years with the Navy.

Recently, Long got hold of the complete records of the case, through the intervention of Sen. Sam J. Ervin Jr. (D-N.C.). He believes the records in his possession show a conflict with those in Navy files, which would mean his case was decided on the basis of documents that were falsified.

At that point, Sen. Gale McGee (D-Wyo.) got interested in the case. His aide, Richard Fuller, spent some time investigating and became convinced that Long had gotten a bad deal. Fuller and Long met with Johnson Friday morning.

Throughout the years, Long has been camping on the doors of various officials, but Johnson is the only one—and the most important one at that—who would listen to him. At one point, Long says, Navy officials admitted that a mistake had probably been made, but that the case is so old and so dirty it is best left alone.

Long wants his civilian job back, and pay he lost that could amount to more than $100,000. That is a lot of money but, if Long was fired improperly, maybe not enough.

The ex-MSTS employee may win or lose his case, based on the merits. But the fact that he is getting a review from Navy's topside says a lot for his persistence, for the after-hours work by Senate aide Dick Fuller and for the desire of a top official like Johnson to try to be fair.

---

## FURTHER WORK ON A NATIONAL MATERIALS POLICY

Mr. BOGGS. Mr. President, within less than a year, the National Commission on Materials Policy will submit its report to the Congress and the Nation. The mandate of the Commission, set down in Public Law 91–512, is an impressive and important one. It requires that the Commission analyze the full scope of this Nation's materials usage, emphasizing the need to recover and recycle a greater proportion of our materials.

This past summer, the Engineering Foundation Research Conference held a week-long session on "Some Selected Programs of National Materials Policy."

The conference was chaired by Dr. Franklin P. Huddle of the Science Policy Research Division, Congressional Research Service. At my request, Dr. Huddle prepared an analysis and summary on the conference.

Because I believe this analysis presents a useful description of the work and challenge facing the Commission, I ask unanimous consent that the text of the summary be printed in the RECORD.

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

REPORT ON ENGINEERING FOUNDATION RESEARCH CONFERENCE ON "SOME SELECTED PROBLEMS OF NATIONAL MATERIALS POLICY," HELD AT NEW ENGLAND COLLEGE, HENNIKER, N.H., JULY 31–AUGUST 4, 1972

BACKGROUND

These conferences are sponsored by the Engineering Foundation to develop information on emerging technical problems of national importance. Participants are usually selected to provide an audience mainly technical with some admixture of persons with related interests. Working papers generated at the conference are not usually published but authors are not constrained from subsequently preparing written reports of their views and findings.

The conference in question was proposed by the Foundation on the assumption that because the National Commission on Materials Policy would be in its final year of operation the time would be ripe to expose its thinking to a substantial and well qualified group of experts, and to review some of the major issues with which the Commission was concerned. I agreed to chair this conference.

A steering committee was convened late last year consisting of the following:

Dr. Earl Hayes, chief scientist, U.S. Bureau of Mines and Chairman of the Interdepartmental Council for Materials, of the Federal Council for Science and Technology.

Mr. James Owen, director of materials, Department of Commerce, on loan to the Commission.

Dr. Harold Paxton, director, Materials Research Division, National Science Foundation.

Dr. Alan Chynoweth, assistant director for Materials Research, Bell Telephone Laboratory.

Dr. Victor Radcliffe, professor of materials sciences, Case-Western Reserve University.

Mr. Nathan Promisel, executive director of the National Materials Advisory Board, National Academy of Sciences and president, American Society for Metals.

Dr. John D. Morgan, Jr., Mineral Analysis, U.S. Bureau of Mines.

The steering group prepared a list of persons to be invited, prepared a conference prospectus, identified problems to be taken up by the conference, and helped to prepare a set of terms reference on these problems. Staff assistance was provided by the Bureau of Mines, the National Bureau of Standards, and the National Commission on Materials Policy.

STRUCTURE OF CONFERENCE

The opening day of the conference was taken up with formal presentations: (1) by Dr. Boyd and Mr. Charles Ryan describing work of the Commission to date. (2) By Dr. Radcliffe for Professor Morris Cohen of MIT (regrettably absent by reason of illness) and other persons associated with the COSMAT study of the Committee on Science and Public Policy of the National Academy of Sciences; these speakers were: Dr. Walter Hibbard, former director of the Bureau of Mines and currently vice president, Research, Owens-Corning Fiberglass Co., Dr. Fred J. Wells, Resources for the Future, Inc., Dr. Richard Claassen, Sandia Corp., and Mr. Promisel; these speakers discussed institutions for materials research, economic aspects, the problem of coupling research and engineering in materials, and foreign materials institutions. (3) Dr. Paxton of NSF discussed basic research and research applied to national needs, programs of NSF. (4) Dr. Hayes discussed the future of mineral materials, as viewed by the Department of the Interior, and touched on the Department's plan for expanding college-level training and research in subjects related to extractive metallurgy.

The second and third days of the conference were taken up by task force studies. Eight task forces were organized from the participants in the conference. Each spent one day on each of two problems from the list of eight prepared by the Steering Committee. Each day a different chairman led the discussion. The coordinator of task forces was Dean Reed Powell, Director of Division of Research, College of Administrative Sciences, Ohio State University.

The eight topics examined by the task forces were as follows:

1. Central Government Planning and Coordination: Where in the Federal Government should there be a top planning and coordination body for national strategy in materials? What should be the scope of its function?

2. Opportunities and Responsibilities facing Private Industry in the Materials Field: Is there a need to restructure the traditional role of private enterprise so as to strengthen the national response to the challenges and opportunities of a national materials policy?

3. International Competition and Cooperation in Materials: What U.S. policies are appropriate concerning reliance on overseas supplies of materials in view of rapidly advancing competitors and also the changing policies of developing countries?

4. Research and Education: What should be

the roles of research and education in improving the national position in materials and materials management?

5. The Effective Application and Management of Knowledge: How can information, documents, data, and analytical studies be managed as knowledge resources in support of national materials policy?

6. The Closed Cycle Flow of Materials: How can improved management of materials be reflected in enhanced value of the materials flow throughout the cycle and reduced volume of wastes that deplete flow through the cycle?

7. Demands, Rights, and Responsibilities of the Consumer: What burdens on the consumer are implicit in the concept of improved management of materials, altered patterns of materials availability, and internalization of environmental costs?

8. Economic Opportunities and Constraints in Materials: What are the possibilities and limitations of the free market? What are the constraints of foreign trade? What actions are needed to strengthen the responsiveness of the corporation? What can a national policy for materials contribute?

The 16 reports of the task forces were presented Thursday morning and afternoon. Dr. Paxton chaired these sessions. Thursday evening, three invited speakers:

Hollis M. Dole, Assistant Secretary (Minerals Policy) Department of the Interior; Dr. Lawrence M. Kushner, Acting Director, National Bureau of Standards; and Jerome Klaff, chairman of the National Commission on Materials Policy. Dr. James Boyd chaired this session.

On Friday morning, at closing session, there were short papers or informal talks by H. W. Pfeffer, minerals Branch, Department of Industry, Trade, and Commerce (Canada); Philip B. Yeager, Counsel, Committee on Science and Astronautics; and Jerome Persh, chief of materials research, Office of the Director of Defense Research and Engineering. I closed the session with a "wrap-up" recapitulation of the week's proceedings. My summary statement is attached. (It was partially in the form of notes, here reproduced; I intend to amplify in a clean text at an early date.)

---

HENNIKER CONFERENCE "WRAP-UP"

(By Dr. Franklin P. Huddle)

Two years ago, while the National Materials Policy Act of 1970 was pending in the Congress, we held a conference here to develop the themes that would be of concern to the proposed Commission on National Materials Policy. The papers delivered at that conference were collected and published, and have been useful to the Commission as we had hoped. Some of this gathering participated in that session.

Since then, as the prospectus for this conference has indicated, there have been a number of important developments in materials policy. There is not need to tabulate them all. As Jerry Klaff has suggested, they can be quickly summed up as a growing national awareness that materials, energy, and environment make a triad of interlocking problems. Unless we deal systematically and comprehensively with these three closely related sets of problems as really a single problem, the consequences may be undesirable at best and at worst catastrophic.

The format for the Henniker Conference on National Materials Policy has differed from the last one. This time, the participants were asked to make their own input. The product of the conference comes mainly from you. It is my task in this final session to gather together the themes that have been expressed here, to indicate—as best I can—the points on which you appear to agree, and the points still at issue.

Before turning to the reports of the Task Forces, let me quickly run over the proceedings of our first day. The purpose of that session was to set the stage, provide some elaboration of the problems the Task Forces would handle, and provide emphasis as to the importance of these problems.

In starting out, Charlie Ryan summarized the University Forums. He said there emerged a clear call for a stated, comprehensive national policy for materials. Laws and regulations should be responsive to this policy instead of the other way around.

The policy should take explicit account of the fact that natural resources and the environmental consequences of their mismanagement are not merely a national concern but a global concern. Subsidiary policies are required to reconcile the U.S. concept of free markets with the fact that much of the world's resources are nationalized, as is a great deal of foreign trade. How does the individual businessman compete with governments for the sale or purchase of materials?

The necessity to deal with the national issue of growth versus the achievement of a study state was clear, but there was little consensus on the issue or how the policy—however decided upon—would be implemented. It appeared to involve the questions of how to change or preserve a free market pricing system, whether and how to achieve a more equitable distribution of materials goods, whether to concentrate on tax policy to restrict use or on technology to achieve more intensive use of resources. Some optimists still called for a policy of unlimited growth.

All parties seemed in agreement that there should be more federal support for research, development and education in materials-related science and engineering. But there was no consensus as to the goals of research and engineering. But there was no consensus as to the goals of research and engineering, or as to the tasks that the newly educated scientists and engineers would perform for the public whose taxes would pay the costs of the expanded research and education.

It was well established that policy cannot be made in a vacuum, it must be based on factual information. Charlie listed many needed categories of facts:

Impact of minerals on environment.
Monitoring of the environment.
Special ecosystems.
The individual materials cycles.
Special problems of toxic metals.
Land use inventory.
Forecasting of needs for technology.
Forecasting effects of new technology.
Facts about who pays for and who benefits from clean-up of the environment.

(Or conversely, who benefits from and who pays for dirtying the environment?)

The principle of recycling was everywhere endorsed, but the reasons appear to have been taken for granted. I was surprised, for example, that no mention was made of the enormous effect of recycling on conservation of electrical energy, achievement of steady state, reduction in the consumption of space, as well as the often mentioned conservation of materials.

Charlie's paper offered a host of detailed recommendations that seemed important to those who offered them, but must be judged in the broader context of total national concerns and approaches.

For example, many techniques of materials conservation were offered, such as substitution, miniaturization, use of replenishable resources like wood and manganese modules or inexhaustible resources like magnesium and perhaps iron. During my Pentagon stint, I developed something like 30 classes of conservation techniques for military purposes, and all of these would be applicable here. But the broad policy calls simply for measures to encourage more intensive use of materials, with the designation of appropriate instruments of government to implement this policy.

Charlie's report dealt also with an array of current constraints on private enterprise in meeting present or foreseeable needs. Clearly there was ambivalence as to whether primarily reliance could or should be placed on private commerce or government regulations. This is a fundamental policy issue. Either course has many adherents, but both courses will need to be followed, but whichever is emphasized, the costs of that choice will be heavy and unpleasant to many people. Ultimately, the decision will be made on a political basis. Technology is the art of *possible*. But politics is the art of the *acceptable*.

Hary Paxton, who followed the Commission talks, described the research program of the NSF. He made clear that his primary mission was to identify and find opportunities for good research, and that the basic research orientation of NSF might make it an awkward instrumentality of government for sponsoring mission research.

SUMMARY OF PRINCIPAL POINTS IN TOPICS RELATED TO MATERIALS SCIENCE AND ENGINEERING

*Vic Radcliffe:* During the past several decades, materials science and engineering has become recognized as both a broad field and a specialized new concept. The field involves recognition of a commonality of features underlying properties and behavior, and draws on activities and contributions from several established disciplines (solid state physics and chemistry; electrical, mechanical, and chemical engineering; as well as metallurgy, ceramics, polymer science, materials science and materials engineering). The new concept couples the science and engineering of materials to the functional needs of engineering design or problems. The field occupies a key position in the total materials cycle.

The COSMAT study is concerned with the nature of the field, its institutions, its relationships to national needs and materials policy, and its ability to provide options to assist in meeting these needs.

*Dick Claassen:* The MSE concept of "purposefully coupled materials science and engineering" has been shown to operate successfully in a significant region of the total materials cycle. He described case histories of materials development in both high and low technologies to illustrate its operation and applicability.

*Walter Hibbard:* Addressed himself to the subject of materials institution. Other than in communications and electronics, the materials producing and using industries with market orientation, property-functional characteristics predominate rather than structure-properties. The MSE concept is not used.

During recent years of austerity, industrial R&D in materials has been severely reduced with respect to long range research and strongly focused to product and time schedule marketing. At the same time, industry is facing a variety of challenges from environmental organizations, and successful foreign competition in technology. The Federal Government has developed a substantial regulatory role that is affecting the effectiveness of industry as "the engineering arm of society." In the universities, there are some 30 materials research centers and no shortage of trained people. *But* the research has not connected effectively to industrial application. A new approach is needed to stimulate industry to face and deal with these new challenges and needs.

*Dr. Wells:* Speaking on materials and national goals, decried the tendency in developing of policy by obtaining a consensus of majority opinions of practitioners. Their opinion is often based on inadequate facts. Many problems relevant to materials and national goals are researchable and policy developments should be undertaken only after such research (e.g., the problem of long-range

scarcity) by independent research organizations to achieve maximum objectivity.

*Nate Promisel:* International Activities. He dealt with seven major activities: general policy, long-range planning, R&D programs of new technology, natural resources, education, communication and standardization.

He described the evolution of the Materials Research Advisory Group in OECD—which is now exploring a reorientation towards resources and recycling; he also touched on the AGARD group in NATO, primarily concerned with specific technical topics related to military technology. He offered some general conclusions:

(1) National science and engineering are in transition in both character and organization,

(2) There is a major interest in resources supply; this leads him to conclude that the U.S. can expect supply problems,

(3) New technologies are generating new materials R&D needs—e.g., high speed transportation,

(4) Government-encouraged high technology is increasing their advantages vs. United States,

(5) Very effective means for utilization of research results exist, e.g., Max Planck Institute,

(6) Much of U.S. materials technology is purchased from abroad, especially in process innovation,

(7) U.S. ahead in development of university centers for materials research,

(8) Materials information disseminates rapidly abroad to all who can use it,

(9) Government risk capital is available in these countries to help create new industries and strengthen old ones.

The closing session on Monday developed some of the themes stressed in the policy discussion by Secretary Dole last night. Earl Hayes provided extensive documentation of the need for strengthening the domestic minerals industry—looking toward a closed cycle in the total management of materials by society. He also warned of the coming power and fuel crisis as emerging nations compete for the world's dwindling reserves of fossil fuels.

Secretary Dole translated the findings of the minerals report into policy imperatives. He said: The Minerals Policy Act needs an organization capable of implementing this policy which we do not now have.

We should reduce the uncertainties that keep industry from investing, modernizing and keeping up with the rest of the modern nations of the world. These included: the impatience of environmentalists to clean up everything at once, the eagerness of ecologists to reserve public lands free from mining, the problem of finding people willing to work the mines, also, tax laws, exploration laws, uncertainties over stockpile releases.

He said: There is . . . nothing very attractive about going into a venture in competition with enterprises elsewhere in the world, with equivalent technology, which work ores three times as rich, pay one-fifth the wages, and are largely free of environmental restriction on production.

We suffered from technological arteriosclerosis. Our need to import materials from overseas would generate a supply/demand gap that might reach $31 billion by 1985.

Larry Kushner described the strategy of the President's new technologies program. He identified an increase by $2.1 billion in technology development expenditures 1969–73, including programs in energy systems, natural hazards control, cancer research, transplant, and NASA civil systems research.

The strategy called for new Federal incentives to increase investment in technology development and application (and) Direct Government support for research on projects to improve everyday life.

The cooperative program of NSF and NBS, called "Experimental Technology Incentives Program" was a program open to companies and groups of companies, various research institutions, trade and industry associations and others. The experimental aspect was in fact a search for incentives that work. Among its aims of interest to the materials community was the design of government programs to assist (as he said) the normal competitive market mechanism in providing incentives for needed technological developments.

Jerry Klaff described the task of the National Commission on Materials Policy. He saw four goals:

1. Conservation of materials, and preservation of the environment.

2. Adequate materials and energy for national security.

3. Adequate materials and energy for our economy.

4. Materials and energy policies that will stimulate social progress.

He offered one general principle:

"Materials, energy and the environment cannot be treated in isolation one from the other. Materials and energy are the driving forces of the Nation's economy. A wise and more efficient use of resources and technology, as our Act suggests, can lead us to the type of environmental quality that America is seeking."

Like Hollis Dole, he took note of the changing U.S. position in a developing world, quoting Secretary Peterson on the need for a more dynamic response to change. He called for plans for conservation of materials as a statutory obligation, referred to 4.3 billion tons of wastes generated annually, and costing $4.5 billion just to get rid of it. What to do? It boiled down to a question of better management of the total materials cycle.

As I turn to our eight tasks, and your comments on them, I do so with a sense that there is much more here than meets the eye, more than I can hope to do justice to in the brief time I am willing to subject you—and myself—to. I want to study your contributions at greater length. I propose also to communicate with the sixteen chairmen to refine and polish these statements further, to reflect more precisely the views of the panels and the sense of the meeting yesterday.

Instead of attempting to summarize the individual papers and your comments on these papers, let me run through the eight topics and see if I can present on each a summary statement you can all subscribe to.

On Topic One, the question of central government planning and coordination, I think you indicated a general agreement that the very numerous materials functions and impacts of the Federal government should be coordinated by one policy agency, not an operating agency, but a high level council or board supported by flow of reliable information, and able to transfer funds to support programs and activities it saw as necessary to strengthen the future of U.S. posture in materials.

Furthermore, I think it was the sense of the meeting that this central coordinating and materials planning body was needed soon, and not at some long term future period.

Topic Two concerned the opportunities and responsibilities of industry in the materials area. The purpose of this question was to open up a dialogue on ways in which the free enterprise system might be purged of avoidable constraints and provided with reasonable incentives in its relations with the Federal government. I would judge that the kinds of questions asked under this heading were too searching to be manageable in the context of one-day study.

Nevertheless, some principles emerged that I am inclined to treat with respect. For example:

The traditional role of private industry as the main engine of commerce to produce and distribute goods and services does not require restructuring.

Government regulation should avoid arbitrary impacts, should strive for flexible accommodation to changes in technology and changes in public needs.

The undesirable side effects of free enterprise are capable of reasonable control and warrant it.

It is preferable to achieve social advance through incentives than through dis-incentives.

Regulations should not impose unreasonable time constraints.

Highly segmented industries and local governmental institutions need special treatment to achieve economy of scale in R&D.

Government standards should aim toward improvement of product rather than toward cheeseparing frugality.

Improvement is needed in present procedures for establishing the performance and reliability of materials in design and service.

Topic Three, International Competition and Cooperation in Materials. This topic posed squarely the issue of national self-sufficiency versus global cooperation. The response was not unequivocal. There was some sentiment for a policy of interdependency and cooperation, if only because of the enormous costs in dollars and lowered living standards resulting from the alternative.

The concept of *reduced* dependency was also attractive but raised questions as to its compatibility with the principle of free enterprise. Naturally, total self-sufficiency would vastly disrupt free enterprise patterns.

One conclusion seemed clear: that study of the implications of the alternatives, and various mixes of strategy required much more study and that there should be an agency charged with responsibility for keeping an eye on this problem in the future as world conditions continued to change.

On Topic Four, research and education, it was rather notable that the sentiment seemed more in the direction of doing better than doing more.

Stability of research level was viewed as important. Improved coupling of research and engineering was called for, particularly involving real world problems in the academic classroom or by taking the students out of it.

One study proposed a kind of stockpile of technology to enable a flexible response to all kinds of emerging situations in which substitutes and emerging conservation measures might be useful.

The question as to division of government resources between inhouse and contract research remained unresolved.

More attention should be given to the preparation of research reports and their dissemination. Information management should not be a separate and self-supporting activity. Funds should be allocated not only to long range and "good" research but to goal-oriented pertinent research.

The "mature industries" need more and better R&D and the reasons why should be studied.

The question of technological obsolescence inspired me to speculate whether there was a different half-life of technology in low and high technology industries and if so, whether it might not be to our advantage to invest more heavily in raising the technological level of low technology (and perhaps also the service) industries.

On Topic Five I heard no concensus. The problem of information management was technically too difficult to resolve, although many interesting ideas were broached.

I believe we can all agree that knowledge management in the materials field is a pervasive and vitally important subject, one that must be dealt with, one requiring positive action, but also a subject that does not lend itself to facile and simple solution. It is a subject calling for hard study by the Commission and others.

On the question of the "Closed Cycle Flow

of Materials," Topic Six, there appeared to be agreement that the "closed cycle" concept was preferable to the idea of recycling. It involved more explicitly the idea of total management of materials as a system or flow.

Although discussion brought out some of the limitations of the concept, it clearly offered great economies of electric power, as well as better control of wastes—a matter to which Jerry Klaff assigned high importance.

The question of closed cycling of plastics, it was agreed, should be given further study because it posed many technical problems.

On Topic Seven, the Consumer, there appeared to be agreement that it was extremely difficult to exact from the consumer any systematic and sustained acceptance of responsibility. However, he was recognized to have rights. To help him enjoy (or enforce) these rights, it was suggested that government action might be taken to "focus the collective perception of the nation or allocation, regulation, education, and pricing of specific materials."

However, a more generally accepted proposition was that the consumer was interested in products, not materials. In general, he saw no necessary connection between the products he used and the periodic table and other tabulations.

Topic Eight, Economic Opportunities and Constraints. Suggested goals included: reserves of materials for the future; improved ability to export rather than curtailed material imports; and government support of process development. The question was raised again as to whether to opt for autarky (self-sufficiency) or trade: Should the U.S. export its pollution? In sum, it was difficult to find an area in which technological development does not offer opportunity for improvement.

AXIOMS

*Flexibility* of stance.

*Capability* for vigorous positive action.

*Fact finding* and analysis on continuous basis to anticipate the storms ahead and hopefully avoid them.

*Pragmatic approach*—seeking to learn what works rather than clinging to arbitrary folklore.

*Investigating* rather than accepting facile excuses for failure.

*Strengthening U.S. capabilities* where we are weak but not relinquishing leadership where we are strongest.

Applying good management principles to the totality of our materials flow, recognizing the triad of materials, energy, and environment; the triad of *research* coupled with *engineering practice*, coupled with strong *corporate management;* and the triad of *government, industry,* and *academia,* where in the last analysis most of our materials problems must be solved.

## NINETY-SECOND CONGRESS FAILS TO RATIFY GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, on October 5 the majority leader brought up the Genocide Convention for consideration on the floor of the Senate and called for an executive session to ratify the treaty.

It is a tragedy that objection was made to the request for unanimous consent for an executive session of the Senate to deal with this important document. Again the United States goes on record as refusing to consider a human rights treaty which has been in existence for 24 years.

The constant refusal of our Nation to become a party to an international agreement defending the most sacred of all human rights, the right to live, is a monument of hypocrisy. Our country was founded on the principles of human rights; it is difficult to understand why we have refused to assent formally to such principles on the international level.

I regret this occasion which makes it necessary to renew my pledge to speak out daily in support of this document until it is ratified. It remains my firm conviction that the International Convention on the Prevention and Punishment of the Crime of Genocide is among the most outstanding and essential of all human rights documents. And I will continue to support this document every day the Senate is in session until ratification is accomplished.

## CONGRESSIONAL RESPONSIBILITY FOR FOREIGN POLICY

Mr. ERVIN. Mr. President, recently we have witnessed many efforts by the Congress to regain its proper constitutional role in the conduct of foreign affairs.

Concern has been voiced in hearing rooms and on the Senate floor over the growing usurpation by the executive branch of the constitutional powers of Congress, but the concern expressed by Congress over the proper role of the Executive in the making of national commitments, the proper constitutional use of the war powers, and the use of executive agreements to circumvent the treaty-making powers of the Senate, apparently has fallen on deaf ears. According to newspaper accounts, the Vice President of the United States, Mr. AGNEW, in a speech made on September 27, 1972, declared that:

> The President has sole responsibility for developing and initiating foreign policy.

As reported by the Washington Star-News on September 27, 1972, the Vice President went on to say:

> This sole responsibility comes directly from our Constitution.

I have long been aware that there are members of this administration who consider themselves solely responsible for development of the foreign policy of this Nation, but I am appalled that the administration now claims that such sweeping powers are granted to it by the Constitution. Such a statement cannot be justified under the Constitution.

Such statements by administration spokesmen make us wonder if the Constitution they read is the same one conceived by the framers in 1787. Under the Constitution I know, the foreign affairs power is shared between the Executive and the Congress.

During hearings by the Subcommittee on Separation of Powers on the use of executive agreements, even the spokesmen and legal counsel for the executive branch did not question the fact that the foreign affairs power is shared between the Executive and the Congress under the Constitution. Rather, the question was a matter of in exactly what way the power is shared.

Article II, section 2, of the U.S. Constitution provides that:

> The President shall have the power, by and with the Advice and Consent of the Senate, to make treaties, provided two-thirds of the Senators present concur.

This language makes it clear that the Founding Fathers did not anticipate that policymaking in the area of foreign affairs should be concentrated in one branch of the government. All governmental powers, including the treaty-making power, were to be subject to a system of checks and balances under the doctrine of separation of powers.

Even Alexander Hamilton, who was a leading advocate of a strong Executive, feared the dangers inherent in placing the conduct of foreign affairs in one branch, and pointed out that it was a shared power. Speaking of the "intermixture of powers" in foreign affairs, in Federalist 75, he cautions:

> The history of human conduct does not warrant that exalted opinion of human virtue which would make it wise in a nation to commit interests of so delicate and momentous a kind, as those which concern its intercourse with the rest of the world, to the sole disposal of a magistrate created and circumstanced as would be a President of the United States.

I would commend those words to Mr. Agnew when he declares that foreign policy is too complex to let Congress in on every decision, and that:

> The complexity of the issues, coupled with the frequent need for secrecy, inhibits the formulation of an informed consensus in time to make vital policy judgments.

I would suggest that the greatest inhibition to an informed consensus, or informed Congress, is the policy of this administration to inform the Congress as little as possible. The issues are certainly made complex when Congress is not informed. Too often, the need for secrecy has been abused in withholding information embarrassing to the administration under the guise of national security.

The Vice President raises the specter of nuclear annihilation as a reason for the necessity of Executive usurpation of of congressional powers. During the "cold war" years, Congress succumbed to this argument and too willingly abdicated its responsibilities in shaping the course of the United States among the nations of the world.

I know that, even now, there are many persons, both in the academic field and within the Government, who maintain that exclusive Executive control of foreign policy, and domestic policy insofar as it may be affected by foreign policy, is the price of survival in this nuclear age. They argue that we live in an age of recurring crises and that the great need is for strong central leadership able to make decisons and take action before the opportunity for constructive action is past. I certainly agree that we live in an era that presents critical challenges to any form of government. However, I do not agree that we need to abandon the constitutional principles that have served us so well throughout our history. For I firmly believe that we can adhere to those principles without any loss of effectiveness in the field of foreign policy.

We must always remember that our system of government rests on a system of shared powers and responsibilities. The powers are shared in foreign affairs as well as in domestic matters, under the Constitution.

By far the most significant powers in the field of foreign relations are conferred upon Congress alone or upon the President and the Congress jointly. The powers conferred individually upon the President are instrumental only. I find nothing in that basic document and nothing in the debates of the Constitutional Convention to support a broader conception of the President's diplomatic role. In short, what the framers intended was that the President should be the channel of communication between the United States and foreign nations, but, in fulfilling that function, he should be merely the executor of a power of decision that rests elsewhere; that is, in the Congress. This was the balance of power between the President and Congress intended by the Constitution. And this is the balance of power that the Congress can enforce if it is only willing to do so.

If the executive branch alone controls foreign policy, there is a danger that the President will cease to be responsive to the wishes of the country when he first makes foreign policy decisions, and then, as Mr. AGNEW says, seek to "rally the country to support his decision." By making decisions in conjunction and coordination with the people's elected representatives in Congress, the President can avoid the public divisiveness which can result from the President's making a decision which does not have the support of the country.

The importance of the congressional role in formulating foreign policy lies in mobilizing and expressing popular support. Through Congress, the people have a voice and a way to make it heard. Neither the Department of State nor the Supreme Court, nor even the President, can perform this great function of giving expression to the people's wishes on an issue. The ultimate responsibility of Congress is to make certain that our Nation's foreign policy remains responsive to the wishes of the people, because in a democratic society, no policy, however enlightened, can long survive without the consent and support of the people.

If foreign policy were the exclusive domain of the Executive, the decisions and the policy of the United States would not be made with the active participation of the people. The people will not forever support a foreign policy which is made for them but without them.

Mr. President, I ask unanimous consent that the newspaper account of the Vice President's remarks, published in the Washington Star-News on September 27, 1972, be printed in the RECORD.

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

[From the Washington Star-News, September 27, 1972]

AGNEW FIRES BACK ON FOREIGN POLICY

(By Paul Hope)

CHICAGO.—Vice President Spiro Agnew declared last night that foreign policy is too complex to let Congress in on every administration decision.

Agnew dealt with a Democratic challenge on foreign policy in a speech to a series of fund-raising dinners across the nation.

Addresses by President Nixon in New York and Agnew in Chicago were beamed by closed-circuit television to $1,000-a-plate dinners in 26 other cities.

The vice president spoke only on foreign policy, while Nixon covered a wider range of domestic and foreign affairs.

Democratic presidential candidate George S. McGovern has made a major campaign issue out of his view that the President has excluded Congress from the decision-making process of foreign policy, particularly with respect to the Vietnam war.

Agnew said the President's "sole responsibility for developing and initiating foreign policy comes directly from our Constitution."

"Today," he said, "the frightening presence of the nuclear age hangs over the world and nations face destruction within minutes after a decision to attack may be made. Because of the time limitations, foreign policy cannot be conducted by consensus.

"The complexity of the issues, coupled with the frequent need for secrecy, inhibits the formulation of an informed consensus in time to make vital policy judgments. Therefore, we are fortunate that these critical determinations are vested clearly in our President, rather than in the Congress, or the members of the professional bureaucracy, or an outside panel of experts."

He said that a president "must be able to make hard choices—alone—and then rally the country to support his decision."

Once having made decisions, Agnew said, a president must have "the will to carry out policies in the face of strong sometimes bitter, criticism."

In a statement that appeared to be directed at McGovern and other critics of the administration, Agnew said, "Men who bear no responsibilities for the actions they recommend often are very free with advice."

In his speech, Agnew claimed a long list of accomplishments for Nixon, often in the face of criticism at home—a beginning for strategic arms limitations, reduction of troops in Vietnam, progress in the Middle East, new relations with Peking and Moscow.

## FUNDING FOR HIGHER EDUCATION PROGRAMS

Mr. HUGHES. Mr. President, today the Committee on Appropriations held hearings on a supplemental appropriation for education. At issue is the level of funding for those higher education programs included in the recently enacted higher education bill, Public Law 92–318.

The hearing heard a statement from the Senator from Rhode Island (Mr. PELL), chairman of the Education Subcommittee, Committee on Labor and Public Welfare, which succinctly set forth the need for funding of these education programs. I ask unanimous consent that Senator PELL's statement be printed in the RECORD.

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

STATEMENT OF SENATOR CLAIBORNE PELL

This year, the Congress made a commitment to the young people of this nation. The Congress, in adopting the Education Amendments of 1972, assured every young person in this country that he would have a minimum of $1,400 available to him for education or training beyond high school.

That was a solemn commitment. It is taken seriously by the young people of this country. It is a commitment that should be fulfilled to the fullest extent of our ability.

It is because I believe so strongly that this commitment should be kept that I associate myself today with the efforts of my colleague, Senator Hollings, to include funds for the higher education programs in the Supplemental Appropriation Bill.

It is unfortunate that the Administration delayed so long in submitting to the Congress its budget estimates for these programs. It is even more unfortunate and most regrettable that the Administration budget estimates are so clearly inadequate to meet the educational and training needs of young people in colleges, universities and postsecondary institutions across the country.

What is even more shameful is that the Administration did not request funds for the Basic Educational Opportunity Grants. If there is no appropriation now, it will be difficult to get the program started next fall. The failure to request Basic Grant funds shows a complete disregard for educational opportunities for American young people.

The proposals placed before your committee by Senator Hollings are essential. Indeed, I am on record as favoring full funding of all education programs and specifically those authorized by our most recent bill, the Education Amendments of 1972.

Unfortunately, we have not been able to get from the executive branch an accurate estimate of the entitlements for students for Basic Educational Opportunity Grants. My colleague has proposed an appropriation of one billion dollars for these grants, and I support that request, but I believe we should understand that the amount required may be more than that. And I believe the Congress should be prepared to provide whatever additional sums are needed in a later appropriation.

I cannot emphasize too strongly the urgent need to include funds for these higher education programs in this bill. Without these funds, thousands of young people who are planning to attend college next fall will be unable to do so. Without these funds, many post-high school educational and training institutions, now teetering on the brink of financial collapse, will close their doors.

It was in recognition of these pressing needs that the Congress authorized these programs. And it is because of the pressing needs that the Congress should now act to fulfill the commitment we have made.

I believe the commitment we made to our young people, and to their parents, in passing the Education Amendments of 1972 are just as important as the commitments the government makes to a defense contractor. That commitment is just as important as the commitments the government makes to the farmers of this country in assuring that a floor will be maintained on commodity prices.

The commitment we have made to our young people was a carefully-considered and prudent commitment. We assured them that through a combination of family contributions and federal government contributions, every qualified student would be assured $1,400 for his education costs, providing only that the federal contribution may not exceed one-half the total cost of attending an institution.

I think it is time to keep that commitment, regardless of threats of possible vetoes. The Congress, in its independent judgment, made the commitment. The Congress, in its independent judgment should make every effort to fulfill that commitment.

## CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

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

## MESSAGES FROM THE PRESIDENT

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

## EXECUTIVE MESSAGES REFERRED

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

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

## ADDRESS BY SENATOR MAGNUSON ON DEDICATION OF NORRIS COTTON CANCER RADIATION THERAPY AND RESEARCH CENTER, HANOVER, N.H.

Mr. AIKEN. Mr. President, in these very hectic times, it is very heartening to find that, busy as some of our colleagues may be with elections, legislation, and other matters, they still have time to help people that need help.

On October 8 the Norris Cotton Cancer Radiation Therapy and Research Center was dedicated at Hanover, N.H. The principal speaker at that dedication was our colleague, the Honorable Senator WARREN MAGNUSON from the State of Washington.

These men belong to opposite political parties, but both have something in common, and that is their willingness and readiness to help people who need their help. I suppose that both Senator MAGNUSON and Senator COTTON might be characterized by some as "tough guys" politically; yet when it comes to people who really need help, they are very softhearted inside.

I am glad that this cancer research center has been named for our colleague, Senator NORRIS COTTON and I think it is fine that Senator MAGNUSON who has also worked as generously in the field of better health was the principal speaker at the dedication of the Norris Cotton Cancer Radiation Therapy and Research Center in Hanover, and I ask unanimous consent that Senator MAGNUSON's address be printed in the RECORD.

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

### REMARKS OF HONORABLE WARREN G. MAGNUSON

I am genuinely pleased to be here today. On few occasions have so many strong ties of my interest come together at one time and place. Let me explain.

#### HIGH CANCER DEATH RATE IN NEW ENGLAND

First, we are dedicating today a facility which will bring to this area of the United States the latest and best in cancer diagnosis and treatment. We have reason to believe that in this Center we can, to some degree, reduce the relatively high death rate from cancer experienced in rural New England, and we can be hopeful that here knowledge will be gained which will benefit those who suffer from cancer around the world.

For these reasons alone this is indeed a joyous occasion for all of us—a time for satisfaction which all can share.

I have a special personal reason for being glad that I was asked to be here. You have appropriately named the Center for a true friend and respected colleague of mine. The occasion gives me an opportunity to tell you, his friends and neighbors, of my affection and regard for this man with whom I have worked so closely over an eventful span of years.

#### NORRIS COTTON CANCER CENTER

The "Norris Cotton Cancer Center" is in being because of the dedication and perseverance of Norris Cotton. He would be the first to say that the vision, will and work of any others was as important, and of course this is true.

He has called to our attention more than once the indispensible part played by others—the initial planning by Dr. Frank Lane; the able and effective follow-through by the Mary Hitchcock Hospital Trustees; by Dean Carleton Chapman and the Dartmouth Medical School; as well as the work of the New England Regional Commission in alerting the health authorities of Northern New England of the need and possibilities of this facility.

#### ADVOCACY ROLE OF NORRIS COTTON

But it was Norris Cotton whose determination and persuasion convinced the Congress to earmark $3 million to aid in the construction of the Center.

He made us aware of the special need which exists here for a center which would provide patients with up-to-date cancer treatment without their having to travel great distances for it.

I almost shudder to mention the inaccessibility of this region for fear that Norris will leap to his feet to press for better air service up here, as he has done almost daily during our many years of service together in the Commerce Committee.

He acquainted us with the rich resources of medical research and service represented by the Mary Hitchcock Memorial Hospital, the White River Junction Veterans Administration Hospital and the Dartmouth Medical Center. He convinced us that these strong institutions would enhance and in turn be enhanced by the Center.

Norris Cotton had a good case, and he presented it well. The sound arguments were amplified by the qualities of the man presenting them—a man who has been a knowledgeable advocate and strong champion of the advancement of the health of the American people—particularly those of the rural areas. Norris Cotton has sponsored as much legislation to improve medical services in the remote areas of the Nation as any man in the Senate.

#### NORRIS COTTON'S LONG INVOLVEMENT IN HEALTH APPROPRIATIONS

Senator Cotton and I serve together on the Senate Appropriations subcommittee which deals with all Federal health research and service programs. He is the ranking minority member of the Subcommittee and I am its chairman. My close association with him has given me the opportunity to observe his work and enables me to speak with authority about his many contributions to American progress in health research and services. I doubt that the scientific and academic communities realize how much they owe to this man.

Through our committee duties, especially in the appropriation hearings, we spend many interesting and strenuous days examining the widespread and mammoth Federal programs in the health area—as well as all Federal Programs for Labor, Education, Welfare and poverty. This year we sat together for 43 days of open hearings and I don't know how many executive sessions. We have been exposed to a pretty comprehensive education in medicine and Dean Chapman has lectured us more than once.

At one point in last year's NIH hearings, I began to think Norris had begun to practice medicine on the side. I was questioning an Institute Director about research on pain, and I asked him, "What are you doing about pain control? What can you do about it?" Before the witness could answer, Senator Cotton chimed in with the classic prescription "Take an aspirin!"

I trust that naming this Center for him will not tempt my friend to go into full-time practice. We need him in the Senate.

#### GROWTH OF HEALTH APPROPRIATIONS DURING TENURE OF NORRIS COTTON

We've seen that Labor-HEW bill grow over the years. We don't agree with all that's been done—we don't agree among ourselves all the time—but in the field of Health we're almost always together. Let me use the time frame of Norris Cotton's 10 years service on the subcommittee in reviewing this bill and cite just a few health programs.

—In 1962, the Budget for the National Institutes of Health was a little over $565 million dollars, today it is over two billion.

—In 1962, the Federal expenditures for health manpower training were almost zero—in 1972, they were over $670 million dollars.

—In 1962, the Federal expenditures in the mental health field were less than $110 million—in 1972, it was over $610 million—and not only have we helped develop and expand the community mental health centers, but we're helping to give better treatment for all mental illnesses, with a new emphasis on alcoholism and drug abuse.

—In 1962, the Federal expenditures for the National Cancer Institute that supports this Center we dedicate today was about $142 million—in 1972, it was $378 million—and we just approved a bill that would allow the 1973 funding to be as high as $492 million.

These are massive amounts of taxpayer dollars. The problems they help to solve are even greater, and these are all very human problems—ones that many of us have a personal interest in. Some say such expenditures are inflationary. To me—and I feel Norris Cotton would agree—it is far more inflationary and costly to taxpayers—when we fail to prevent disease—or fail to provide adequate health care at an early stage of illness.

#### ESTABLISHMENT OF NATIONAL CANCER INSTITUTE

I said there were several reasons I was pleased to be here today. The National Cancer Institute and the role that this facility will play in the research on cancers and treatment procedures is one.

In 1937, my first legislative success in the Congress came with the passage of the measure creating the National Cancer Institute. That bill initiated Federal support of biomedical research, leading the way to the present National Institutes of Health.

#### CANCER AS A KILLER

It became obvious, to many of us, 35 years ago that private and institutional resources alone would never be adequate to the task. Thus the National Cancer Institute was established and charged with the responsibility for conducting and supporting, on a world-wide scale, the research on the causes, diagnosis, and treatment of malignant diseases.

Since 1946, when you first sent Norris Cotton to Congress, other "institutes" have been added to NIH. Heart and Lung, Dental, Arthritis, Neurological Diseases and Stroke, Allergy and Infectious Diseases, Child Health and Human Development, Eye—those are just the major names. Today, the whole spectrum of diseases that plague man from pre-natal days to old age have been brought under intensive scrutiny. Not just the major killers and cripplers, but all diseases and even accidental injuries.

#### RECENT ACCELERATION OF CANCER RESEARCH

Only last year there was extended discussion over ways and means for accelerating the cancer program. Although there were

debates and differences over the best administrative structure for the intensified effort, there was total unanimity in the Congress over the objective and belief that the time had come for a special thrust. Norris, I know, was opposed to separating the Cancer Institute from NIH—for the very good reason that it would lead to similar proposals for the other Institutes. He realized this would only destroy, through petty competition, what had been so carefully nutured over the last decade.

At first, he was almost alone but, finally, we arrived at what we both agree was a wise decision, which keeps cancer research within the mainstream of medical research by anchoring it in the National Institutes of Health, but at the same time we gave it the necessary status and visibility for strong forward movement. We seem definitely to have turned a corner in Federal support of cancer research.

Although medical science is probably still a long way from solving the cancer problem, the progress of research in recent years has nevertheless been very impressive. It may seem to us laymen to be a fragmented process, but this is because cancer is not a single disease—it is a group of a hundred or more diseases which have common characteristics but attack different organs and present different problems of diagnosis and treatment. What is learned in fundamental research, in the laboratories must be linked to what is needed by man.

ROLE OF NORRIS COTTON CANCER CENTER

The Norris Cotton Cancer Center will provide those strong and multiple links from laboratory to patient. In addition, the Federal government will support a highly important cancer research program here at a level of about a half million dollars per year for a ten-year period.

As a major benefit of this research program, veterans who are referred to the Center from the VA Hospital at White River Junction will receive radiation therapy at no cost to them.

FEDERAL RESEARCH SUPPORT FOR DARTMOUTH-HITCHCOCK MEDICAL CENTER

All biomedical research depends on highly trained scientists and people, and the strength of academic and research institutions. More than 80% of the NIH research budget goes to institutions like the Dartmouth-Hitchcock Medical Center. The current level of that research support here is over $2,000,000 each year. What is discovered or proved out here, and elsewhere, benefits everyone.

FEDERAL HEALTH MANPOWER SUPPORT FOR DARTMOUTH SCHOOL OF MEDICINE

But Norris Cotton and I are equally concerned about the crisis in the delivery of health care in America today, a crisis that stems from an inadequate supply of health manpower. We're at least 50,000 doctors short and over 200,000 nurses short. The Federal support of health manpower training has increased appreciably in recent years. Here at Dartmouth, in 1965 their Medical School received only $13,500. Just a week ago, they received $327,000 to help support their MEDEX program. Since 1965, the total support of their medical programs has amounted to a cumulative figure of more than $8,000,000.

This reminds me of a magnificent understatement made by one of our committee colleagues who said—"Senator Cotton takes a great deal of interest in Dartmouth College." I don't blame him. He's got a good reason to be proud of Dartmouth.

DARTMOUTH SCHOOL OF MEDICINE

Dartmouth has the third oldest School of Medicine in the United States. I'm told that Dartmouth was so successful in having medical education improved back at the turn of the Century that they themselves withdrew from granting the M.D. degree in 1914. A difficult decision was made back then to offer a good, solid two-year pre-medical program—rather than a questionable 4-year one.

Your predecessors must have done their job well Dean Chapman, as I'm told that over a third of your graduates from that two-year program finished up at the Harvard Medical School—and the balance were accepted at equally good schools.

A few years ago, Dartmouth made an equally difficult decision to once again grant the M.D. degree. I say equally difficult, for the trustees and those responsible, because even with the assistance these federal programs appear to give, and do give, such a move is costly to the institution and those supporting it.

I wouldn't want to embarrass either Dean Chapman or Norris Cotton, but during our deliberations over the Health Manpower appropriations, special attention was given to the funding for that program which helps these two-year medical schools move into full degree granting status. Dean Chapman and Norris Cotton talked, and we listened closely.

Seriously, helping such schools make that move was one of the best investments the Federal government could make towards increasing the supply of new doctors. In the spirit of New England prudence and frugality, it was a way to get the most out of taxpayer dollars. I wish to share publicly, Norris Cotton's pride in all these accomplishments.

I would also like to add another personal note. This is my first visit to Hanover and to Dartmouth. Through the years, I've met some of your graduates and I've heard many fine things about this educational institution. Perhaps it's the fall colors that are so striking, but I must say that the beauty of this setting, the facilities and surrounding area match up to all that we hear about Dartmouth College.

REAL SIGNIFICANCE IS WHAT WILL BE DONE HERE

So today we are dedicating a physical facility, recognizing a particular individual, and complimenting many other individuals and institutions.

As we feel satisfaction in the accomplishment which this day represents, and as we recognize the efforts of those men and women who have brought the concept of this Center to fruition, we do so in the knowledge that the real significance of the hour grows from what *will* be done here rather than what *has* been done.

My friend, Norris Cotton is one of those men. Today's dedication is a realization of his most cherished goal. This facility, dedicated to the war against cancer and the better health for all people, is another example of his many good works.

## 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:

S. 520. An act to authorize the Secretary of the Interior to construct, operate, and maintain various Federal reclamation projects, and for other purposes;

S. 976. An act to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, and for other purposes; and

S. 1497. An act to authorize certain additions of the Sitka National Monument in the State of Alaska, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

## EQUAL EDUCATIONAL OPPORTUNITIES ACT OF 1972

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the unfinished business, H.R. 13915, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 13915) to further the achievement of equal educational opportunities.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. MANSFIELD. Mr. President, if the Senator from Georgia will yield, I would like to suggest the absence of a quorum for the purpose of notifying Senators.

Mr. TALMADGE. Mr. President, I yield to the majority leader for that purpose, provided that I do not lose my right to the floor.

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

Mr. MANSFIELD. 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. TALMADGE. 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. TALMADGE. Mr. President, I rise in support of H.R. 13915.

In the first place, Mr. President, opponents of this bill are trying to keep it from coming to a vote. It does not matter that busing is opposed by a majority of Americans—black and white. For years, some Senators have thought that they knew better than the American people what was good for them.

Moreover, if this bill passes, the courts will probably ignore it. For years, they have turned their back on antibusing legislation, saying that it did not really mean what it seemed to mean. They have twisted and distorted the clearly expressed legislative intent of Congress like a pretzel. The gap between the laws we wrote and the laws they interpreted has been so great that I sometimes wonder whether we speak the same language.

Mr. President, I will not speak long on this issue because I want a vote. I think we owe it to the parents and children of America.

But I do want to comment on one aspect of this bill. At one part, the report of the House Committee on Education and Labor states:

These HEW statistics clearly document the achievement of an integrated education for many students in the South. But there is reason to believe that the task of dismantling the dual school system is not as yet fully completed.

And at one point in the minority report, we find this statement:

Equal protection of the law is not a reality for the majority of the black students in the urban South.

Mr. President, I am sick to death of this pious and phony hypocrisy, and I want to nail it for what it is. Not that

I think it will attract any attention—because people have a gift for not hearing what they do not want to hear.

For years, I have heard some of my colleagues lecture the South for the shabby way we treat our black schoolchildren. They implore us to treat our black children in the fine and humanitarian way that they treat theirs.

Well we have spent the last few years in this Senate talking about the South's record. Let us now talk a little bit about their record.

In 1968, 84 percent of the black children in Georgia attended substantially all-black schools. By 1971, that figure had dropped to 39 percent. During the same time period, New York went up from 43 to 48 percent.

In Mississippi, the figures dropped from 93 percent to 35 percent, while in New Jersey they remained at 42 percent. Let us take a look at a few of the other States and compare the present level of black students attending substantially all black schools:

Alabama, 44 percent; Illinois, 75 percent; Louisiana, 41 percent; Missouri, 63 percent; Arkansas, 18; and California, 52 percent.

In case someone might think that I am selecting arbitrary and unfair examples, let me state that in the fall of 1970, the percentage of black children in majority white schools was 39 percent. The border States and the District of Columbia were at 32 percent, while our friends in the Northern and Western States could only muster 28 percent.

Yet, here they are again, shaking their heads, and wringing their hands and moaning about "the vestiges of the dual school system." With all due respect, I suggest that they clean up their own house, and stop worrying about ours.

Mr. President, the average person, who is unskilled in the slick art of rationalization, might wonder how they can pull this off.

They do it by playing a wondrous shell game with words like de facto and de jure. They point to laws that have not been on the books for almost 20 years in the South.

This, they claim, justified treating the South differently. To me, that is a little like saying that a man who has one traffic ticket is presumed guilty of every other charge brought against him in his life.

They ignore the higher percentage of segregation in the North, saying that it is caused by "random housing patterns" and that makes it all right.

Mr. President, if segregation is wrong in the South, it is wrong in the North—and that is nothing more than the plain unvarnished truth. For years, I have watched my colleagues willingly indulge in social experiments with the children of my State, but dig their heels in when busing came to their State.

There is one fact that cannot be denied about segregation—there is less of it in the South than there is anywhere else, and there is more of it in the North than there is anywhere else. And all the Latin and legalistic mumbo-jumbo in the world cannot change that.

Mr. President, let us return our schools to the business of educating our children. Let us spend our tax dollars on better schools, newer books, higher teacher salaries, and more lab equipment. Let us pour our energies into the attainment of the best education we can for all our children.

The drawing-board social planners, and the ivory-tower utopians have had a stranglehold on our schools for over 10 years. They are choking the life out of public education in America. It is time we gave our schools back to our children.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## CLOTURE MOTION

Mr. MANSFIELD. Mr. President, I send to the desk a cloture motion.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read the cloture motion, 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 (H.R. 13915), an act to further the achievement of equal education opportunities.

1. Robert Griffin.
2. Clifford P. Hansen.
3. Paul J. Fannin.
4. Edward J. Gurney.
5. Bill Brock.
6. Norris Cotton.
7. Marlow W. Cook.
8. William Proxmire.
9. David H. Gambrell.
10. Jennings Randolph.
11. Strom Thurmond.
12. James Buckley.
13. Lawton Chiles.
14. Herman E. Talmadge.
15. B. Everett Jordan.
16. John Tower.
17. Howard Baker.
18. Robert Dole.
19. Wallace F. Bennett.
20. G. D. Aiken.

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

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

## QUORUM CALL

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

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

## EXECTIVE SESSION

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

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

The PRESIDING OFFICER (Mr. HART). The nominations on the Executive Calendar will be stated.

## COUNCIL ON ENVIRONMENTAL QUALITY

The second assistant legislative clerk read the nominations in the Council on Environmental Quality, as follows:

John A. Busterud, of California, to be a member of the Council on Environmental Quality.

Beatrice E. Willard, of Colorado, to be a member of the Council on Environmental Quality.

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

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

## U.S. AIR FORCE

The second assistant legislative clerk read the nomination of Lt. Gen. Paul K. Carlton, major general, Regular Air Force, to be a general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

## U.S. ARMY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all the nominations under U.S. Army be considered at this time, with the exception of Gen. Creighton W. Abrams.

The PRESIDING OFFICER (Mr. HART). Without objection, all the nominations under U.S. Army will be considered at this time except that of Gen. Creighton W. Abrams.

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Army.

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

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, it is the intention of the leadership to bring up the nomination of General Abrams later this week and, hopefully, on a time limit basis.

## U.S. NAVY

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Navy.

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

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

## NOMINATIONS PLACED ON THE SECRETARY'S DESK

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

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

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

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

## LEGISLATIVE SESSION

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

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

## ORDER FOR ADJOURNMENT TO 9 A.M. TUESDAY, WEDNESDAY, THURSDAY, FRIDAY, SATURDAY THIS WEEK

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate convene at 9 o'clock every day for the remainder of this week up to and including Saturday next.

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

## PROGRAM

Mr. MANSFIELD. Mr. President, as I stated some days ago, on October 9, which is today, a final declaration would be made as to what the schedule for the rest of the session will be and what the possibilities are for adjourning sine die by the 14th of October, which is Saturday of this week.

Mr. President, at the present time, of course, the pending business is the Equal Education Opportunities Act.

The must legislation behind that is the supplemental appropriations bill and the debt ceiling bill. Those are the two absolutely must bills which have to be considered.

The other bills which I would like to have considered—and this has been discussed with the minority leader—are:

First. Calendar No. 921 (H.R. 7093), a bill to provide for the disposition of judgment funds of the Osage Tribe of Indians of Oklahoma. This is a House-passed measure.

Second. Calendar No. 1105 (S. 3342), a bill to amend title IV of the Clean Air Act, and for other purposes. There is no House-passed measure for this; and if there is none, it will not be taken up.

Third. Calendar No. 1165 (H.R. 12807), a bill to amend the Federal Property and Administrative Services Act of 1949 in order to establish Federal policy concerning the selection of firms and individuals to perform architectural, engineering, and related services for the Federal Government. There is a House-passed measure.

Fourth. Calendar No. 1169 (H.R. 640), a bill to amend the tariff schedules of the United States to permit the importation of upholstery regulators, upholsterer's regulating needles, and upholsterer's pins free of duty, on which there is a House-passed measure.

Fifth. Calendar No. 1197 (H.R. 13825), a bill to extend the time for commencing actions on behalf of an Indian tribe, band, or group, on which there is likewise a House-passed measure.

Sixth. Calendar order No. 1214 (S. 4062), a bill to provide for acquisition by the Washington Metropolitan Area Transit Authority of the mass transit bus system engaged in scheduled regular route operations in the National Capital area, and for other purposes.

There is no similar House measure; and if there is none, this bill will not be considered.

Seventh. Calendar order No. 1200 (H.R. 12674), a bill to amend title 38 of the United States Code in order to establish a National Cemetery System within the Veterans' Administration, and for other purposes.

I think that this matter can be worked out.

Eighth. Calendar order No. 1217 (S. 3174), a bill to provide for the establishment of the Golden Gate Recreation Area in the State of California, and for other purposes.

There is a House-passed bill.

Mr. BIBLE. Mr. President, if the distinguished majority leader will yield, this is, of course, one of the most important of the park bills that we have considered this year. We have completed action. We are given to understand that this measure will be the fifth item of business considered in the House tomorrow. They have one area of disagreement which, I am told, will probably be worked out.

As I say, this would be the fifth item of business considered tomorrow before the House. I would hope that that bill will come to us from the House within a day or two after that. There is only one major difference, and it has been pretty well resolved. However, I have no intention to call it up until the House bill passes, because that is where the problem is.

If the bill does come from the House—as I think it will—I would appreciate having the Senate act on it. It will require only a very short time limitation.

Mr. MANSFIELD. Mr. President, I appreciate what the distinguished Senator from Nevada has just said, because what I stated was in compliance with what I understood his request to be, and his statement corroborates it.

Mr. BIBLE. That was my request.

Mr. MANSFIELD. Nine. Calendar order No. 1173 (H.R. 14542) a bill to amend the act of Sept. 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.

That is a House-passed bill. It may run into some difficulties here.

Mr. President, I repeat that those nine measures additional to the two must measures, may or may not be considered. None of them are absolutely necessary, but the supplemental appropriations bill and the debt ceiling bill are.

As I have indicated, we are trying to get a time limitation on the nomination of General Abrams to be Chief of Staff of the Army.

As far as other bills are concerned, unless they have a House counterpart, I think that we would be tilting at windmills.

May I say that I have received a tremendous amount of pressure because the private pension bill has not been called up. I point out that no private pension bill has been reported by a committee in the House. Insofar as I know, there is no chance of having a House measure of that nature passed. I am one of the strongest supporters of the private pension bill as reported by the Labor and Public Welfare Committee, not as it was reported by the Finance Committee. However, we have to make a judgment. We have to face up to realities. The situation at the present time is that not only would we not have a House-passed bill to join what might be done in the Senate, but we would also have a long-drawn-out filibuster if this bill were called up at this time. So, it is with the deepest personal regret, because this is a highly necessary bit of legislation that should be passed, that I am constrained to state my position at this time.

However, may I say that if this bill is reported out of the Labor and Public Welfare Committee in the beginning of the next session of the Congress at an early date, it will be one of the first orders of business to be taken up.

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

Mr. MANSFIELD. I yield.

Mr. PERCY. Mr. President, I could not be more pleased than I am with the last part of the statement of the majority leader. I am deeply grieved that we cannot deal with this measure in this session of the Congress. However, I am aware of the problems we face. This is one of the most urgent pieces of legislation we have because of the disappointment faced by many people who thought they had a pension and then realized that they did not.

Mr. MANSFIELD. The Senator is correct. And the reason I made the statement is that I want to indicate that even if by some chance we do have an opportunity to consider that matter in the Senate, there is no chance in the House. And I would urge that we come back and do it in the next Congress, not only in the interest of those who plan to retire and have retired but also in the interest of the consumers.

One of the tragedies of this session of Congress has been our failure to pass the consumer bill which was before the Senate. I hope that this likewise will be reported out early in the next session of

Congress so that we can take it up early next year.

Mr. PERCY. Mr. President, no two pieces of legislation affect more people and go to the heart of what we should be protecting. This is not a revolutionary piece of legislation.

For instance, I happen to think that 22 years ago I made the decision to invest 10 percent every year so that at the end of 10 years, there would be 100 percent invested. Congress must act on this measure as soon as possible.

I thank the distinguished majority leader for that reassurance.

Mr. SCOTT. Mr. President, regarding the Consumer Protection Act, I feel precisely as the Senator from Illinois feels. I would hope that we could somehow find a way to take the House bill and pass the measure.

We are realistically up against a very difficult situation. That is the only hope we have at this point. However, it is a rather forlorn one.

It is a pity that we have not gotten adequate pension-reform legislation passed—which a good many Senators on both sides of the aisle want. There has been no action in the other body, yet I do not know of any action which Congress could take which would be more reassuring to the people who are counting on their pensions to sustain and support them and give them security in later years. The present weakness of the entire pension system and the inability of private enterprise to furnish that security without some governmental policy and action is a situation which demands that Congress act.

In this list of "must" legislation, I believe the distinguished majority leader and I discussed the fact that it is our intention to be able to adjourn sine die on Saturday, October 14. The debt limitation expires on October 31. We cannot run the Government without action on that bill. It comes after the busing bill. We also have the supplemental bill, which I believe offers less difficulty, but we simply have to pass the debt limitation bill so we can pay Government employees, meet other expenses of Government, and allow the Government to make contracts and continue its normal operation.

I believe it is obvious that every Senator will need to be here for these important votes, for the cloture motion tomorrow, for example, and we will give both sides of this controversy, I am sure, every opportunity to be heard within the limitations of time which exist.

So we are trying to permit Senators to go home and report to their constituents on what they have done, and in the words of the Book of Common Prayer, to admit we have done the things we ought not to have done and left undone the things we ought to have done. But I hope we do not have to add, as we do on our knees on Sundays, that there is no health in us. There is health in us and our Government; there is just no health bill to fill the needs. But I think that is a matter the next Congress will want to act upon.

Mr. MANSFIELD. I thank the distinguished Republican leader. May I reiterate again that the two important bills after the pending measure is disposed of are the supplemental appropriation bill and the debt ceiling bill. The other nine bills which I mentioned may or may not come up, depending on the length of time it will take, or if it is possible to get a time limitation on other matters, and other factors, which should be considered.

So I hope no Senator would hold the joint leadership too rigidly to the nine supplemental bills mentioned this morning, and that all Senators would be on notice, once again and for the third time, that holds entered prior to the date of October 2 will not be considered as holds in the usual sense, and if those holds affect proposed legislation which the joint leadership thinks should be considered, that legislation will be considered, but adequate notice will be given to holders of the hold before such action is taken.

Mr. SCOTT. I take it this would not be a good week for Senators to make outside engagements during the better part of the day and the early evening, at least the evening?

Mr. MANSFIELD. It all depends. Maybe we will not keep the hours this week that we kept last week, because I think the issue is pretty well defined and I cannot see Senators talking on and on and on. It could happen, of course, but I think the brook is beginning to run slower.

Mr. SCOTT. The cave of winds will have some reduction of decibels, I hope this week.

Mr. MANSFIELD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## EQUAL EDUCATIONAL OPPORTUNITIES ACT, 1972

The Senate continued with the consideration of the bill (H.R. 13915) to further the achievement of equal educational opportunities.

Mr. GAMBRELL. Mr. President, in the absence of any appearance on behalf of those opposed to the pending bill, I shall proceed. It was my understanding from the debate on Friday and statements made by some of the Senators who oppose the bill that they had a considerable accumulation of debate, documents to put in the RECORD, various data, that they have had 5 weeks to accumulate, and all of that would be presented this morning.

I think there is formidable opposition to the pending measure. But I have been here since the Senate opened and I have not seen any Senator prepared to offer any opposition to the bill.

I, of course, have a good bit I could say. Most of it already has been said. The question of forced school busing has been around Congress for 5 or 6 years. This specific legislation has been before Congress for 6 or 8 months. Other similar legislation has been here for almost the full session of the 92d Congress that we are faced with. So it seems to me, with reference to the so-called must legislation we have heard discussed here, the pension bill and other legislation that Senators feel urgent that I heard discussed by the Senators from Montana, Illinois, and Pennsylvania, if they were faced with what we are faced with in Georgia, where every major city and at least 15 or 20 of the smaller cities and communities faces forced busing, I believe if they responded at all to the urgings of their constituents they would be telling us that the most urgent legislation which is faced by this country and this Congress and by this Senate today is the bill that is pending before us. They would feel as I do that those who genuinely, honestly, and sincerely oppose this legislation would be here at 9 o'clock every morning this week and be prepared to oppose it with genuine, substantive, real opposition, and not simply let Congress sit here in quorum calls while the last hours of this Congress drift away.

Mr. President, here in the final moments of the 92d Congress, that which all of us have known would inevitably require a judgment by this Senate, has finally come on for consideration. After interminable months of wrangling, maneuver, and procrastination, one of the most urgent issues facing the Nation today, that of forced school busing for integration purposes, now lies before us for decision.

At the threshold, of course, is the question of whether this Senate bill will decide the question at all, or will simply sweep it back under the rug to spread and fester among an even wider group of Americans and their children, than it affects today.

I might say that the spread of forced school busing into areas of the country outside the South, to the extent that it exists today, has been the most important development working toward an ultimate solution of the problem. Those of us who have lived with it for years would see little hope for outlawing this outrageous practice, had it not spread to such places at Detroit, Mich., Denver, Colo., San Francisco, Calif., and more recently to Las Vegas, Nev. It has occurred to me that stronger and more decisive prohibitions against forced schoolbusing than those contained in the bill now pending before us, would be forthcoming if we could but tolerate it a while longer, so as to permit a larger segment of the American public to feel its impact, and to be impressed with the utter foolishness of this device as a means of school desegregation.

So, Mr. President, one of the questions is whether we will accept the very strong urgings of the House of Representatives, and the President, to go forward with a proposed solution to the problem, which mixes substantial cutbacks in forced schoolbusing with an urgently needed national program for equal educational opportunities, or whether we will simply wait for an increasingly aroused American public to drive us to the adoption of

more extreme measures which will eradicate forced schoolbusing forever from the American scene.

Regardless of which approach is taken, sometime between now and the end of next week, Senators will be called upon to take a stand on the forced schoolbusing issue, and there is no doubt but that a deeply concerned American public will take note of how each and every one of us have voted, or as will be the case with some, have simply avoided the issue by being absent.

For my own part, I believe I have done everything within reason to deal with the matter in a temperate way, although many of my constituents who are daily living with the chaos of forced busing plans, would have preferred that I had been more intemperate on the subject. It is not a matter which one personally faced with the problem finds easy to deal with, in any spirit except outrage.

Mr. President, little if anything can be said for forced schoolbusing as a means of solving the school segregation problem, based on our experience in Georgia. By making pupil assignments based on race, it is contrary to the letter and spirit of the school desegregation decision in 1954. But beyond that, in a more practical context, it utterly fails to achieve the purposes which its proponents ascribe to it. It has proved to be a wasteful misapplication of the already limited resources available to public education. It has brought about the disintegration of established communities, and community institutions, against the will of community members. And this is true of both black and white. Rather than improving the educational atmosphere of individual schools, it has resulted in violence, disorder and disillusionment which has destroyed in many schools a healthy atmosphere in which the educational process can be conducted. Through daily confrontations of diverse cultures and life styles, it has sharpened racial and social divisions, and thereby has undermined the efforts of community leaders who have, in good faith, made substantial progress toward the ends of social and racial justice in this country. In these respects, the forced busing program has found its ultimate in counterproductivity.

Of course, Senate debate on the present bill has just commenced. However, I think that public and legislative consideration of the matter over the past 2 years has already fully exposed the basic issue. The bill before us is the product of that debate. Unfortunately, it does not immediately and completely remove the power of courts and Federal bureaus to require forced busing as it has been applied in Georgia.

In this respect, it is not as strong as I would have wanted it, but I do consider it one on which a majority of Members of the Senate can agree. As I understand the bill before us, it is not a legislative illusion, as the antibusing sections of the higher education bill have proved to be. Were that so, I would not support it as I did not support the higher education bill.

Mr. President, the people of this country, both black and white, by an overwhelming majority, even those who have never experienced it have strongly expressed themselves against forced schoolbusing. The people of Georgia, whom I represent, their schools and schoolchildren, are entitled to be relieved forthwith from this bureaucratic bungling. Forced schoolbusing, Mr. President, is wrong, and is tearing this country apart.

Mr. President, I might say that last night I received a phone call from a couple in Atlanta who have been friends of mine for years, whose children have attended public school with my children. They mentioned to me something that I had become aware of during the weekend, and that is that the Fifth Circuit Court of Appeals in New Orleans had just ordered the school system in Atlanta to implement a citywide forced busing program. During the debate here this week I expect to comment more extensively on that order. I do not have a copy of it in detail. I have sent for one. But, in substance, it says that because there are some schools in Atlanta which are virtually all black and some which are virtually all white, there must be some segregation in the Atlanta school system and it has got to be stopped.

Mr. President, the Atlanta school system has complied with every Federal court about desegregations since 1960. It has been twice declared to be a unitary school system; that is, it has been twice declared that the Atlanta system is no longer a dual system.

The best I can gather from what has happened is that the Federal court in New Orleans simply says, "As long as you can see black and see white, there must be something to be remedied, and it can only be remedied by the transportation of children from one community to another."

Mr. President, we had thought, I think rightly, and certainly the Members of Congress had thought, that whenever a unitary school system was achieved, there would not be any more need for court orders, much less court orders requiring transportation of children from one community to another, but apparently that is no longer true. I put in the RECORD earlier this year the order of the Federal district court in Atlanta, in which the two judges in that court who had the case found that the Atlanta school system was and had been a unitary system for many years.

The majority of the population of Atlanta is black. The school population of Atlanta is 70 percent black. Who is the minority in Atlanta? And may I say, Mr. President, that the majority of the black parents, the majority of black students, the black members of the Atlanta Board of Education, and the black president of the Atlanta Board of Education—who is also the president of Morehouse College, Dr. Mays, who preached the funeral address at the funeral of Dr. Martin Luther King—all of those people are asking that they not have any more busing in Atlanta. And yet the Federal circuit court in New Orleans says, "There must be something to be done up there, because we can still see black and we can still see white."

Mr. President, I cannot do anything except deplore that decision in the strongest terms. It is absolutely asinine. There is no Supreme Court decision that I know of that requires what the Fifth Circuit decided in the Atlanta case. In fact, it seems to me, from a personal knowledge of the situation and what I know of the decisions that have been made, that the Fifth Circuit has struck out on a tangent of saying that racial balance, regardless of de facto or de jure, is the only evidence of desegregation that the court will recognize.

Mr. President, this is contrary to what the Supreme Court has said; it is contrary to what Congress has said; and it is contrary to what the Supreme Court held in 1954, which is that students could not be placed in schools or assigned to schools based on their race. It is not even a matter of a remedy or a tool to overcome legal segregation. It is simply a matter of achieving a racial balance in the schools of Atlanta, or wherever it might be applied.

Mr. President, I have some concern about speaking out strongly here on the Senate floor in favor of Atlanta, because Augusta, Savannah, Macon, Columbus, and many other cities in Georgia have been under such orders for a year or more. I deplore that in those cases also. But what is so shocking about the Atlanta case is that in the Atlanta case, the district court did not find, as it has found in these other places, that there continued to be a practice or a determination on the part of the local school system to maintain a dual system of schools.

In Atlanta, the school board many years ago had been dismantling the dual school system, had been doing everything that the Federal courts had required in order to achieve a unitary system, and had twice been declared by the Federal district court in Atlanta to have achieved a unitary status.

These people who called me last night said:

> David, what are we to do? We have tried. We have stayed with the public school system in Atlanta. We have seen the teachers shifted all over town in the middle of the year.

Mr. President, to illustrate further how asinine this is, the desegregation plan that they are operating under in Atlanta now permits any black child who wants to go from a majority black school to a majority white school to do so. All he has to do is call up the Atlanta School Board and say, "I want to go to such and such a school," he can pick any school in town, and the Atlanta Board of Education will pay his bus fare by public transportation to go to that school. So we have had desegregation, and, although black students have to ride 15 miles to get there, we have had 30 percent or more black students in the school which our children attended. So it is not a question of breaking the color barrier. Black students simply have not wanted to go to all these schools.

But the people who called me said:

> We do not know what is going to happen now. Black children will be bused to our school, and our children will be bused somewhere else. We do not know what to do. We have never applied to a private school for our

children, and we do not know of one where we could, because there are not enough private schools to handle all the children. We do not want to move from Atlanta, as so many have done, but we want our children to have a decent education in a public school that we have access to, that is conveniently located near our home.

I said:

I wish I could stay cool, but if I were there myself I would not be too cool.

So they are meeting tonight and tomorrow night; they are meeting in the churches to determine whether the churches can carry on with the school system in Atlanta; they are meeting in the neighborhoods, to see if people can hold school in the basements of the houses, in community centers, and otherwise in Atlanta, to see if school will go on, because there is no way to have a racial balance throughout Atlanta without transporting children anywhere from 12 to 15 miles across the city of Atlanta, transporting blacks to white areas and whites to black areas.

And, Mr. President, when I talk about black areas, I am not talking about ghettos. There are many square miles of Atlanta that are solid black, and have more finer homes and finer schools than anything in the District of Columbia today. Those children are going to be transported out of their communities to some other communities, I suppose. I do not know who is going to be transported where. But the blacks are 70 percent of the total. This is the first time, to my knowledge, that we have ever looked at a situation where we were going to strive to distribute the majority among the minority. As I say, it is asinine.

Mr. President, I hope that my colleagues here will, after due consideration, not only cross the bridge at this time, but will resolve the matter now, once and for all, substantially in accordance with the measure as passed by the House of Representatives. Certainly, shoving it back under the rug, taking the ostrich approach, "waffling," or other means of further procrastination will certainly not cause the problem to go away. So far as the people of my section of the country are concerned, and for that matter so far as sensible and fair-minded people all over America are concerned, I have no doubt but that their representatives who return to this body next year will, if possible, be more than ever determined to put an end to the misguided practice of forced school-busing.

Therefore, Mr. President, I hope that our colleagues will be constrained to face up to the issue, to get down to the substance of the legislation, to put to one side any further delays in bringing the matter to substantive consideration, and will vote on it up or down before adjournment this weekend.

I yield the floor.

Mr. BAKER. Mr. President, I commend the Senator from Georgia on his remarks, his eloquent presentation, and his analysis of the situation as it is now evolving and devolving in his State, particularly in Atlanta.

I come from a State where court-ordered busing, unfortunately, has been in effect for some time. I can speak first-hand of the enormous dislocations—not just the inconvenience but also the grievous concern and disruption—that judicially ordered crosstown busing has caused in Nashville, Davidson County, Tenn.

We have other cases in Memphis, the effect of which has been stayed temporarily; in Chattanooga, where a decree has been stayed temporarily, at least partly because of a previous moratorium action taken by Congress. Cases are pending in Jackson, Tenn., and in other cities in my State.

So I know first-hand the enormous dislocations, the great concerns, the fears—the reasoned and unreasoned fears, in some cases—but the enormous disruption it has caused in my State. It really has been destructive. It has been a bit of judicial mischief.

Mr. President, for a while it appeared to me that it was going to be difficult to separate the opposition that many of us have to massive, crosstown, judicially ordered busing and desegregation of the school systems of the Nation. They are two very different things; and for a moment today I want to illustrate my concept of these distinctions, because I am very anxious to make clear that I favor a unitary school system. I have always favored a unitary school system. I believe in the elimination of the last vestiges of institutional segregation. I believe in the elimination of segregation from the public school system, root and branch, as the court said; but I do not believe in busing as one of the techniques to accomplish that purpose. Let us not confuse the two, however.

A dedication to desegregation and the establishment of a unitary school system is one thing. That is a principle to which we are dedicated. But pairing, clustering, consolidation of schools, changing boundary and attendance lines, and a half dozen other techniques that have been offered from time to time are the tools by which we accomplish that objective. Busing is not an objective in itself. It is not a philosophy; it is not a principle to which we are dedicated. It is one of the arsenal of tools that the highest court has put in the collection of tools that the several lesser Federal courts might utilize to eliminate segregation.

Some say that opposition to busing is racist. That is an interesting observation, because all of us will recall that case after case implored the Supreme Court to require busing; and for 4 years, in case after case, the Supreme Court declined to do so. I do not recall that anyone accused the court of being racist in the period from Brown I until Swann, when they uniformly and consistently rejected the application of busing as one of the tools for the furtherance of the desegregation of the public school system. Not until Swann, of course, did busing become one of the tools in the continual effort to desegregate the school system and provide for a unitary school system. So I reject out of hand the allegation made frequently that opposition to busing is racist or a perpetuation of segregation.

Mr. President, the tools at hand are examined not on the basis of their merit and equity, their rightness and wrongness in moral terms, but for their utility, for their usefulness, for their adaptability to the situation at hand; and I suggest that busing is such an extraordinarily disruptive force and has caused such mischief in my State and throughout the Nation that it is now clear that it is not a suitable, let alone a desirable, tool to be employed by the Federal judiciary to accomplish an otherwise highly desirable purpose—that is, the desegregation of our school systems.

Therefore, I support this bill, which has been passed by the House of Representatives. Had I been drafting the bill, possibly I would have taken a different tack and a different approach in certain respects. But I did not draft it. The bill originated in the House of Representatives and was passed overwhelmingly in the House. We are now in the final and fading days of this Congress, and I am not about to set myself about the business of restructuring that bill by amendment. I intend to support that bill verbatim, so that we do not have to go through the business of a conference, so that we do not have to go through the uncertainties of disagreeing votes between the House and the Senate, and so that we can get about the business of providing effective legislation now for the people of the United States and the children of my State.

Mr. President, I do not intend to filibuster this issue today. It is my purpose and my ambition and my desire to see us have a vote up or down on the merits. I am convinced that we have great support for this bill in this body—majority support. I am convinced that we can pass this bill by a majority vote. But it appears that our test will come not on the merits but on our ability to effect cloture, to shut off debate, to stop a filibuster. I intend to do my best. We are going to try to marshal the two-thirds required to shut off debate and get to the meat of the coconut, get to the merits of the controversy, to vote up or down on the bill. It will be a tough fight, but I am going to be here, trying.

Mr. President, I would conclude with only these observations: At some point, I expect that we are going to get away from the business of the broad, laudible generality of providing a desegregated school system, a unitary school system, and an examination of the tools prescribed by the courts to accomplish that purpose, and get on, finally, to the question of how we provide equality of education, how we provide access to equal educational opportunity for all children in the United States, not just on the basis of whether they are black or white but also on the basis of whether they are rural or urban, North or South, East or West.

I have watched with great interest a body of case law grow up in this country, beginning, I believe, with the decision in the State of California on the requirement that the dedication of public funds to public education must be on a basis that gives equality of educational opportunity to the children of that State, and casting doubt on the adaptability of the property tax to serve this purpose, since

the property tax is, by and large, a flat rate tax and, therefore, is regressive and creates an opportunity for the children of rich people to have a richer education opportunity than the opportunity of poor children. So that tax structure does not apply very well.

At some point, Mr. President, I hope it is my privilege; I hope I have the opportunity, I hope some day to engage in debate and participate in the efforts of others who believe as I believe that the prime educational challenge is equalization of educational opportunity.

That is going to be tough business. That is going to be disruptive and it is going to be difficult. The exact numerical expenditure per capita per child probably would not accomplish that purpose, because remedial steps are required in some cases, and it costs more to get teachers in some cases. But in some way we have to find a formula to give us a reasonable approximation of equality of educational opportunities and practical access to it.

So, Mr. President, crosstown busing judicially ordered is not the way to do it. It has proved extraordinarily disruptive. I very much doubt that a community, let alone just a school system, could long survive the stresses set up without grievous injury and harm.

The fact that it is court ordered, by a Federal judiciary to which there is no public input, makes the situation more difficult. So, if we do have tough decisions to make in the future on how we equalize educational opportunity, it should be made in Congress where there is direct political input, where people do bespeak their demands and their desires and their dissent regularly, not just in terms of vicarious participation in the selection of the Federal judiciary by confirmation processes vested in the Senate.

Here in Congress, not in the courts, is where we should meet those difficult decisions and face the challenge providing access to equal educational opportunity.

I reiterate, I support the concept of a unitary school system, and I always have. I support continuing efforts to desegregate the public school systems of the United States, and I always have. I support the pronouncement of the highest Court in this land that we should go about the business of eliminating the last vestiges of the institutional segregation from the school systems of the United States—root and branch.

But, Mr. President, I do not support busing as one of the tools for the implementation of that purpose. I think it is disruptive. I think it is counterproductive. I think it is a bit of public mischief.

QUORUM CALL

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

The PRESIDING OFFICER (Mr. BENTSEN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HUGHES. Mr. President, I had expected to rise this morning to address a few more of my colleagues than are present at this time of the morning as a participant in debate on legislation of either unknown or slightly understood consequences for the Constitution of the United States and the system of government we have built upon it.

I considered extending the quorum call. However. I do agree with my colleagues that it is important to have a discussion of an obviously important question on which there are strong feelings in every region of our country.

With no opportunity for careful study or expert analysis by a committee of the Senate, we are involved in consideration on the floor of the Senate of a bill that many people believe is narrowly focused on the problem of "forced busing."

In fact, however, the bill before us, H.R. 13915, has all the earmarks of a broad-based plan to reverse the progress of over 18 years toward eliminating segregation from the public schools our children attend, in my opinion.

If that is clear from reading the provisions of the bill, I believe it is one of the few things that is clear about this legislation.

The consequences of enacting H.R. 13915 would be both subtle and far-reaching, affecting the very foundation of a national policy that has evolved over nearly two decades regarding the necessity to remove segregation from the schools regarding the promise of our society for minority citizens of this Nation, and regarding the equality of opportunity that we hope elevates our society above the quagmires of discrimination.

But those consequences have had little systematic investigation in the rush to bring this bill to a vote.

What we have before us is a vastly revised version of a bill that was introduced on behalf of the administration early this year in both the House and the Senate as I understand it—revisions that were written in on the floor of the House of Representatives during a gruelling and highly emotional late-night debate.

The House had the benefit of consideration by its Committee on Education and Labor. Hearings were held by the committee, and a report was written in support of the bill—a report that was brief and contained too little in the way of factual information about the most significant and controversial provisions. It is also my understanding that the record of those House hearings is not yet printed and available to provide us some guidance as to the intent of this legislation.

In the Senate, a companion measure was introduced and referred to the Committee on Labor and Public Welfare, where the Subcommittee on Education began hearings which have not yet been completed. As a result, the Senate does not have the benefit of a committee recommendation or of a committee report that would analyze, for the first time, the interworkings of the provisions contained in the original bill with the language adopted on the floor of the House, shortly before this measure came to the Senate and was placed directly on our calendar for action.

It would be far preferable to assess this legislation with the care and precision that a committee has within its power, particularly in view of the provisions added during House debate. By rough count, I have identified nine sections of the bill before us—with perhaps 9-times-9 fundamental consequences—that have been added to, or substantially revised from, the bill reported to the House by its Committee on Education and Labor.

These are the provisions that the Senate must examine most carefully, within the limited time available to us as we near the close of the 92d Congress.

They are provisions which led some of the original sponsors of the bill and proponents of the House committee's version, to vote against the measure on its final passage by the House.

And they are provisions which come before the Senate with a request for almost instantaneous judgment as to their impact upon the Constitution, the courts, the schools, and the children this legislation purports to protect.

Mr. President, I want my colleagues to know that I do not classify myself as a proponent of widespread, massive, forced busing of students. I have great sympathy for the children who are riding the buses and for the families who feel the strain of busing, but I know that, for the most part, the courts have resorted to this device only where they have found an illegal pattern of officially imposed segregation requiring an immediate, but hopefully temporary, remedy.

Mr. President, I am familiar with the problems of busing to some extent because my State is a rural State. We went through the consolidation of school districts in the State of Iowa, reducing their number from over 2,000 to as low as 500. That was a long and bitter battle, Mr. President, sometimes with father against son and son against father. It resulted in better education, better facilities, and better qualified and better paid teachers. However, it also resulted in busing students from some areas to other areas and for long distances. It resulted in the children of some families going to different schools. I know of one family in particular that had four children, and each of those four children went to a different school building in a different town.

These children were picked up early in the morning and bused to four different towns from their home. These children were not bused, because of racial problems. They were bused to obtain quality education.

Many groups were concerned, because of the extent of the busing and the length of time that the students spent on the buses in the early mornings and late afternoons.

As you know, Mr. President, the days get very short during the winter months in Iowa. It does not get daylight early in the morning and it gets dark quite early in the afternoon. As a result, the problem of children coming out in the dark and perhaps returning in the dark was a question that concerned many of us.

Consolidation of school districts over a period of 20 years had to take into account busing. Busing is historic in quality education in America today—in most school districts, certainly in most States of this country—and it has been for so many years that most of us have forgotten when it started. Discussions of busing have been going on for a long time, while only recently in relation to racial discrimination and racial imbalance.

It is unfortunate that this particular remedy has been found to be necessary in some cases, or for that matter, that there is a need for any remedy whatsoever.

However, as I said, school buses have been used for decades to bring students from their homes to places where they can get a quality education, and in these days of transition, it is still a legitimate device for achieving that purpose when its use is deemed necessary. Others far more eloquent than I have expressed this point, and I would like to quote one of them at this point.

Mr. President, I was very much impressed by a statement that was made last March 2 by Prof. Alexander M. Bickel of Yale University Law School, whom I have known and respected since we worked together in 1968 on the Commission on the Democratic Selection of Presidential Nominees, which charted the route for recent reforms in the national Democratic Party. Testifying before the House Judiciary Committee, Professor Bickel said:

I am no partisan of busing for racial balance. I take the Court in the *Brown* case to have held that it is unconstitutional, as it is assuredly wrong and ultimately evil, to force the separation of children in the schools along racial lines. The question before the country now is, to my mind, rather a different one. It is, whether we think it wise or necessary to force the mingling of children in the schools in proportions that reflect approximately the ratio of blacks to whites in the total population of an area.

Busing is inconvenient. What is more important, it runs counter to a widespread parental desire, which cannot fairly be brushed aside as mere racism, for a sense of community in the schools. The feeling, shared I believe by many blacks as well as whites, is that the population of a school, while not necessarily homogeneous, should have a sufficiently cohesive majority, to whose aspirations and needs the school can be responsive. A geographic element enters in since parents rightly feel that it is physically difficult, if not impossible, to maintain a connection with a school, and make their needs and wishes felt in it, if the school is 15 miles away.

There is evidence that under certain conditions the education of black children is improved when they are sent from a segregated school situation into one with white children. But it is highly doubtful that the attainment of racial balance by busing is the only or always necessarily the most effective way to improve the education of black children. Considering the disadvantages that admittedly attend it, busing is often, therefore, not the wisest measure to adopt. However, since we are not prepared to close private schools or to incorporate them into the public system, or prepared to restrict the freedom of residential choice which the middle class enjoys, busing, after all its disadvantages have been incurred, not infrequently fails to achieve its end of maintaining racially balanced schools.

So a great deal of the unpopularity of busing seems to me justified. But in some areas, busing is essential if any desegregation at all is to be achieved, and in many areas, segregation itself was, of course, maintained by busing. I would think it wrong, therefore, for Congress by constitutional amendment to forbid all busing, and thus to hamper the continuing work of desegregation, just as it nears completion. And quite aside from recent busing orders, I would think it disastrous to roll back the desegregation that has been achieved, to undo the great work of 17 years . . .

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

Mr. HUGHES. I yield.

Mr. HART. The Senator from Iowa is a member of the committee to which this bill in normal course would have been referred. The Senator from Iowa is a member of the committee which on earlier occasions has studied certain aspects of the effort to bring our public schools into compliance with the 14th amendment.

The point he has just made reminds me that many of us are not on the committee and hence not in a position to have available all the data and we are not sure exactly how many children in our public school system today are involved in a desegregation order which includes busing.

The reason I ask the question is that I am convinced that not all of us realize that the House-passed bill would have the effect of creating turmoil in several hundred, at least, school districts in this country which are in good faith attempting to operate pursuant to a court order, in an effort to deliver the promise of the 14th amendment to some of our children.

Does the Senator from Iowa recall about how many students today in our public schools are involved in desegregation orders that involve some transportation?

Mr. HUGHES. The Senator from Iowa is sorry but he does not recall those figures offhand. They may be included later on in some information I have, but offhand I cannot recall. It is not a considerably large figure. The question the Senator brings up is, indeed, very important.

Mr. HART. I ask the question believing, as I know the Senator from Iowa would agree, it is important as we confront this legislation that we have a knowledge of how many children would today be involved under orders that could be nullified by the enactment of this bill.

I arose not for the purpose of making this point, but this point becomes obvious: the Senate undertakes this action without the kind of data which my question seeks to obtain, which normally would have been available to us if the committee had been able to take testimony.

Mr. GAMBRELL. Mr. President, will the Senator from Iowa yield to me for a question?

Mr. HUGHES. I yield for a question.

Mr. GAMBRELL. Mr. President, I would like to ask the Senator from Iowa if it is not true that the President's bills, out of which the present legislation was adopted, as well as a number of other bills, including one I offered, have not been filed since, I think early March of this year, and have been pending before the Subcommittee on Education of the Committee on Labor and Public Welfare. There have not been hearings held; and if the Senator recalls, and I do not believe he would, because no one was there except the Senator from Rhode Island (Mr. PELL) the day I appeared before that subcommittee, March 29, with a number of other witnesses on the bill we are discussing now. I wish to ask if it would not have been possible for that committee and the full committee to have concluded its deliberations on that legislation that is pending before it. In fact, we have had a full month since this present bill was reported to Congress within which the committee could have gone ahead and reported a bill on its own so that we could have had before us the bill reported and the information it might develop. Is that not substantially correct in reference to whether the Senate has had an opportunity to consider this legislation, or legislation of the same type?

Mr. HUGHES. The Senator from Iowa would have to say to the Senator from Georgia that every committee has the opportunity to consider every piece of legislation that is before it in every Congress in every year. I think the Senator from Georgia is aware of the tremendous workload of the Labor and Public Welfare Committee and also the fact that the Senators were involved in the busing debate in connection with the Higher Education Act from January to July of this year. In relation to it, I would say that when the time comes to introduce a bill in the Senate, it is the exception rather than the rule when it is held on the calendar and not referred to committee.

I believe the Senator from New York (Mr. JAVITS), who is the ranking Republican member not only of the Labor and Public Welfare Committee but the Subcommittee on Education, can enlighten us a little better on that.

Mr. JAVITS. I would rather ask the Senator a question, under the rules.

Mr. HUGHES. I yield for a question.

Mr. JAVITS. I would like to ask the Senator if it is not a fact that the major portions of this bill which we are debating and which are considered to be so adverse to the desegregation process are provisions which were added on the floor in the other body?

Mr. HUGHES. Yes, the Senator from Iowa believes that to be true. There were at least nine major provisions of this bill which were added in debate on the floor.

Mr. JAVITS. Is it not a fact that it was the objection of the Senator from Alabama which blocked this bill from going to the committee to which it otherwise would have gone?

Mr. HUGHES. The Senator from Iowa cannot testify to that as a fact; the Senator from Iowa is willing to let the record speak for itself on that fact.

Mr. JAVITS. Is it not a fact that where a bill goes on the calendar through the use of the procedure here, it is hardly to

be expected that a committee, when the bill has not been referred to it by the Senate so that its recommendations and amendments have been sought, will move into the matter as a volunteer, especially in view of the extremely crowded calendar which it itself has, including minimum wage, pension, and welfare reform, and a host of other matters?

Mr. HUGHES. The Senator from Iowa will agree with that and, of course, particularly since hearing the recommendation of the leadership that no new legislation will be considered on the floor with the exception of absolutely pending "must" bills.

Mr. JAVITS. May I ask the Senator with respect to his original inquiry about numbers, whether or not it is a fact that the total increase in numbers in the country, as the information is given to us by HEW, of children being bused is on the order of magnitude of 1 percent, which would be, in practical figures, about 200,000?

Mr. HUGHES. The Senator from Iowa would have to say again that he cannot testify personally to that, but he is willing to accept the estimate of the Senator from New York as a fact.

Mr. JAVITS. And further may I ask the Senator on that score whether it is not a fact—and this the Senator undoubtedly knows—that there are 20 million children who are normally bused throughout the country, quite apart from any requirement for desegregation?

Mr. HUGHES. Yes; the Senator from Iowa feels that number to be close to the accurate figure. As I said earlier, busing in my own State has been not only a tremendous problem but a tremendous resource in trying to guarantee quality education for the children of Iowa as long as I can remember.

Mr. JAVITS. Can the Senator perhaps help us with this point—the difference between racial balance and desegregation? As the Senator has noticed, and as I have noticed, those who would be the proponents of this kind of a measure are constantly using and invoking the term "busing for racial balance," as contrasted with just mentioning the fact of busing in the context in which we are debating it, that is, busing ordered to correct unlawful and unconstitutional segregation of school systems.

Mr. HUGHES. Well, the Senator from Iowa is aware that where orders are pending under existing court cases because of unlawful and existing segregation, one device to bring school districts in conformity with the law has been the utilization of school busing to do that.

Mr. JAVITS. Could the Senator give us the benefit of some of his experience as Governor of his State with respect to the State interest in "racial balance," just to give the Senate an analogy, in answer to my question? In my own State of New York our education authorities are under a mandate, under our State educational laws, which requires them to seek to improve educational opportunities, subject to other considerations, by restraints in ameliorating circumstances, to bring about a better balance in given schools which are heavily attended by the children of one particular minority group, generally black or Puerto Rican.

I wonder whether the Senator from Iowa has had experience with that and whether that is a concept in the law of Iowa and how that bears upon the action of his State, and does it thereby differentiate very sharply, in terms of seeking racial balance, between the actions of the State and its educational authority in the interest of good education and the actions of the Federal Government in correcting unlawful segregation in the public schools.

Mr. HUGHES. The Senator from Iowa would have to say to the Senator from New York that, as he knows, the population of racial minorities in the State of Iowa is extremely low. I believe there are approximately 1 percent blacks in the total population of the State of Iowa. That population, however, is concentrated in half a dozen of the major cities of the State, and as a result of that has created only a few instances in the State of Iowa of imbalance in the educational system.

The educational system of the State of Iowa, during the time the Senator from Iowa was Governor, worked through the legislative process to bring about equality of education in every school district in the State of Iowa. As a matter of fact, a complete revision of the laws was made during that period of time in an attempt to do just as the Senator from New York states. The responsibility of the Federal Government is to provide assistance for the State legislature as well as the school districts at the local level to bring themselves into compliance with the constitutional rights of every citizen and child in this country, with which everyone of us here in the Senate is identified. As the Senator has implied, it is extremely important; and one additional facet, probably the most important is to see to it that quality education is given to every child in this country, regardless of where he lives.

Mr. JAVITS. I thank my colleague for these answers, which I think materially help in the elucidation of the subject.

Mr. HUGHES. I thank the Senator from New York for his questions.

Mr. President, as I have stated I believe there is a great deal in what Professor Bickel has said that is directly applicable to the legislation that is before us today. His statement was directed toward a constitutional amendment that would place a prohibition against busing for racial purposes into the fundamental document upon which our Union is based, but his perceptive views apply just as directly to these deliberations over legislation that would, in effect, virtually eliminate busing as a tool for carrying out the constitutional mandate to desegregate our schools.

Busing is inconvenient in many cases. Too often it is too inconvenient to be accepted without complaint by parents.

But in fashioning devices for achieving that basic right to equal opportunity, it is far less inconvenient to transport teachers and students than it is to move whole neighborhoods, to relocate school buildings, to bridge rivers and railroads and heavily traveled highways, or in the end, to abandon a basic constitutitonal principle.

I would emphasize, Mr. President, that I am aware of Professor Bickel's advocacy of congressional action to give the courts and the executive branch additional tools for the task. But he clearly feels that H.R. 13915 is not the way, calling it "a recklessly radical undertaking to alter the balance of power between the judiciary and the political institutions of the Federal Government."

Mr. President, aside from the hazards of legislating hastily, the Senate is confronted with deciding whether this legislation is needed at all. The Congress in recent years, and the courts over the past 18 years, have already set forth a host of guidelines for desegregation of schools and limitations on the use of busing in all situations in which it is not constitionally necessary.

The Senate is also confronted with deciding whether it is desirable, or even possible, to impose uniform, national limitations on the transportation of students in the cause of desegregating schools.

In his testimony before the House Judiciary Committee, Professor Bickel dwelt upon what he termed:

> . . . the myriad variables that obtain in this field and the enormous difficulty of drafting statutory or constitutional language.
>
> You have thousands of school districts across the country. You have 101 ways of busing to different ends over different distances from different schools to different schools—one-way busing, part-way busing.
>
> I don't see how anyone in Washington could sit down and write a code that would regulate that.
>
> I think what one can do is what Congress in my judgment ought to do, which is to use the Federal purse and Federal influence and the sense of Congress to tell all of these thousands of school districts that busing isn't the be-all and end-all, that they will be supported by the Federal Government in alternate measures they might take to improve the education of children, which is presumably the end result that everybody wants; that in areas where busing can work well . . . that is fine, that is one technique to be used . . .
>
> I think Congress can enlarge the shopping list beyond what the courts with their limited resources have been shopping from and put Federal money and Federal influence behind this variegated, enlarged shopping list.

Mr. President, in the interim since Professor Bickel testified on March 2, the Congress has taken mammoth steps to fulfill the needs he enumerated, and I am dismayed at the lack of attention being paid to these congressional enactments.

Most important of these was the Emergency School Assistance Act of 1972, which achieved passage as a component of the Omnibus Education Act. Two billion dollars were authorized under this act to provide Federal assistance over the next 2 years for desegregation of schools. The "shopping list" of possible remedies for racial imbalance was, indeed, expanded by this legislation, with special emphasis on aiding those school districts which are implementing desegregation plans under mandate from a court or a State or Federal agency. This legislation, Mr. President, goes a long way toward meeting the unique need of local school districts to deal with unique racial patterns in their communities, and I am hopeful that the funds for these many

programs will be forthcoming in the very near future.

Apart from the Federal money and Federal influence that Professor Bickel spoke of, the omnibus education legislation also contained stringent limitations on the use of busing—provisions which are already a matter of law and which virtually eliminate, in my judgment, any need for further enactments at this time.

Among these provisions is a prohibition on the use of Federal funds to transport students or to buy buses in order to overcome racial imbalance. They also prohibit using Federal funds for busing to carry out a plan of desegregation, except on the express written voluntary request of appropriate local school officials.

Neither are Federal funds to be used for transportation of students if the time or distance is so great as to threaten the health or impinge on the educational process of children; nor to provide transportation which would result in children being assigned to a school substantially inferior to the one they would be assigned to under a nondiscriminatory geographic zone assignment plan.

And perhaps most important, the bill prohibits Federal officials from requiring the use of non-Federal funds for busing to correct racial imbalance or achieve desegregation—or to condition a grant of Federal funds on student transportation plans—"unless constitutionally required."

In addition, the legislation postpones the effectiveness of any district court order "which requires the transfer or transportation of any student or students . . . for the purpose of achieving a balance among students with respect to race, sex, religion, or socioeconomic status" until all appeals have been exhausted or until January 1, 1974.

Mr. President, I would not have prescribed such rigid and far-reaching limitations on busing, and the record will show that I voted against the bill on final passage because of some of these provisions.

But a large majority of my colleagues supported them, and these provisions became the law. By recognizing their existence, a great deal of the emotional reaction to busing could be alleviated.

If national leaders of every stripe would stand before the people of this country and tell them that virtually everything that can be reasonably done has already been done, we would not be faced with the atmosphere of near-hysteria in which the Senate is today being asked to consider this legislation.

Mr. HART. Mr. President, will the Senator from Iowa yield for a question?

Mr. HUGHES. Yes, I am glad to yield to the Senator from Michigan for a question.

Mr. HART. It is unfortunate that there are so few of us in the Chamber to hear the point that the Senator is just making, but in the RECORD it will become available to us, and the point will be brought home.

The Senator from Iowa, it is my understanding, is suggesting that the national leadership, officially and otherwise, would contribute materially to a clearer understanding of what at most is involved in this debate, if they would in every way possible make the point that what the Supreme Court is attempting to do is protect the constitutional rights of Americans. Is the Senator from Iowa saying that the question is not, "Do you like busing or do you not like busing?" but rather the question is, "Do you support the Supreme Court, and the district courts following its orders, when that Court finds that the equal protection of the laws is denied to children?"

If the only way, in certain situations, that the constitutional denial can be eliminated is to require transportation, is not the Senator from Iowa suggesting that if the public of this country had put to it the question, "Do you believe that the Constitution's promises should be delivered, or not?" there would be a much clearer and more rational discussion of this issue across the country, and especially in the communities where the courts indeed have found, as a result of published decisions, that the 14th amendment is being violated?

Mr. HUGHES. That is precisely the point I am trying to make, I would say to the Senator from Michigan. I do believe that if national leaders would stand before the people of this country and tell them that they believe in the constitutional rights of every citizen of this country; that they believe that the constitutional provisions with relation to the education of the children of this country should be protected; that where they have not been protected, they should be corrected—and that includes every State in the Union—and that we can seek equality of education for every child in this country, no matter where they live or what the circumstances are, we can and would, I believe, find the greatest of response in the American people. The Senator from Iowa must believe that the vast majority of the American people—probably in the 90 percentile—supports the basic constitutional provisions protecting all the rights of the people of this country; and if they could understand it in that coloration, I am sure they would support it.

Mr. HART. It is not true that a chain of unbroken, unanimous Supreme Court decisions lays out what the Constitution requires with respect to school districts where assignment has been, in one fashion or another, based upon race? Is it not true that, under those circumstances, the Supreme Court, with Justice Burger writing the opinion, has said that such deliberate segregation must be ended?

Mr. HUGHES. Of course, that is true, as the Senator from Michigan well knows, and he knows, also, that this measure before the Senate erroneously declares that the courts have failed us, that the guidelines developed over 18 years of litigation have been incomplete and imperfect for dealing with segregation. Absolutely, the decisions emphasize just the opposite.

Mr. HART. Do not the decisions emphasize that each community, where the court finds that deliberate action which results in segregation has occurred, has an affirmative duty, shared with the States, to dismantle the results?

Mr. HUGHES. As the Senator well knows, in 1968 the court held that school boards must take affirmative action to eliminate racial discrimination, root and branch; and a year later the court held that segregated school systems must be terminated at once, with no delay for appeals. School boards were required to desegregate first and then appeal.

In last year's landmark ruling in the case of Swann versus Charlotte-Mecklenburg Board of Education, they held that school boards could be required to use bus transportation as one tool of school desegregation.

Mr. HART. I have heard proponents of the bill now pending say that they support the Supreme Court. They say that we should eliminate segregation, root and branch. What happens when a court finds segregation and finds that its elimination can be achieved only by the utilization of some bus transportation? How can they support this bill, which prohibits transportation beyond the next nearest school, if that kind of transportation is required to get rid of segregation, root and branch?

Mr. HUGHES. It is the opinion of the Senator that those two positions are completely incompatible and that there is no way they can hold both positions at the same time.

Mr. HART. Perhaps, if we are given enough opportunity, we can make that clear to the people of this country. They cannot have it both ways. They seek to protect constitutional rights, 14th amendment rights; and if there are situations—and there have been, according to the courts—in which school transportation is required, they cannot deliver the constitutional protection if they stand up and say, "We need a bill that will prevent the court from providing for transportation beyond the next nearest school."

Having said that, and asking the question in the fashion I have, it occurs to the Senator from Michigan that I have described in rather unlawyer-like fashion why almost 500 law school deans and professors say that this bill is rankly unconstitutional.

Mr. HUGHES. The Senator from Iowa thanks the distinguished Senator from Michigan. As I have already indicated, Mr. President, the measure before us declares that the courts have failed us—that the guidelines developed over 18 years of litigation have been "incomplete and imperfect" for dealing with segregation.

This allegation bears careful examination as to its accuracy. The Supreme Court and the circuit courts have established general guidelines for the district courts to apply to school desegregation cases.

The Supreme Court has established guidelines concerning transportation, reassignment of students and teachers, altering of school attendance zones, the pace at which desegregation must be undertaken, and the duties of local school authorities.

The list of important decisions begins, of course, with the basic holding by the Supreme Court in 1954 that separate schools are inherently unequal, followed by the 1955 decision that desegregation should be implemented "with all deliberate speed."

In 1964, 10 years after the first judicial mandate to eliminate segregation, the Supreme Court declared with justifiable impatience that the time for mere "deliberate speed" had run out.

In 1968, the Court held that school boards must take affirmative action to eliminate racial discrimination "root and branch."

A year later, the Court held that segregated school systems must be terminated at once, with no delay for appeals. School boards were required to desegregate first and then appeal.

In last year's landmark ruling, in the case of Swann against Charlotte-Mecklenburg Board of Education, the Supreme Court held that school boards could be required to use bus transportation as one tool of school desegregation. The Court was unanimous on the importance of bus transportation to effective desegregation, declaring that "desegregation plans cannot be limited to the walk-in school."

In that package of decisions, the Court also said that transportation could be limited if it involved time or distance so great as to pose a health or educational risk—a limitation that has also been enacted by Congress.

It is also significant that the Court ruled in this case that a neighborhood school assignment system, even though it appears to be neutral, cannot be employed in "a system that has been deliberately constructed and maintained to enforce racial segregation."

In other words, Mr. President, neighborhood schools are out, where segregation has been deliberately maintained, yet the bill before us demands that children not be transferred any farther than the next nearest school to their home. This is just one of the points on which the Congress and the courts would be on collision course, if this legislation were adopted.

The crux of this legislation has been brought into sharp focus by the Swann decision. Almost without exception, the beneficiaries would be school districts that have deliberately developed and maintained segregated schools in violation of the Constitution. Of nearly 1,500 school districts under orders of a court or a State or Federal agency to desegregate, I understand that the Department of Justice has identified only 20 which do not involve a violation of the Constitution.

Even these 20 are open to question, with approximately a dozen of those undergoing appeals to higher courts, with a ruling expected in the fall term of the Supreme Court on the central question as to whether de facto segregation may also violate the equal protection clause of the 14th amendment to the Constitution.

Mr. President, the seriousness with which this legislation is regarded in the legal community of the Nation is demonstrated by the fact that nearly 500 law school professors throughout the country have joined in opposition to it, as the distinguished Senator from Michigan pointed out.

In a joint letter, the law professors stated that they had "grave reservations about the constitutionality of the legislation" and that "it would place in jeopardy most of the hard-won progress toward school desegregation of the last two decades."

The distinguished group of law-school teachers concluded that H.R. 13915 would, in their words:

> Open to relitigation nearly two decades of judicial desegregation decisions, many of which involve no busing whatsoever, thus leading to divisiveness and confusion in many communities already satisfactorily operating under school desegregation plans.
>
> Place the legislative and judicial branches in conflict;
>
> Remove a remedy for the vindication of constitutional rights, even when that remedy is constitutionally required;
>
> Impair the Supreme Court's role of final arbiter of constitutional matters.

Announcing this statement by the law professors, the following statement was made by our colleagues, the Senator from New York (Mr. JAVITS), the Senator from Minnesota (Mr. HUMPHREY), the Senators from Massachusetts (Mr. BROOKE and Mr. KENNEDY), the Senator from Michigan (Mr. HART), the Senator from Connecticut (Mr. WEICKER), and the Senator from Minnesota (Mr. MONDALE):

> We have heard from professors at 42 law schools representing every section of the country and of varied political persuasion. Their common petition is an unprecedented expression of concern by legal scholars who feel compelled to speak out against this measure. Their voice underlines the need for careful deliberation by the Senate.
>
> We are deeply troubled at the prospect that this complex and controversial measure—which would have an uncalculable impact on the future of our Nation's schools—might be acted upon hastily by the Senate, in the closing days of a busy session, under the pressure of elections politics, and without any consideration by a Senate Committee.

Mr. President, as I have already indicated, I subscribe wholeheartedly to this expression of concern by my colleagues.

I am pleased to call to your attention that, among the signatories, are 11 members of the faculty of the School of Law at the University of Iowa:

Gerald Ashdown, David Baldus, Robert Bartels, Arthur Bonfield, William Buss, N. William Hines, Benjamin Hopkins, Kendall Meyer, Paul Neuhauser, Mark Schantz, and Burns Weston.

In addition to the 500 lawyers who signed this statement, 35 Harvard Law School professors had already voiced opposition to similar legislation last April. In a statement filed with the House Judiciary Committee, the Harvard faculty members said:

> Such legislation would sacrifice the enforcement of constitutional rights, impair the functions of the judiciary under a rule of law, and jeopardize improved schooling for many, many children.

Mr. President, the Senate must take very seriously these expressions of concern from some of the most learned experts in the law.

When they declare that this legislation would "open to relitigation nearly two decades of judicial desegregation decisions, many of which involve no busing whatsoever" there can be no argument; that is essentially what Attorney General Richard Kleindienst said in testimony before the House Judiciary Committee:

> All desegregation cases, even where busing might not even be an issue involved in it (could be re-opened). You are going to have an opportunity for a school agency to come into a Federal district judge and say, this order was entered into 12 years ago, Congress has laid down a national standard and we want to re-examine this and apply the remedies and priorities set forth in the national standards, and obtain a new order in this particular case.

Can there be any doubt, Mr. President, that the so-called reopener provision—which was rejected by the House Committee but written into the bill on the House floor—would, in fact, begin the process of tearing down the foundation of racial equality that dates back to 1954 for its origins?

Mr. JAVITS. Mr. President, will the Senator from Iowa yield, whenever the Senator finds a suitable moment?

Mr. HUGHES. I yield for a question.

Mr. JAVITS. Mr. President, dealing with this reopener provision and the provisions that tie into it, to wit, section 402, which gives a hierarchy of remedies based upon a situation "which may involve directly or indirectly the transportation of students," and goes through a long list of remedies which have been actually applied, including the creation of revision of attendance zones or grade structures, and then when we read that in conjunction with section 404 with reference to district lines and, coupled with the other provision of section 403(a), regarding transportation to the nearest school, or the one beyond that, would the Senator taking that whole composite together, agree with the Attorney General that we can reopen any decree, no matter how long established, no matter how well satisfactory, no matter how well vested, that this is simply turning the clock back to pre-1954?

Mr. HUGHES. The Senator from Iowa certainly agrees with the Senator from New York. As the Senator from New York well knows, the sections he has pointed out, I believe the Attorney General indicated, make subject to reopening every remedy that has been placed in every affected district in the country. I think it would be a tragedy if this sort of thing were to be allowed.

Mr. JAVITS. Well, I thank my colleague very much. This is something, as the Senator has said, that needs to be borne in very deeply on the Senate as to the social mischief and the economic mischief, the mischief in every community which this makes possible. It is really a reversion to the old politics, let alone abandoning any concept of the new one.

I thank my colleague.

Mr. HUGHES. Can there be any doubt that some 1,500 desegregation plans—both court-ordered and administratively derived—would be reconsidered, creating vast chaos in the courts and in the administration of Federal funds for assistance to local schools, with the results pointed out here in the past 5 minutes? Could there be any doubt about that at all?

And at what cost? I have been unable

to find any authoritative figures on how many students and teachers, who have been transferred to meet the constitutional standards for desegregating schools, might have to be transferred again immediately to still another school.

Nor has there been prepared, to my knowledge, any authoritative figures that would indicate the probable administrative costs to the local school districts of the vast number of retransfers and reshufflings that can be expected as a result of this "reopener provision."

Mr. President, I suspect that if these figures were known, they would show that the cost of resegregation would be greater than those of desegregation.

In addition to the "reopener provision," there are a number of other provisions of the bill that are troublesome and demand the most careful consideration.

On its face, the bill attemps to establish strict, uniform national guidelines as to what remedies may be applied to deal with segregation. But the guidelines provided are so rigid as to virtually wipe out the flexibility that is needed to fashion tailor made desegregation plans to deal with unique circumstances in individual school districts.

Even in the exceedingly rare case when busing might be permitted under this bill, the courts would be required to terminate transportation of students as soon as a school system reaches a desegregated condition. In such circumstances, this would result in terminating the very instrument by which the school system was able to desegregate and, thereby, automatically return the district to the condition which the court found to violate the Constitution in the first place.

Mr. President, I think that is very important.

This is a contradiction which, if found to be true after careful analysis, would reduce these provisions to absurdity.

In section 401 of the bill, it states that in formulating a remedy for segregation:

> A court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of laws.

The emphasis on "particular denials" raises the possibility that, under this act, only individuals could be granted relief and that class action suits on behalf of all similarly aggrieved plaintiffs in the same school district would no longer be allowed.

This is one of the provisions of far-reaching implications that are only casually and briefly dealt with in the legislative history of this legislation thus far.

Mr. President, one of the basic concepts upon which this legislation is founded is the concept of the neighborhood school. In effect, the bill defines this as the closest, or the next closest, school to the home of the child.

As much as I or any Member of this Senate may subscribe to the desirability of the neighborhood school, the Supreme Court has said that it is just not practicable when dealing with elimination of deliberate, systematic segregation. In its decision in the Swann case last year, the Court said:

> All things being equal, with no history of discrimination, it might well be desirable to assign pupils to schools nearest their homes. But all things are not equal in a system that has been deliberately constructed and maintained to enforce racial segregation. The remedy for such segregation may be administratively awkward, inconvenient, and even bizarre in some situations and may impose burdens on some; but all awkwardness and inconvenience cannot be avoided in the interim period when remedial adjustments are being made to eliminate the dual school system.

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

Mr. HUGHES. I will be happy to yield to the distinguished Senator from Michigan.

Mr. HART. Mr. President, is the Senator from Iowa saying in a sense that this is a very harsh doctrine, and is it not true that the Constitution of the United States provides certain protections and in order that those constitutional protections be real, there may be occasions when inconvenience shall be borne by members of the public, but that constitutional right is not conditional upon its being convenient or promised, and until the Constitution is amended, delivery of that constitutional right is the obligation of everyone, who beginning particularly with those of us who took an oath of office to protect it.

Mr. HUGHES. Mr. President, that is precisely what the Senator from Iowa is saying, that the courts in their opinions have said that those constitutional rights are the most valuable rights of the individual and that regardless of whether there are inconveniences in some States and even an awkward situation in some cases, the constitutional rights shall and will prevail.

We have an obligation, certainly in this body, of seeing that that constitutional guarantee is continued and preserved for every American.

Mr. President, I think that in its eloquent and sensible statement in *Swann*, the Court is arguing in support of its repeated contentions that the courts must, and will, have the flexibility that is necessary for devising desegregation plans best suited to unique local conditions. Denying the courts that flexibility is to deny them the power to enforce the constitutional mandates of equal opportunity and equal protection of the laws.

Transporting students no farther than the next closest school would only work in small communities with small minority populations. In metropolitan areas, desegregation could only be achieved in a narrow corridor along the boundary between a white and a black neighborhood.

The effect of this provision was assessed only a few weeks ago by New York Times columnist Tom Wicker, writing for the Sunday Times on September 17:

> This is a measure that sounds perfectly logical—don't bus a pupil if you can help it, but if you have to bus him or her, bus no further than necessary. The only problem is that, when analyzed, it turns out to be a formula that would put the heaviest burdens of desegregation on low-income, working-class white neighborhoods, and which would allow affluent white suburbs and neighborhoods to escape desegregation, as they usually have in the past.
>
> This is because, if pupils can be bused no farther than the next closest school and then not across district lines, no county or metropolitan area or city can be considered as a whole for purposes of desegregation; and in that case those white neighborhoods nearest geographically to black neighborhoods are going to have their schools paired with presently all-black schools. This may leave a line of escape for whites in such neighborhoods who can afford to flee to better neighborhoods or to the suburbs; but those who cannot so escape are precisely those low-income, working, often ethnic Americans for whom so many crocodile tears currently are being shed by politicians and some segments of the press.
>
> The busing bill now pending in the Senate would (defeat) the purposes of desegregation, leaving behind schools nearly all-black and usually without the tax base or the political influence required for anything like equality of education, and angering those whites without the means to flee.

In sum, Mr. President, however much we may like the concept of the neighborhood school, there will be some places where it is just not possible to have it and still achieve integration.

A uniform national rule against anything other than the neighborhood school would amount to a uniform national repudiation of the principle of equality of opportunity.

Mr. HART. Mr. President, will the Senator yield before going on?

Mr. HUGHES. I am happy to yield to the Senator from Michigan for a question.

Mr. HART. Is it fair to summarize the section of the bill which the Senator has just discussed as the section which limits the busing that may be permitted to the next closest school? Is it fair to say that this section prevents the court from desegregating vast numbers of segregated schools within city lines and also throws the burden unequally on those white families that happen to live within the congested areas adjacent to the boundaries of those ghetto schools? There are many objectionable features to the bill, but this section seems to cry out. Would it not prevent a court from undertaking to eliminate constitutional denial? To the limited extent relief is provided, the whole wallop is provided to white families closest to the area of highest segregation. This is wrong clearly on two counts. It seems to disarm the court in its ability to deliver constitutional protection, and it has the effect of aiming a gun at white families that cannot afford to move.

Mr. HUGHES. The Senator is absolutely correct, in my opinion. It does set out a formula, in my opinion, that would place the heaviest burden of desegregation on low income, working class white neighborhoods and allow affluent white suburbs to go scott-free. The low income, usually white ethnic neighborhoods are the ones over which crocodile tears are being shed, but it is the rights of these people which are being adversely affected.

Mr. HART. I thank the Senator.

Mr. HUGHES. Mr. President, this points out the unfairness of this sort of application uniformly in the social structure of America.

Mr. President, another troublesome aspect of the pending legislation is the

prospect of congressional enactment in an area currently under intensive consideration by the courts.

As you know, the Supreme Court is about to plunge into two questions it has never before decided—cross-district busing and de facto segregation.

In one case, involving Richmond, Va., the Court will be asked to review a district judge's order to merge Richmond's 70-percent black school district with two suburban county districts that are more than 90-percent white.

In the other case, involving Denver, Colo., the court will decide whether to permit a court-ordered desegregation plan, even when there is no evidence of official action to deliberately create and maintain predominantly black and Chicano schools. The court of appeals said this was purely de facto segregation and did not invove a denial of equal protection.

The hazards of congressional interference at this stage of the court proceedings was addressed recently in a letter from two professors of law:

By this bill Congress would, moreover, presume to decide fundamental issues of constitutional law that the Supreme Court has not yet addressed. If enacted, a statute having such implications would involve the country in a major constitutional crisis.

The foregoing assertions can be demonstrated by comparing the bill's major provisions with the current state of constitutional law as enunciated by the Supreme Court. Section 203 provides that, subject to the other provisions of Title II, assignment of a student to the nearest school is not a denial of equal educational opportunity or of equal protection of the laws, unless the assignment was made or the school was located on its site with a segregatory purpose.

This clearly would bar a federal and state courts from granting relief, on Fourteenth Amendment grounds, against what has been called "de facto" segregation, even that which could have been foreseen because the underlying pattern of residential segregation was notorious. The language also might be read as insulating school segregation that results from residential segregation, in turn caused by the deliberate actions of governmental bodies other than "educational" agencies. It is clear then that section 203 purports to construe the Fourteenth Amendment with regard to broad and important questions on which the Supreme Court has not yet spoken, although some of the issues are involved in the Denver case, now pending before it.

Although our constitutional tradition of separation of powers recognizes judicial supremacy in interpreting the Constitution, the Congress of course has a responsibility to be concerned about principles of constitutional law and has a role to play in its interpretation. Every time the Congress enacts a statute pursuant to its powers under Article I, it expresses a judgment with respect to constitutionality and the Supreme Court has accorded a great deal of weight to such determinations where the only issue is one of federalism—i.e., whether the Congress is precluded from acting because the area is one exclusively reserved for state decision.

Section 203, however, does not express an opinion about constitutionality in the context of passage of a statute under Congress' Article I powers. It simply and directly presumes to state a binding principle of constitutional law restricting the Supreme Court from finding unconstitutionality in a matter involving the rights and duties of a state towards its own citizens.

Any argument on behalf of the competence of Congress to make (such) declarations . . . must be based on the recent recognition by the Supreme Court of broad powers in Congress under the 5th section of the 14th Amendment.

The Court viewed section 5 as permitting Congress to take action to enhance, confirm, or implement the guarantees of the 14th Amendment, but specifically stated that Section 5 "grants Congress no power to restrict, abrogate, or dilute these guarantees. Thus, for example, an enactment authorizing the States to establish racially segregated systems of education would not be—as required by section 5—a measure "to enforce" the Equal Protection clause, since that clause of its own force prohibits such state laws.

Section 203 as now worded seems to proclaim Congressional belief in its own power to decide the constitutional issue; and it is this assertion of power that we believe is calculated to bring about confrontation between the legislative and judicial branches.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

## ADDITIONAL CONFEREES ON S. 3939, THE FEDERAL AID HIGHWAY ACT OF 1972

Mr. ROBERT C. BYRD. Mr. President, on behalf of my distinguished senior colleague (Mr. RANDOLPH), and at his request, I ask unanimous consent that the names of Senators WILLIAMS, PROXMIRE, and BROOKE be added as conferees on S. 3939, the Federal Aid Highway Act of 1972.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## EQUAL EDUCATIONAL OPPORTUNITIES ACT, 1972

The Senate continued with the consideration of the bill (H.R. 13915) to further the achievement of equal educational opportunities.

Mr. GAMBRELL. Mr. President, in the interlude here, while we presumably are waiting for further statements of objection to the pending matter, I would like to comment on a couple of points that were made by the Senator from Iowa in his very elaborate presentation.

One, there seems to be some concern about the so-called rollback provision. I cannot think of anything that would be more a matter of unequal protection of the law than to have this law passed setting up standards for desegregation and not have it apply to those currently under court orders.

The bill does not say that anybody has to have their court orders set aside, and it is only a supposition that any would, but should some system that is under an existing order for systemwide busing or otherwise wish to equalize its desegregation plan to those which might otherwise come under this statute, it seems to me that that would be perfect justice as contemplated by the equal protection clause.

In fact, this is one of the big problems that we have in busing and desegregation generally in this country—let us leave aside the question that it is primarily enforced in the South. If it were being selectively enforced in scattered parts of the country and not enforced in others, whether it was North or South, East or West, or at random, those against whom it was being enforced would have some legitimate complaint about the unevenness of enforcement. And that is what this statute is all about.

We have begged and pleaded with the people who liked busing to come up with some uniform standard or national plan for desegregation which might or might not include busing, but which they would be glad to have enforced in their communities. We have not seen any such uniform plan. This is why the outcry against busing comes from Detroit, Mich., from Georgia, from Richmond, Va., and from other places where busing in desegregation is being enforced.

I would like to ask the opponents of the present legislation who so much liked the 500 law professors' comments—and the professors do not say it is unconstitutional, they just say they have grave reservations—well, I have reservations about the kind of enforcement that is being employed, not as to its legality but as to its practicality, and I would like to ask the people who cite these 500 law professors to tell us how many of those professors live in communities where they have forced busing, how many of them have children who are being bused out of their own communities, and how many of them, if they do live in such communities, send their children to some select and elite private school.

I say that the provision providing for equalization of desegregated enforcement contained in the present statutes or the bill before us seeks equality and equal protection of the laws, and I would consider it outrageous for the opponents of this bill to say, "Well, if we are going to have a bill, let us let it be enforced one way against some people and other ways against others."

The other point I would like to comment on is the so-called neighborhood school provision. I do not know that I would have insisted on its being written just the way it is, but again, we have not had any help from the opponents of this type of legislation in coming up with some system of providing people the type of schools that they want within constitutional mandates.

The constitutional mandate, as I understand it, does not say that anyone has

to go to school with people of another race. It does not say that anyone has to be transported. It does not say that all the people of an urban area have to go to school with people of all sorts and conditions in that area. If they did, we would have busing in Iowa, because certainly, even though they may not have but 1 percent blacks, they have, I am sure, quite a mixture of people of different religions and different social classes, who belong to different clubs, churches, and societies, and maybe the children of those people should be churned up the way they are being in Atlanta, simply to give them exposure to each other.

What is behind all this is the notion, and the foolish notion, that schools can be improved by the mixture of children within them, regardless of what the backgrounds of those children are, and the idea that you can improve a school system simply by spending a lot of money transporting children around.

I would be interested in knowing—in my judgment it would be quite a large percentage—what percentage of the quality of a school is based on factors that the school board has nothing to do with. Public schools I have had anything to do with, the ones I have attended and the ones my children have attended, have benefited tremendously, in fact immeasurably, from the community support that they have had, that is to say by such programs as parent-teachers associations, bands, cheerleaders, athletic teams, twirling contests, pageants, holiday festivals—all of those things are not provided by the school system itself but are provided because the community or the neighborhood, if you will, is interested in that school, and the parents, the teachers, and the students have taken enough interest in the neighborhood institution or the community institution in which they were most involved—that is, the school—and the input that comes from those things cannot be measured in dollars and cents.

When you get under one of these busing plans—and I am not talking about whether you bus black children, white children, Chinese, Indians, Catholics, Jews, Protestants, or anyone else—if you take them out of the community in which they live and tell them, "The people you live with are either too bad or too good for you to go to school with, and it would be better for the community as a whole for your children to go to some other school and give everyone a better opportunity to mix and mingle with everyone else," you have destroyed the empathy that arises within a community to support its own institutions, and you have destroyed whatever value there is in the community support of institutions.

I say this is why, to me, the so-called neighborhood school concept, if you want to call it that—I call it the community school—can involve black and white, it can involve people of different races or people of the same race, it can involve people of the same religion or different religions. We have communities in Atlanta which, by their own selection, are made up to a large extent of people of Jewish extraction. They think their schools are the greatest in the public school system because of the input that they give. They do not want to be transferred out of there to go to a school that is non-Jewish, whether it be black or white. They like the community institution that they have and the way it operates.

That is why the vast majority of the people in this country, by polling and simply by common knowledge, favor the so-called neighborhood school, because it is a place, a community institution, where the people who live in an area that is convenient to them can give some input to something that their children are deeply involved in. If people have no feelings for their own neighborhood and their own neighborhood institutions, they are not going to elevate the character and quality of education they get by being removed for a few hours a day to someone else's community, because what we are doing by that is telling them, "Your community is not worth living in and raising your children in; your children would be better off carried off somewhere else."

I think it would be better to say, "By and large, if you want really to improve the lot of your children in life, you should get busy with your own community schools and make something of them. That is the way other people are giving their children the benefit of a higher quality education."

Mr. JAVITS. Mr. President, for the moment the Senator from Massachusetts (Mr. KENNEDY) will be carrying the responsibility of the argument on the bill now before us, and I would like to discuss another matter very briefly.

## LIMITS ON PRESIDENTIAL BUDGET POWERS

Mr. JAVITS. Mr. President, over the past few years Congress has seen its power related to the executive branch tested, and we have lost a number of battles in this regard.

During the next few days we shall face another, similar test—this one with regard to control over Federal finances—and I rise this morning to urge that Congress must seize the initiative here or see its constitutional power to tax and to spend severely eroded. The implications of this state of affairs are profound; if we abdicate our control over taxing and spending to the President, no matter how much we may support him politically we shall be truant to our representative function. Furthermore, we shall have failed to maintain the delicate balance of powers between the executive and the Congress which is an integral part of our function in a democracy.

The problem arises from the fact that essential public services at all levels are seriously underfunded. If the national debate over revenue sharing has taught us nothing else, it has shown that the Nation's cities and States have in some cases become almost paralyzed through fiscal starvation. In my own State of New York, for example, the budget crisis last year forced consideration of cutbacks in highway repair and health services, until a last-minute tax bill was pushed through the State legislature. Many cities have simply been unable to bring their revenue base in line with relentless demands for increased services at the local level.

But we have now begun to hear of another fiscal crisis: the Federal budget. It is becoming clear to all of us that under present tax laws and the present structure of the budget, we are almost out of control on Federal finances. There is an ominous quality about forecasts in the fiscal area that spells serious problems 2 or 3 years ahead, both in terms of budget deficits and of the effect of these deficits on inflation.

The cost to the Nation of the State and local fiscal issue is presented to us in many ways: Poor services, growing inequities in Government pay scales, the annual ritual of increased taxes, a smouldering discountent among taxpayers. It is a large cost, as the $30.2 billion price tag on revenue sharing attests. However, the cost of a Federal budget crisis is more insidious and pervasive. The Federal Government has no higher authority to whom it can go for grants-in-aid, and the intricacies of Federal financing allow us to finance severe budget deficits for some period of time, thus giving a false sense of well-being. Furthermore, the initial reaction of the economy to Federal budget deficit is a favorable one: Employment patterns respond to pump priming of this kind while on the inflation front the lagged effect of demand pressures causes relative price stability at the same time that we are headed into the red.

But Mr. President, the sad fact is that the Federal budget is out of control, threatening a new round of inflation and a weakened dollar if the executive branch and Congress do not act soon enough.

However, Mr. President, if the executive branch is given the almost unlimited authority it has requested to curb excessive spending Congress may find itself no more than a rubber stamp to budget decisions made in the White House, with the White House under the guise of "no new taxes" stripping Congress of its most potent power—the ordering of national priorities through appropriations.

The facts are these: At the present rate of spending, existing programs of the Federal Government will outstrip our ability to gather revenues at full employment for the next 5 years. This is the first time such a phenomenon has taken place in relative peacetime. Furthermore, it takes place at a time when our expectations of a better standard of living—and the magnitude of proposed spending programs such as national health insurance—are bigger than ever before.

The President has asked for a $250 billion spending ceiling, and stated that he will offer budget cuts for the present fiscal year, notwithstanding that most of the appropriations bills for the year have been passed. He also has stated that if he sets the absolute $250 billion ceiling the proposed budgets for fiscal year 1974 and 1975 will not require new taxes, implying that further cuts will be made in those budgets. The Ways and Means

Committee has gone along with the President on the essentials of his spending celling request.

But I would point out to my colleagues that the President is not cutting spending everywhere. Since January he has asked for $4.4 billion in budget accretions to the fiscal year 1973 proposal made last January, essentially for military activities. He has thrown in drug abuse and disaster relief which come to only $1.6 billion of the total. Budgets of the order of magnitude of $300 billion are in sight for the 1974 and 1975 fiscal years.

However, what the President really is telling us is that we should put a ceiling on spending but should then follow his formula, not ours, for determining what should be cut to fit into the $250 billion limit; and that the cuts will not fall evenly but will be concentrated on civilian activity. Considering the time limitations and the lack of adequate staff for doing the job for all Senators, an administration can approach this game of "budget cutting," where some items are cut and others increased, with a distinct staff advantage.

The executive branch has the edge in this debate, because it knows that the wherewithal to mount a sophisticated rebuttal in the Congress is hard to come by.

The $250 billion ceiling the President asks for would carry this situation even one step further. For the executive would have complete descretion as to where cuts should be made: The only guide is that he conform to the spending ceiling. Such action, in effect, would give the President a line-item veto power; yet, this is what was voted by the House Ways and Means Committee.

On the other hand, the alternative being proposed by the chairman of the House Appropriations Committee would subject budget cuts of this magnitude to the same procedure as other appropriations. It is clear that this proposal—cumbersome as it may be—represents the only way that Congress as it is presently organized can responsibly effect a tight spending ceiling. This is the choice that the House of Representatives has tomorrow.

We must realize what is at stake. The President says we need $2.8 billion extra for the recent bombing in Vietnam, and he also says that Congress must set a limit on spending.

The White House has told us that it will start recommending budget cuts for the present fiscal year 1973 budget some time in the near future, and we already have some idea of where the cuts will be made. It is pretty clear, for example, that the $77 billion military budget will stay inviolate while manpower training and other services will be trimmed. We have ominous indicators of where the cuts will come in the enactment of a stringent curb on social services spending.

Mr. President, let us face it: The connection between the billions requested for bombs in Vietnam and a runaway defense budget and the social services ceiling level, to choose two items, is immediate and direct. It is a priorities decision in the clearest sense. And because of the way our Government works, the Congress is likely to go along with this decision, unless the spending ceiling legislation contains carefully drawn safeguards. The most elementary power in Congress of setting priorities should not be thus given away.

Obviously, Mr. President, this state of affairs reveals a serious flaw in our system of government and our constitutional system based on our relative balance of powers among three branches of the Government. It is common knowledge that Congress has an outdated system for appropriations, but the consequences of our failure to modernize are less well known.

Overall, the President must restore decisionmaking to the Congress in order to effect a proper balance between Congress and the executive branch with regard to spending powers.

First, and probably most important, Congress sorely needs a well-staffed office to make a systematic analyses of sepnding priorities and the implications of budget and appropriations decisions. A proposal to establish a Congressional Office of Goals and Priorities Analysis has passed the Senate on two occasions and at the present time awaits House action. Members of the administration, and virtually every economist I have asked about the office, has given the concept unqualified endorsement. It is shocking that Congress must go begging to the executive branch for sophisticated information on spending data, when it is the Congress itself which has the appropriations power. The executive branch has us hands down in the information race, with all this implies for the power to influence decisions on spending. What we need in the Congress is a Congressional Budget Bureau, very similar in its professional makeup to the budget function carried out by OMB in the White House. Despite protestations to the contrary, we simply do not have that capability now.

Second, it is clear that the President's authority to impound funds must be spelled out if we are to consider giving him extraordinary powers to cut appropriations. The present provision of the Anti-Deficiency Act (31 U.S.C. 665(C)) states that "reserves" may be established to provide for contingencies or to effect savings whenever savings are made possible by greater efficiency, and so forth, but nowhere does the legislative history of the act or its context in the United States Code indicate that impoundment can be used to effect overall fiscal policy. Nevertheless, the most recent report from the Office of Management and Budget regarding impounded funds states that the President's authority to impound extends to spending ceilings and to "carry out broad economic and program policy objectives." The authority cited by this report is the "longstanding and consistent practice in both Republican and Democratic administrations to establish some reserves for other than routine financial administration." In other words, the administration claims already to have this line item veto power now.

So it is clear that if Congress enacts a spending ceiling, we must also examine and limit the President's authority to impound funds. If the President claims he has this power now, for example, the appropriations process and the spending ceiling are useless baggage. Whatever authority is given the President to enforce a spending ceiling, it should be carefully defined to constitute the sole extent also of his impoundment power except for the clear cases spelled out in the Anti-Deficiency Act.

At any rate, I would require that the President report regularly to Congress as a whole about the status of impounded funds. At the present time, OMB directives require quarterly reports of apportioned funds to be sent to the House Appropriations Committee, apportioned funds being an account of what is not impounded. OMB also states that it will send reports of impounded funds on request. However, there is no requirement for regular, uniform, public reports of this kind, and in fact OMB has told my staff that they are not preparing a third quarter 1972 report of impounded funds.

Third, Congress should be careful about the kind of spending ceiling it enacts. The President's request, and the House Ways and Means Committee recommendation seems to me to give away too much of our constitutionally granted power. A proposal last spring to give Congress 30 days in which to propose alternative cuts is an improvement. Considering that we shall have to accept certain cuts in order to maintain control over the budget, I urge that the Executive be limited in the percentage amounts which these cuts could take. A 10 percent figure, for example, would give budget planners leeway for cutting among relatively controllable budget items, to keep spending within the $250 to $255 billion limit at our present rates of spending.

Fourth, any extraordinary grant of authority to the President to make cuts should not be given away free. We need something in return. In this regard, the most useful quid pro quo would be better access to the budget information compiled by the executive branch. In effect, we need a Freedom of Budget Information Act which is adapted to congressional needs. We deserve to know, for example, how the Executive projects spending, by program, year by year, over the coming 5 years. We need to have access to the raw data upon which budget estimates are based. We need better figures as to the regional impact of various spending programs. These and many other kinds of data are essential for Congress to perform minimal functions of representative democracy. Of course, this recommendation ties in which the Congressional Office of Goals and Priorities Analysis, which would presumably be the agent of Congress for receiving this data.

What I am talking about is the effective functioning of our democracy. This goes boynd the partisan rhetoric of "Congress is spending too much" on the one hand, versus "the administration's spending priorities are distorted" on the other. I offer my recommendations in this nonpartisan setting in hope that the Persident, too, will support a system of budget planning and spending controls

which works to continue to make democracy real for all Americans by preserving the power of Congress.

## EQUAL EDUCATIONAL OPPORTUNITIES ACT, 1972

The Senate continued with the consideration of the bill (H.R. 13915) to further the achievement of equal educational opportunities.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mr. Robert Bates and Mr. Mark Schneider may have the privilege of the floor during the votes and the debate on H.R. 13915.

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

Mr. KENNEDY. Mr. President, on Friday, August 18, 1972, the House of Representatives passed H.R. 13915, the Equal Educational Opportunities Act of 1972 by a vote of 282 to 102. Today the Members of the U.S. Senate are debating whether that kind of legislation is destined to mark the 200th anniversary of a nation founded on the principles of freedom and justice for all. We will determine whether our great Nation can emerge triumphant on the side of decency and human justice for all Americans or whether America will again slide into the cesspool of racism, inequality, and injustice? That is the fundamental question before the Senate. We have before us a bill whose title is truly ironic but cruelly deceptive—a bill which dares to define itself as the Equal Educational Opportunities Act of 1972. A review of the provisions of H.R. 13915 will clearly illustrate the contradiction between the title and the content of this legislation.

As proposed by the President on March 17, the Equal Educational Opportunities Act would ban the busing of elementary grade students but would allow some busing of students in the higher grades. His proposal would also allow courts to reopen cases in which school districts were already busing. Presumably, this would permit existing busing plans to be brought into conformity with provisions of the new bill.

The House Education and Labor Committee kept the ban on busing of elementary grade students, allowed busing in the upper grades, and the committee dropped the "reopener" provision.

But, when the bill reached the floor, the Members of the House of Representatives added two repressive provisions:

First. They voted 178 to 88 to forbid all busing, except to the school closest or next closest to a student's home.

Second. By a vote of 245 to 141, they adopted an amendment that will allow the reopening of all court orders, going all the way back to the famed 1954 decision; and, they voted to reopen all existing HEW school desegregation plans.

Thus, the Equal Educational Opportunities Act of 1972 fails to fulfill its purported intent to provide equal educational opportunities for all children in this country. Rather, it waves the banner of the Plessy against Ferguson separate but equal doctrine. History has proven this doctrine to be an inequitable contradiction. The Supreme Court in 1954 reversed the separate but equal doctrine in the Brown against Board of Education decision. The court held that segregation on the basis of race, pursuant to State laws, denies the equal protection guaranteed by the 14th amendment even though other factors in the schools may be equal. H.R. 13915 sets out to reverse this decision. It sentences black, Indian, Chicano, and Puerto Rican children to second-class educational systems.

H.R. 13915 is a regressive and destructive piece of legislation that threatens to wipe away in one blow what has taken America decades to build. It is a bill that thumbs its nose at 20 years of civil rights legislation; a bill that disregards the blood, sweat, and tears shed by thousands of black Americans in their long and bitter quest for equality.

I urge the Senate to remember a few names and places of the past two decades:

In 1954, there was Brown against Board of Education.

In 1955, in Montgomery, Ala., Rosa Parks refused to ride in the back of the bus.

In 1956, Autherine Lucy attempted to attend the University of Alabama.

In 1957, there was Little Rock, Ark., and a President who demanded that the Constitution be upheld.

In 1960, four young college students attempted to eat lunch at Woolworth's cafeteria in Greensboro, N.C.

In 1965, there were the dogs of Bull Connor, a man in the doorway at Tuscaloosa, the bombing of a church in Birmingham, and the bridge at Selma.

And now, in 1972, there is the Equal Educational Opportunities Act. A bill which the Reverend Theodore M. Hesburgh, Chairman of the U.S. Commission on Civil Rights, asserts:

> Is designed to further fractionalize the Nation along racial lines.

He believes that—

> History may well document the fact that in the year 1972, the 92nd Congress of the United States was successful in establishing a racially reactionary policy which will end inevitably in disaster for all.

H.R. 13915 is an emotional appeal that feeds on the fears and irrationality of the American public. In a climate of heated discussion and controversy over the busing issue, the Equal Educational Opportunity Act of 1972, an outgrowth of President Nixon's public condemnation of busing, is presented to the American people as a panacea; a cure all; a viable solution to America's dual system of education.

Last Friday, the chairman of the Senate Committee on Equal Educational Opportunity articulately explained that H.R. 13915 is perhaps the most far-reaching piece of legislation affecting the stability of our educational system. But, this bill has been treated in a most cavalier manner. The Committee on Labor and Public Welfare has been denied any opportunity to review the provisions of this bill, because the bill was held at the desk when it was reported to the Senate. The Committee on Equal Educational Opportunity has also been prevented from examining the potential effects of this measure. Thus, the record must clearly show that any action taken on this bill by the Senate will be action that is in direct conflict to the traditional rules and practices of the Senate.

Further, the very able Senator from Minnesota reminded the Senate that as we debate this measure we are in the midst of the third consideration of school desegregation legislation.

"Twice this year the Senate has risen to the challenge" and produced effective measures, with adequate resources, to eliminate the doleful effects of unequal education for minority students.

All of the 11 million students in the 1,500 desegregating school districts will benefit by the $2 billion available over the next 2 years to aid in easing the burden of desegregation.

As specified in the Emergency School Aid Act, those funds can be used to:

First. Pay for school transportation.

Second. Recruit and hire extra teachers and counselors.

Third. Develop team teaching projects.

Fourth. Provide individualized instruction, when needed.

Fifth. Install bilingual education programs.

Sixth. And, maintain other innovations that seek to resolve the process of desegregation.

Above all, the Senate adopted the Scott-Mansfield amendment last March in order to stress the Supreme Court ruling that no school transportation shall be required which risks the health of the children or that impinges on the educational process. Thus, the legislation that begs to divert the business of closing the 92d Congress is both hypocritical and gratuitous.

The volumes of rhetoric proffered by proponents of this bill reflect not a commitment but a cop-out. H.R. 13915 will not promote a unitary educational system in America; instead, it will seriously impede all future progressive steps in the direction of equal educational opportunity for generations to come.

I ask my colleagues to examine six reasons why H.R. 13915 must be defeated:

First, this bill is unnecessary. Time after time the courts have reaffirmed standards and guidelines for desegregating formerly de jure segregated schools. In the 1971 Swann case a unanimous court held that desegregation plans cannot be limited to the walk-in school. The court found that in previously segregated districts, devices such as clustering, free transfer and the creation of noncontiguous zones must be utilized. Pending court cases in Detroit, Richmond, and Denver reaffirm the role of the judiciary in working out solutions to this critical issue. Further, the Congress enacted the Civil Rights Act of 1964 and the General Education Amendments in 1972, that further delineate desegregation procedures.

Mr. President, I ask unanimous consent to have printed in the RECORD the Washington Post editorial to which I have referred, published Wednesday, September 13, 1972, entitled "Raising the Bid on Busing."

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

RAISING THE BID ON BUSING

At some point in the next few days or weeks, depending on how a political/parliamentary wrangle comes out, the Senate may be obliged to take up HR 13915, a terrible bill that only incidentally may be termed an "anti-busing" measure. It would be more appropriately called the Urban Chaos Act of 1972. That is because, although the bill purports to be a legislative effort to put some limits on school desegregation plans requiring busing, a combination of cynicism and hysteria in the House has transformed it into something quite different. HR 13915 would enjoin both federal courts and the executive branch from compelling any desegregation plan that involved the "transportation of any student to a school other than the school closest or next closest to his place of residence." It would also provide for long-settled school cases to "be reopened and modified to comply with the provisions of this Act."

What all this means is not just that enactment of this measure would put a hard-won record of Southern school desegregation in jeopardy. It also means that judges and federal administrators would be invited to remedy unlawful discrimination in a way likely to enhance social tensions without providing a commensurate gain—or any gain at all—in the quality of the bused children's schooling. For the legislators have, in effect, done two things. They have voted to spare high income persons such as themselves and the commnuities in which they live the inconveniences that attend busing orders. But they have also made sure, in their "closest or next closest" school provision, that the impact of outward bound ghetto busing will be hardest felt in those adjacent blue-collar, lower-income "ethnic" communities whose schools have least to offer poor black children and where racial feelings are the most inflamed. The word is overworked these days, but never mind; this is a truly elitist piece of legislation.

In their eagerness to do themselves some political good this year, the House members who voted for these and other features of HR 13915 displayed a stunning indifference to the possible real-life consequences of such a statute were it to become law. Beyond the prospect of disruptive relitigation of closed cases throughout the South and beyond the prospect of newly exacerbated racial conflicts among the poor in the big cities of the North, there is the prospect that communities all over the country would find themselves in a new financial bind of Congress' making—one that might even inspire nostalgia for the days of the complicated busing order. For among the methods by which this legislation seeks to eliminate busing is that of setting forth a list of preferable remedies the courts or the executive branch can compel. And among these alternatives which the courts would be encouraged to invoke is that of ordering the closing down of old or "inferior" schools and the construction of new ones. That this provision could cost affected communities plenty and also interfere with their ability to make their own plans and control their own taxes, does not seem to trouble those legislators who want an "anti-busing" record at all costs. Why should it, when the cost is not one that they themselves must bear? Indeed, the House rejected an amendment to HR 13915 that would have provided federal financial help in building such new schools.

The cynicism that underlies all this posturing has a happy home at the Nixon White House, which was the wellspring of these election year efforts. It is compounded when you realize, first, that a number of the big busing cases in contention came to us as a result of earlier Nixon administration desegregation efforts and, second, that it is commonly assumed that the Supreme Court this fall will establish firm outer limits to mandatory busing in any event. But such things are meant to be overlooked in the great legislative auction now going on. It is an auction in which the White House and certain spiritually attuned (or politically frightened) legislators keep bidding up the moderate middle, introducing and countenancing ever more reckless measures with a view to forcing the others ultimately to buy a so-called "anti-busing" compromise program well beyond anything that conscience or sense can recommend. Thus it is that the same beleagured senators of the middle may be put to the test once again when HR 13915 comes to the floor. Being politicians, presumably they too would like an "anti-busing" vote in their record. The question, forced upon them by the White House and Company, is whether they want such a vote badly enough to support legislation that is on its face a fraud and a hoax and a cruel hoax at that. A majority in the House has already indicated that it does.

Mr. KENNEDY. Mr. President, moreover, because black Americans have begun to produce for themselves a keener sense of self-awareness and because they have begun to seek and believe that the full promise of America is also theirs, this legislation could lead to social disaster. If we adopt the pending proposal, then we should also prepare to shut down the guarantees of free speech, religious choice, and equity in our courts.

Why must history repeat itself? One hundred years after the Nation's independence a Republican President named Rutherford B. Hayes stained our proud history with a politically motivated promise to remove Federal troops from the South. That action insured the bloody disenfranchisement of black Americans for nearly a century. Because that President failed to provide the Nation with the right kind of leadership, the people of this land saw officially sanctioned violence and lawlessness result.

As we now approach the 200th anniversary of our independence it seems that we should be anxious to avoid the bitter lessons of that era. Jim Crow has been laid to rest once and I see no sense whatever in the Senate resurrecting him.

I appeal to the Senate to carefully weigh the effects that passage of this legislation may produce. For, we have only to look at the pages of our history to discover that once a government succeeds in denying the guarantees of any one right to its people that government finds it easy to abrogate the delivery of other rights.

After President Hayes withdrew Federal troops from the South to protect the reconstruction rights of blacks, they lost their voting power, they could not obtain employment, and Federal civil rights laws were simply ignored. Because they were at the mercy of the majority white population some black spokesmen sought to compromise. They tried to get Government support for education and for the development of minority owned business in return for disavowing their right to political or social equality. Yet, the compromise failed. It failed, because the right to equality cannot be compromised. Harvard law Prof. Derrick A. Bell, Jr., said it failed because "most whites are simply unwilling to make or even risk making what they deem an unfair sacrifice. The effort to compromise was interpreted by whites as an open invitation to further aggression."

If white America believed 100 years ago that the problems of racism would subside with repressive laws instituted by those who would distort the values of human justice, then at least white America in the 1970's should be aware of what can evolve from the kind of legislation that we are considering today.

Black people are convinced that white America is not going to deliver "equality" to them out of a commitment to brotherhood or morality, according to Professor Bell

Thus, he believes that blacks will make gains only to the extent that they remain "plugged in" to the flow of our basic society. Anyone who imagines that black Americans are striving for integration for the sake of integration is missing the point. As we have been reminded too often here today, black parents and their children are no more enchanted with "school busing" or "integrated schools" than whites are. But blacks know they cannot compromise. They know our society has failed to produce any alternatives to school integration that promise to deliver black children a stronger chance of achieving a quality education.

Already they know that separate schools are unequal schools.

They also know that if whites will deny a decent education to blacks for the sake of segregation, it is fantasy to believe that whites will spend three to four times more for black schools than for white schools, even if this would keep the schools separate. Indeed, under current appropriations, Congress doles out only $1.6 billion for compensatory education, although more than $6 billion is authorized for such programs.

Mr. President, on that point, as a member of the Education Committee, I recall that at the time the President spoke to the American people about his great concern over the problems of a decent education for all of our citizens, the members of the Education Subcommittee were reminded of the fact that for the last 3 years, despite every increased authorization of funding for the schools in poorer communities, whether black or white, rural or urban, this administration has made no request to increase that funding.

In the early part of this year, the whole atmosphere of the matter of the busing issue became distorted. We heard the President of the United States go on record and indicate his great concern for the problems of urban education in the major cities of this country, as well as in many of the rural communities and indicate that he was going to make a special request for funds for these programs.

The President of the United States failed to indicate that that increase of funds had already been authorized by the Senate Education Subcommittee and had been authorized by the Senate itself. All that was really needed was for the President or the administration to request the additional funds.

For the first 3 years all we heard was

absolute silence about the problems of urban education and compensatory education among the poor people of this country. Then we found out what happened in this regard. In the early part of the political primaries, the issue of busing was becoming more inflamed. Yet the President tried to identify with the concerned hundreds of thousands of parents who had been trying to get Congress and the administration to respond to their very legitimate educational needs and to upgrade the high schools in this country. But those parents were met with a deaf ear by the administration, as the Washington Post editorial pointed out quite correctly. The Post uses the words "fraud and hoax," and it is quite clear why those words apply.

We have had witnesses from the very beginning who have come before the Education Subcommittee and the Appropriations Subcommittee and have struggled to get increased funds for compensatory education to help all of the poor of the country. Obviously they were in a very much stronger position for that legislation than the legislation which we have pending before us today. However, the record is quite clear that more money has not been provided in fact the administration has gone against the efforts made by many of us who tried to increase the resources for schools in urban areas as well as those in rural areas where the poor and the disadvantaged are passed by. There are communities in my State, in Lowell and Lawrence, Mass., which have not built a new school in 50 years. There are parts of the city of Boston which have not had a new school in 40 or 50 years.

There is need for help and assistance for those communities. But now, rather than coming up and providing additional resources for these communities we find the appeal being made to parents that what we really need is not better schools, better paid teachers, better books, smaller class loads, or better feeding methods—that what we do need is to pass legislation against busing and other problems will be resolved. How sinister this appeal is to millions of Americans who want to try to insure that their children will receive a decent education.

This is true with poor whites as well as poor blacks that live in urban areas of this country. Black parents and their lawyers do not seek integration, because they believe black students can only acquire a full educational experience in a white classroom.

It is interesting that we have a great debate on busing in 1972, when we know that for hundreds of years black children were being bused right past white schools in different parts of this country. There was no pressing legislation about stopping busing at that time. It only has been when we get to the specter of trying to bring black children out of completely inferior and poorer schools and give them an opportunity for a better education that we have legislation introduced to bar that particular phenomenon.

Black children seek to attend the schools that whites attend, because they are the best schools we have, and blacks fully believe that an adequate education can open the doors to a full life for them.

THIRD. THE CONSTITUTIONALITY OF THE BILL IS DOUBTFUL

The basic guarantees of our constitution are warrants for the here and now and unless there is an overwhelming compelling reason, they are to be promptly fulfilled.

Those words affirmed the equal protection right to nonsegregated public parks in Watson against city of Memphis. Clearly, therefore, the right to nonsegregated public schools enjoys the same status as the right to public park facilities.

I share the conviction of the honorable Justice Arthur Goldberg that—

Segregation injury is so intolerable that the right to nonsegregated schools is the right to them now.

Thus, the remedy merges into the right. Any suspension of the remedy is a suspension of the right itself.

The provisions of the legislation before us are not only fraudulent but they blatantly contradict every precept that white America has consistently demanded that blacks pursue.

Through our history, black citizens have been urged to look to the courts for remedies to the injustice they suffer.

But this bill would seek to close the courthouse door for black children who have been denied equality in our public schools.

Now that blacks have looked to the courts and have gained some victories, we in the Congress are toying with ways to change the rules.

I urge the Senate not to succumb to the temptation of producing a crippling measure that will stifle life for us all.

4. SCHOOL BUSING IS NOT THE ISSUE

H.R. 13915 has nothing to do with improving the quality of education for anyone. Instead, it will only lower the quality of education for some.

Many of those who loudly denounce busing know very well that busing has nothing to do with what they pretend to be talking about.

The test of this is simple: If busing is so terrible, then why is busing used to carry children to consolidated schools?

Why is it used to carry children to special schools? Why is it used to relieve overcrowded schools? Or to prevent double sessions? Or to enable citywide use of special schools? Or to transport handicapped children?

Or to take children to zoos, museums, parks, sports events, and on field trips?

Clearly, busing is not the issue.

Buses have been used to carry children to schools for nearly 60 years, and Massachusetts was the first State to require State-supported transportation programs.

The Department of Justice has identified only 20 school desegregation plans which involve racial balance. The Supreme Court has never required racial balance or racial quotas to desegregate school systems.

The little red schoolhouse has long since been replaced by the big yellow schoolbus as the symbol of American education.

Indeed, many Members of this Senate attended school, because buses carried them there.

Busing is not the issue. The real issue is what parents believe is waiting for their children at the end of the bus ride.

If they think there is quality of education waiting at the end of that ride, they will go to almost any lengths to get their children on that bus.

Even parents who pulled their kids out of desegregated schools to enroll them in all white segregation academies, get their children to the segregated school by putting them on that same old devil, the school bus.

Those segregated schools may not be very good—in fact by most indications they are so bad that the children in them will come out with a distinctly second class education—but their parents apparently feel that keeping their children segegated is more important than giving them a quality education. And they use a school bus to realize their choice.

We see this choice made at the other end of the spectrum, too. How do the children of the very richest parents get to the most expensive private schools?

They, too, still stick with that tried and true old method—the school bus.

5. UNLAWFUL SEGREGATION IS PERPETUATED UNDER THE PROVISIONS OF THIS BILL

H.R. 1315 maintains that "the neighborhood is the appropriate basis for determining public school assignments." It further holds that "the maintenance of dual school school systems in which students are assigned to schools solely on the basis of race, color, sex, or national origin denies to those students the equal protection of the laws guaranteed by the 14th amendment."

It concludes that—

The failure of an educational agency to attain a balance, on the basis of race, color, sex, or national origin of students among its schools shall not constitute a denial of equal educational opportunity or equal protection of the laws.

Historically, black Americans have been forced to live in segregated areas. Urban ghettos do not reflect freedom of choice on the part of black America.

Rather they are a living example of where white Americans, who fear integration, have designated that blacks must live.

The ghetto is the result of "keep out" signs. If one adheres to the principle that the neighborhood is the appropriate basis for determining public school assignments, how can one rationally maintain that school assignments based on segregated neighborhoods do not constitute educational segregation and thus a denial of equal educational opportunity? And Federal authorities have acted, perhaps, with more destructive effect than any other agent, to solidify the barriers of residential segregation.

Federal Housing Adminstration mortgages were at one time assured only when a racially restrictive covenant was obtained.

Through restrictive zoning, and other policies that discouraged low-income housing, our Federal system has worked to establish and to perpetuate racial and cultural enclaves. Any demand to return

to the neighborhood school is a call for a return to segregated schools.

Antibusing proponents are deceiving working class white Americans that antibusing bills will protect them from the supposed evil of desegregation.

H.R. 13915 would limit busing to schools closest or next closest to home.

In other words, those whites, who live in areas closest to the central cities where most minority groups are confined, are the ones whose schools can be reached by the busing provided for in H.R. 13915.

So the bill will limit the "burden" of desegregation. It will place it on those white neighborhoods geographically nearest to black neighborhoods, meaning desegregation for low-income, ethnic, working-class white neighborhoods, and no change at all for those whites affluent enough to live farther out in the suburbs. So once again, even when we view the issue from the proponents' point of view, we see that this legislation will favor the well off at the expense of the working class.

The next closest school feature of this bill is designed and would prevent desegregation, because after a school district reopened proceedings under section 406 of the bill—the court would quite possibly find that busing exceeds the limits in section 403(a).

If all possibilities are tried, but fail, under sections 402(a), 402(b), 402(c), and 402(d), then the court would turn to the remedy in section 402(e) and order construction of new schools.

How many Senators are prepared to support a measure that forces school districts in their State to spend inordinately more on new schools for the purpose of desegregating then they are now spending on busing?

This point is one of the cruelest ironies of all. We in this body supposedly take great pride and listen to the arguments made back to the control of education by the local community, the local school board, and the PTA.

But this legislation requires the Federal Government to use its power to reach into small and large communities of this country. Giving the Federal Government the power to tell those local school officials how they are going to conduct themselves by building new schools will in effect be dictating the tax rates for some of these communities. It is interesting to hear those who are constantly talking about the Department of Health, Education, and Welfare and its regional offices and the bureaucrats in them going into communities and talking about the requirements they make whether it be in the field of employment, housing, or education, but who are completely prepared to grant in this legislation the power to have the Federal bureaucracy, at the regional or national level, dictate to a local school community, because of the failure to be able to comply with certain sections of the legislation, that it must build a new school.

I think this is really an extraordinary abdication of responsibility and it is an extraordinary grant of power to the Federal Government to be able to reach out and dictate to the local community an educational policy. We have that kind of grant of power supported by those who we hear time and time again on the floor of the Senate complain when we try to develop legislation to provide grants to municipalities or cities, or the development of emergency job employment programs, or nutrition programs for the elderly, or legal services programs. We always hear that "you are bypassing the States, and this is wrong," and, "you are interfering with local authority and local control and local influence." Then we end up by having those who have opposed any kind of Federal imposition proposing the most direct kind of Federal presence, into one of the most fundamental areas of our society, the education of the young people of this country. We are granting to the Fedeal bureaucracy and the long arm of the Federal Government the power to demand of and to dictate to a local community the creation of new school systems. I think this is an absolutely extraordinary exercise of Federal authority and responsibility. It is interesting to me that those who time and again have raised their voices in resentment against the very concept of the Federal presence are now willing to grant, under this legislation, authority and power to proceed in this direction.

6. WHY DESEGREGATE OUR SCHOOLS?

If we accept the notion that the purpose of education is to acquire the ability to live in and contribute to our diverse national community, then it follows that any educational system purposely designed to segregate black from white, Jew from Catholic, Irish from Italian is doomed to fail.

The most conspicuously repeated reason for attending school is to gain the skills for a decent job.

Since the employment market is steadily moving to the suburbs, access to the schools that provide those workers is an obvious advantage.

But most important, if we are ever to learn to live with people different from ourselves, at least our schools must be involved in the process that seeks to achieve that goal.

In a survey taken by the National Opinion Research Center, 75 percent of white Americans are in favor of integrated schools, compared with only 30 percent in 1942.

Even in the South, nearly 50 percent of all whites now support integrated schools, compared with 2 percent in 1942.

If public opinion surveys serve to register the national mood why must we enact legislation that denies the expression of the public will?

Indeed, last summer, when the Republican platform committee asked how party members rate a number of current problems, they learned that 58 percent felt that busing is not very important or not a problem. Only 13 percent rated busing very important.

And in the August 28 Time magazine, a survey revealed that only 6 percent regard busing as a major issue.

Rather than indicating that busing is a major issue, then, it would seem that these polls reveal that the only thing notable about the busing issue is that those who seek to create hysteria with distorted information have succeeded in their goal.

For white America to abdicate desegregation on the basis of our recent faulty past, is to shut out the message that black America is shouting. Black people are striving for the same goals that our forebears struggled to achieve.

I am convinced they shall get there. But, this shameful proposal with its contrived title is certainly not constructed to help.

Last week the Senate demonstrated its unwillingness to guarantee an income floor for people who cannot provide adequately for themselves.

Are we doomed this week, to deny for many of those same people, the most basic tool that offers any chance that they may some day break out of the cycle of poverty?

Mr. President, in conclusion, I wish to dwell on what looms as the most egregious issue in this entire matter.

Section 406 of H.R. 13915 authorizes districts to seek the reopening of existing court orders or desegregation plans.

Attorney General Richard Kleindienst testified before the House Judiciary Committee that all desegregation cases may be reopened under this provision.

That the reopener is a giant step back to the era of officially sanctioned repression, there is no doubt. The reopener would undercut the accomplishments and the leadership of school officials and community leaders.

Mr. President, this is a very interesting argument, because as we considered the legal services program or, in this past week, certain provisions of the welfare reform program which prohibited or proscribed the Legal Services Corp. to protect poor people's rights in certain features of that bill, we heard the argument made that we do not want to have the Federal Government looking out for the rights of poor people, or to have taxpayers funding or spending large sums of money to protect the legal rights of poor people. Under this legislation what we would have would be the taxpayers paying tens of millions of dollars, and hundreds of millions of dollars, to carry forward a whole new scope of litigation as the Attorney General might desire.

On the one hand, we have seen the realities of the Justice Department moving from the full guarantee of equal rights in the area of housing. During one of the most dramatic cases in the Judiciary Committee hearings on the ITT case we learned of the Coldwell-Banker case. According to information we received, Justice Department attorneys in the civil rights division sought to bring suit against the real estate firm of Coldwell-Banker for violations of the Open Housing Act.

The division found a pattern of discrimination on the part of that big California realtor. But, when the attorneys in the civil rights division strongly recommended that the department file a suit against Coldwell-Banker, they were

told they could not sue the firm. That was the end of the Department of Justice's concern about housing opportunities for black Americans.

We have seen example after example, in the wide spectrum of equal rights, where there has been a real retrenchment by the Justice Department in assuring equal rights and opportunities. Now we are being asked to insure that the Justice Department, rather than assure equal rights for our citizens, will be able to defend those cases which have already been raised and adjudicated in the court systems of this country, and all at the taxpayers' expense.

It is just one more interesting twist, particularly when put back to back with what happened on the floor last week on H.R. 1. As I mentioned earlier, the extent to which certain Members of the Senate are prepared to go in permitting the Federal Government to even dictate to a local community about its school system, is simply extraordinary.

It is, I think, an extraordinary turnabout in attitude and desire by those who are the principal supporters of this legislation.

Thus the Nation and the world would observe the spectacle of the Justice Department appearing in the Supreme Court on behalf of school segregationists.

Of course, it is always interesting to see, as we saw in the course of the debate last week, the dual standard that is applied to those who live in poverty, the poor people trying to pick up a welfare check, and the rich people who are trying to get a check from the Department of Agriculture for agricultural subsidies, and to find out that for those checks that go to some of the larger corporate farms in this country, amounting to several hundred thousand dollars, all they have to do is mail in a request for their check and they get it right back by return mail. But if the person is poor, we are prepared to take the most extreme and unnecessary steps to discourage the poor from receiving any assistance. We would rather require reporting and setting up of an extensive network for tracking down deserting fathers before either the wives or the children can get the benefit of the various provisions of the act.

This is what we would be doing again by giving the Justice Department a whole new responsibility and a whole new real authority, under H.R. 13915. So it is interesting to find that those who are willing to support this kind of role for the Justice Department, now, have in the past, when it came to guaranteeing constitutional rights, raised their voices in opposition.

It is extraordinary what we hear on the Senate floor when we are trying to get the Justice Department to expand the Civil Rights Division, or support the Civil Rights Commission itself. When it came to expanding constitutional rights, all those voices said, "No, we cannot do that, we cannot afford it, we do not really have the authority or the responsibility to do so." Now, we see the issue completely turned around, giving the Justice Department a completely new responsibility in the area of constricting many of these basic and fundamental rights which have been achieved, as they should be achieved, through the court system.

How many of us have gone into situations that could be explosive in nature and urged restraint, and said that the only way we could really achieve progress for the citizens of this country is through the court system, and what we ought to do is take these disputes off the streets and go into the courts of this land?

Some of our black citizens and other minority groups have been willing to do so, and what we have attempted to do here on the Senate floor is say to the black people of this country this afternoon, "That which has been available to you is no longer available to you; we are going to legislate here so that the principal law enforcement arm of this Government, the Justice Department, is not going to be working to insure the protection of your rights and liberties." I believe many of these rights have been heavily compromised during recent years in a wide variety of areas. For example, in the area of freedom of choice and the cases which have taken place in that area requiring newspaper men to reveal their sources, and even their being placed in jail when unwilling to do so, also in the area of freedom of speech, various constructions have been placed upon the right to assemble and petition and parade.

And the right to privacy, which has been so dramatically violated in the recent Watergate situation, where there are those who say it is a matter of coincidence that those who were involved in that particular incident were on the payroll of the Committee to Reelect the President.

I would think that all Americans would tremble about any group that has a responsible position in the reelection of the President which is prepared to go to the extremes of bugging a political party What does that mean in terms of the next 4 years about bugging a whole place of business, a labor hall, or a university? If they are prepared to take those steps now just to insure reelection, what would they be prepared to do in a new administration?

These are the areas the Justice Department ought to be reviewing to find out how we ought to be protecting the existing rights of American citizens. But here we would separate the authority and give the responsibility to the Justice Department to find ways of further constricting those responsibilities and denying further opportunities for Americans to work through the existing court system.

So, these actions, coupled with the Department's proposed extensive network for tracking deserting fathers under the provisions of H.R. 1 passed by the Senate last week, the public is entitled to question the true mission of our Federal crime fighting agency.

Before leaving this thought, we passed what was, I think, one of the most effective pieces of legislation this Senate has considered, the child care bill. Sponsored by the distinguished Senator from Minnesota, and supported by a majority of Senators, from both sides of the aisle. When it was sent to the President, he vetoed it on the basis that it would create a whole new administrative agency; this was in his message. Now here we are trying to create even a much more involved, expanded administrative agency, which I think could cost many times as much in taxpayers' funds, and again the purpose of which would be to further deny and restrict the rights for black people in this country to seek an adequate education.

It was only last week that we heard those who were opposed to the development of a Consumer Protection Agency making the argument that if we had a Consumer Protection Agency to try to provide the same kinds of guidance and advice and study that the Council of Economic Advisers provides on economic issues, so as to further protect the consumers, that we could not afford to develop that, because we would overload the courts. That is one of the arguments made during the course of this debate. But here we are setting up a device, a system which would crowd the courts, would send them into a continuous period of expanding litigation, when actually the issue itself was pretty much resolved in 1954.

So the evidence against H.R. 13915 is overwhelming, and this measure should be defeated. I have listed some of the reasons why. Perhaps the words in President Nixon's busing message to Congress last March accurately express what goals the country ought to seek in its attempts to achieve quality education for all. The President said:

> As we look to the future, it is clear that the efforts to provide equal educational opportunity must now focus much more specifically on education; on assuring that the opportunity is not only equal, but adequate . . .

Since H.R. 13915 was constructed to provide neither educational opportunity nor adequate educational development, this bill must be defeated.

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

Mr. KENNEDY. I yield, without losing my right to the floor.

Mr. HART. I have not had the opportunity to serve on the committee that in the past has considered our educational programs. I know that the Senator from Massachusetts has been a member of that committee and is a member.

Perhaps I should not be so lenient in passing judgment on myself, but I hope it is because I was not a member of that committee that I had not registered fully on one aspect that the Senator from Massachusetts developed in connection with the neighborhood school.

As I had listened to earlier debates, I had sensed that, as parents, all of us would agree that a neighborhood school is a comforting thing, it is a convenient thing, and it seemed to make complete good sense. I realize that it cannot be maintained—that in fact it violates the Constitution—any more, for example, than the fact that the neighborhood

public swimming pool might have been much more convenient, but if admission to it had been conditioned upon race, of course, the convenience would be secondary and the constitutional obligation paramount. I had thought of a neighborhood school as convenient but not to be a justification for the denial of a 14th amendment right.

Will the Senator from Massachusetts describe again how the Federal Government's own action in the recent past has eroded the concept of the neighborhood school? It is this aspect that had not occurred to me and which I would suspect has not been recognized by others of us here who are not on the education committee.

Mr. KENNEDY. The point that is interesting to consider is that nowhere in this measure is the neighborhood concept or school district really defined. There is no provision within the bill to prohibit the redrafting of various school lines to continue within those particular school districts that may want to do so, with the passage of this measure, to maintain segregated schools. Although the idea of the neighborhood school conjures up to all of us the "little red schoolhouse" that is just around the corner, there is little, if anything, in this measure that helps us resolve just what the neighborhood school is.

As the Senator from Michigan understands and knows full well, the various pieces of Federal legislation that have been passed, in aiding and assisting the various school districts, have worked toward the support of regional educational schools, new regional high schools, which have taken place in many communities. I know that this has been so in my State, and I have found it so generally in my travels around the country.

There is very little in the proposed legislation that provides any guidance as to what we are going to do about those provisions as well.

Finally, the question we have to recognize is that the patterns of residency for blacks in urban areas, the ghettos, and in some suburban, rather isolated areas, those patterns have been formed as a direct result of uninhibiting Federal action. The situation has been that the only way that black people may get an FHA loan is if they buy in a given area, and the only way the whites will get a loan is to sign a covenant that they will not sell to a black person.

So, having gone through that for a period of time and effectively establishing these housing patterns, what we are now trying to do, as a matter of Federal action, which I think has been generally recognized as unconstitutional, is to use that highly discriminatory background, in restricting educational opportunities for young people in this country. I think this points up the inequity of that situation.

These are some of the points which are of great concern to me, Mr. President.

Before getting into the detailed analysis of the bill and the various sections and a more descriptive explanation of the various provisions, I point out that the appeal of this bill is on the basis of high emotion, which everyone in this body recognizes. It is a highly supercharged emotional issue and I challenge the good faith of this administration in proposing legislation in this area.

I remind the Senator from Michigan, that as a member of the Education Subcommittee, many of us have been trying to expand the funding for educational opportunities for disadvantaged people in the cities of this Nation, for the poor of this country; and for the past 3 years we have been getting absolutely no help from this administration.

Finally, we saw the increased authorization, a $6 billion authorization, for the elementary-secondary education system in this country; but no word by this administration, until this issue became an emotionally charged, superhot political issue, and then the administration indicated that they were going to request an additional $1.5 billion, the authorization for which was already in existence, and after the funding was well on its way through the Senate. I think some very legitimate questions can be raised as to the good faith intentions of this administration based on that deceptive maneuver.

Second, as the Senator, who is a member of the Committee on the Judiciary, would understand, the creation of a new bureaucracy within the Justice Department, has been suggested by those who have traditionally supported a more restricted role for the Civil Rights Division and for legal services. This bill calls for an expansion of equal rights for the citizens of this Nation, an expansion of a whole new bureaucracy whose principal purpose will be to restrict equal rights which are educational rights. Then we have the spectrum of the Federal Government reaching out into the communities of this Nation, when other remedies fail, and require that they build new educational facilities.

As I mentioned earlier, we hear so much in this Chamber about the HEW bureaucracy in the Federal Government, a bureaucracy of regional HEW authorities dictating to the local communities what their responsibilities shall be. Yet here we are, with this legislation, granting essentially a power to the Federal Government to decide that a given school community shall build a school system. That is an extraordinary grant of power, particularly by those constantly complaining about the role of the Federal Government. But in this legislation, we would permit the Federal Government to reach out into the smaller communities of the Nation, demanding, if they fail to comply, to close that system and build a new school; in other words, dictating to the community effectively what its local burden will be; which is an extraordinary creation of a bureaucracy in the Department of Justice on the one hand with an extraordinary grant of power on the part of the Federal Government on the other—a failure of the definition of terms consistent throughout this legislation.

During the time I have served in the Senate, I have heard time and again, for example, about the gun control legislation—the echoes of which are still reverberating around this Chamber—how we cannot consider gun control legislation because we have not had full committee deliberation, even though we had 10 years to do it, with 45 days of hearings, 146 witnesses, hours and hours of executive sessions, and thousands of pages of testimony, but it is claimed we still have not considered every narrow feature of a particular amendment. So we see that legislation come crashing down because we have not followed the procedures of the Senate.

Yet, here we have before us at this time one of the most involved and complex, constitutionally questionable pieces of legislation to come before us. And this measure has been denied review by the appropriate committee of the Senate. The committee has thoroughly studied the problem of school desegregation and deliberated on it, and has reported legislation to the floor of the Senate. But, H.R. 13915 with its egregious features has never been aired in Senate hearings.

We are not talking about a committee of the Congress that has buried legislation, even though there have been those very much opposed to various provisions. The Special Committee on Education made up of bipartisan support and representation has reported to the floor and permitted the Senate to work its will. It has developed extraordinary expertise and knowledge about this kind of legislation and has held days and days of hearings on this most involved and integrated kind of legislation, similarly, the Committee on Labor and Public Welfare has looked into this matter also. Yet, we refuse to permit those Senate committees to consider this piece of legislation and report back on its educational and social implications.

We hear so often about how important it is, in the case of no-fault insurance, that we should have the Judiciary Committee considering some of the legal implications of the no-fault insurance proposal, and we see that legislation effectively buried in the committee where it has been sent.

On the basic constitutional question which is before us, as we have seen recently in the whole question of voter registration, there probably has been an issue in which the Supreme Court has been as clear in setting forth the right of national legislative bodies to rule on the question of residency, and yet we hear those voices say, "Send it to the Judiciary Committee" in an attempt to frustrate consideration of that legislation.

Thus, it all depends on whose ox is being gored. Those who have so often assumed a pious role about the committee system, and the hearings being printed, and all the rest, I think, in this particular case, are on extremely tenuous ground.

Mr. HART. Mr. President, I wonder whether the Senator, as a member of the committee to which this bill under normal order would have been referred, can help those of us not members of the committee with respect to the moneys represented by those who favor the bill as being made available to improve the quality of education.

Do I correctly understand that the House-passed bill authorizes a substantial sum of money to be used by the school district? I am curious not alone

by the amount I am able to find by looking at the bill, but how this relates to earlier efforts that Congress made, to assist the school districts to carry the burden which results from their efforts, voluntarily or under court order, to desegregate.

As I recall it, Congress, recognizing that compliance with the Constitution by school districts would cost money, undertook to authorize a substantial sum of money to assist the districts in complying with court orders, aimed at insuring a constitutional pattern in the particular school district.

Mr. KENNEDY. The Senator is correct. There have been two principal pieces of legislation, one has been under title I which is before the education committee and has been increased in authorization up to the present time, where I think the authorization is $6 billion, and the administration requests for the past 3 years have been limited to $1.5 billion, even though the record is extremely clear about the need for expanded educational opportunities in title I that affect the poorer communities.

On the other hand under the provisions of Public Law 92–318, $2 billion has been authorized for 2 years, and even though that authorization has been on the books and has passed, the Senate and the House there has not been $1 in requests for appropriations for that legislation. So we see the basic emptiness of the arguments of the administration in this area, particularly when the President goes on nationwide television claiming that he wants to help the parents who live in the urban areas, whose schools are on the point of deterioration. The administration had the opportunity for over 3½ years to request funding under title I of the ESEA bill. Time and time again, despite the fact that a number of the members of the Educational Subcommittee had offered amendments in the committee and on the floor to increase those funds that would be targeted toward helping schools in urban and rural communities and which are in such desperate straits, the administration has turned thumbs down on those proposals.

Then we had the passage of Public Law 92–318, which came out of the Special Committee on Education and provides $2 billion to meet the various problems in our Nation's schools. This is targeted into the areas of school districts that have been affected by court orders. The administration has not requested $1 for those communities.

I think that those who are really interested and who have been trying to provide some kind of relief for parents and children alike who are caught up in this extremely emotional, complex, and difficult educational situation would realize really how little real help and assistance this administration has been willing to provide.

In the House bill that came over to the Senate, I understand that there is a half a billion dollar authorization. However, as I gather it, one of the points being raised by the Senator from Michigan is that although sufficient authorization legislation has been passed by Congress and there have been constant requests by Senators to fund those various provisions to help provide for some kind of relief in a wide variety of different areas, those requests have fallen on deaf ears.

Mr. HART. Mr. President, I appreciate the response of the Senator from Massachusetts. Let me ask the Senator from Massachusetts if this is a correct summary. In recent years, Congress under title I has raised the authorization to a figure of $6 billion as the amount that might be funded to districts which have a high level of poor families in them, and yet the administration has not sought to obtain more than $1.5 billion of that figure.

Mr. KENNEDY. Mr. President, that has been $1.5 billion for a period of over 3 years, for each year. There has been no increase in any one of those 3 years by the administration, absolutely none, to provide any kind of relief for parents who have been disadvantaged and who are poor. The Senator is correct.

Mr. HART. Mr. President, when the heat built up on the busing crisis, the administration made a recommendation which is in the House-passed bill—and this is what I want to get clear if I can—that we take half a billion dollars out of the existing authorization of $1 billion annually of the emergency school-aid provision of the Higher Education Act passed last spring, and earmark it, not to assist schools under a court order to desegregate to carry some of the burden that desegregation requires, but rather that we take half a billion dollars and earmark it to improve facilities in the center cities.

The effect, if my understanding is correct, is that we are confronted with a bill which in a sense resurrects Plessy against Ferguson, which I thought had been repudiated two decades ago.

What the half billion dollars being earmarked for these schools means is that we will, by pouring money into them, allege that we have made them equal. Then implicitly we will take the position that, "Sure, they are separate; but they are equal."

We are finding ourselves back at a crossroad that I thought we had passed when we adopted the reversal of Plessy against Ferguson. We are in effect turning the pages of history back, and in the process we are dissolving, in a sense, the commitment of resources to lighten the burden of school districts which are required, or should be—unless we think we can amend the Constitution by an act of Congress—to desegregate.

We know that desegregation will carry a cost. We ought not to avoid desegregation because there is a money bill attached. The guarantee under the 14th amendment was not conditioned upon whether it was expensive or inexpensive. It was a flat proposition that had no more reference to the dollar sign than it had limited application on one side or the other of the Mason-Dixon line.

The 14th amendment covers 50 States. I know what the interpretation of that amendment has meant and the fact that school districts lying north of the Mason-Dixon line have been segregated by public policy. But they have no more reason to be treated seperately under the 14th amendment than any other section of the country.

I know that the northern sections of the country under the 14th amendment tend to say, "We are great fellows," when the finger is being pointed to the South. However, the Court did not recognize geographical limitations of the 14th amendment, and very properly.

With reference to northern districts which are segregated under the 14th amendment, someone says, "It is different." What is the difference? The 14th amendment reads today as it read in Brown against the Board, unless we want to amend the Constitution. And let us not try to kid the public that by an act of the Congress we can stultify and nullify the meaning of the Constitution.

Am I not correct in suggesting that the House-passed bill, impliedly at least, takes the position that instead of authorizing moneys to enable school districts to carry on the cost of bringing themselves within the 14th amendment reach, we will permit a school district to maintain itself, though it is in violation of the 14th amendment, by giving the school building an ability to widen its playground and put in a chemistry laboratory and perhaps escape the obligations of the Constitution.

We are attempting in the bill, it would seem to me, to disarm the courts of the ability to order that which is required by the courts. Are we not attempting to ante up some money to make it a little more palatable? Surely we should provide money for education in the inner city schools where special programs may be needed. But we should not do this at the expense of denying resources needed for desegregation and for quality integration of our schools.

Mr. KENNEDY. I think the Senator has stated it well and correctly and accurately.

We have to recognize as we have attempted to over the period of recent times that communities within urban areas are going to need resources. Quite clearly the thrust of this legislation is an either-or situation, saying we will grant a bit more money in the urban areas but we will close down the opportunity for flexibility in terms of educational achievement. To do that is to deny one of the vehicles that had been used in the past, to assure some kind of increased educational achievement.

I think what obviously we are interested in attempting to do in an educational sense is to recognize that we have a responsibility to help and assist in the inner cities.

We have an interesting situation in my own city of Boston, with the Trotter School, located in an area which is predominantly black, and some white residents who live within that general community called Roxbury. The Trotter School is an ongoing demonstration of how integrated schooling can work when given the right chance and support.

With the very enlightened educational program at the school and very active participation by black as well as white parents and with the support of the city and the Federal Government, that school

has made some very remarkable progress in bringing together the different elements of the community and providing what I think is perhaps one of the most effective educational experiences in the country. Rather than white parents within that community trying to escape from a district, there is an increasing number of parents within the general area of that district trying to cooperate.

Mr. President, we are interested at this time in taking the various titles of the bill and analyzing them in some detail.

Title 1 of H.R. 13915, as the Senator from Michigan pointed out, provides funding for educationally deprived children by allocating $500 million appropriated under the Emergency School Aid Act. This is the principal provision of S. 13915 offered as carrying out the purpose of the act's title, the Equal Educational Opportunity Act of 1972—a title which was termed "an exercise in hypocrisy" by Representative LONG of Maryland. During the House debate, he said:

> If we are really sincere about carrying through the title of this bill to achieve equal educational opportunity and I am not sure that this title is not an exercise in hypocrisy—if we are really sincere in this—then I think we have to vote some meaningful sums of money. This $500 million is a joke . . . (*Cong. Rec.* p. 28880).

However, the prospects that a substantially increased authorization would result in more money being concentrated on educationally deprived children were squelched by Representative QUIE of Minnesota who stated authoritatively that "there is not going to be any billion and a half dollars of additional appropriation" — CONGRESSIONAL RECORD, p. 28879.

Mr. President, it seems to me we should expect the same kind of condemnation of the school system which hundreds of thousands of black children in this country attend by those that are opposed to providing any kind of real relief to the children. It is interesting that the principal debate in the discussion of this bill the whole issue of education has been on the one issue of busing. I have tried in my more complete remarks to show that really is not the issue. I wish those who are so vigorous in support of this legislation would be equal in their condemnation of the inferior schools that millions of young people, black as well as white, attend in this country today.

We hear about the reluctance of transporting white children into inferior schools. This has tremendous emotional appeal and all of us would have to agree how ridiculous that would be—to take a child out of a quality school solely on the basis of race and transport him to an inferior school. That is frustrating our educational goal.

Why are we not condemning those schools today in which hundreds of thousands of black, white, Puerto Rican, Indian, and Chicano young people are attending? The arguments of those that condemn these methods which have been developed to try to relieve some of the pressure on school systems—I believe would be much more meaningful if we had that kind of expression here.

TITLE I—PROGRAMS FOR EDUCATIONALLY DEPRIVED CHILDREN

WHAT THE TITLE PROVIDES

Title I of the Equal Educational Opportunities Act—EEOA—reserves up to $500 million of the annual appropriation of funds under the Emergency School Aid Act—ESAA—for special compensatory programs in schools with heavy concentrations of poor students. This new reservation takes precedence over the reservation for private groups in the State apportionment section of ESAA. This new aggregate reservation for compensatory education encompasses the 15-percent reservation in ESAA for compensatory aid under section 706(b).

Applications under this title would be submitted to and approved by the State education agency.

ELIGIBILITY

Title I would add a new category of eligibility to ESAA—school districts which adopt and implement a plan approved by the State education agency to concentrate funds providing basic instructional services and supportive services for educationally deprived students in schools with high proportions of students from low-income families. The plan also would provide such services to educationally deprived students transferring from a school enrolling a high concentration of low-income students to one enrolling a lower proportion. No plan would be approved if it encouraged or rewarded the transfer of a student from a school in which his race is in the minority to one in which it is the majority, or if the transfer would increase the degree of racial or economic isolation in schools of the district.

Priority would be given to projects in districts implementing court-ordered or voluntary desegregation plans and districts reducing the effects of economic or racial isolation of students.

AUTHORIZED ACTIVITIES

Authorized activities in an LEA plan for this title would cover "basic instructional services," defined as mathematics and language skills, and "basic supportive services," such as counseling nutrition and health. No funds could be used for overhead, major capital investments, general salary increases, or any form of general aid.

STATE PLAN

State educational agencies would make recommendations to the HEW Secretary regarding the amounts of State allocations to be spent on compensatory education. The Secretary, upon review of all State plans, would make adjustments where necessary in State recommendations in order to bring the national level of expenditure up to $500 million for compensatory education under ESAA. The Secretary would not prescribe a nationally uniform level of expenditure to be applied to each State for compensatory education unless the level of appropriations for ESAA required such action. Each State would measure its own needs for compensatory and integration money and make its own judgment.

ARGUMENTS IN OPPOSITION

The Emergency School Aid Act—ESAA—is a promising and innovative bill to facilitate school desegregation and reduce racial isolation. It was only after voluminous hearings in both Houses of Congress, thoughtful consideration by committees of each body, and through debate on the floor of both the House and Senate that the $2 billion ESAA was enacted. H.R. 13915 would weaken this hopeful program before it is even funded. The needs of educationally deprived students are not being adequately met in this country, but there is already on the books authority to meet their needs—title I of the Elementary and Secondary Education Act—ESEA. The Congress should be appropriating funds to the full level of the ESEA title I authority rather than robbing funds from another promising program, ESAA, designed to meet still other unmet needs of America's school children. Under the provisions of H.R. 13915 amending ESAA more than $500 million would have to be appropriated before even one LEA project grant would be funded to facilitate voluntary or required school desegregation activities.

So what we have, then, is the basic and fundamental authorization, which is up to $6 billion, to help provide, under the formula which has already been accepted in the Congress, additional relief to the poor in this country. This is the ESEA program that the administration has never requested any additional funding for. That has been our basic support program for the elementary and secondary educational systems of this country. There are those who have criticized it, but I do believe it has provided essential education support to many communities which are in desperate need. It is a program I accept and for which I think there should be additional funding.

Then, for the ESAA program which I mentioned, $2 billion was provided, which was the result of weeks and months of hearings and floor debate, to help provide, by a variety of educational mechanisms, some relief to the poor living in urban areas as well as rural communities. Even though that bill was passed as the will of the Congress to cope with this enormously emotional and complex problem, which raises all kinds of constitutional questions as well as educational questions, and even though it represented the best judgment of the Senate and the Congress, and it became law, the President correspondingly has never requested any funding for that program—not one dollar, not one cent. That is the record we have to date.

That has really been the administration's attitude about attempting to provide some kind of relief to the poor people in urban and rural communities, black as well as white, under title I, and no funding for ESAA. That had been the administration's whole program until busing became a hot issue in the primaries this year, and then the President went on television indicating that he has been really concerned about educational opportunities for the poor people of this Nation and therefore he was going to request additional moneys. It had already been authorized by Congress. He did not have to ask for additional authorizations; all he had to do was to ask for ap-

propriations. The authorization was already there.

Then they have asked for $500 million out of the ESAA, a program to fund this program, which runs absolutely contradictory to the whole thrust and purpose of the Senate and House-passed bill, in which none of the committee of the Senate of the United States which have had an opportunity to consider it—neither the Education Subcommittee of the Senate nor the Special Committee on Educational Opportunity of the Senate nor the Judiciary Committee of the Senate, all of which, I believe, have an extremely important and legitimate interest in the issues that this legislation raises.

SECTION 2(a)(2) NATIONAL NEIGHBORHOOD SCHOOL POLICY

WHAT THE PROVISION SAYS

This provision establishes a national policy requiring assignment of students to schools in their neighborhoods. Later in the bill, this broad policy is qualified by authorizing Federal courts to make minor changes in neighborhood assignment practices when all other remedies fail and by authorizing local school boards to adopt voluntary desegregation plans which change neighborhood assignment practices.

WHAT IS WRONG WITH THE PROVISION

This provision rests on two assumptions—that the United States has a school system organized along neighborhood lines and that neighborhood patterns reflect individual residential choices rather than unconstitutional segregation. Both assumptions are often wrong.

The history of American education shows no consistent pattern of neighborhood school organization. This is particularly true in Southern cities, where the great majority of the busing orders have been handed down and where the normal form of organization has been overlapping sets of black and white school attendance areas.

A neighborhood school policy which requires assignment of a pupil to "the school nearest his place of residence which provides the appropriate grade level and type of education for such student" conflicts with normal educational practice and invites inefficient use of school resources. Because of varying capacities of schools, problems of effectively allocating existing classroom space and existing staff, and a variety of other educational and community considerations, school administrators very rarely employ the closest school criterion of student assignment throughout their systems.

The bill contains no definition of "neighborhood" and no restriction on gerrymandered "neighborhood school" boundaries or segregated site selections unless the segregationist intent of local school authorities can be proven. The bill ignores the fact, conceded even in the initial administration bill, that the whole neighborhood concept has little meaning when one is dealing with the large high school and junior high attendance districts which cover whole groups of neighborhoods.

Regional programs and schools have been the pattern in many different parts of the country. They are the pattern in the northeastern part of the country and have been, I think, generally very successful. A number of communities have been rebuilding their local schools. They have worked together to develop a regional high school, which provides much greater flexibility in the range of different courses offered students and a more varied sports program and other activities. They have been well accepted and respected. How we are going to deal with that regional concept is something which goes completely beyond the conclusion of this law. The bill ignores the fact that the whole neighborhood concept should be treated as part of this entire issue.

The bill rests on the image of neighborhoods as stable social entities threatened by school districtwide desegregation plans. In fact, of course, urban neighborhoods are continually changing. In attempting to freeze the status quo, the law would simply freeze into the urban system the existing destructive process of the neighborhood by neighborhood resegregation and white flight and population pressures expand ghetto boundaries.

Finally, existing local schools are segregated in many cases as the result of local housing patterns which are the direct result of unconstitutional segregation of residential patterns through the use of public authority to build segregated subsidized housing or enforce racially restrictive covenants.

I think I mentioned in the earlier part of my comments how that was a part, a tragic part of our housing program, where, in order to get an FHA loan, to get a guarantee, if you were black, you had to agree to build your house in the black community, and if you were white you had to be willing to sign a covenant so that you would not sell it to a black person.

That is a reality, and that was due to Federal action, not to local action. So we saw the various housing patterns develop, and how difficult it is to break out of those housing patterns.

In one decision, a court specifically denied the existence of a citizen's absolute right to send his children to the public school which was nearest his residence. In another case, a court declared:

> Children cannot cluster around their schools like they do around their parish church.

This is interesting, because this is when the children were black and wanted to go to their neighborhood schools. The court denied the right of a citizen to send his children to the public school nearest to his residence. When they were black, they wanted to go to the nearest school, but that might be segregated, and they were denied the opportunity to do so.

I would like to mention the points that respond to section 2(a), the idea or the concept of the neigborhood school policy, which has been put forward in this title.

Attendance at a "neighborhood school" has frequently been denied to black children, as a matter of normal policy in the South, and often as an informal practice in the North.

School administrators require administrative flexibility in establishing attendance zone boundaries. Otherwise there would be waste, inefficiency, and overcrowding.

It is very difficult to define a "neighborhood" at the elementary school level and hard to maintain that the already large attendance levels of higher schools constitute "neighborhoods" in any real sense.

This provision makes little sense for the more than 43 percent of public school students already transported outside their neighborhoods to school.

You see, almost half of our high school students are already being transported outside their neighborhoods. How are we going to cope and deal with that phenomenon? Are we going to require, under the various provisions of this bill, that they build high schools within every particular community, or are we going to continue to allow for the fact that close to half of all high school students now, at the present time, go outside of their neighborhoods to school?

This legislation is completely unclear on that point. The legislation fails to recognize the clear constitutional obligation, supported by a unanimous Supreme Court, to overcome the effects of a past use of public authority to impose segregation.

A larger student body at a given grade level from a larger attendance area reflecting a larger "neighborhood" can permit the offering of more curriculum choices and the employment of more educational specialists.

One of the arguments proposed by the school busing opponents has been that pupil assignment on the basis of race and color are repugnant to the concept of the neighborhood school. They argue that no student should be denied the right to attend a neighborhood school.

This argument fails on several counts. A historical survey of the neighborhood school concept indicates that that pattern is not so immutable. In fact, the pattern of the neighborhood schools has been conveniently discarded when it resulted in desegregated schools.

Dedication to the concept of the neighborhood school seems to have grown substantially after Brown with the recognition that its adoption would result in substantially segregated schools. Due to the widespread residential segregation that exists today, school attendance zones drawn along residential patterns would result in segregated schools.

One of the most incisive analyses of the status of the neighborhood school concept was offered by Judge Luther Bohanon in *Dowell* v. *School Board of Oklahoma City*, 244 F. Supp. 971, 977 (1965):

> The history of the Oklahoma [City] school system reveals that the Board's commitment to a neighborhood school policy has been considerably less than total. During the period when the schools were operated on a completely segregated basis, state laws and board policies required that all pupils attend a school serving their race which necessitated pupils bypassing schools located near their residences and traveling considerable dis-

tances to attend schools in conformance with the racial patterns. After the Brown decision and the Board's abandonment of its dual zone policy, a minority to a majority transfer rule was placed in effect, the express purpose of which was to enable pupils to transfer from the schools located nearest their residence, i.e., the neighborhood school, in order to enroll in schools traditionally served pupils of their race, and located outside their immediate neighborhood . . . thus it appears that the neighborhood school concept has been in the past, and continues in the present to be expendable when segregation is at stake.

One further point, there is a current trend in American education toward consolidated schools. This increasing trend, is clearly contrary to the concept of the neighborhood school.

Finally, regardless of the status of the neighborhood school, this principle must give way to the constitutional necessity to desegregate our public schools. Where de jure segregation exists, local school agencies are obligated to provide a plan to desegregate their schools. The Supreme Court, most recently in Swann, has set forth the tools that may be utilized to achieve the maximum possible desegregation. These tools include pupil assignment on the basis of race, color, religion or national origin and busing. Because of the widespread residential segregation, which in large part was fostered by State action in violation of the Constitution, a neighborhood school assignment plan would rarely meet the degree of desegregation compelled by the Constitution and a school agency must turn to alternative tools.

The next section is on the reorganization of school districts, which is section 3. This is what the section, in full, says:

Section 3(a)(2) states that abolishing and eliminating the vestiges of dual school systems have required "many" school systems to reorganize, reassign students, and engage in "extensive transportation."

ARGUMENTS AGAINST THE PROVISION

It is, of course, impossible to dismantle a dual system without reorganizing schools and reassigning students. Moreover, school reorganization and pupil reassignment are not, in themselves, undesirable. Desegregation frequently is the occasion for a district to reorganize and improve its educational offerings. And parents in numerous desegregation districts report extensive repairs and improvements of previously neglected minority schools resulting from the new attention given to the schools during or just before desegregation.

I should like to refer at this point to a study by the U.S. Commission on Civil Rights, page 8, with reference to the extent of busing:

Indeed, in some parts of the country desegregation has reduced the amount of busing. In 42 desegregating Georgia districts between 1965 and 1969, with enrollment up 92,000 and the number bused up 14,000, there was a decrease of 473,000 in the total number of miles traveled.

So in the 42 Georgia districts, between 1965 and 1969, which had an enrollment of 92,000, with the number bused up 14,000, there was a decrease of 473,000 in the total number of miles traveled.

Similarly, in 27 Mississippi districts at about the same time bus mileage dropped 210,000 miles although the number of students bused had increased by 2,500.

So the number of children had increased by 2,500, but the total number of miles the children had been bused had decreased, quite dramatically, some 210,000 miles.

It is easy to see how desegregation could reduce the amount of busing, especially in rural areas which had extensive busing for segregation purposes. In those localities, white and black children no longer are passing each other on the way to segregated schools lying in opposite directions. Bus routes are more efficient and shorter, meaning quicker rides for the children.

It means less time the children are spending on the bus, and it means that they are going to schools which are generally more available to them within their communities.

The transportation required rarely is extensive. In fact, as illustrated by attached examples, desegregation often means less busing. Nationally, 43.5 percent of the public school enrollment is transported by school bus, and only 3 percent of these pupils are bused for desegregation. Where there is an increase in the number of pupils bused, the time and distance traveled, and cost, the increase rarely is large when compared with previous figures for the district or when compared with other districts.

It should be noted, Mr. President, that of all the children going to school in this country, only 43 percent are getting on the yellow school bus, and only 3 percent of these children are actually being bused for desegregation reasons. As mentioned earlier, in many instances the total number of miles and the hours have been reduced. I think we often lose track of that fact, and I want to insert in the RECORD some of the material which will reflect this.

The real facts simply do not support 3(a)(2). It is another instance of falsely characterizing steps which must, of necessity, be taken in order for a district to move from segregation to desegregation.

DEPLETION OF FINANCIAL RESOURCES

WHAT SECTION 3(A)(3) SAYS

Section 3(a)(3) alleges that districts required to undertake "extensive" busing have been forced to spend large sums of money, depleting funds that could be used for facilities and instruction.

ARGUMENTS AGAINST THE SECTION

As demonstrated by the material under 3(a)(2), "extensive" busing is the exception rather than the rule. In any event, pages 15 and 16 of "Your Child and Busing" attack generally the proposition stated in 3(a)(3), pointing out that pupil transportation accounts for about the same slice of the Nation's education expenditure as it did nearly 40 years ago.

I read from page 16 of the report:

To be sure, a school bus is not an inexpensive item. The average school bus costs $8,500.

However, pupil transportation is a relatively small part of the Nation's education budget. Down through the decades although the number of children bused has risen substantially, that part of the education budget which goes for pupil transportation has stayed about the same. In 1933, the expenditure for pupil transportation was 3.5 percent of the cost of operating public schools. In 1969–70, it was 3.6 percent.

Last year, the cost of pupil transportation was just over $1.5 billion, out of a total public school expenditure of nearly $44 billion.

When school districts talk about the high cost of busing they are speaking, generally, about capital outlay—that is, the one-time expenditure of funds to buy the necessary buses to carry out a desegregation plan.

So, in terms of the proportion of the school budget, I think that helps put this matter into some perspective. We are finding out now that actually the number of children being transported to achieve any kind of desegregation is exceedingly small; that in many parts of the country, as a result of various court orders, there is less going on than previously, and in terms of expense they find out that the cost has been just about the same in proportion to the education dollar.

The same holds true, by and large, of transportation costs at the local level. A half million dollars for busing sounds like a lot of money to a city the size of Harrisburg, Pa.—and it is. However, it is only 1/28 of Harrisburg's total school budget. A member of the Charlotte school board testified that transportation cost in that home of the landmark busing decision is the cost equivalent of operating the schools there only 2 days. Similar mathematical results can be obtained in calculating busing costs in other districts. And the Dayton, Ohio, superintendent testified that the per child cost of compensatory education is more than double the cost of busing.

The financial impact, if there is any, generally is at the beginning of a busing program. There is a missing element of assistance in helping local districts meet this financial burden, and that element is the Federal Government. It makes little sense to tell districts that their constitutional obligation is to desegregate, but the Federal Government will stand disinterestedly on the sidelines while the district struggles with the financial burden of meeting that obligation. Yet this is the position the Federal Government currently is taking.

Busing accounts for only a fraction of education expenditures, and only a fraction of that fraction is for busing for desegregation. It is an exceedingly small price to pay toward bringing the Nation together. The price is puny when compared to the price the Nation has paid, and is paying, for maintaining a society that is racially divided.

Mr. President, the finding ignores, incidentally, the fact that a large part of the local district's transportation cost often is reimbursed by the State government.

Mr. BIBLE. Mr. President, I support H.R. 13915. This proposed Equal Educational Opportunities Act is long, long overdue. Had it been enacted some 18 years ago in the wake of the Supreme Court's landmark decision in Brown against Board of Education, this legisla-

tion could well have enabled the Nation to achieve an orderly elimination of dual school systems without arousing all the resentments and animosities so visbly present throughout much of the country today.

The first Brown decision was—without question—one of the most important landmarks in the Nation's history. It declared that State-imposed racial segregation in public schools violates the equal protection clause of the 14th amendment. The Brown case declared the principle that the States are prohibited from using a child's race or color as a basis for assigning him to a public school.

But where are we today—some 18 years later! Notwithstanding the constitutional command laid down in Brown, we are now told in the Swann decision that our Constitution not only permits, but demands the assignment of students to public schools on the basis of race in order to achieve some preconceived racial mix.

The lower Federal courts, responsible educators, and conscientious parents throughout the land are totally confused as to just what the Constitution requires.

And the confusion is understandable in the face of the inconsistent results the courts have reached. In one case, all-black schools in a Cincinnati, Ohio, school district were found constitutionally acceptable.

More recently, Federal courts in Michigan and in my own State of Nevada ruled that the attendance of children at schools within their neighborhood school districts is a violation of the Constitution.

In the Swann case, the Supreme Court itself stated that its own guidelines on schoolbusing are "incomplete and imperfect." Yet, a number of the lower courts have sought to impose integration programs on unwilling communities by little more than judicial fiat. The courts have had insufficient judicial precedents and no legislative guidelines to rely on. There has been a confusing array of different solutions in similar fact situations. Where a court—as it has in Clark County, Nev., and elsewhere—enters a decree that can be complied with only by forcibly busing children away from their neighborhood schools, the result is understandably loud and determined resistance.

Mr. President, I am unalterably opposed to any involuntary busing of children away from their neighborhood schools. I have opposed the use of Federal funds for this purpose throughout my service here in the Senate. I have consistently supported measures advanced here on the floor of the Senate to deny the Federal courts jurisdiction to order such busing. And I have joined in cosponsoring two pending resolutions to amend the Constitution to preserve the neighborhood school.

I think it essential that every Senator consider very carefully just what all this means in human terms. If we tolerate forced busing, we run roughshod over the desires and judgments of concerned parents all across the Nation. The decision where a family locates and invests a lifetime of toil in buying a home turns very often on the quality and nearness of the neighborhood school. The law should support such family decisions. It should not overturn them.

Forced busing means uprooting the young child from his home, family, and friends and transporting him long distances—and in some instances long hours—each day into strange surroundings and a questionable educational environment to achieve some artificial racial balance.

It means the abolition of the neighborhood school—the elimination of a time-tested source of community security, stability and cohesiveness.

For the parents, it means increased concern because of their inability to be available to the child in case of need.

For the community it often means a greatly increased financial burden. Money that should be devoted to improving the quality of education for all students has to be diverted to the mechanics of transportation.

But most deplorable of all is the complete disregard for the natural desire of the family to watch over and safeguard the development of its children through their tenderest years.

Mr. President, forced busing smacks of the "big brother" syndrome—the school that teaches that the State knows best—the trend of our times that leads evermore to the overriding of individual rights.

A recent Gallup poll indicates that some 69 percent of the American people nationwide oppose the forced busing of children to achieve desegregation. And that analysis indicated that very sizable proportions of our black citizens also oppose such busing.

I have indicated that the school system in Las Vegas, Clark County, Nev., is laboring under a forced busing order. And the people of Nevada have spoken out. Both black and white—oppose the busing of their young children to schools outside their home neighborhoods. They are properly outraged by the manipulation of their children as pawns of social reform by the Federal court. They want to be able to decide for themselves where they as families will live, where they will work, and where their children will attend public schools.

I ask unanimous consent to have printed at the conclusion of my remarks a statement by R. C. Lunnis, a notary public in Las Vegas, Clark County, Nev., certifying that 35,000 members of the community signed a petition calling for an end to forced busing and the preservation of their neighborhood schools.

I also ask unanimous consent that there be printed at the conclusion of my remarks a sampling of the heavy volume of mail I have received from Nevadans on this issue.

The PRESIDING OFFICER. Without objection, it is ordered.

(See exhibit 1.)

Mr. BIBLE. As I have said, Mr. President, the courts have lacked firm and clear guidelines in their approach to school desegregation problems. The fact is they have carried too heavy a burden in cases involving the use of school busing. Not only the parents of the Nation, but the hard pressed courts as well need authoritative guidance on this critically important subject. And it is the obligation of the Congress to provide that guidance. It is the responsibility of the Congress—a responsibility already too long neglected—to provide legislation laying out the ground rules that shall govern in overcoming segregation in the public schools.

The Congress has explicit power under section 5 of the 14th amendment to pass legislation to enforce the equal protection of the laws guaranteed by that amendment. In the case of Katzenbach against Morgan, the Supreme Court held that, since the Congress has far greater fact-finding and interest-weighing ability than the courts, the Congress may by legislation bar an activity as being in contravention of the 14th amendment. It is up to the Congress to find the facts in the national interest and to define the remedies from which the courts may choose in acting to overcome racial segregation in the schools.

In my judgment, the bill now before the Senate does this in an entirely responsible way. It will meet the national need for a clear, rational, uniform Federal policy with regard to school desegregation. It will provide the courts and the nation a uniform, clearly enunciated standard for determining a school system's obligations under the 14th amendment. Its effect will be to overcome the conflict and confusion raised by inconsistent case law and arbitrary exercises of judicial discretion.

The challenge before the Senate is to act now to turn the Nation away from massive forced busing schemes and toward the development of better programs in all our public schools designed to provide our children the tools for creating a better society for us all. The nationwide standards and remedies and the additional Federal funding for disadvantaged schools this legislation provides will move us at long last along that road.

This legislation is unquestionably one of the most critically needed domestic measures that has come before the Congress in many years.

I strongly urge that it be passed by the Senate before the adjournment.

EXHIBIT 1

ATTEST TO TOTAL NUMBER OF SIGNATURES

There are 35,000 signatures on record with with Bus-Out and Parents for Neighborhood Schools as being opposed to forced busing and urging support to influence Senate action immediately.

Dated: September 29, 1972.

R. C. LUNNIS,
*Notary Public—State of Nevada, Clark County.*

My Commission Expires August 26, 1974.

---

LAS VEGAS, NEV.,
*August 24, 1972.*

HON. ALAN BIBLE,
*U. S. Senator,*
*Washington, D.C.*

DEAR SIR: Today, August 24, 1972, the Clark County School District, has been ordered by a Federal Judge, to integrate our schools, to attain racial balance by busing all sixth grade students to the West Side of Las Vegas.

Please explain how this is possible. When

the Congress and the President of the United States have voted against this form of integration, by busing elementary students.

The majority of the residents of Clark County are against leaving neighborhood schools for many reasons.

A reply will be appreciated.

Sincerely,

DONA I. MARTIN.

---

LAS VEGAS, NEV.,
*August 25, 1972.*

Senator ALAN BIBLE,
*Las Vegas Blvd.,*
*South Las Vegas, Nev.:*

Strongly protest busing ruling. Am within walking distance of two elementary schools. I will not permit my child to attend school on the west side. This means private school. Where are our constitutional rights. Act now.

JOLYNNE KARP.

---

LAS VEGAS, NEV.,
*Sept. 14, 1972.*

DEAR SENATOR BIBLE: This is the very first letter I have ever written to any office of a representative of the people. Many people have told me they have received concerned replies from you.

I am extremely concerned about the busing situation in our county and the country as well. The one opinion I have heard expressed by every parent I have spoken to is they are against it. It makes me wonder why the will of the people, who are *supposed* to be represented by government officials, is not being heard; why a small group of men say a child *has* to be sent out of his neighborhood to travel across town. By small group of men, I am referring to the Supreme Court of the U.S. The very word leaves a bad taste in my mouth. They have been so busy interpreting the "words" of the written law, they have lost sight of the purposes of the law.

We reside in a middle class neighborhood, three schools close, a grammar, high school, and Jr. High. I have a son three and I'm definitely affected by busing, or I should say will be. I have definitely made up my mind, there is no way he will ride a bus across town. He'll go to a private school first.

Up till now I have only written of dislike (a mild word) for busing. Now I would like to know *what can be done,* short of impeaching the Supreme Court? Isn't it time the people were heard? What about my constitutional rights?

I would appreciate a reply.

I'm just plain mad.

Sincerely,

Mrs. CAROL TROUGH.

---

LAS VEGAS, NEV.,
*September 5, 1972.*

Senator ALAN BIBLE,
*U.S. Senate Office Building,*
*Capitol Hill, D.C.:*

Please stop the forced busing of our school children in Las Vegas.

Mr. and Mrs. GEORGE COZART.

---

LAS VEGAS, NEV.,
*May 17, 1972.*

Senator ALAN BIBLE,
*Senate Building,*
*Washington, D.C.*

DEAR SENATOR BIBLE: I know you are against busing, but I feel I must add my views to those already voiced.

It appears that they are proceeding with the busing issue here in Las Vegas. First let me say, I am against it. Why is Las Vegas going ahead with all the terrible expense of buying buses until a decision comes down from the Congress on the President's request for a moratorium?

My children already take a bus which takes sometimes up to 45 minutes one way, when, in fact, I drive them to school takes about 8 minutes. Because of this I often—at least one third of the time—drive them to school and pick them up. I am sure if they have to ride this stuffy, crowded, hot bus—and it is hot at least 4 months of the school year—across to the West Side from Paradise Valley they will miss much more school and lose interest in their studies. I certainly won't want to drive away over there to get them for all their after school activities.

What happens to their religious instruction they have once a week after school, piano lessons and sports activities? If it takes as much as 45 minutes to go to a school that is but 8 minutes away by automobile, how long will it take to go across town from Paradise Valley? Surely something can be done to make this more equitable.

Having grown up in Canada and gone to college with many blacks who were my friends, I feel I am without prejudice. They should have their opportunity—for example, open housing, but from the latest information there appears not to have been a great enough affect from busing on the quality of the black man's education to force this issue upon us. There has to be another way.

Sincerely,

(Mrs.) WALLACE E. FARR.

---

LAS VEGAS, NEV.,
*June 6, 1972.*

DEAR SENATOR BIBLE: I am writing this letter because of my deep concern over the mandatory school busing order handed down from the 9th District Court and Judge Bruce R. Thompson of Reno. I do not believe forced busing is in the best interest of the majority.

It is my belief that this country has gained, and maintained its strength and its standing in the world by operating under the democratic form of government. A government where the people decide, and are not *dictated* to by any one person, or small groups of persons. I believe that an issue as important as this one should be put on the ballots across this country, so that every man and woman can let their elected officials know how they feel.

Speaking for myself, I purchased my home 10½ years ago. At that time we had one child not yet in school, but we chose the area because the grade school, jr. high, and high school were all within walking distance. I am sure for most parents this is one of the major factors when purchasing a home. Therefore, it is against my convictions that a few people, or one person can dictate to me where I have to send my children to school. It appears to me that the people's individual freedoms, on which this great country was founded, are getting fewer and fewer.

As I stated before, if this issue of busing were put to the people for a vote, and I feel in my heart this issue should be, I strongly feel that even the minorities of this country would be against it. I do not think anyone whether they are black, red, brown, yellow, or white wants to see their small children put on a bus and transported miles across town to go to school. If I am wrong in my thoughts and beliefs I would feel at that point that it was my duty as an American to go along with the majority. But then I feel that at least all our citizens whatever their race would be getting what they feel is right, and not just what the few want. I do believe our courts in this country are taking too much for granted as far as their authority goes.

Respectfully yours,

JANET R. FARTHING,
LAREY E. FARTHING.

LAS VEGAS, NEV.,
*June 2, 1972.*

DEAR SENATOR BIBLE: I'm a resident of Las Vegas, writing you regarding the busing of our sixth grade students. This act in my eyes is an unconstitutional move! How can this be right?

I am the mother of a son who will be affected by this unjust action. We live two blocks from the school, he attended for 5 years, now he will get on a bus next Sept., along with hundreds of other sixth grade students and travel from 5 to 7 miles to West Las Vegas. My dear man does this make sense to you? I call this an outrage, don't we have more affective ways of spending federal and state funds, lets improve our schools, down with this trial and error business!

Are you aware children that are bused, won't have the time for after school activities or arrive home in time for necessary medical appointments. The children will find it necessary to arise earlier and arrive home later.

This is a gross miscarriage of our rights as Americans.

I for one protest, we need our leaders' help. What can we do to help you help us?

Sincerely,

ANNETTE KOEMPEL.

---

LAS VEGAS, NEV.,
*August 26, 1972.*

Senator ALAN BIBLE,
*Las Vegas Boulevard,*
*South Las Vegas, Nev.:*

Strongly protest forced busing ruling. Am in walking distance of two elementary schools have placed my son in private school which as a widow I can ill afford. Where are our constitutional rights? Why do we buy our homes near the schools we want our children to attend? Lets do something about this—now.

LOUIS E. MCGUIRE.

---

LAS VEGAS, NEVADA,
*September 1, 1972.*

Honorable ALAN BIBLE,
*Senator from Nevada,*
*Capitol Building,*
*Washington, D.C.*

DEAR SENATOT BIBLE: As a parent of three children, I would like to voice my concern over recent action by the courts ordering the integration of Clark County Schools by busing. I firmly believe in the concept of the neighborhood school and would appreciate your support of legislation to uphold this historically honored principle.

Sincerely,

Mr. & Mrs. PHILLIP HARDY.

---

LAS VEGAS, NEV.,
*August 12, 1972.*

DEAR SENATOR BIBLE: Soon school will be starting again and as usual things are up in the air. As a parent, I have like a lot of other mothers adopted a wait and see policy, but this is the last time for this attitude. If I don't voice my view, how are you our elected officials to know my feelings.

It seems strange that the NAACP and the League of Women Voters can disrupt our whole school system. Have these two organizations just once asked the parents of both black, white and other minority races their feelings. No, not once. Isn't it a shame only a few voices are heard and just for their own gratification. On one thing I agree, education can be up-graded but not by busing children all over the city. I've been working closely with the school my son attends and this is the view I get from the minority children. They are fine during the day but when school ends they turn bitter because as the day ends they must go back to their own neighbor-

hoods. This is no fault of teachers, students or other parents. Believe me I am no hard-core white since by neighborhood is at least 40% minority.

I'm very much against forced busing and feel that if this occurs you will be violating my civil rights, the freedom of choice. Why can't the schools be open zoned and unrestricted by neighborhood??

I think you should know my son is only going into fifth grade but that the sixth grade plan will affect him and many others since they attend school on a zone variance.

Thank you for reading this letter and I'm sure many parents feel the same as I do.

Sincerely yours,

MRS. CHARLES R. HORDEN.

---

LAS VEGAS, NEV.,
*September 10, 1972.*

DEAR SENATOR BIBLE: It has been brought to my attention that Senator Allen of Alabama is going to *attempt to bring to the floor* a bill to end forced busing, and I would like to add my voice to the many that must be urging you to support it. It means a great deal to me. As the mother of a very asthmatic child, about to enter 6th grade, I am faced with being forced to expose my child 1½ hours a day, to diesel bus fumes, which can bring on attacks of asthma—any one of which can cause the heart and lung damage that so far we have been fortunate enough to avert.

What is the answer—

1) Bus him—and run the risk of ruining the health of our only child.
2) Private school—all full to capacity.
3) Keep him home—and have the school district file suit against us.

Is there no way open to us that would satisfy the needs of all involved?

I would appreciate hearing from you if you can think of anything that could possibly be of help to us.

Our thanks for all the hard work and long-hours you put in as our Senator. It's a job well done.

Most sincerely,

MRS. BETTY MUÑIZ.

---

LAS VEGAS, NEV.,
*August 25, 1972.*

Senator ALAN BIBLE,
*Senate Office Building,*
*Washington, D.C.*

DEAR SIR: As I'm sure you are aware by now, Clark County is being forced by the courts to start busing our children this coming school year. As I'm sure you are also aware a great majority of the people are against this forced busing. It is beyond me how a small group of people can force upon us an action such as this. Neither the blacks or whites want this busing but it's still being forced on us, and I feel this issue is spliting the races apart more than anything has in the last 20 years. I have yet to speak to anyone that agrees with this busing or feels it is accomplishing anything other than wasting money. It makes me wonder who these groups or group are that insists we have busing. Are they trying to help America or split it?

Some of my friends and neighbors are moving out of the area and State to get away from this busing. Others are sending their children to relatives out of State to get away from it. This does not seem like freedom nor is it fair that courts should have the power to split the families like this. I do not know yet what final action I will take to prevent my child from being bused approximately 13 miles to the West side of town rather than go to the school ¾ miles from her home, my writing to you and asking for your help is the first thing. I know you have indicated you are opposed to busing, I feel congressional action is the only way it's ever going to be stopped. I would very much appreciate it if you would lend your support to the anti-busing bill and have it passed prior to the start of this coming school year if at all possible. Thank you.

Sincerely yours,

WAYNE A. CARDINAL.

---

LAS VEGAS, NEV.,
*August 29, 1972.*

Honorable ALAN BIBLE,
*U.S. Senate.*

DEAR SIR: I know you are keenly aware of the recent decision by Judge Bruce Thompson in Reno concerning Clark County and the "6th Grade Plan" on busing of school children. I am concerned and upset with this decision and want you to know it.

I am a career Air Force NCO. I purchased a home here in Las Vegas when I was assigned to Nellis AFB in December 1971. The home I bought is in a prestige neighborhood, and the school my children were to attend was a prime consideration in choosing it. It is 4 blocks away from my home. Now my oldest child is to be bussed approximately 15 miles to a school in an all black neighborhood. Next year my youngest must go thru it. I do not appreciate it.

My question to you, Sir, is how can a Judge, one man, arbitrarily overrule what the President of the United States publicly stated is his policy and the Congress of the United States said would be done? Both have made their positions abundantly clear. There is little doubt bussing is not in the public's interest nor is it the public's desire, yet this Judge orders it. Is our judicial system no longer responsive to the public will? Does what the majority want no longer count?

My children will be bussed (at a cost of $1,500,000 to Clark County Tax Payers by the way) for one year. Black children will be bussed 11 of their 12 school years. If bussing is unfair to my children, it is grossly unfair to black children. Has Judge Thompson considered them and their feelings? I doubt it!

Sir, I don't know if there is much you can do to reverse this idiotic situation, but at least I have done all I can to register my feelings. Thank you for your time.

Yours truly,

RONALD G. GLOVER.

---

## DEBATE ON CLOTURE MOTION TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the 1 hour under rule XXII for debate on the motion to invoke cloture on tomorrow begin at 10 a.m.

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

---

## ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, October 9, 1972, he presented to the President of the United States the following enrolled bills:

S. 520. An act to authorize the Secretary of the Interior to construct, operate, and maintain various Federal reclamation projects, and for other purposes;

S. 976. An act to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, and for other purposes; and

S. 1497. An act to authorize certain additions to the Sitka National Monument in the State of Alaska, and for other purposes.

---

## THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 1197 and 1200.

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

---

## EXTENSION OF TIME FOR COMMENCING ACTIONS ON BEHALF OF AN INDIAN TRIBE, BAND, OR GROUP

The bill (H.R. 13825) to extend the time for commencing actions on behalf of an Indian tribe, band, or group was considered, ordered to a third reading, read the third time, and passed.

---

## NATIONAL CEMETERIES ACT OF 1972

The Senate proceeded to consider the bill (H.R. 12674) to amend title 38 of the United States Code in order to establish a National Cemetery System within the Veterans' Administration, and for other purposes which had been reported from the Committee on Veterans' Affairs with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "National Cemeteries Act of 1972".

SEC. 2. (a) Part II of title 38, United States Code, is amended by adding at the end thereof the following new chapter:

"Chapter 24—NATIONAL CEMETERIES AND MEMORIALS

"Sec.
"1000. Establishment of National Cemetery System; composition of such system; appointment of director.
"1001. Advisory committee on cemeteries and memorials.
"1002. Persons eligible for interment in national cemeteries.
"1003. Memorial areas.
"1004. Administration.
"1005. Disposition of inactive cemeteries.
"1006. Acquisition of lands.
"1007. Authority to accept and maintain suitable memorials.

"§ 1000. Establishment of National Cemetery System; composition of such system; appointment of director

"(a) There shall be within the Veterans' Administration a National Cemetery System for the interment of deceased servicemen and veterans. To assist him in carrying out his responsibilities in administering the cemeteries within the System, the Administrator may appoint a Director, National Cemetery System, who shall perform such functions as may be assigned by the Administrator.

"(b) The National Cemetery System shall consist of—

"(1) national cemeteries transferred from the Department of the Army to the Veterans' Administration by the National Cemeteries Act of 1972;

"(2) cemeteries under the jurisdiction of the Veterans' Administration on the date of enactment of this chapter; and

"(3) any other cemetery, memorial, or monument transferred to the Veterans' Administration by the National Cemeteries Act of 1972, or later acquired or developed by the Administrator.

"§ 1001. Advisory Committee on Cemeteries and Memorials

"There shall be appointed by the Administrator an Advisory Committee on Cemeteries and Memorials. The Administrator shall advise and consult with the Committee from time to time with respect to the administration of the cemeteries for which he is responsible, and with respect to the selection of cemetery sites, the erection of appropriate memorials, and the adequacy of Federal burial benefits. The Committee shall make periodic reports and recommendations to the Administrator and to Congress.

"§ 1002. Persons eligible for interment in national cemeteries

"Under such regulations as the Administrator may prescribe and subject to the provisions of section 3505 of this title, the remains of the following persons may be buried in any open national cemetery in the National Cemetery System:

"(1) Any veteran (which for the purposes of this chapter includes a person who died in the active military, naval, or air service).

"(2) Any member of a Reserve component of the Armed Forces, and any member of the Army National Guard or the Air National Guard, whose death occurs under honorable conditions while he is hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while he is performing active duty for training, inactive duty training, or undergoing that hospitalization or treatment at the expense of the United States.

"(3) Any member of the Reserve Officers' Training Corps of the Army, Navy, or Air Force whose death occurs under honorable conditions while he is—

"(A) attending an authorized training camp or on an authorized practice cruise;

"(B) performing authorized travel to or from that camp or cruise; or

"(C) hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while he is—

"(i) attending that camp or on that cruise;

"(ii) performing that travel; or

"(iii) undergoing that hospitalization or treatment at the expense of the United States.

"(4) Any citizen of the United States who, during any war in which the United States is or has been engaged, served in the armed forces of any government allied with the United States during that war, and whose last such service terminated honorably.

"(5) The wife, husband, surviving spouse, minor child, and, in the discretion of the Administrator, unmarried adult child of any of the persons listed in paragraphs (1) through (4).

"(6) Such other persons or classes of persons as may be designated by the Administrator.

"§ 1003. Memorial areas

"(a) The Administrator shall set aside, when available, suitable areas in national cemeteries to honor the memory of members of the Armed Forces missing in action, or who died or were killed while serving in such forces and whose remains have not been identified, have been buried at sea or have been determined to be nonrecoverable.

"(b) Under regulations prescribed by the Administrator, appropriate memorials or markers shall be erected to honor the memory of those individuals, or group of individuals, referred to in subsection (a) of this section.

"§ 1004. Administration

"(a) The Administrator is authorized to make all rules and regulations which are necessary or appropriate to carry out the provisions of this chapter, and may designate those cemeteries which are considered to be national cemeteries.

"(b) In conjunction with the development and administration of cemeteries for which he is responsible, the Administrator shall provide all necessary facilities including, as necessary, superintendents' lodges, chapels, crypts, mausoleums, and columbaria.

"(c) Each grave in a national cemetery shall be marked with an appropriate marker. Such marker shall bear the name of the person buried, the number of the grave, and such other information as the Administrator shall by regulation prescribe.

"(d) There shall be kept in each national cemetery, and at the main office of the Veterans' Administration, a register of burials in each cemetery setting forth the name of each person buried in the cemetery, the number of the grave in which he is buried, and such other information as the Administrator by regulation may prescribe.

"(e) In carrying out his responsibilities under this chapter, the Administrator may contract with responsible persons, firms, or corporations for the care and maintenance of such cemeteries under his jurisdiction as he shall choose, under such terms and conditions as he may prescribe.

"(f) The Administrator is authorized to convey to any State, or political subdivision thereof, in which any national cemetery is located, all right, title, and interest of the United States in and to any Government owned or controlled approach road to such cemetery if, prior to the delivery of any instrument of conveyance, the State or political subdivision to which such conveyance is to be made notifies the Administrator in writing of its willingness to accept and maintain the road included in such conveyance. Upon the execution and delivery of such a conveyance, the jurisdiction of the United States over the road conveyed shall cease and thereafter vest in the State or political subdivision concerned.

"(g) Notwithstanding any other provision of law, the Administrator may at such time as he deems desirable, relinquish to the State in which any cemetery, monument, or memorial under his jurisdiction is located, such portion of legislative jurisdiction over the lands involved as is necessary to establish concurrent jurisdiction between the Federal Government and the State concerned. Such partial relinquishment of jurisdiction under the authority of this subsection may be made by filing with the Governor of the State involved a notice of such relinquishment and shall take effect upon acceptance thereof by the State in such manner as its laws may prescribe.

"§ 1005. Disposition of inactive cemeteries

"(a) The Administrator may transfer, with the consent of the agency concerned, any inactive cemetery, burial plot, memorial, or monument within his control to the Department of the Interior for maintenance as a national monument or park, or to any other agency of the Government. Any cemetery transferred to the Department of the Interior shall be administered by the Secretary of the Interior as a part of the National Park System, and funds appropriated to the Secretary of such system shall be available for the management and operation of such cemetery.

"(b) The Administrator may alao transfer and convey all right, title, and interest of the United States in or to any inactive cemetery or burial plot, or portion thereof, to any State, county, municipality, or proper agency thereof, in which or in the vicinity of which such cemetery or burial plot is located, but in the event the grantee shall cease or fail to care for and maintain the cemetery or burial plot or the graves and monuments contained therein in a manner satisfactory to the Administrator, all such right, title, and interest transferred or conveyed by the United States, shall revert to the United States.

"(c) If a cemetery not within the National Cemetery System has been or is to be discontinued, the Administrator may provide for the removal of remains from that cemetery to any cemetery within such System. He may also provide for the removal of the remains of any veteran from a place of temporary interment, or from an abandoned grave or cemetery, to a national cemetery.

"§ 1006. Acquisition of lands

"As additional lands are needed for national cemeteries, they may be acquired by the Administrator by purchase, gift (including donations from States or political subdivisions thereof), condemnation, transfer from other Federal agencies, or otherwise, as he determines to be in the best interest of the United States.

"§ 1007. Authority to accept and maintain suitable memorials

"Subject to such restrictions as he may prescribe, the Administrator may accept gifts, devises, or bequests from legitimate societies and organizations or reputable individuals, made in any manner, which are made for the purpose of beautifying national cemeteries, or are determined to be beneficial to such cemetery. He may make land available for this purpose, and may furnish such care and maintenance as he deems necessary."

(b) The table of chapters of part II and the table of parts and chapters of title 38, United States Code, are each amended by inserting immediately below

"23. Burial benefits ..... 901"

the following:

"24. National cemeteries and memorials ..... 1000".

(c) Section 5316 of title 5, United States Code, is amended by striking out:

"(131) General Counsel of the Equal Employment Opportunity Commission."

and inserting in lieu thereof the following:

"(132) General Counsel of the Equal Employment Opportunity Commission.

"(133) Director, National Cemetery System, Veterans' Administration."

SEC. 3. (a) The Administrator shall conduct a comprehensive study and submit his recommendations to Congress within six months after the convening of the first session of the Ninety-third Congress concerning:

(1) criteria which govern the development and operation of the National Cemetery System, including the concept of regional cemeteries;

(2) the relationship of the National Cemetery System to other burial benefits provided by Federal and State governments to servicemen and veterans;

(3) steps to be taken to conform the existing System to the recommended criteria;

(4) the private burial and funeral costs in the United States;

(5) current headstone and marker programs; and

(6) the marketing and sales practices of non-Federal cemeteries and interment facilities, or any person either acting on their behalf or selling or attempting to sell any rights, interest, or service therein, which is directed specifically toward veterans and their dependents.

(b) The Administrator shall also, in conjunction with the Secretary of Defense, conduct a comprehensive study of and submit their joint recommendations to Congress within six months after the convening of the first session of the Ninety-third Congress concerning:

(1) whether it would be advisable in carry-

ing out the purposes of this Act to include the Arlington National Cemetery within the National Cemetery System established by this Act;

(2) the appropriateness of maintaining the present eligibility requirements for burial at Arlington National Cemetery; and

(3) the advisability of establishing another national cemetery in or near the District of Columbia.

SEC. 4. (a) Subchapter II of chapter 3 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 218. Standards of conduct and arrests for crimes at hospitals, domiciliaries, cemeteries, and other Veterans' Administration reservations

"(a) For the purpose of maintaining law and order and of protecting persons and property on lands (including cemeteries) and in buildings under the jurisdiction of the Veterans' Administration (and not under the control of the Administrator of General Services), the Administrator or any officer or employee of the Veterans' Administration duly authorized by him may—

"(1) make all needful rules and regulations for the governing of the property under his charge and control, and annex to such rules and regulations such reasonable penalties within the limits prescribed in subsection (b) of this section as will insure their enforcement. Such rules and regulations shall be posted in a conspicuous place on such property;

"(2) designate officers and employees of the Veterans' Administration to act as special policemen on such property and, if the Administrator deems it economical and in the public interest, with the concurrence of the head of the agency concerned, utilize the facilities and services of existing Federal law-enforcement agencies, and, with the consent of any State or local agency, utilize the facilities and services of such State or local law-enforcement agencies; and

"(3) empower officers or employees of the Veterans' Administration who have been duly authorized to perform investigative functions to act as special investigators and to carry firearms, whether on Federal property or in travel status. Such special investigators shall have, while on real property under the charge and control of the Veterans' Administration, the power to enforce Federal laws for the protection of persons and property and the power to enforce rules and regulations issued under subsection (a) (1) of this section. Any such special investigator may make an arrest without a warrant for any offense committed upon such property if he has reasonable ground to believe (A) the offense constitutes a felony under the laws of the United States, and (B) that the person to be arrested is guilty of that offense.

"(b) Whoever shall violate any rule or regulation issued pursuant to subsection (a) (1) of this section shall be fined not more than $50 or imprisoned not more than thirty days, or both."

(b) Section 625 of title 38, United States Code, is hereby repealed.

(c) (1) The table of sections at the beginning of chapter 3 of title 38, United States Code, is amended by inserting immediately after—

"217. Studies of rehabilitation of disabled persons."

the following:

"218. Standards of conduct and arrests for crimes at hospitals, domiciliaries, cemeteries, and other Veterans' Administration reservations.".

(2) The table of sections at the beginning of chapter 17 of title 38, United States Code, is amended by striking out—

"625. Arrests for crimes in hospital and domiciliary reservations.".

SEC. 5. (a) Chapter 23 of title 38, United States Code, is amended by—

(1) amending section 903 to read as follows:

"§ 903. Death in Veterans' Administration facility; plot allowance

"(a) Where death occurs in a Veterans' Administration facility to which the deceased was properly admitted for hospital or domiciliary care under section 610 or 611 of this title, the Administrator—

"(1) shall pay the actual cost (not to exceed $250) of the burial and funeral or, within such limits, may make contracts for such services without regard to the laws requiring advertisement for proposals for supplies and services for the Veterans' Administration; and

"(2) shall, when such a death occurs in a State, transport the body to the place of burial in the same or any other State.

"(b) In addition to the foregoing, if such a veteran, or a veteran eligible for a burial allowance under section 902 of this title, is not buried in a national cemetery or other cemetery under the jurisdiction of the United States, the Administrator, in his discretion, having due regard for the circumstances in each case, may pay a sum not exceeding $150, as a plot or interment allowance to such person as he prescribes. In any case where any part of the plot or interment expenses have been paid or assumed by a State, any agency or political subdivision of a State, or the employer of the deceased veterans, no claim for such allowance shall be allowed for more than the difference between the entire amount of the expenses incurred and the amount paid or assumed by any or all of the foregoing entities."; and

(2) adding at the end of such chapter the following new sections:

"§ 906. Headstones and markers

"(a) The Administrator shall furnish, when requested, appropriate Government headstones or markers at the expense of the United States for the unmarked graves of the following:

"(1) Any individual buried in a national cemetery or in a post cemetery.

"(2) Any individual eligible for burial in a national cemetery (but not buried there), except for those persons or classes of persons enumerated in section 1002(a) (4), (5), and (6) of this title.

"(3) Soldiers of the Union and Confererate Armies of the Civil War.

"(b) The Administrator shall furnish, when requested, an appropriate memorial headstone or marker to commemorate any veteran dying in the service, and whose remains have not been recovered or identified or were buried at sea, for placement by the applicant in a national cemetery area reserved for such purposes under the provisions of section 1003 of this title, or in any private or local cemetery.

"§ 907. Death from service-connected disability

"In any case in which a veteran dies as the result of a service-connected disability or disabilities, the Administrator, upon the request of the survivors of such veteran, shall pay the burial and funeral expenses incurred in connection with the death of the veteran in an amount not exceeding the amount authorized to be paid under section 8134(a) of title 5 in the case of a Federal employee whose death occurs as the result of an injury sustained in the performance of duty. Funeral and burial benefits provided under this section shall be in lieu of any benefits authorized under section 902 and 903(a) (1) and (b) of this title."

(b) The table of sections at the beginning of chapter 23 of title 38, United States Code, is amended—

(1) by striking out

"903. Death in Veterans' Administration facility."

and inserting in lieu thereof

"903. Death in Veterans' Administration facility; plot allowance.";

and

(2) by adding at the end thereof the following items:

"906. Headstones and markers.

"907. Death from service-connected disability."

SEC. 6. (a) (1) There are hereby transferred from the Secretary of the Army to the Administrator of Veterans' Affairs all jurisdiction over, and responsibility for, (A) all national cemeteries (except the cemetery at the United States Soldiers' Home and Arlington National Cemetery), and (B) any other cemetery (including burial plots), memorial, or monument under the jurisdiction of the Secretary of the Army immediately preceding the effective date of this section (except the cemetery located at the United States Military Academy at West Point) which the President determines would be appropriate in carrying out the purposes of this Act.

(2) There are hereby transferred from the Secretary of the Navy and the Secretary of the Air Force to the Administrator of Veterans' Affairs all jurisdiction over, and responsibility for, any cemetery (including burial plots), memorial, or monument under the jurisdiction of either Secretary immediately preceding the effective date of this section (except those cemeteries located at the United States Naval Academy at Annapolis, the United States Naval Home Cemetery at Philadelphia, and the United States Air Force Academy at Colorado Springs) which the President determines would be appropriate in carrying out the purposes of this Act.

(b) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds available to, or under the jurisdiction of, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force, in connection with functions transferred by this Act, as determined by the Director of the Office of Management and Budget, are transferred to the Administrator of Veterans' Affairs.

(c) All offenses committed and all penalties and forfeitures incurred under any of the provisions of law amended or repealed by this Act may be prosecuted and punished in the same manner and with the same effect as if such amendments or repeals had not been made.

(d) All rules, regulations, orders, permits, and other privileges issued or granted by the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force with respect to the cemeteries, memorials, and monuments transferred to the Veterans' Administration by this Act, unless contrary to the provisions of such Act, shall remain in full force and effect until modified, suspended, overruled, or otherwise changed by the Administrator or Veterans' Affairs, by any court of competent jurisdiction, or by operation of law.

(e) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an official of the Department of the Army, the Department of the Navy, or the Department of the Air Force with respect to functions transferred under subsection (a) or (c) of this section shall abate by reason of the enactment of this section. No cause of action by or against any such department with respect to functions

transferred under such subsection (a) or by or against any officer thereof in his official capacity, shall abate by reason of the enactment of this section. Causes of actions, suits, or other proceedings may be asserted by or against the United States or such officer of the Veterans' Administration as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, upon its own motion or that of any party, enter an order which will give effect to the provisions of this subsection. If before the date this section takes effect, any such department, or officer thereof in his official capacity, is a party to a suit with respect to any function so transferred, such suit shall be continued by the Administrator of Veterans' Affairs.

SEC. 7. (a) The following provisions of law are repealed, except with respect to rights and duties that matured, penalties, liabilities, and forfeitures that were incurred, and proceedings that were begun, before the effective date of this section:

(1) Sections 4870, 4871, 4872, 4873, 4875, 4877, 4881, and 4882 of the Revised Statutes (24 U.S.C. 271, 272, 273, 274, 276, 279, 286, and 287).

(2) The Act entitled "An Act to provide for a national cemetery in every State", approved June 29, 1938 (24 U.S.C. 271a).

(3) The Act entitled "An Act to provide for selection of superintendents of national cemeteries from meritorious and trustworthy members of the Armed Forces who have been disabled in line of duty for active field service", approved March 24, 1948, as amended (24 U.S.C. 275).

(4) The proviso to the second paragraph preceding the center heading "MEDICAL DEPARTMENT" in the Act entitled "An Act making appropriations for the support of the Army for the fiscal year ending June thirtieth, eighteen hundred and seventy-seven, and for other purposes", approved July 24, 1876, as amended (24 U.S.C. 278).

(5) The Act entitled "An Act to provide for the procurement and supply of Government headstones or markers for unmarked graves of members of the Armed Forces dying in the service on or after honorable discharge therefrom, and other persons, and for other purposes", approved July 1, 1948, as amended (24 U.S.C. 279a–279c).

(6) The Act entitled "An Act to establish eligibility for burial in national cemeteries, and for other purposes", approved May 14, 1948, as amended (24 U.S.C. 281).

(7) The Act entitled "An Act to provide for the erection of appropriate markers in national cemeteries to honor the memory of members of the Armed Forces missing in action", approved August 27, 1954, as amended (24 U.S.C. 279d).

(8) The Act entitled "An Act to provide for the utilization of surplus War Department owned military real property as national cemeteries, when feasible", approved August 4, 1947 (24 U.S.C. 281a–281c).

(9) The Act entitled "An Act to preserve historic graveyards in abandoned military posts", approved July 1, 1947 (24 U.S.C. 296).

(10) The Act entitled "An Act to provide for the utilization as a national cemetery of surplus Army Department owned military real property at Fort Logan, Colorado", approved March 10, 1950 (24 U.S.C. 281d–f).

(11) The Act entitled "An Act to provide for the expansion and disposition of certain national cemeteries", approved August 10, 1950 (24 U.S.C. 281g).

(12) The ninth paragraph following the side heading "National Cemeteries" in the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and thirteen, and for other purposes", approved August 24, 1912 (24 U.S.C. 282).

(13) The fourth paragraph after the center heading "NATIONAL CEMETERIES" in title II of the Act entitled "An Act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1926, and for other purposes", approved February 12, 1925 (24 U.S.C. 288).

(14) The second paragraph following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the fiscal year ending June 30, 1942, for civil functions administered by the War Department, and for other purposes", approved May 23, 1941 (24 U.S.C. 289).

(15) The first proviso to the second paragraph and all of the third paragraph following the center heading "NATIONAL CEMETERIES" in title II of the Act entitled "An Act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1927, and for other purposes", approved April 15, 1926 (46 Stat. 287).

(16) The first proviso to the second paragraph and all of the third paragraph following the center heading "NATIONAL CEMETERIES" in title II of the Act entitled "An Act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1928, and for other purposes," approved February 23, 1927 (44 Stat. 1138).

(17) The first proviso of the fourth paragraph and all of the fifth paragraph following the center heading "NATIONAL CEMETERIES" in title II of the Act entitled "An Act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1929, and for other purposes," approved March 23, 1928 (45 Stat. 354).

(18) The first proviso to the second paragraph and all of the third paragraph following the center heading "NATIONAL CEMETERIES" in title II of the Act entitled "An Act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1930, and for other purposes," approved February 28, 1929 (34 Stat. 1375).

(19) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in title II of the Act entitled "An Act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1931, and for other purposes," approved May 28, 1930 (46 Stat. 458).

(20) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in title II of the Act entitled "An Act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1932, and for other purposes," approved February 23, 1931 (46 Stat. 1302).

(21) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in title II of the Act entitled "An Act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1933, and for other purposes," approved July 14, 1932 (47 Stat. 689).

(22) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in title II of the Act entitled "An Act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1934, and for other purposes," approved March 4, 1933 (47 Stat. 1595).

(23) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in title II of the Act entitled "An Act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1935, and for other purposes," approved April 26, 1934 (48 Stat. 639).

(24) The first proviso to the paragraph immediately following the center heading "CEMETERAL EXPENSES" in title II of the Act entitled "An Act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1936, and for other purposes", approved April 9, 1935 (49 Stat. 145).

(25) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in title II of the Act entitled "An Act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1937, and for other purposes", approved May 15, 1936 (49 Stat. 1305).

(26) The first proviso to the paragraph following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the fiscal year ending June 30, 1938, for civil functions administered by the War Department, and for other purposes", approved July 19, 1937 (50 Stat. 515).

(27) The first proviso to the first paragraph and all of the second paragraph following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the fiscal year ending June 30, 1939, for civil functions administered by the War Department and for other purposes", approved June 11, 1938 (52 Stat. 668).

(28) The first proviso to the first paragraph and all of the second paragraph following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the fiscal year ending June 30, 1940, for civil functions administered by the War Department, and for other purposes", approved June 28, 1939 (53 Stat. 857).

(29) The first proviso to the first paragraph and all of the second paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the fiscal year ending June 30, 1941, for civil functions administered by the War Department, and for other purposes", approved June 24, 1940 (54 Stat. 505).

(30) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the fiscal year ending June 30, 1942, for civil functions administered by the War Department, and for other purposes", approved May 23, 1941 (55 Stat. 191).

(31) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the fiscal year ending June 30, 1943, for civil functions administered by the War Department, and for other purposes", approved April 28, 1942 (56 Stat. 220).

(32) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the fiscal year ending June 30, 1944, for civil functions administered by the War Department, and for other purposes", approved June 2, 1943 (57 Stat. 94).

(33) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the fiscal year ending June 30, 1945, for civil functions administered by the War Department, and for other purposes", approved June 26, 1944 (58 Stat. 327–328).

(34) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the

fiscal year ending June 30, 1946, for civil functions administered by the War Department, and for other purposes", approved March 31, 1945 (59 Stat. 39).

(35) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the fiscal year ending June 30, 1947, for civil functions administered by the War Department, and for other purposes", approved May 2, 1946 (60 Stat. 161).

(36) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for civil functions administered by the War Department for the fiscal year ending June 30, 1948, and for other purposes", approved July 31, 1947 (61 Stat. 687).

(37) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for civil functions administered by the Department of the Army for the fiscal year ending June 30, 1949, and for other purposes", approved June 25, 1948 (62 Stat. 1019).

(38) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for civil functions administered by the Department of the Army for the fiscal year ending June 30, 1950, and for other purposes", approved October 13, 1949 (63 Stat. 846).

(39) The first proviso to the paragraph following the center heading "CEMETERIAL EXPENSES" in chapter IX of the Act entitled "An Act making appropriations for the support of the Government for the fiscal year ending June 30, 1951, and for other purposes", approved September 6, 1950 (64 Stat. 725).

(40) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for civil functions administered by the Department of the Army for the fiscal year ending June 30, 1952, and for other purposes", approved October 24, 1951 (65 Stat. 617).

(41) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for civil functions administered by the Department of the Army for the fiscal year ending June 30, 1953, and for other purposes, approved July 11, 1952 (66 Stat. 579).

(42) The first proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for civil functions administered by the Department of the Army for the fiscal year ending June 30, 1954, and for other purposes", approved July 27, 1953 (24 U.S.C. 290).

(43) The first proviso to the third paragraph following the center heading "NATIONAL CEMETERIES" in title II of the Act entitled "An Act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1926, and for other purposes", approved February 12, 1925 (43 Stat. 926).

(44) The first and second provisos to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for civil functions administered by the Department of the Army for the fiscal year ending June 30, 1955, and for other purposes", approved June 30, 1954 (68 Stat. 331).

(45) The first and second provisos to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the Atomic Energy Commission, the Tennessee Valley Authority, certain agencies of the Department of the Interior, and civil functions administered by the Department of the Army, for the fiscal year ending June 30, 1956, and for other purposes", approved July 15, 1955 (69 Stat. 360).

(46) The first and second provisos to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for the Tennessee Valley Authority, certain agencies of the Department of the Interior, and civil functions administered by the Department of the Army, for the fiscal year ending June 30, 1957, and for other purposes", approved July 2, 1956 (79 Stat. 474).

(47) The third proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for civil functions administered by the Department of the Army and certain agencies of the Department of the Interior, for the fiscal year ending June 30, 1958, and for other purposes", approved August 26, 1957 (71 Stat. 416).

(48) The third proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for civil functions administered by the Department of the Army, certain agencies of the Department of the Interior, and the Tennessee Valley Authority, for the fiscal year ending June 30, 1959, and for other purposes", approved September 2, 1958 (72 Stat. 1572).

(49) The third proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for civil functions administered by the Department of the Army, certain agencies of the Department of the Interior, and the Tennessee Valley Authority, for the fiscal year ending June 30, 1960, and for other purposes", approved September 10, 1959 (73 Stat. 492).

(50) The third proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for certain civil functions administered by the Department of Defense, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Saint Lawrence Seaway Development Corporation, the Tennessee Valley Authority and certain river basin commissions for the fiscal year ending June 30, 1963, and for other purposes", approved October 24, 1962 (76 Stat. 1216).

(51) The third proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for certain civil functions administered by the Department of Defense, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Saint Lawrence Seaway Development Corporation, the Tennessee Valley Authority and certain river basin commissions for the fiscal year ending June 30, 1964, and for other purposes", approved December 31, 1963 (77 Stat. 844).

(52) The third proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Saint Lawrence Seaway Development Corporation, the Tennessee Valley Authority and the Delaware River Basin Commission for the fiscal year ending June 30, 1965, and for other purposes", approved August 30, 1964 (78 Stat. 682).

(53) The third proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Saint Lawrence Seaway Development Corporation, the Tennessee Valley Authority and the Delaware River Basin Commission, and the Interoceanic Canal Commission, for the fiscal year ending June 30, 1966, and for other purposes", approved October 28, 1965 (79 Stat. 1096).

(54) The third proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Atlantic-Pacific Interoceanic Canal Study Commission, the Delaware River Basin Commission, the Saint Lawrence Seaway Development Corporation, the Tennessee Valley Authority, and the Water resources Council, for the fiscal year ending June 30, 1967, and for other purposes", approved October 15, 1966 (80 Stat. 1002).

(55) The third proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Atlantic-Pacific Interoceanic Canal Study Commission, the Delaware River Basin Commission, Interstate Commission on the Potomac River Basin, the Tennessee Valley Authority, and the Water Resources Council, for the fiscal year ending June 30, 1968, and for other purposes", approved November 20, 1967 (81 Stat. 471).

(56) The third proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atlantic-Pacific Interoceanic Canal Study Commission, the Delaware River Basin Commission, Interstate Commission on the Potomac River Basin, the Tennessee Valley Authority, the Water Resources Council, and the Atomic Energy Commission, for the fiscal year ending June 30, 1969, and for other purposes", approved August 12, 1968 (82 Stat. 705).

(57) The third proviso to the paragraph immediately following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for public works for water, pollution control, and power development, including the Corps of Engineers—Civil, the Panama Canal, the Federal Water Pollution Control Administration, the Bureau of Reclamation, power agencies of the Department of the Interior, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1970, and for other purposes", approved December 11, 1969 (83 Stat. 327).

(58) The first proviso to the paragraph following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act making appropriations for public works for water, pollution control, and power development, including the Corps of Engineers—Civil, the Panama Canal, the Federal Water Quality Administration, the Bureau of Reclamation, power agencies of the Department of the Interior, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1971, and for other purposes", approved October 7, 1970 (84 Stat. 893).

(59) The first proviso to the paragraph following the center heading "CEMETERIAL EXPENSES" in the Act entitled "An Act mak-

ing appropriations for public works for water and power development, including the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonnevilie Power Administration and other power agencies of the Department of the Interior, the Appalachian Regional Commission, the Federal Power Commission, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1972, and for other purposes", approved October 5, 1971 (85 Stat. 368).

(60) The Act entitled "An Act to revise eligibility requirements for burial in national cemeteries, and for other purposes", approved September 14, 1959 (73 Stat. 547).

(61) The Act entitled "An Act to amend the Act of March 24, 1948, which establishes special requirements governing the selection of superintendents of national cemeteries", approved August 30, 1961 (75 Stat. 411).

(b) Nothing in this section shall be deemed to affect in any manner the functions, powers, and duties of—

(1) the Secretary of the Interior with respect to those cemeteries, memorials, or monuments under his jurisdiction on the effective date of this section, or

(2) the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force with respect to those cemeteries, memorials, or monuments under his jurisdiction to which the transfer provisions of section 6(a) of this Act do not apply.

SEC. 2. The first sentence of section 3505(a) of title 38, United States Code, is amended by inserting immediately after the words "gratuitous benefits" where first appearing therein, the following: "(including the right to burial in a national cemetery)".

SEC. 9. (a) The Secretary of Defense is authorized and directed to cause to be brought to the United States the remains of an American, who was a member of the Armed Forces of the United States, who served in Southeast Asia, who lost his life during the Vietnam era, and whose identity has not been established, for burial in the Memorial Amphitheater of the National Cemetery at Arlington, Virginia.

(b) The implementation of this section shall take place after the United States has concluded its participation in hostilities in Southeast Asia, as determined by the President or the Congress of the United States.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 10. (a) Notwithstanding any other provision of law, no real property under the jurisdiction or control of the Veterans' Administration may be transferred (by sale, lease, or otherwise) to any other department or agency of the Federal Government, to any State or subdivision thereof, to any territory or possession of the United States, or to any public or private person or other entity—

(1) in any case in which the fair market value of such property (including all improvements to such property) exceeds $100,000 or the area thereof exceeds one hundred acres, unless the transfer of such property is specifically authorized by a law enacted after October 1, 1972, or unless such property is transferred pursuant to authority contained in title 38, United States Code; or

(2) in any case in which the fair market value of such property (including all improvements to such property) is $100,000 or less and the area thereof is one hundred acres or less, unless written notice of the proposed transfer of such property is given to the Committee on Veterans' Affairs of the Senate and the House of Representatives at least thirty days prior to the transfer of such property.

SEC. 11. (a) The first section and sections 2, 3, 4, 8, and 10 of this Act shall take effect on the date of enactment of this Act.

(b) Clause (1) of section 5(a) shall take effect on the first day of the second calendar month following the date of enactment of this Act.

(c) Clause (2) of section 5(a) and sections 6 and 7 of this Act shall take effect July 1, 1973, or on such earlier date as the President may prescribe and publish in the Federal Register.

Mr. MONDALE. Mr. President, on March 6 of this year, I introduced S. 3292, to equalize opportunities for members of the executive and judicial branches to be interred in Arlington National Cemetery.

Section 1007 of the bill we are currently considering instructs the Administrator and the Secretary of Defense to conduct a comprehensive study of the appropriateness of maintaining the present eligibility requirements for burial at Arlington—and to report their findings to Congress within 6 months after the convening of the next session of Congress.

I urge that when this study is performed, special attention be given to the problem of providing equality for interment at Arlington. In particular, I urge that the judicial and executive branches be treated equally on this matter, and that judges of the U.S. Court of Appeals and the U.S. district court be eligible for interment in Arlington on the same basis as members of the executive branch whose pay is prescribed by levels II, III, IV, and V of the executive salary schedule.

I trust that this inequity will be removed by this study, and that members of the Federal judiciary will be placed on a fair and equal footing with members of the executive branch.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1256), explaining the purposes of the measure.

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

INTRODUCTION

The full Committee on Veterans' Affairs conducted two days of hearings on national cemetery legislation on February 22 and 23, 1972. These hearings covered S. 2052, which would establish a national cemetery and thirteen other bills referred to and pending before the Committee on Veterans' Affairs which would establish new national cemeteries in various states. Testimony was presented by Administration spokesmen for the Department of Defense and the Veterans' Administration. Additional testimony was received by the Committee from all major veterans' organizations and spokesmen for consumer groups and the private cemetery industry. Subsequent to the hearings, the House of Representatives passed its own bill, H.R. 12674, to establish a National Cemetery System. The full Committee met in executive session on September 26, 1972 to consider a committee substitute to H.R. 12674 which combined certain portions of the House passed bill and S. 2052 as originally introduced together with additional amendments. The Committee unanimously approved and ordered favorably reported H.R. 12674 with an amendment in the nature of a substitute.

SUMMARY OF COMMITTEE SUBSTITUTE

The basic provisions of the Committee substitute to H.R. 12674 are as follows:

"(1) Establishes within the Veterans' Administration a National Cemetery System which would consist of national cemeteries transferred to the VA from the Department of Army and cemeteries presently under the jurisdiction of the VA. Certain Army post cemeteries could be transferred if the President deems it appropriate. Exempted would be Arlington National Cemetery and those cemeteries located at the service academies. The American Battle Monuments Commission would not be transferred by this bill nor would cemeteries under the jurisdiction of the Department of Interior. In addition to the transfer of the cemeteries, the VA would also assume responsibility for the Government Marker and Headstone Program currently administered by the Department of the Army. The transfer would take place on or before July 1, 1973. Authority to maintain and run the National Cemetery System is contained in new chapter 24 to title 38, United States Code.

"(2) Directs the VA to conduct a comprehensive study and submit recommendations of on or before July 1, 1973 as to what our National Cemetery System and national burial policy should be.

"(3) Authorizes a special burial plot allowance of $150 (in additional to the present VA allowance for burial and funeral expenses of $250) in any case where a veteran is not buried in a national or other Federal cemetery. Additional benefits of up to $800 are authorized for veterans who die of service-connected disabilities.

"(4) Provides broader authority to the Administrator of Veterans' Affairs (virtually identical to the current authority of the General Services Administration) to establish standards of conduct and arrests for crimes on VA property.

"(5) Authorizes the burial of an unknown soldier from the Vietnam Conflict at Arlington National Cemetery.

"(6) Prohibits, except pursuant to public law or authority under title 38, the transfer of any VA land in excess of 100 acres or $100,000 in value. Any property under 100 acres and $100,000 may be transferred without such authority but thirty days advance notice must be given to the House and Senate Committees on Veterans' Affairs."

## QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

## THE UNDERFINANCED, OVERBORROWED CONDITION OF THE GOVERNMENT

Mr. HARRY F. BYRD, JR. Mr. President, yesterday, TV station WRC, an NBC affiliate in Washington, carried a most interesting program. It is "Deena Clark's Moment With," a regular Sunday program and yesterday her program interviewed Eliot Janeway, one of America's most influential economists.

Mr. Janeway is a columnist, author,

and lecturer. His widely syndicated column reaches 9 million readers in the United States and a dozen other countries.

Deena Clark is a very able interviewer, a person who does her homework well and digs in for the meaningful side of a discussion.

In this interview with Deena Clark, Mr. Janeway said that those who are doing best in this inflation:

Are those who are protecting their positions, getting ready for the danger of the next tax increase, which will take a big bite out of everyone.

Mr. Janeway thus voices what many people believe will be the situation come 1973 or possibly at the latest, 1974—namely, that if this runaway spending is not controlled—and I see no evidence that it is being controlled—then a huge tax bite will be demanded by those in authority and power in Washington.

In the discussion Mr. Janeway said that he is not nearly as concerned, for the international dollar as "I am for the domestic dollar."

I agree with him on that.

Eliot Janeway said:

I think the source of the trouble, and I venture to say that chairman Burns will agree with that judgment, is the underfinanced, overborrowed condition of the Federal Government.

The Senator from Virginia says amen. Most certainly, the Federal Government is over-borrowed.

Then Mr. Janeway continues:

And that when the Federal Government fans the flame of inflation, it is by reason of its overborrowing, and then turns around and collects from folks out in the private economy, its customers, namely its taxpayers, it is rather in the position of the pot calling the kettle black.

Mr. President, I have been contending for some time that we will not get inflation under control by telling the workingman to hold down his demand for wage increases and by telling the businessman to hold down his demands for price increases. It will help some. But we are not going to get inflation under control until the appetite of the Federal Government is brought under control.

In another part of Mr. Janeway's interview, he said:

The real issue is how America is going to refinance itself.

That is another way of saying, "How are you going to put more taxes on the people and on whom are you going to put them, and to what extent."

And when we talk about taxes, Mr. President, we are talking about the average citizen, the person in the middle economic bracket, because that is who pays the bulk of the taxes.

That is why I say that we in Congress have an obligation to handle tax funds as a public trust. I do not see much evidence of that. I do not see much evidence of that in the Congress, and I do not see much evidence in the administration, in the executive branch of the Government.

It is very significant that the bulk of the taxes are being paid, and under whatever system may be devised will continue to be paid, by those in the middle economic group. They are the ones who are being hardest hit, those in the income bracket from $12,000 to $20,000 and $25,000. They are the ones who are being hardest hit by taxes and by any increase that will be made in the taxes.

It was significant to me that this able economist, Eliot Janeway, seems to think that a tax increase will be proposed next year or rather soon. But instead of a tax increase, what we ought to do, what the Congress ought to do and what the administration ought to do, is to try to get this swollen spending of the Federal Government down to a reasonable level. It is up $18 billion in 1 year, nearly 10 percent.

It has gotten entirely out of hand. It is, as Mr. Janeway indicated, fueling inflation and fanning the fires of inflation.

Then Deena Clark asked Mr. Janeway about international money. The colloquy follows:

DEENA CLARK. Well, we'll go on with another point that has to do with international money. I think that everybody agrees that one major point that came out of the recent international monetary fund meeting in Washington is the acknowledgment that global money reform is a must. Do you think the six point program proposal made by Secretary Schultz will lead directly to the creation of a single global currency?

ELIOT JANEWAY. Certainly not.

DEENA CLARK. Certainly not?

ELIOT JANEWAY. Oh no.

DEENA CLARK. Well then, what . . .

ELIOT JANEWAY. Suppliants can't deal from strength. The United States is the biggest beggar in the world today. We've been enjoying the benefit of low interest rates which go with the government not needing money at a time when the government has been borrowing from Europe and exporting its deficit. That is not going to continue, not on the scale on which the government now needs to bring money in from abroad. Until the United States government gets its own house in order, I seriously doubt whether those banking it in its bankrupt condition are going to be listening to its leaders. There's an old saying that beggars can't be choosers. Well, they certainly aren't going to be leaders.

Mr. Janeway did not bring out the figure—but U.S. liquid liabilities to foreigners is $67 billion.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a tabulation I have prepared entitled, "Deficits in Federal Funds and Interest on the National Debt, 1954–1973 Inclusive."

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

DEFICITS IN FEDERAL FUNDS AND INTEREST ON THE NATIONAL DEBT, 1954–73 INCLUSIVE

[Billions of dollars]

| | Receipts | Outlays | Surplus (+) or deficit (−) | Debt interest |
|---|---|---|---|---|
| 1954 | 62.8 | 65.9 | −3.1 | 6.4 |
| 1955 | 58.1 | 62.3 | −4.2 | 6.4 |
| 1956 | 65.4 | 63.8 | +1.6 | 6.8 |
| 1957 | 68.8 | 67.1 | +1.7 | 7.2 |
| 1958 | 66.6 | 69.7 | −3.1 | 7.6 |
| 1959 | 65.8 | 77.0 | −11.2 | 7.6 |
| 1960 | 75.7 | 74.9 | +.8 | 9.2 |
| 1961 | 75.2 | 79.3 | −4.1 | 9.0 |
| 1962 | 79.7 | 86.6 | −6.9 | 9.1 |
| 1963 | 83.6 | 90.1 | −6.5 | 9.9 |
| 1964 | 87.2 | 95.8 | −8.6 | 10.7 |
| 1965 | 90.9 | 94.8 | −3.9 | 11.4 |
| 1966 | 101.4 | 106.5 | −5.1 | 12.0 |
| 1967 | 111.8 | 126.8 | −15.0 | 13.4 |
| 1968 | 114.7 | 143.1 | −28.4 | 14.6 |
| 1969 | 143.3 | 148.8 | −5.5 | 16.6 |
| 1970 | 143.2 | 156.3 | −13.1 | 19.3 |
| 1971 | 133.7 | 163.7 | −30.0 | 20.8 |
| 1972 | 148.8 | 177.7 | −28.9 | 21.2 |
| 1973 [1] | 152.6 | 190.4 | −37.8 | 22.7 |
| 20-year total | 1,929.3 | 2,140.6 | 211.3 | 241.9 |

[1] Estimated figures.

Source: Office of Management and Budget and Treasury Department.

Mr. HARRY F. BYRD, JR. Mr. President, this tabulation shows that in 3 fiscal years, 1971, 1972, and 1973, the Federal Government has run an accumulated deficit in those 3 years of almost $100 billion.

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

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

## EQUAL EDUCATIONAL OPPORTUNITIES ACT, 1972

The Senate continued with the consideration of the bill (H.R. 13915) to further the achievement of equal educational opportunities.

Mr. ALLEN. Mr. President, H.R. 13915, the Equal Educational Opportunities Act of 1972, frequently and erroneously referred to as an antibusing bill, is necessary to prevent chaos in and eventual destruction of the public school systems of this country.

Our public schools are in an undesirable state of confusion as a direct result of abuses of power by the Federal judiciary and Federal bureaucrats undertaking to implement a sociological hypothesis which has long since been abandoned.

The courts and the bureaucrats have used our schools and our schoolchildren—white and black alike—as guinea pigs. The American people resent the dehumanizing effects of the mechanized and computerized approaches used in these experiments, and it is up to the Congress to place a limitation on the remedies and court rights and on the remedies that can be applied to guarantee every citizen the equal protection of our laws as required by the 14th amendment.

And it is up to Congress to place limits on the remedies which can be imposed by the judiciary.

The bill which we are debating can become a political time bomb if we do not take action before the November elections. I have, in the past, predicted that Congress must take some action in this matter or face a political reaction which may drastically reshape the membership of the body, and possibly jurisdiction of the U.S. Supreme Court. The House of Representatives has taken action and sent to the Senate a bill which will, at least, standardize remedies avail-

able to Federal courts in every section of the country.

Now, Mr. President, this will not provide a uniform system for desegregating the public schools of this country, but it will provide that when a Federal court enters a desegregation order, and we recognize these orders are being issued in the South largely, rather than in the North, but when a desegregation order is entered then the remedies that are used by the Federal courts shall be uniform throughout the country.

There is a vast distinction as to the uniformity. There is not a uniformity that would require action in the Federal court to break down segregation in the North, just as it has been broken down in the South. But when movement is made in that direction by a Federal court the bill provides a definite order in which remedies can be applied. So the bill does not deal at this point in substantive rights; all it does is to provide the remedies that the Federal courts may use throughout the country in implementing and carrying out the provisions of the desegregation order.

In the meantime, a companion Senate bill, which was introduced earlier this year, I believe in March of this year (S. 3995), lies untended and forgotten somewhere in committee archives.

So they say, who was not this bill sent to the committee when it came to the Senate? A similar bill has been resting there and in committee since March. They would not turn out the Senate bill; what assurances was there they would turn out the House bill?

Mr. President, those of us who support this legislation are ready to be counted. Votes for or against the bill will serve to identify those who either do not recognize the existence of abuses of judicial and bureaucratic powers or who else favor the dehumanizing desegregation process as currently in effect.

Mr. President, the majority leader, the distinguished Senator from Montana, has, in his usual manner, played fair and square in standing by his commitment that this bill would receive a hearing before the Senate, the world's greatest deliberative body. I pay tribute to him for his patience and for his forthrightness. We have had too much cold, impersonal, and dispassionate discussion of the problem and not enough concern for the welfare of parents and children and of our public schools. The bill that is before us is essentially what those who oppose it has been advocating for years. Why do they now seek to delay action? What more can they say which has not already been said time and time again?

Mr. President, the Senate should proceed to act on this bill.

The PRESIDING OFFICER. The bill is open to further amendment.

## ORDER FOR RECOGNITION OF SENATORS BENNETT, FANNIN, HANSEN, GRIFFIN, WILLIAMS, AND MOSS ON THURSDAY, OCTOBER 12, 1972.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Thursday, after the two leaders have been recognized under the standing order, the following Senators be recognized each for 15 minutes and in the order listed: Mr. BENNETT, Mr. FANNIN, Mr. HANSEN, Mr. GRIFFIN, Mr. WILLIAMS, and Mr. MOSS.

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

## ORDER FOR RECOGNITION OF SENATOR HARRY F. BYRD, JR., TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) be recognized for not to exceed 15 minutes.

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

## QUORUM CALLS

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The bill is open to amendment.

Mr. MONDALE. 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. ALLEN. 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 ALLEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Must some business be transacted by the Senate separating orders for quorum calls?

The PRESIDING OFFICER. The Senator is correct, there must be some business.

Mr. ALLEN. Then the Chair should not have accepted the demand of the Senator from Minnesota that there be a quorum call a moment ago, no business having been transacted between the calls?

The PRESIDING OFFICER. That is not a self-enforcing rule. A point of order must be made from the floor of the Senate.

Mr. ALLEN. A point of order would be business, then; would it not?

The PRESIDING OFFICER. The answer is "Yes."

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

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

## EQUAL EDUCATIONAL OPPORTUNITIES ACT, 1972

The Senate continued with the consideration of the bill (H.R. 13915) to further the achievement of equal educational opportunities.

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

The PRESIDING OFFICER. The amendment will be received and printed, and will be at the desk.

Mr. MONDALE. I ask unanimous consent that I may yield to Senators STENNIS and PACKWOOD without losing any right to the floor.

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

Mr. STENNIS. Mr. President, the need for immediate action against forced busing is clear, and I commend the distinguished Senator from Alabama (Mr. ALLEN) and other Senators for having stopped this bill at the door, so to speak, and for having moved to bring it directly to the floor for a vote without first sending it to committee. I do not believe that further committee consideration of this bill is either necessary or justified. Although we should never rush to legislate or legislate under the gun, the House gave careful committee consideration to this bill, and most of its provisions are nearly identical to provisions of earlier bills which have been before us, and which were studied and debated at length. Furthermore, the Education Subcommittee of the Senate Labor and Public Welfare Committee has held extensive hearings on the Senate version of this same bill, and the members of that subcommittee can lend us all needed assistance in suggesting remedies by floor amendment for any constitutional or other problems which Senators feel are raised by the House bill. The Senate is well informed on the meaning of this bill generally, and on the effect of its provisions, and I see no reason why, after reasonable debate, we should not vote on it up or down.

Mr. President, the problem of forced busing is one of the most serious domestic issues in America today. It is a problem which Congress has both a right and a duty to try to solve. Now, I recognize that there are other pressing matters for the Senate to consider before the end of this session, but I honestly know of none which concerns more Americans in a more vital way than the problem of busing.

In spite of its importance, however, various reasons have been given here on the floor of the Senate, and also in the media, why we should not consider H.R. 13915, the Equal Educational Opportunities Act, which some call the antibusing bill. I submit that none of those so-called reasons for not acting on busing will hold up under close scrutiny.

Some have said that most legislators do not want to legislate to stop busing, but simply want an issue to use in their campaigns during the upcoming elections. I totally deny that statement and

all its implications. The overwhelming vote by which this bill passed the House shows the deep concern and commitment here on Capitol Hill for actually doing something about busing rather than just talking about it.

In fact, I feel that there is a great deal of sentiment here in the Senate for taking constructive action to halt excessive forced busing, even among Senators who have no busing problems in their States and who oppose busing purely on principle, and I feel that if the issue is considered on the floor, and brought to a vote, H.R. 13915 will receive a large number of votes, and will pass.

But before making any premature predictions of success, I wish to discuss briefly the reasons why the bill is needed and to dispel some of the doubts and misconceptions about it which have been raised in the media and elsewhere.

First of all, as to the magnitude of busing nationwide and its effects, which have been consistently underestimated in much of the press, I would lay before the Senate these facts. As most Americans know by now, a Federal district judge in Detroit, Mich., has ordered the most massive forced busing of schoolchildren in the history of our country. The judge's order requires that, in order to integrate some 780,000 schoolchildren in Detroit and 53 suburban districts in three adjoining counties, some 310,000 schoolchildren be bused from the suburbs to the inner city and vice versa. Bus rides of 45 minutes in each direction will be common under the order, and children of kindergarten age are included. Although the Detroit busing order will probably not be put into effect until after the Supreme Court has ruled on the case, it is but one example of what is already happening to our schoolchildren in the South and will soon be imposed upon schoolchildren all over the Nation unless we in Congress act to prevent it.

Similar busing orders are already in effect on a massive scale throughout the South. In Charlotte, N.C., over 46,000 children are being bused purely because of their race. In Nashville, Tenn., over 48,000 children are being so bused. In Tampa, Fla., 23,000 schoolchildren are being bused for purely racial purposes. The same is true for Jackson, Miss., and Memphis, Tenn. The list of places where massive busing orders are either already in effect or pending in court reads like the roster of great but troubled American cities: Detroit, Boston, San Francisco, Denver, Indianapolis, Buffalo, Oklahoma City, Milwaukee, Richmond, and so on, across the country.

Nor is the question of forced busing purely an emotional issue, although it has been infused with emotion because children are involved, and parents are always deeply emotionally committed when they see the welfare of their children threatened by unwise government interference in their lives. That is how the issue looks to parents. We, as legislators, are equally concerned, but also should try to take a more dispassionate view, and look down the road, beyond the emotions of the moment, to the future of our schools and of children yet unborn.

We, as lawmakers, must see the busing issue for what it really is: The reasonable and sensible objections of a mature, sane, and freedom-loving society to an artificial and destructive program of Central Government interference which is disrupting and undermining our public schools. Busing began, in theory, as a limited tool for giving children in inferior public schools a chance at an equal education. In practice it has grown to such monstrous proportions that one city has seriously considered using trains to send children to faraway schools as part of a "busing" plan.

Mr. President, we are placing on the backs of our own small children the heavy burden of a massive social change. It is unconscionable to me when I think of what has happened and what is continuing to happen to our public schools.

Nor is opposition to busing a limited, or minority movement, as some have tried to suggest. Forced busing has become a serious national problem. It cuts across all party, regional, and racial lines. The New York State Legislature has enacted a moratorium halting further busing. Governor Rockefeller has announced his approval of it. The Black Political Convention held in Gary, Ind., this spring also voted to condemn racial busing. Polls by Louis Harris and Newsweek have shown heavy opposition to forced busing. Voters in the Florida Democratic primary overwhelmingly voted their opposition to busing. Every time American voters have been given the opportunity to express their opinions, they have voted that busing should stop.

Mr. President, the people of this country, north and south, black and white, from all regions and of nearly all persuasions, are overwhelmingly opposed to the massive busing which some Federal courts have continued to order. Nevertheless, in spite of public opinion and the wishes of the voters, Congress and the executive branch still have taken no really decisive action.

While I supported the recent bill, known as the Education Amendments of 1972, because I agreed with its principles and because I thought it was a first step in the right direction, its moratorium provisions have not proven effective in court, and this I had predicted, because they apply only to busing for racial balance and not to all busing away from a child's neighborhood schools, as H.R. 13915 does. In passing the present bill and sending it on to us for approval, the House of Representatives has done its duty and met its responsibilities, and the time has now come for the Senate to do the same by acting decisively on the issue of busing, and passing the bill now.

Another argument which has been made against this bill is that it would be struck down by the Supreme Court as unconstitutional. That argument also is invalid. The bill certainly raises some constitutional questions as to division of authority between Congress and the Supreme Court, but those have been discussed and debated at great length in consideration of earlier bills, and we have thoroughly digested those theories. Excellent briefs with exhaustive authorities on that question have been placed in the record by the distinguished Senator from North Carolina (Mr. ERVIN) one of the Nation's most respected experts on constitutional law. As many other nationally prominent and respected legal scholars have stated, Congress has authority to legislate in this area in order to set up long-term methods and standards for implementing the provisions of the 14th amendment. The setting of such rules and guidelines is necessarily a legislative function and not a judicial one now that the Supreme Court has already ruled that equality of educational opportunity means that no student shall be excluded from any school on account of his race. We accept that decision and are not trying to overturn it. It is, however, up to Congress to provide legislation dealing with the broad and entirely unprecedented changes required by the Supreme Court's sweeping decision.

This bill, H.R. 13915, is such legislation, and deals with school problems in a broad and inclusive way, as only Congress, and not the courts, can do.

First, the bill provides Federal financial aid to students from low-income families in order to insure equality of educational opportunity for all American schoolchildren.

Second, it preserves the neighborhood school concept, which is really the heart of the busing issue. Practicality and commonsense dictate that the neighborhood is the only appropriate basis for school assignments, and even proponents of busing recognize that this must be true in the long run.

Third, the bill provides remedies to help students achieve equal educational opportunities while forbidding excessive busing, which only serves to disrupt the education of all without improving the education of anyone.

Fourth, this bill will enable the Attorney General of the United States to intervene as a party to any school desegregation suit on the side of the school board, which under present Federal law he cannot do. Mr. President, in recent months this country has seen the absurd spectacle of Federal courts closing their doors to the U.S. Justice Department, the attorney for the U.S. Government, even when it wished to take the side of local school boards facing inhumane busing orders not required by commonsense, the law, or any provision of the Constitution. Under present statutes, the Government may assist only complainants in school cases, and is barred from helping school boards even though the local school board is correctly following the law. H.R. 13915 would also remedy this shocking situation.

Fifth, and most important of all to those of us in the South, where unconscionable busing orders are already in effect, whereas in the North they are only a threat, this bill permits petitions for reopening by local school boards of court orders now in effect in order to bring those orders into line with the provisions of this bill. That, Mr. President, is the very heart of what I have fought for here on the floor of the Senate for several years—one uniform policy on

school desegregation, applicable nationwide, which would be fair and reasonable and guarantee to each child a quality education in his own neighborhood.

The parents of school-aged children all over the Nation have a right to know exactly where each candidate for election this year stands on the question of busing. It is these parents whose children will suffer if unwise policies are formulated and enforced, and it is their taxes that pay for education. The issue of busing is discussed in the platforms of both major national political parties, which shows its importance. Each Senator should now go on record as to his position on this vital issue, and this bill is the perfect occasion for doing so.

Every citizen of the United States has a right to know whether a candidate would continue the policy of enforcing desegregation mandates more rigidly in their region than in others, or if he would enforce desegregation laws uniformly and equally in all regions. The people of the North have a right to know if a candidate would subject their school systems to the same kind of treatment that the schools of the South have been put under for the last several years.

I repeat what I have said many times: Come what will, we in the South will live with and will move forward with and will abide by any policy on this subject that the American people are willing to take seriously enough to enforce on themselves. I made that proposal here years ago, and I renew it today. That is not defiance; that is a willingness to come together and find a way.

This issue is of such vital concern that it must not be circumvented by any candidate in this year's congressional and presidential elections.

That is my way of saying that it is not just a political matter. It is too important to our children's education and, therefore, this Nation's future, to allow any vague or imprecise statements to be issued on the subject. The issue deserves a solid vote here in the Senate, just as it had in the House.

I trust, and I strongly believe, that we will get to such a vote in this session of Congress. I await developments with interest and with profound respect for the Members of this body.

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

Mr. STENNIS. I yield.

Mr. ALLEN. Mr. President, I highly commend the able and distinguished Senator from Mississippi for his outstanding speech on this most vital subject.

I have followed the leadership of the distinguished Senator from Mississippi. I have heard him say on the floor of the Senate, time and time again—and I reiterate it for myself, following the policy he has enunciated—that the people of Mississippi, the people of Alabama, the people of the South, will cheerfully abide by any uniform rule regarding desegregation of the public schools of our section of the country that the people of other sections are willing to follow.

We do not ask for a separate rule. We do not ask for special privileges. All we are asking is to have the same rule apply to the South as is applied in the North—that is, if segregation is good for the South, it is good for the North; if busing is good for the South, it is good for the North. Give us the same rule in the South that is followed in the North, and we will be happy.

Again, I express my appreciation to the distinguished Senator from Mississippi for his moral leadership, for the fight he has conducted for fair treatment for all schoolchildren throughout the country, in seeking to guarantee to them a good education uniformly throughout the United States.

Mr. STENNIS. I thank the Senator from Alabama. I thank him for his special outstanding contribution in this debate. He got this bill considered in a way that would put it on the calendar, and he was successful in bringing it to this debate. He deserves a great deal of credit, and I believe the bill will be passed.

A SNARE AND A DELUSION

Mr. PACKWOOD. Mr. President, I oppose this bill, H.R. 13915, as a cynical attempt to legislate what is already the law of the land in order to win election votes. The American people are being given the impression that this bill will change things and will solve all their problems with busing; that it will stop busing and preserve the neighborhood school. They are in for sad disillusionment.

Let us examine this bill closely. Section 3 says that Congress finds that:

> The maintenance of dual school systems in which students are assigned to schools solely on the basis of race, color, sex, or national origin denies to those students the equal protection of the laws guaranteed by the fourteenth amendment.

This was established in 1954 in the Supreme Court decision in Brown versus Board of Education. It is nice of Congress to agree with what is already law. This section further says:

> Transportation of students which creates serious risks to their health and safety, disrupts the educational process carried out with respect to such students, and impinges significantly on their educational opportunity, is excessive.

In the Swann et al. versus Charlotte-Mecklenburg Board of Education the Supreme Court has already stated:

> An objection to transportation of students may have validity when the time or distance of travel is so great as to risk either the health of the children or significantly impinge on the educational process. . . . It hardly needs stating that the limits on time of travel will vary with many factors, but probably with none more than the age of the students.—Swann et al v. Charlotte-Mecklenburg Board of Education, p. 26.

This bill is rewriting Supreme Court decisions and calling it a new law.

In addition this bill quotes the Supreme Court as saying that guidelines provided by the courts for fashioning remedies to dismantle dual school systems have been "incomplete and imperfect." As so often happens when quotes are taken out of context the meaning is modified. Actually the Supreme Court said:

> The problems encountered by the district courts and courts of appeals make plain that we should now try to amplify guidelines, however incomplete and imperfect, for the assistance of school authorities and courts.—Ibid., p. 9.

This is what the Court proceeded to do in the Swann decision. And they further said:

> No rigid guidelines as to student transportation can be given for application to the infinite variety of problems presented in thousands of situations.—Ibid. p. 25.

Various groups with the necessary expertise have expressed the opinion that the limitations on busing in this bill will eventually be declared unconstitutional. In the light of the above quote this seems very possible. This means that the American people, if we pass this bill, will think busing has been restricted. School districts will reorganize the assignment of pupils accordingly and then the Supreme Court will rule against the act and it will all have to be redone, which, needless to say, is costly in funds as well as in the disturbance to the children. Proponents of this bill bewail the waste of money on costly busing and yet they do not hesitate to support something even more costly.

Mr. ALLEN. Mr. President, will the distinguished Senator from Oregon yield for a question?

Mr. PACKWOOD. I am speaking on the time of the distinguished Senator from Minnesota (Mr. MONDALE). I should like to finish if I could. I have only one more page, and then I will be glad to yield to the Senator for a question.

Mr. ALLEN. I thank the Senator very much.

Mr. PACKWOOD. Mr. President, incidentally, available figures do not support the contentions that court orders have required massive busing or expenditure of huge sums of money. Twenty-three out of the 100 largest school districts were under 1971 court orders or HEW plans to desegregate. Of these 23, those with available transportation figures for 1970 and 1971 showed six with an increase of less than 10 percent, 12 with an increase of from 19 to 67 percent and three with exorbitant increases. The Lambda Corp. report titled "School Desegregation With Minimum Busing," dated December 19, 1971, but only circulated in April 1972, demonstrates how, with proper planning, almost complete elimination of segregation seems possible with reasonable time of travel and numbers bused. The excessive busing is more likely due to inefficient plans by inexperienced planners. Rather than cluttering up the statutes with unnecessary words and adding to burgeoning bureaucracy, Congress would do better to spread the lesson of the Lambda Corp. report. The increased cost of school transportation from 1970–71 to 1971–72 was $500 million but 95 percent of that was due to population growth and less than 1 percent due to desegregation. And these polls that are quoted to show that most Americans are against busing do not mention that each year the figure decreases. The Gallup poll in spring of 1970 showed 86 percent against busing, 11 percent for it and 3 percent undecided.

By fall of 1971, 76 percent were against, 18 percent for and 6 percent undecided, and in the spring of 1972 the poll showed 69 percent against, 20 percent for and 11 percent undecided. And we are supposed to believe this bill expresses the will of the people. It would seem to be falling behind the times.

This bill, I believe, is superfluous and will add to the complexity of the problem rather than solve anything. Its proponents speak often of being in support of desegregation and the elimination of discrimination but against sociological balancing of the races. This bill is supposed to prevent such actions. Here again if one studies the Swann decision, one finds this has already been expressed.

The target of the cases from *Brown I* to the present was the dual school system. The elimination of racial discrimination in public schools is a large task and one that should not be retarded by efforts to achieve broader purposes lying beyond the jurisdiction of school authorities—*Ibid.* p. 18.

If we were to read the holding of the District court to require, as a matter of substantive constitutional right, any particular degree of racial balance or mixing, that approach would be disapproved and we would be obliged to reverse. The constitutional command to desegregate schools does not mean that every school in every community must always reflect the racial composition of the school system as a whole—*Ibid.* p. 19.

We see therefore that the use made of mathematical ratios was no more than a starting point in the process of shaping a remedy, rather than an inflexible requirement—*Ibid.* p. 20.

There are other examples of this bill's repetition of statements in Supreme Court decisions. The Supreme Court will be ruling further on cases involving busing which are now before it and hopefully will increase and clarify its guidelines. Certainly they are aware of some present confusions and also of new information on the meaning of equality of opportunity. This is not the time for Congress to step in. Instead of serving the people it will only add further confusion.

There are those who believe title I of this act is a truly innovative approach to providing equality of educational opportunity. But is it really? Is it not just diluting funds needed to meet special needs involved in any desegregation plan in order to provide funds for more title I, ESEA, programs? There has been considerable doubt as to the efficacy of these title I programs and the way in which the funds have been administered. Would it not be better for Congress to correct and improve title I, ESEA, legislation so that it can accomplish what we hope for and can include more needy students in the program? That would be something constructive and forward looking instead of this harmful and destructive bill.

Mr. President, I yield the floor unless the distinguished Senator from Alabama (Mr. ALLEN) wishes to ask me a question, if it is all right with the Senator from Minnesota (Mr. MONDALE).

Mr. ALLEN. I merely wanted to ask the distinguished Senator a question or two. He made two statements with respect to the bill. In the early part of his ramarks he first stated that the bill merely stated the law as it exists now, and then made the surprising statement that, anyhow, the bill is unconstitutional.

I wonder how the Senator could state that the law as it exists now is and still would be unconstitutional. I would wonder, also, if it merely states the law as it is now, how the Senator would bother to be against it and why such a furor over the attempt to have the Senate act responsibly, as the House did?

Mr. PACKWOOD. The bill does both. The Senator's question is valid. The bill first repeats what the Supreme Court has already stated. To that extent it is redundant. It was not my purpose to go ahead and restate it again. The bill does go on adding a limitation into an arrangement that the Supreme Court has not addressed itself to, but which the Supreme Court will find unconstitutional.

Now, being a lawyer, I am not going to unqualifiedly rest my future elective hopes on guessing what the Supreme Court may or may not do from term to term. But if, as I read the bill, we are trying to do what I believe the proponents of such a limitation in the bill are suggesting, I think it is unconstitutional. If it is not unconstitutional, it is unwise.

Mr. President, I yield the floor back to the Senator from Minnesota.

## ORDER FOR RECOGNITION OF SENATORS WEICKER AND MATHIAS ON WEDNESDAY, OCTOBER 11, 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday, immediately following the two leaders under the standing order, the distinguished Senator from Connecticut (Mr. WEICKER) be recognized for 15 minutes, to be followed by the distinguished Senator from Maryland (Mr. MATHIAS) for 10 minutes, after which the six 10-minute orders entered previously for Wednesday begin to run.

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

## ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the statement of the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) there be a period for the transaction of routine morning business not to extend beyond 10 a.m., with statements limited therein to 3 minutes.

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

## CONTROL OF TIME DURING DEBATE ON MOTION TO INVOKE CLOTURE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the 1 hour of debate on the motion to invoke cloture tomorrow be divided between and controlled by the distinguished Senator from Michigan (Mr. GRIFFIN) and the distinguished Senator from New York (Mr. JAVITS).

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

## QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I hope it will be the final quorum call of the day.

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 ADJOURNMENT TO 9:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9.30 a.m. tomorrow.

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

## PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9:30 a.m. tomorrow. Following the remarks of the two leaders under the standing order, the distinguished senior Senator from Virginia, Mr. HARRY F. BYRD, JR., will be recognized for 15 minutes, after which there will be routine morning business, not to extend beyond 10 o'clock a.m., with statements limited therein to 3 minutes.

At 10 o'clock a.m., the 1 hour of debate, under rule XXII, will begin on the motion to invoke cloture on H.R. 13915, the equal educational opportunities bill.

At 11 o'clock a.m. a quorum call will start, and as soon as a quorum is established—or at about 11:10 or 11:15 a.m.—a yea-and-nay vote will be taken on the motion to invoke cloture.

If cloture is invoked, the unfinished business will continue to be the business of the Senate until it is finished. If cloture is not invoked, another vote to invoke cloture will be taken on Wednesday next.

The remaining "must" legislation to be acted on before adjournment sine die—hopefully, this Saturday, October 14—is the supplemental appropriations bill—expected to be on the Senate floor the latter part of this week—and the debt limitation bill, also expected to reach the floor the latter part of the week.

Meanwhile, there are various conference reports which can be called up from time to time at any time; General Abrams' nomination is waiting in the wings; and there are several lesser measures on the calendar which may or may not be called up, depending upon the circumstances, as was outlined earlier today by the distinguished majority leader. Yea-and-nay votes are expected to occur daily from here on out.

As to the remainder of the week after today, not much can be said except in a

very general way, and perhaps it could just as well be said as follows:

The political radar for the next day or so indicates heavy fog beginning during the morning hour and lasting into the evening. Visibility will be moderate to poor.

By Tuesday, there will be sharply rising temperatures, with winds varying from light to heavy. There may be moments of turbulence as gusts converge from both the north and the south. Storm conditions will prevail. Some thunder is expected, but with only occasional—if any—lightning. Senators are urged to remain at their desks—with seat belts fastened—although at times it may be safe to wander up and down the aisles. Aides of Senators are advised to stay in their offices unless it is absolutely necessary that they venture out.

Progress will be slow at first and busing on Wednesday will continue to be hazardous. Meanwhile, it is recommended that children be taken only to the nearest neighborhood schools. By Thursday or Friday, however, a new frontal pattern is expected to move in, with cooling temperatures and lifting "ceilings." By Saturday, less smog and fog, and winds diminishing markedly.

The weekend will, hopefully, bring the relief we have all been waiting for, with clear skies, even temperatures, changes of precipitation zero, the political barometer steady, and only a few gentle breezes continuing from the general area of 1600 Pennsylvania Avenue—and the Watergate, where reports of forced bugging—not to be confused with forced busing—have recently raised the air pollution level.

## ADJOURNMENT TO 9:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9:30 a.m. tomorrow.

The motion was agreed to; and, at 4:36 p.m., the Senate adjourned until tomorrow, Tuesday, October 10, 1972, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate October 9, 1972:

FOREIGN CLAIMS SETTLEMENT COMMISSION

Lyle S. Garlock, of Virginia, to be a member of the Foreign Claims Settlement Commission of the United States for the term of three years from October 22, 1972; (reappointment).

DIPLOMATIC AND FOREIGN SERVICE

The following-named Foreign Service officers for promotion from class one to the class of career minister:

Robert O. Blake, of California.
Samuel De Palma, of Maryland.
Philip J. Farley, of Virginia.
William J. Handley, of Virginia.
Francis E. Meloy, Jr., of the District of Columbia.

The following-named Foreign Service Information officers for promotion from class one to the class of career minister for information:

Alexander A. Klieforth, of California.
John E. Reinhardt, of Maryland.

The following-named Foreign Service officers for promotion from class six to class five:

Charles S. Ahlgren, of Iowa.
Charles A. Anderson, of California.
Richard M. Bash, of Oklahoma.
Nicholas S. Baskey, Jr., of Ohio.
David L. Boerigter, of Michigan.
Miss Mary Rose Brandt, of Oregon.
Ralph Edwin Bresler, of Ohio.
Kent N. Brown, of California.
Miss Cornelia Anne Bryant, of Florida.
Thomas H. Carter, of Florida.
Taylor Edward Clear, of Louisiana.
John Dodson Coffman, of Pennsylvania.
Ms. Dena-Kay W. Cunningham, of Virginia.
Roger J. Daley, of New York.
William H. Dameron III, of the District of Columbia.
Robert F. Dorr, of California.
Stephen M. Ecton, of Connecticut.
Stanley T. Escudero, of Florida.
Richard Lewis Fenton, of New York.
Dennis Finnerty, of New Jersey.
Thomas Austin Forbord, of California.
Thomas P. Gallagher, of New Jersey.
Keith Patrick Garland, of Illinois.
Thomas Howard Gewecke, of Illinois.
A. Lester Glad, of California.
Miss April Glaspie, of the District of Columbia.
Ronald D. Godard, of Texas.
Hugh G. Hamilton, Jr., of Missouri.
Terry D. Hansen, of Utah.
Roger G. Harrison, of California.
Daniel T. Hickey, of Pennsylvania.
Thomas C. Hubbard, of Alabama.
Harry E. Jones, of Pennsylvania.
Douglas R. Keene, of Massachusetts.
Charles A. Kennedy, of California.
Sheldon I. Krebs, of New York.
John P. Leonard, of Connecticut.
Alexander T. Liebowitz, of New York.
Walter B. Lockwood, Jr., of Connecticut.
John P. Lyle, of New York.
David P. Matthews, of Texas.
Robert M. Maxim, of New York.
Donald J. McConnell, of Ohio.
Miss Marilyn Ann Meyers, of Minnesota.
John P. Modderno, of Maryland.
Harold T. Nelson, Jr., of Nebraska.
Warren P. Nixon, of Iowa.
Miss Shirley E. Otis, of Pennsylvania.
Jason H. Parker, of the District of Columbia.
Donald K. Parsons, of California.
Wesley H. Parsons, of Arizona.
Richard R. Peterson, of Illinois.
Bruce F. Porter, of Iowa.
David Phillip Rehfuss, of Washington.
John P. Riley, of New Jersey.
Miss Judith Rodes, of Texas.
John R. Savage, of California.
Miss Lange Schermerhorn, of New Jersey.
Thomas H. Shugart, Jr., of the District of Columbia.
Ints M. Silins, of the District of Columbia.
Samuel Vick Smith, of Washington.
Joseph C. Snyder III, of Connecticut.
Ms. Carol K. Stocker, of Illinois.
Stephen W. Worrel, of Ohio.
Donald J. Yellman, of Iowa.

## CONFIRMATIONS

Executive nominations confirmed by the Senate October 9, 1972:

COUNCIL ON ENVIRONMENTAL QUALITY

The following-named persons to be members of the Council on Environmental Quality:

John A. Busterud, of California.
Beatrice E. Willard, of Colorado.

U.S. AIR FORCE

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

*To be general*

Lt. Gen. Paul K. Carlton [redacted] FR (major general, Regular Air Force) U.S. Air Force.

U.S. ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

*To be general*

Maj. Gen. Alexander Meigs Haig, Jr., [redacted] Army of the United States (colonel, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

*To be general*

Gen. Ralph Edward Haines, Jr., [redacted] Army of the United States (major general, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

*To be general*

Gen. John Lathrop Throckmorton, [redacted] Army of the United States (major general, U.S. Army).

The following-named officers under the provisions of title 10, United States Code, section 3066, to be assigned to positions of importance and responsibility designated by the President under subsection (a) of section 3066, in grades as follows:

*To be general*

Lt. Gen. Walter Thomas Kerwin, Jr., [redacted] Army of the United States (major general, U.S. Army).

*To be lieutenant general*

Maj. Gen. Bernard William Rogers, [redacted] Army of the United States (brigadier general, U.S. Army).

IN THE NAVY

Adm. John S. McCain, Jr., U.S. Navy, for appointment to the grade of admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

Vice Adm. Walter H. Baumberger, U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

Vice Adm. Frederic A. Bardshar, U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

Vice Adm. Harold G. Bowen, Jr., U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

Adm. Charles K. Duncan, U.S. Navy, for appointment to the grade of admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

Navy nominations beginning Frederick S. Adair, to be captain, and ending Mary E. Donnelly, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on September 18, 1972.