SENATE—*Saturday, October 14, 1972*

The Senate met at 8:30 a.m. and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

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

Our Father-God, grant that the service rendered by this Congress may be acceptable in Thy sight. Look not at our failures. Perfect our partial successes. Help us to refine and improve that which remains incomplete. Bless our accomplishments for the enhancement of the people. Lead us to a new era of peace and justice and hope for Thy coming kingdom.

Hallow the memory of our work together. Be in our hearts and in our homes. Accompany us as we travel. Lead us from strength to strength.

Guide the Nation through decision-making days that in all that is done Thy name may be glorified.

And now unto God's gracious mercy and protection we commit you. *The Lord bless you and keep you: The Lord make His face to shine upon you, and be gracious unto you.* Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 14, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. ROBERT C. BYRD thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, October 13, 1972, be dispensed with.

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

STATE NEEDS BIG VOICE IN COAL STUDY

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the Montana Standard of Sunday, October 8, 1972, entitled "State Needs Big Voice in Coal Study."

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

STATE NEEDS BIG VOICE IN COAL STUDY

Interior Secretary Rogers Morton has now made it official: A federal-state "task force" will be formed to develop policy guidelines for coal mining in a five-state area that includes eastern Montana. The task force will include representatives of the Interior Department, Agriculture Department, Commerce Department, the Environmental Protection Agency and the state governments.

The group, according to Morton, will assess the social, economic and environmental impact of developing the coal deposits.

Gov. Forrest Anderson said, after Morton's announcement was made, that the states have been promised a well-coordinated study between the states, the federal government and private enterprise. It sounds great, and we hope the promise becomes reality.

But let's wait and see. Gary Wicks, director of Montana's Department of Natural Resources and Conservation, plans to do just that. Wicks wants to see just how big a role the states do get in the study group before he endorses its activities. Wicks claims that in other regional energy studies, the states have been given only a token role.

The northern Great Plains coal deposit, a good deal of which lies in Montana, will be developed to meet energy needs across the middle of America. Thus the development of the coal fields is of national interest, and not just a local issue.

It must be kept in mind, though, that with President Nixon's re-election virtually a sure thing, the study group will be doing most of its work during a Republican Administration. And the Nixon Administration's Interior Department and Commerce Department have a record to date that many feel is generally pro-industry. There's nothing particularly the matter with this. Democratic Administrations are widely felt to be pro-labor, etc., at the expense of business.

On the other hand, the Montana agencies that are concerned with setting pollution rules, enforcing reclamation laws, etc., appear to be getting increasingly conservation-minded.

If the above assumptions are true, then Wicks is justified in expressing concern over how much representation the states will have in the upcoming study. If the mood of Montana does favor a more cautious approach to development than the federal government might recommend, then it's important that Montana have some real influence within the federal-state task force.

As we've said before, we are in favor of development and jobs, but we want strong protection built in.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

THE MINORITY LEADER'S REPORT—THE OVERVIEW FROM THE UNDERSIDE, OR A REOPENING OF PATHS (S. DOC. NO. 92-92)

Mr. SCOTT. Mr. President, as of yesterday, not counting any quorum calls, there were 523 rollcall votes. This is just 100 votes more than were ever cast in the Senate in this century.

The record Congress was the 47th, of 1881–83, when 986 votes were taken. One wonders what they found to talk about, but one wonders also what we find to talk about.

The 92d Congress even labored on Leap Year Day, February 29, and labored indeed when 10 votes were taken.

The President has sent up 318 Presidentially sponsored measures, and, sad but true, only 141 have been enacted.

This Congress gets a mark of 44 percent for Presidential support, while in the last session of President Johnson's administration, Presidential support was 60 percent.

Mr. President, I am offering my annual minority report today entitled "The Overview From the Underside, or a Reopening of Paths."

Senators may note on page 4 my fervent hope expressed there that the Senate will not be allowed to denigrate to the point where the Roman Senate fell when the Emperor Caligula designated his horse to the senate. I believe this was known as going "whole horse," or perhaps it was a horse on them. We have tried to avoid sending whole horses to the Senate, and I hope we can continue to do so.

The report contains a good many statistics, and it is normally the custom to read the report, but, in deference to the absence of my colleagues, I shall not do so. I do pray they consume as much of it as they can by digesting the "charge of the lightweight brigade" and various other aspects of this session.

I do hope at least the statistical part of this statement will be of use to some Senators. In any event, I believe it was Philip Sidney who said once, "It is fitting that a man give reasons for the faith that is in him." That is what I try to do, and I ask unanimous consent to include the report at this point in the RECORD.

I further ask unanimous consent that this report for the 92d Congress, 2d session, entitled "The Overview From the Underside," be printed as a Senate Document.

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

THE OVERVIEW FROM THE UNDERSIDE OR A REOPENING OF PATHS

I. INTRODUCTION

Mr. President, as I present the Republican Leader's Report, I want once again to express my appreciation and high regard for the Majority Leader, the Honorable Mike Mansfield, the Senator from Montana. I have many times had occasion to be grateful for his cooperation and thankful for his courtesy. We have competed, but it has been an honest and aboveboard competition. I have never failed to admire the skill with which he has managed the sometimes very complicated business of the Senate. If I ever get the chance—and in this I expect some competition from him—I shall be more than satisfied if I can do as well. His credo is fairness, firmness, and quiet reasonableness. I know all of us in the Senate have reason to be grateful for the leadership demonstrated by Mike Mansfield over so many years.

I also wish to express my appreciation to my colleagues of the Republican Leadership, Senator Margaret Chase Smith, Senator Gordon Allott, Senator Robert Griffin and Senator Norris Cotton. Nor should I fail to mention our Regional Whips, who have done so much to help Senator Griffin and me carry out our floor responsibilities in this Chamber. And to bid farewell to three splendid Republican Senators who are retiring: John Sherman Cooper, Len Jordan, and Karl Mundt.

The U.S. Senate

Mr. President, when I began to compose these remarks for submission at the end of this exhausting session, I felt myself pulled several ways at once. First I enjoy my work,

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and feel strongly that nowhere else could anyone achieve the intimate satisfaction that comes from being a Member of this prideful Body.

Second, there is the comforting knowledge that we have progressed to the conclusion of yet another arduous session of the Congress. It has been a tough year. I have had to spend many hours in this Chamber. But we do deliberate, and we do legislate. That may not be the be-all and end-all; but it is something. And there are good reasons for it. There are few upper chambers in free parliaments around the world that have maintained their basic purposes and powers as has the U.S. Senate.

Each year, our Senate seems to be tested in a particular way. The past few years we had difficulty in finishing our appointed tasks, and the sessions carried late into December. . . .

So it has always been our concept that, in the long run, the greatest speed is most often made slowly. I learned this one in the Navy. It means that it is always preferable to do a thing right the first time, so that someone doesn't make you do it over.

But I am unfortunately pulled in another direction as well; for I have been watching the number of Senate Roll Call Votes.

When the Senate adjourns, it will have come very close to the all-time high of 986 Record Votes, cast in 1881–1883 by the Senate of the 47th Congress. It should be noted that in the sessions following this and other peak years, there were significantly fewer votes. Perhaps history will repeat itself. For now, we only know that in this second session of the 92d Congress we have cast more Record Votes than in any other single Senate session. We are high on a steeply rising curve.

I am, frankly, disturbed at the trend. Some Roll Call Votes on noncontroversial matters are clearly unnecessary.

Despite the record number of votes, certain important legislative proposals have been ignored.

As an example, the President of the United States proposed a far-reaching Government reorganization. The press and the public long have urged the streamlining of the ever-growing bureaucracy of Government. The President's recommendation was a proposal seriously offered, which the Senate should have seriously considered. Yet, only bits and pieces of this program have been put in effect. Not one major measure among the many he suggested has been given a chance to prove its value. Not once was the Congress given the opportunity of working its will upon any of the principal measures he put forth in this regard.

Perhaps this unhappy situation is a reflection of the fact that at no time since President Nixon was elected to the post of Chief Executive has the party of his Administration also been the party in control of the Congress.

I might point out that the Democratic Party has been in control of our Legislature for approximately 90 percent of the time during the last 40 years.

There is an old adage about the turtle to the effect that no progress can be made unless its neck is stuck out. At the risk myself of being compared to a turtle (I hope my friends will at least think of me as an affable turtle) I feel I must stick my neck out a little by suggesting that during this last session of the Senate we have voted too often and accomplished too little; and that some of the votes may have resulted from personal needs and egoisms which, in some cases at least, might appear to be less valuable to the business of our Government than the calm consideration of the issues which might have taken their place.

After a long and useful life, the Roman Senate degenerated to the point where a very handsome but mad emperor nominated his horse[1] to a Senate seat. I hope the mechanisms and procedures by which our Senate has functioned for nearly 200 years are not on the same path.

For erosion is the most difficult of all diseases to counteract.

Politics

There is, of course, one clear reason to which we can ascribe the great and somewhat less than totally useful number of votes we have taken this session: the pressures of an election year. More than that, the pressures of trying to function with an Administration of one party and a Legislature of another. Our far-seeing delegates to the Constitutional Convention in 1787 tried to provide simultaneously for both stability and the capability of rapid change when they set the terms of our Representatives in Congress at 2 years, that of the President at 4 years, and Senators at 6 years. So I cannot complain that the habit of the past 40 years, in terms of the composition of our Legislature, has not changed as rapidly as one might want. The change is proceeding. It is nevertheless a little disturbing to me to mark the growing inflation of our voting habits and reflect upon the erosion of substance which, I feel, they herald.

Last year, at the conclusion of the first session of this Congress, I mentioned that at no time since he became Chief Executive has Mr. Nixon had the comfort of having his own party in control of either House of the Legislature. I must do so again. This situation has existed only a few times in the history of our country, and never for very long. Not since 1849 has a President come into office without at least one of the two Houses being of his own party. Never has one had to work against comparable difficulties.

I am at this time reporting on the status of all major bills proposed to implement legislative messages of the President. If I may recapitulate, last year there were proposed a total of 104 such measures under 26 Presidential Messages to Congress. As of the close of the first session of the 92d Congress, only 11 of these 104 had been enacted into law.

How is the situation today?

Well, we have voted well over 515 times since that report, and there have been a cumulative total of 318 Presidentially-sponsored measures transmitted to the 92d Congress. Sad to relate, only 141 have been enacted or approved, for a total of only 44 percent.

I hope the American people have become tired of the futile churning of their elected representatives in Congress. I hope they have decided to give it a try the other way, with a Congress of the President's persuasion. If even only one House were to have a Republican majority—and I know my good friend the present Majority Leader will forgive me for hoping that it will become the Chamber in which I now speak—there might be at least some improvement in the enactment of the programs our President has put forward.

This may be a lot to hope for. But if the Senate at least were to have a Republican majority beginning in 1973, I think we might see some improvement in result, along with a reduction in the precedural obstacles that have unfortunately been our lot during so much of the past 4 years.

In the following pages are two legislative compendiums. The first lists all of the 67 laws enacted in 1971 by the first session of the 92d Congress which derive from legislative proposals sent to Congress by the President.

The second gives the current status—as of October 12, 1972—of all proposals presented in Presidential messages and sent to Congress in draft form during the entire 92d Congress, including 1972, and not enacted into law during the 1st session.

The second compendium makes it quite obvious there are a large number of proposals which make up the unfinished business of this Congress, and must be given priority status by the next.

First compendium

Agriculture, Rural Electrification Act of 1936, Telephones Financed, S. 70, PL 92–12.

Commerce:

Supplemental 1971 Maritime Authorization, H.R. 5352, PL 92–21.

Maritime Authorization, 1972, H.R. 4724, PL 92–53.

Requirement of Radiotelephone on Certain Vessels, S. 699, PL 92–63.

Defense:

Military Selective Service Act Amendments, H.R. 6531, PL 92–129.

Military Construction Authorization, 1972, H.R. 9844, PL 92–145.

Military Weapons Procurement Authorization, 1972, H.R. 8687, PL 92–156.

Additional ROTC Scholarships, H.R. 4729, PL 92–166.

Increased Subsistence Allowance for Senior Reserve Officers' Training Corps Members, H.R. 6724, PL 92–171.

Provide Subsistence Allowances for Marine Corps Officer Candidate Programs, H.R. 6723, PL 92–172.

Authorize Deputy Secretary of Defense, H.R. 8856, PL 92–215.

General Services Administration:

Diamond Crushing Bort, Disposal from Stockpile, S. 751, PL 92–83.

Vegetable Tannin Extracts, Disposal, S. 752, PL 92–89.

Mica, Disposal, S. 758, PL 92–91.

Thorium, Disposal, S. 753, PL 92–96.

Quartz Crystals, Disposal, S. 756, PL 92–97.

Iridium, Disposal, S. 757, PL 92–98.

Shellac, Disposal, S. 755, PL 92–99.

Manganese, Metallurgical Grade, Disposal, S. 759, PL 92–100.

Manganese, Battery Grade, Synthetic Dioxide, Disposal, S. 760, PL 92–101.

Diamond Tools, Disposal, S. 761, PL 92–102.

Chromium Metal, Disposal, S. 762, PL 92–103.

Amosite Asbestos, Disposal, S. 763, PL 92–104.

Antimony, Disposal, S. 765, PL 92–105.

Rare-earth Materials, Disposal, S. 767, PL 92–106.

Chromite, Chemical Grade, Disposal, S. 768, PL 92–107.

Diamonds, Industrial, Disposal, S. 769, PL 92–108.

Columbium, Disposal, S. 770, PL 92–109.

Selenium, Disposal, S. 771, PL 92–110.

Celestite, Disposal, S. 772, PL 92–111.

Vanadium, Disposal, S. 774, PL 92–112.

Magnesium, Disposal, S. 775, PL 92–113.

Abaca, Disposal, S. 776, PL 92–114.

Sisal, Disposal, S. 777, PL 92–115.

Kyonite-Mullite, Disposal, S. 778, PL 92–116.

Health, Education, and Welfare:

Amend the Social Security Act to Continue Assistance to Citizens Returned from Abroad, H.R. 8313, PL 92–40.

Public Health Service Act Amendments, Increased Manpower for Health Professions, H.R. 8629, PL 92–157.

Public Health Service Act Amendments, Increased Nurses Training, H.R. 8630, PL 92–158.

Interior:

Grants for Navajo Community College, H.R. 5068, PL 92–189.

Alaska Native Land Claims Settlement Act, H.R. 10367, PL 92–203.

Labor:

Prohibition Against Railroad Strikes and Lockouts, S.J. Res. 100, PL 92–17.

Cabinet Committee on Opportunities for Spanish-Speaking People, H.R. 7586, PL 92–122.

[1] This was known as going "whole horse."

State, Pacific Islands Trust Territory Compensation for World War II Damages, H.J. Res. 617, PL 92-39.

Transportation, Coast Guard Authorization, 1972, H.R. 5208, PL 92-118.

Treasury:

Public Debt Ceiling Increase, H.R. 4690, PL 92-5.

Interest Equalization Tax Extension of 1971, H.R. 5432, PL 92-9.

Export-Import Bank, Expansion of Export Trade, S. 581, PL 92-126.

Revenue Act of 1971, H.R. 10947, PL 92-178.

Economic Stabilization Act of 1970, Extend to May 1, 1973, S. 2891, PL 92-210.

Veterans' Administration:

Authority to Sell Veterans Direct Loans, H.R. 3344, PL 92-66.

Veterans Dependency and Indemnity Compensation, Liberalize, H.R. 11652, PL 92-197.

Veterans Disability and Death Pensions, Liberalize, H.R. 11651, PL 92-198.

Environmental Protection Agency:

Water Resources Planning Act Authorization Increase, H.R. 6359, PL 92-27.

Saline Water Conversion Act of 1971, Research and Development, S. 991, PL 92-60.

Action, Peace Corps Authorization, S. 2260, PL 92-135.

American Revolution Bicentennial Commission, Establish, S. 1538, PL 92-33.

Appalachian Regional Commission, Appalachian Regional Development Program and Public Works, Extension, S. 2317, PL 92-65.

Atomic Energy Commission, Authorization, 1972, H.R. 9388, PL 92-84.

Civil Rights Commission, Commission on Civil Rights, Authorization, H.R. 7271, PL 92-64.

National Aeronautics and Space Administration, NASA Authorization, 1972, H.R. 7093, PL 92-68.

National Science Foundation, Authorization, H.R. 7960, PL 92-86.

Office of Emergency Preparedness:

Emergency Loan Guarantee Act, H.R. 8432, PL 92-70.

Flood Insurance Act of 1968, Extend and Modify Interest Rates on Insured Mortgages, S.J. Res. 176, PL 92-213.

Office of Management and Budget, Reorganization Authority of the President, Extend, H.R. 6283, PL 92-179.

Renegotiation Board, Renegotiation Act Amendments of 1971, H.R. 8311, PL 92-41.

Small Business Administration, Increase SBA Loan Ceiling S. 1260, PL 92-16.

Second compendium

The following is a report on the current status of all programs presented in Presidential messages and sent to the Congress in draft form during the 92d Congress, but not enacted into law during the 1st session. This report was completed the morning of October 12, 1972.

Bills are listed by Executive Department, Commission, or Agency. The short title is followed by the bill number(s) as introduced, in parentheses. Bill numbers related to the original bill(s) are given; the bill on which the most action has been taken is accompanied by an asterisk(*).

The code indicates present status (first code is Senate status, second code is House status).

[Public Law 92- and Public Law number]

P: Awaiting Presidential action.

CRX—CRX: Conference Report defeated (in Senate if in first code, in House if in second code).

CR—CR: Conference Report agreed to.

CRP—CRP: Conference Report Pending.

CRF—CRF: Conference Report Filed.

CX—CX: Defeated in Conference (by Senate Conferees if in first code, by House Conferees if in second code).

C: In Conference.

SX—HX: Defeated on floor of Senate (SX) or House (HX).

S—H: Passed Senate (S) or House (H).

SP—HP: Pending in Senate (SP) or House (HP): under consideration, or on calendar.

SR—HR: Reported in Senate (SR) or House (HR).

SCT—HCT: Tabled in Committee in Senate (SCT) or House (HCT).

SC—HC: In Committee.

Some symbols are enclosed in parentheses to indicate that the bill referred to has been mentioned before in the given category.

Agriculture:

Insured Farm Operating Loans (S. 290, H.R. 3141). Included in H.R. 12931*, P.L. 92-419*

National School Lunch Act Amendment (S. 3661, H.R. 14872, H.R. 14898). H.R. 14896* passed in lieu, goes beyond Presidential recommendations, P.L. 92-433*.

Rural Community Development Revenue Sharing Act (S. 1612, H.R. 7993), SC, HC.

Federal Crop Insurance Act Amendment (S. 1601), SC.

Fees and Charges for FHA Real Estate Loans (S. 2029), S.C.

Commodity Exchange Act Amendment (S. 3354), SC.

Civil Service Commission:

Federal Wage System Act (S. 1636, H.R. 7691), H.R. 9092*, P.L. 92-392*.

Federal Executive Service (S. 1682, H.R. 3807), S, H.C.

Postal Service Payments to Civil Service Retirement Fund (H.R. 10484), HC.

Commerce:

Fire Research and Safety Act Appropriation Authorization (S. 1697, H.R. 7188), H.R. 13034*, P.L. 92-317*.

Standard Reference Data Act Appropriation Authorization (S. 1695, H.R. 7189). Included in H.R. 13034* (P.L. 92-317).

Maritime Appropriation Authorization, Fiscal 1973 (S. 3335, H.R. 13324*) P.L. 92-402*.

Export Administraion Act Extension (S. 1487), S. 3726*, P.L. 92-412*.

Fisherman's Protective Act Amendments (S. 3545, H.R. 14385), S, H.P.

International Voluntary Standards Cooperation Act (S. 1793, H.R. 8111), S, HC.

Metric Conversion (S.J. Res. 219, H.J. Res. 1092), S. 2483*, S, HC.

Consumer Product Test Methods Act (S. 1692, H.R. 6891), SC, HC.

Assistant Secretary of Commerce for Minority Enterprise (S. 2893), SC.

Ship Construction (MARAD), Appropriation Authorization Fiscal 1973 (S. 4036), SC.

Defense:

Federal Civil Defense Act, Extend/Amend (H.R. 14538), S. 3772*, P.L. 92-360*.

Armed Forces Survivor Benefit Plan (H.R. 1067*), P.L. 92-425*.

Armed Forces Health Professions Scholarship Program (S. 1317). Included in H.R. 2*, P.L. 92-426*.

Military Procurement Appropriation Authorization, Fiscal 1973 (S. 3108, H.R. 12604), H.R. 15495*. P.L. 92-436*.

Increase Authorizations for Military Procurement and Military Construction, Fiscal 1973. Included in H.R. 15495* (P.L. 92-436).

Authorize Additional Support for SEA Forces. Included in H.R. 15495 as passed House, deleted in conference, CX.

Uniformed Services Retired and Retainer Pay Equalization Act (H.R. 14524). (Revision of administration's proposals included in Senate version of H.R. 15495* but not agreed to by conferees. Back to HC.) CX.

Military Construction Appropriation Authorization, Fiscal 1973 (S. 3448, H.R. 14530) H.R. 15641* passed in lieu, P.

Armed Forces Drug Dependency Treatment and Rehabilitation Act (S. 2139, H.R. 9503) H.R. 9265* implements recommendations in part. (Staff level conf.), S—H.

Include Health Maintenance Organizations in CHAMPUS (H.R. 14546), HP.

Uniformed Services Special Pay Act (S. 3410, H.R. 14545), SC—HC.

Additional Deputy Secretary of Defense (S. 3237), SC.

District of Columbia Government:

Dwight D. Eisenhower Memorial Bicentennial Civic Center Act (S. 3943,* H.R. 16645), S—H.

D.C. Capital Program Financing Act (S. 1339), SC.

D.C. Stadium Act Amendment (H.R. 10654) HC.

General Services Administration:

Zinc Disposal (S. 766*), PL 92-283.*

Rental Charge/Purchase Contract (S. 2479, H.R. 10488) S. 1736,* PL 92-313.*

Nickel Disposal (S. 3086), PL 92-355.

Lead Disposal (S. 764), PL 92-356.

Historic Properties Preservation (S. 1152,* H.R. 6769), PL 92-362.*

Carbide, Silicon Disposal (S. 754*), S—HCT.

Chromite, Metallurgical Grade Disposal (S. 773*), S—HCT.

Molybdenum Disposal (S. 3085, H.R. 14539), SC—HC.

Relocation and Replacement of Federal Facilities (S. 1153, H.R. 6768), SC—HC.

Authorized Agency Activation Fund (S. 3026), SC.

Health, Education, and Welfare:

Higher Education Opportunities Act (S. 1123, H.R. 5191) S. 659,* Education Amendments of 1972, PL 92-318.*

National Foundation for Higher Education Act (S. 1062, H.R. 5192) S. 659* provides mechanism to reach Administration's goals, (PL 92-318*).

National Institute of Education (S. 434, H.R. 3606). Included in S. 659,* (PL 92-318*).

Emergency School Aid Act (S. 195, H.R. 2266) S. 659* includes funding provisions, though different from this bill (PL 92-318*).

Twenty Percent Increase in Social Security Benefits, and Cost-of-Living Increases. Included in H.R. 15390,* Public Debt Ceiling Increase, PL 92-336.*

Social Security Act, Extension of Authority for Special Projects Programs Under Title V of the Act (H.R. 9410*), PL 92-345.*

Comprehensive Youth Services Act (S. 3555) H.R. 15635,* PL 92-381.*

Student Loan Program (S.J. Res. 260*). Delays implementation of changes made by PL 92-318 to the guaranteed student loan program authorized by Higher Education Act of 1965, PL 92-391.*

Health Services and Family Planning Projects Grants (H.R. 14341) S. 3442.* Communicable Disease Control Act Amendments, provides increases in authorizations for family planning, PL 92-449.*

Consumer Product Safety Act (S. 1797, H.R. 8110) S. 3419* (H.R. 15003) CPR—CPR.

Vocational Rehabilitation Amendments (S. 3368, H.R. 13408) S. 3987, H.R. 8395* incorporate provisions of the bill, CR—CPR.

Welfare Reform, Social Security Amendments, and Medicare/Medicaid Amendments. Included in H.R. 1,* the Senate version of which provides for a two-year test of administration welfare reform provisions and two other reform proposals, C.

Equal Education Opportunity Act (S. 3395, H.R. 13915 *). SP—H.

Older Americans Act Amendments (S. 3391, H.R. 13925) S. 4044, H.R. 1567* contains provisions for National Older Americans Volunteer programs of ACTION. CR—CRP.

Wholesome Fish and Fisheries Products Act (S. 700, H.R. 3666) S. 2824,* amended, S—HC.

Health Maintenance Organization (S. 1182, H.R. 5615) S. 3327,* S—HC.

Student Transportation Moratorium Act (S. 3388, H.R. 13916), SC—HC.

Educational Revenue Sharing Act (S. 1669, H.R. 7798). SC—HC.

Drug Identification Act (S. 788, H.R. 3367), SC—HC.

National Health Insurance Partnership Act (S. 1623, H.R. 7741) SC—HC.

Medical Device Safety Act (S. 3028, H.R. 12316), SC—HC.

Allied Services Act (S. 3643, H.R. 15838, H.R. 15856, H.R. 15857), SC—HC.

Food Ingredient Labeling Act (H.R. 14641) H.R. 14498, HC.

Housing and Urban Development:

Extension of HUD Interest Rates on Insured Mortgages and Related Laws, and Authority of the Secretary of HUD (S.J. Res. 250),* PL 92-935.*

Community Development Act (includes urban community development revenue-sharing) (S. 1618, H.R. 8853) S. 3248, HUD Amendments (substitutes block grants for revenue sharing) H.R. 16704, S—HR.

Residential Historic Properties Loan Insurance (S. 1207, H.R. 5778). Included in S. 3248 and H.R. 16704, (S—HR).

Housing Consolidation and Simplification Act (S. 2049, H.R. 9331). Included in S. 3248, which differs from S. 2049 with reference to FHA-insured interest subsidy program, H.R. 16704, (S—HR).

FHA Mortgage Insurance Authority, Temporary Extension (H.J. Res. 1301), S—H.

Flood Disaster Protection Act of 1972 (H.R. 16831), HC.

Interior:

Wolf Trap Farm Park, Remove Statutory Ceiling on Funds (S. 2725, H.R. 11303) S. 2601,* PL 92-272.*

Saline Water Appropriation Authorization, Fiscal 1973 (S. 3097, H.R. 12749*). PL 92-273.*

Recreation User Charges (S. 1474, H.R. 6730, H.R. 7929) S. 1893.* PL 92-347.*

Gateway National Recreation Area (S. 1852,* H.R. 8543, H.R. 8816) S. 1852, H.R. 1121, CRP.

National Land Use Policy (S. 992, H.R. 4332, H.R. 5504) S. 632, H.R. 7211, S—HP.

Additional Assistant Secretary of the Interior (S. 2034, H.R. 8062) S. 291, S—HC.

Promote Indian Tribal Participation in Federal Programs and Services for Indians (S. 1573, H.R. 8796) S. 3157, S—HC.

Declaration of National Indian Policy (S. Con. Res. 26), S—HC.

Federal Animal Damage Control Act (S. 3334, H.R. 13152.* H.R. 13153), SC—H.

Federal City Bicentenial Development Corporation (S. 715, S. 4002, H.R. 10751, if amended), SR—HP.

Mined Area Protection and Restoration Act (S. 993, S. 1176, H.R. 5689) S. 630, H.R. 6482,* SR—H.

Golden Gate National Recreation Area (S. 3174,* H.R. 13018) S. 2342, H.R. 10220, H.R. 16444,* P.

Indian Financing Act (S. 2036, H.R. 8063), SC—HP.

National Resource Land Management Act (S. 2401, H.R. 10049) SR—HC.

Endangered Species Conservation Act (S. 3199, H.R. 13081) S. 3818, SR—HC.

Reform Mineral Leasing Laws (S. 2726, H.R. 11526), SC—HC.

Reform the Mining Laws (S. 2727, H.R. 11527), SC—HC.

Land and Water Conservation Fund Act Amendments (S. 990, S. 1175, H.R. 5599), SC—HC.

Amend Certain Laws Relating to Indians (S. 2033, H.R. 8064), SC—HC.

Federal Employees Indian Tribal Organization Transfer Act (S. 1574, H.R. 8014), SC—HC.

Indian Trust Counsel Authority (S. 2035, H.R. 8797), SC—HC.

Indian Business Development Program Act (S. 2237, H.R. 8340) H.R. 15322, SC—HC.

Johnson-O'Malley Act Amendments (Indian Education and Health) (S. 2238, H.R. 2376), SC—HC.

Terminate Certain Santa Barbara Oil Leases (S. 1853, H.R. 7991), SC—HC.

Big Cypress National Fresh Water Reserve (S. 3139, H.R. 13017), SC—HC.

Justice:

Narcotic Addict Post-Confinement Care (S. 2713.* H.R. 11352), PL 92-293.*

Narcotic Addict Rehabilitation Act Amendment (S. 2140, H.R. 9323*), PL 92-420.*

Protection of Public and Foreign Officials Act (S. 2436, H.R. 10502) H.R. 15883* passed in lieu (Foreign Officials only) P.

Protection of Official Guests (amendment to Senate version of H.R. 15883*), (P).

Police Officers Benefits Act (S. 2087,* H.R. 9139, H.R. 9177), C.

Prohibit Interstate Transportation of Salacious Advertising (S. 428, H.R. 2331) H.R. 8805, SC—H.

Prohibit Interstate Transportation of Salacious Materials to Minors (S. 429, H.R. 2330) H.R. 8805, (SC—H).

Fair Warranty Disclosure Act (S. 1221, H.R. 6314) S. 986,* H.R. 4809, S—HC.

Federal Trade Commission Act Amendments (S. 1219, H.R. 6313) S. 986, H.R. 4809, (S—HC).

Subversive Activities Control Act Amendment (S. 2294, H.R. 9669), SC—H.

Aircraft Piracy Amendments (S. 2567, H.R. 11111), S—HC.

Wagering Tax Amendments (S. 431, H.R. 1010) (House Consideration objected to), SR—HR.

District of Columbia Controlled Substances Act (S. 2692, H.R 11268), SC—HR.

Law Enforcement Revenue Sharing Act (S. 1087, H.R. 5408), SC—HC.

Nontestimonial Identification Procedures (S. 430, H.R. 2329), SC—HC.

Consumer Fraud Prevention Act (S. 1222, H.R. 6315), SC—HC.

Pretrial Detention (S. 1867, H.R. 8418, H.R. 8550), SC—HC.

Bail Reform Amendments (S. 1868, H.R. 8419), SC—HC.

Criminal Justice Information Systems Security and Privacy Act (S. 2546, H.R. 10789, H.R. 10892), SC—HC.

Psychotropic Substance Act (S. 3118, H.R. 12875), SC—HC.

Narcotic Addict Treatment Act (S. 3846, H.R. 16047, H.R. 16135), SC—HC.

Drug Abuse Procedures Act (S. 2192, H.R. 9381), SC—HC.

United States Marshals Appointment (S. 1831, H.R. 8317), SC—HC.

Genocide Convention, Implement (S. 3182, H.R. 13185), SC—HC.

Labor:

West Coast Labor Dispute (S.J. Res. 197, H.J. Res. 1025), PL 92-235.*

Emergency Unemployment Compensation Act—6-month extension (H.R. 15587*), PL 92-329.*

Fair Labor Standards Act Amendments (S. 2259, H.R. 9584) S. 1861, H.R. 7130* (House rejected motion to send bill to conference), S—H.

Longshoremen's Compensation Act Amendments (S. 525, H.R. 3505) S. 2318, H.R. 12006, S—HP.

Pension and Welfare Employee Benefits Protection Act (S. 3024, H.R. 12337) S. 3598, SR—HC.

Manpower Revenue Sharing Act (S. 1243, H.R. 6181), SC—HC.

Crippling Strikes Prevention Act (S. 560, H.R. 3596, H.R. 4116) H.R. 11281, SC-HC.

State:

International Development and Humanitarian Assistance Act (S. 1657) S. 2819,* PL 92-266.*

International Security Assistance Act Included in S. 2819,* (PL 92-226).

Narcotics Control Assistance, amend International Security Assistance Act. Included in S. 2819,* (PL 92-226).

International Coffee Agreement Extension H.R. 8293 *), PL 92-262.*

Radio Free Europe/Radio Liberty (American Council for Private International Communications, Incorporated, establish), (S. 1936, H.R. 9637) S. 18,* did not establish council, but authorized Fiscal 1972 appropriations, PL 92-264.*

Radio Free Europe/Radio Liberty Appropriation Authorization, Fiscal 1973 (S. 3645,* H.R. 15002), PL 92-394.*

Foreign Assistance Act Amendment (S. 3390,* H.R. 13759), SX.

Philippine Disaster Relief. Included in H.R. 16029,* (C).

American Mexican Boundary Treaty Act (S. 3560, H.R. 14573), H.R. 15461.* (Senate passed with amendment, returned to House), S—H.

Rumanian Trade Relations Act (S. 1389. H.R. 10076), SC—HC.

Nonimmigration Visa Act (S. 1899, H.R. 6366), SC—HC.

International Center, D.C.—Authorize Funds for Site Improvement; (Amend PL 90-553) (S. 4039), SC.

Immigration and Nationality Act Amendments (H.R. 2328), HC.

Transpotration:

Regulation of International Air Rates (S. 2920, H.R. 11825) S. 2423,* PL 92-259.*

Rail Passenger Service Act Amendment (S. 2760, H.R. 11417*), PL 92-316.*

Ports and Waterway Safety Act (S. 698, H.R. 3635) H.R. 8140,* PL 92-340.*

Coast Guard Appropriation Authorization, Fiscal 1973 (S. 3241, H.R. 13188*), PL 92-343.*

High-Speed Transportation. Remove Termination Date (S. 979, H.R. 8107, H.R. 8302), PL 92-348.*

National Capital Transportation Act Amendment (S. 2297, H.R. 11877), H.R. 15507,* PL 92-349.*

Highway Emergency Relief Appropriation Authorization (S. 3796, H.R. 15873) H.R. 15950,* PL 92-361.*

Automobile Owners Information Act (S. 2357, H.R. 9353) H.R. 11627, S. 976* (National Traffic and Motor Vehicle Safety Act), P.

Anti-Hijacking Act (S. 2820,* H.R. 9354) H.R. 16191, C.

Federal Aid Highway and Mass Transportation Act (S. 3590, H.R. 14759) S. 3939,* H.R. 16656, C.

Highway Safety Act (S. 3589, H.R. 14760) part of S. 3939* and H.R. 16656, (C).

National Traffic and Motor Vehicle Safety Authorization Act, Fiscal 1973 (S. 3474, H.R. 15111) H.R. 15375,* S—H.

Transportation Assistance Act (S. 2841, H.R. 11824) S. 1729,* H.R. 16281, S—HC.

Transportation Regulatory Modernization Act (S. 2842, H.R. 11826) S. 1729,* H.R. 16281, (S—HC).

Transportation Revenue Sharing Act (S. 1693, H.R. 13021), SC—HC.

No Fault Motor Vehicle Insurance (S. Con. Res. 23, H. Con. Res. 241) S. 945* (Reported from S. Commerce, Senate voted to refer to S. Judiciary on 8/8/72), SC—HC.

Eisenhowever Memorial Interstate (S. 2733, H.R. 8578, if amended), SC—HC.

National Capital Area Transit Act (H.R. 16724), HX.

Alaska Railroad Sale (H.R. 9619), HC.

Sale of Washington National and Dulles International Airports (H.R. 16221), HC.

Metro Station, Arlington Cemetery (S. 3966), SC.

Highway User Act (H.R. 12429), HC.

Treasury:

Asian Bank Special Fund Contribution (S. 749,* H.R. 5013), PL 92-245.

Inter-American Development Bank Contributions (S. 748,* H.R. 5014), PL 92-246.*

International Development Association Replenishment Act (S. 2010,* H.R. 8750), PL 92-247.*

Public Debt Ceiling Temporary Increase (H.R. 12910)*), PL 92-250.

Par Value Modification Act (S. 3169, H.R. 13120), S. 3160,* PL 92-268.*

Public Debt Ceiling, Four-Month Extension (H.R. 15390*), PL 92-336.*

General Revenue Sharing Act (S. 680, H.R. 4187 through H.R. 4193) H.R. 14370* (State and Local Fiscal Assistance Act), CRP—CR.

Federal Financing Bank, establish (S. 3001), S—HP.

Lost Currency Write-off (Silver Certificates, Adjust) (S. 670), S—HC.

Handgun Quality Control Act (S. 2507*), S—HC.

Environmental Financing Authority (S. 1015, H.R. 5970 through H.R. 5973) (Part of S. 2770 as passed by House), P.

Public Debt Ceiling Increase (H.R. 16810), SP—H.

Individual Retirement Benefits Act (S. 3012, H.R. 12272, H.R. 12302) S. 3598,* SR—HC.

D.C. Development Bank (S. 2196, H.R. 11313), SC—HC.

Customs Port-Security Act (S. 1654, H.R. 8476), SC—HC.

Environmental Protection Act (H.R. 14669) HC.

Income Tax Credit for Tuition, Nonpublic Elementary and Secondary Education (H.R. 13495) H.R. 16141, HC.

Pure Air Tax Act (H.R. 14931), HC.

Small Business Taxation Act (S. 544), SC.

Veterans' Administration:

Increase Compensation for Disabled Veterans (S. 3344, H.R. 13799) S. 3338,* PL 92-328.*

Veterans Education and Training Amendments (S. 3059, H.R. 11954) S. 2161, H.R. 12828,* P.

Grants to State Veterans' Homes (H.R. 13673), included in H.R. 10880* as passed by Senate, (P).

Require Reimbursement from Private Users for VA Hospital Care (S. 2807, H.R. 3350), SC—HC.

Repeal Savings Provision of Law Relating to Arrested Tuberculosis Compensation (H.R. 3347), HC.

Eliminate Duplicate Burial Benefit Payments (H.R. 3348), HC.

Veterans Drug Treatment (See Defense H.R. 9265*).

Environmental Protection Agency:

Water Pollution Control Act Extension (S. 3122*), PL 92-240.*

Marine Protection Act (Ocean Dumping) (S. 1238, H.R. 4247) H.R. 9727,* CR—CRP.

Water Quality Standards and Enforcement (S. 1014, H.R. 5966 through H.R. 5969) S. 2770,* H.R. 11896 (National Water Quality Standards Act provides for funding at three times administration level), P.

Waste Treatment Facilities Construction (S. 1013, H.R. 5962 through H.R. 5965) S. 2770,* H.R. 11896, (P).

Water Quality State Program Grants (S. 1012, H.R. 5958 through H.R. 5961) S. 2770,* H.R. 11896, (P).

Federal Environmental Pesticides Control Act (S. 745, H.R. 4152) H.R. 10729,* P.

Toxic Substances Control Act (S. 1478, H.R. 5276) S. 1478, H.R. 16245, S—HP.

Noise Control Act (S. 1016, H.R. 5275, H.R. 5388) H.R. 11021, S. 3342* (Clean Air Act, includes noise provisions), SP—H.

Water Pollution Control Act Amendments (S. 3910), SC.

Action:

Peace Corps Amendments (H.R. 14149) S. 3526. Included in H.R. 14734* (State, USIA Authorization), PL 92-352.*

Authorize $16 Million Additional ACTION Funds, Fiscal 1972.

Included in H.R. 12350.* OEO Authorization, PL 92-424.

ACTION Domestic Programs Act (S. 3450) H.R. 14828. (Older Americans Act, H.R. 15657 contains some provisions of this bill. OEO Authorization (PL 92-424) extends VISTA program temporarily), SC—HC.

Administrative Conference of the United States, Appropriation Ceiling and Certain Statutory Changes (H.R. 13644), S. 3671,* S—HP.

American Revolution Bicentennial Commission:

Program Amendments and Appropriation Authorization, Fiscal 1972 (S. 1857,* H.R. 7374), PL 92-236.

Amendments and Appropriation Authorization, Fiscal 1973 (S. 3307,* H.R. 13694), P.

Arms Control and Disarmament Agency, Appropriation Authorization for Fiscal 1973 and 1974 (S. 3200, H.R. 13336) Included in H.R. 14734* (State USSIA Authorization), PL 92-352.

Atomic Energy Commission:

Construction Permits and Interim Licenses (H.R. 13731) H.R. 14655,* PL 92-307.*

Appropriation Authorizations, Fiscal 1973 (S. 3103, H.R. 12826) S. 3607,* H.R. 14990), PL 92-314.*

License Fees for Power Reactors (S. 957, H.R. 5523). Included in S. 3607* (PL 92-314).

Commission on Civil Rights, Extend for 5 years; Expand Jurisdiction (S. 3121, H.R. 12652*), F.

NASA, Appropriation Authorization, Fiscal 1973 (S. 3094, H.R. 12824) H.R. 14070,* PL 92-304*.

National Science Foundation, Appropriation Authorization, Fiscal 1973 (S. 3324, H.R. 12753) H.R. 14108,* PL 92-372.*

Federal Home Loan Bank Board, Housing Institutions Modernization Act (S. 1671), SC.

Federal Power Commission:

Natural Gas Act Amendment, Information Gathering (S. 701, H.R. 3668) S. 2405, SC—HC.

Limited Deregulation of New Natural Gas Production (S. 2505, if amended, and H.R. 2513, if amended), SC—HC.

Indian Claims Commission, Extend Life (S. 2408, H.R. 10390*), PL 92-265.*

Office of Economic Opportunity:

Economic Opportunity Act Extension and Legal Services Corporation (S. 1290, H.R. 6394) S. 2007.* Pres. veto sustained.

Economic Opportunity Amendments, 1972 (H.R. 12350*). (Does not include Legal Services Corporation), PL 92-424.*

Office of Emergency Preparedness:

Defense Production Act Amendments (S. 669) S. 3715,* PL 92-325.*

Agnes Recovery Act (S. 3795, H. 15872, H.R. 15935) H.R. 15692,* PL 92-385.*

Flood Relief Funds for Private Nonprofit Educational Institutions (amendment to H.R. 15692,* agreed to), (PL 92-385).

Office of Management and Budget:

Special Action Office for Drug Abuse Prevention (S. 2097,* H.R. 9264),* PL 92-255.*

Council on International Economic Policy (S.J. Res. 139, S.J. Res. 141) S. 3726,* PL 92-412.*

Grant Consolidation Act (Title II of S. 3140 contains provisions for consolidation of Federal Assistance Programs), S—HC.

Joint Funding Simplification Act of 1971 (H.R. 6532) Title III of S. 3140 contains provisions of the bill, (S—HC).

Expenditure Limitation (S. 3977, H.R. 16090, H.R. 16205, H.R. 16304 through H.R. 16308) language of S. 3977 proposed as amendment to Public Debt Limit Increase, H.R. 16810,* SP—H.

Department of Community Development (S. 1430, H.R. 6962, H.R. 6964), SC—HP.

Department of Human Resources Act (S. 1432, H.R. 6961, H.R. 6966), SC—HC.

Department of Natural Resources Act (S. 1431, H.R. 6959, H.R. 6963), SC—HC.

Department of Economic Affairs Act (S. 1433, H.R. 6960, H.R. 6965), SC—HC.

Transfer Teacher Corps from HEW to ACTION (S. 3014, H.R. 12293), SC—HC.

Clarify President's Authority to Designate Chairman of FPC (S. 982, H.R. 6312), SC—HC.

Cost Accounting Standards Board in Executive Branch (S. 1901), SC.

Office of Science and Technology, Power Plant Siting (S. 1684, H.R. 5277, H.R. 5389) S. 1684, H.R. 11066, SC—HC.

Office of Telecommunications Policy:

Corporation for Public Broadcasting Authorization Increase and Extension for One Year (S. 2322, H.R. 13007) H.R. 13918,* vetoed by President.

Office of Telecommunications Policy Authorization of Appropriations, Fiscal 1973 (S. 3824*), PL 92-411.*

Securities and Exchange Commission, Securities Transaction Processing Act (S. 3412) S. 3876,* S—HC.

Small Business Administration:

Minority Enterprise Small Business Investment Act (MESBIC) (S. 3337,* H.R. 13805) H.R. 16732, P.

Small Business Amendments (S. 1224) implemented in part in PL 92-213. Also included in S. 1905,* S—HC.

Smithsonian Institution:

Contributions to Kennedy Center for Operating Costs (S. 2900, H.R. 9801, specific authorization, rather than Admin. supported open-end authorization) (Rental Charge/Purchase Contract) Included in S. 1736,* PL 92-313.*

Bicentennial Outdoor Museum (S. 2153, H.R. 10311, if amended), SC-HC.

Water Resources Council, Amend Water Resources Planning Act to Authorize Increased Appropriations (S. 3384, H.R. 14106*), PL 92-396.*

Bills included in legislative messages of the President, sent in draft form to appropriate congressional committees:

Federal Employee Insurance and Annuity Compensation Administration. (Civil Service Commission draft referred to Sen. Post Office and Civil Service and to H. Ed. and Labor 7/19/72).

Recreational Small Boat Harbors. (Army draft referred to Sen. Labor and Public Works 6/17/71; to H. Public Works 6/16/71).

Protection of Public Buildings. (GSA draft referred to Sen. Government Operations 1/27/71; to H. Government Operations 1/29/71).

Montreal Civil Aviation Convention, Implement. (Justice draft referred to Sen. Judiciary and H. Commerce 9/28/72).

Age Discrimination in Employment Act Amendment. (Labor draft referred to Sen. Labor & Public Welfare 7/18/72; to H. Ed. and Labor 7/19/72).

Increase Taxes for Plane Hijacking Prevention Program. (DOT draft referred to Sen. Finance 1/27/72; to H. Ways & Means 1/26/72).

Highway Revenue Act Amendments. (DOT draft referred to Sen. Finance 4/27/72; to H. Ways & Means 4/24/72).

VA Authority to Forego Making Direct Loans in Certain Cases. (VA draft referred to Sen. Veterans 2/8/72; to H. Veterans 2/7/72).

Disaster Relief Act Amendments. (OEP draft referred to Sen. Public Works 3/29/72; to H. Public Works 3/27/72).

Small Business Technology Investment Act. (SBA draft referred to Sen. and H. Banking 9/27/72).

(NOTE.—President Nixon has proposed the expansion of the Nation's wilderness system to nearly twice its present size. Of the 52 wilderness expansion proposals of the President, two have been enacted.)

It will be noted that the appropriations process did not bog down this year. Great credit in speeding up this whole process is due to the late, lamented Chairman of the Senate Appropriations Committee, Allen Ellender of Louisiana, aided by his Republican colleague Senator Milton Young of North Dakota.

As to the overall performance of Congress in recent decades, if we must be unsparing in judgment we also must be fair. Much of the criticism of Congress and the Senate is ill-informed and based on the cheap sort of comment which is sometimes uncritically accepted as "conventional wisdom".

The charge that Congress cannot effect needed legislative reforms is simply untrue. Two sweeping legislative reorganization acts have been enacted since 1946, as well as nu-

merous individual procedural reforms. The seniority system has been considerably modified to give all Senators major committee responsibilities. Floor procedures have been speeded up. Senators and staff members are required to file comprehensive reports on outside income. An Ethics and Standards Committee has been created. The requirements on reporting of campaign contributions have been made far more stringent and comprehensive.

We have commented on the great increase in Record Votes during recent years. This, in turn, is symptomatic of the huge increase in monies appropriated by Congress, and the number of people who must be included in Federal social programs. It is also the result of our attempt to legislate on matters and problems which literally have never before been of principal concern to Congress.

These trends make for great difficulties in arriving at agreement as to the legislative specific to meet the problem. They would cause indigestion to a legislature even if it were the most procedurally perfect in the world.

II. STATECRAFT

The conventional wisdom has it that President Nixon has scored great successes in the conduct of foreign policy. The conventional wisdom, for a change, is right.

Such success is the mark of a great President. In part because the constitutional responsibility for the conduct of foreign relations weighs so heavily on the President, in part because great-power foreign policy is so incredibly difficult.

As to the latter, it is quite simply a fact that the great power today, unlike a small nation, cannot rest content with maintaining its own security and freedom. Like it or not, other nations look to it for leadership, and assistance. And this we have given unstintingly, beginning in World War II.

No one can deny the fact that during the long cold war period, the United States accepted such responsibility through triumph and tragedy. We offered to help rebuild all of Europe, and in fact did so this side of the Iron Curtain; we restored Japan, our former enemy, and brought it back into the family of nations; we held fast in Berlin and shaped the NATO defenses; we encouraged the development of the European Common market; we fought to maintain the independence of South Korea, and to contain imperial communism elsewhere; we aided the new and developing nations.

Yet, in 1968, after such sacrifice of talent, lives and treasure, the whole effort seemed to be coming unstuck. We had allowed ourselves to become tunneled into one small area in Southeast Asia, and seemed unable to extricate ourselves.

Only if we recall where we were in January, 1969, and where we are today, can we realize the dimension of change wrought by the Nixon Administraton in U.S. foreign policy.

This summer and fall of 1972 there have occurred events which reflect remarkably the possibilities for more peaceful international relations. Consider these few:

For the first time since the Korean War began in 1950, official representatives from North and South Korea have visited each other's capitals to discuss diplomatic, cultural and trade exchanges.

Japanese Prime Minister Tanaka journeyed to Peking to discuss diplomatic and trade initiatives, the first such official visit since the Sino-Japanese conflict in 1931.

East European countries, such as Poland, are now seriously considering establishing formal diplomatic relations with West Germany, broken off at the beginning of World War II.

In Egypt, almost the entire huge military mission from the Soviet Union has been withdrawn. Last year a potential armored invasion by Syria of Jordan was stalled when Soviet Union advisors finally balked at crossing the border; this year the Soviet Union provided Syria with new defensive weapons, but no Soviet instructors.

Each of these events increases the chance for peace in a particular area.

All of them together increase the chance for world peace.

None of them would have been possible without the changes in U.S. foreign policy worked by the Nixon Administration.

Fundamental to the changes is the Nixon Doctrine set forth in 1969.

It pledged we would continue to honor our alliances, and maintain a sufficiency of military strength.

But it called for a reassessment of what America should do and what our friends can do. It broke with the old assumption that Americans should write all the plans and dictate all the programs for the free world.

In plain, the U.S. would no longer be the cop on every beat around the world. We would begin an era of negotiation with friend and foe, around the world.

Thereafter in steadfast, determined order, President Nixon made clear what this meant.

First, disengagement in Vietnam. In three and one-half years, over half a million U.S. ground combat troops were withdrawn. As our units pulled out, Vietnamese units took over the defense of their own country. Today some 35,000 U.S. troops remain there to be reduced to 27,000 next month; none in a combat role, none of them draftees.

When the North Vietnamese armored divisions once more invaded South Vietnam this spring, they were met, stopped, and finally defeated by South Vietnamese troops.

In order, President Nixon conferred with all of our allies, in Europe and Asia, explaining our new policies, listening to their suggestions.

Thereafter, we cut our troops strength by one-half in South Korea. We reduced our troop strength in Japan and returned Okinawa and other islands to that nation.

We encouraged and assisted in the negotiations which led to agreement both on the status of Berlin, and the Polish-German border.

We effected a true, cease-fire and standdown in the Near East, after long patient negotiations by U.S. diplomats in almost every capital in that region, in Europe and particularly in Moscow. This cease-fire has held almost 22 months; in future years it may be cited as a textbook example of great power diplomacy to keep the peace.

In direct dealings with the great powers, we gave firm support to the Nuclear Non-Proliferation Treaty negotiated by the previous administration and ratified by the Senate in 1969.

We initiated the first direct negotiations between the U.S. and the U.S.S.R. on strategic arms limitations, the SALT talks, beginning November, 1969.

In 1971 we announced two prospective summit meetings for 1972, first at Peking, then at Moscow. Before the meetings took place, President Nixon conferred with Japan and our other Asiatic allies, and with all of our European allies.

We jointly agreed with other IMF members to changes in the old international monetary and exchange rates last year; this year, we set forth our suggestions for new international monetary policies.

This year, 1972, the famous meetings at Peking and then Moscow, took place. A cautious resumption of trade and informal diplomatic relations for the first time since 1950 resulted from the first; two important first-phase agreements on strategic arms limitations hammered out in the SALT talks, were the principal fruits of the second.

A new era of negotiation between the U.S. and the Soviet Union has certainly resulted. First came the billion dollar purchase of U.S. wheat and feed grains. Then, after quiet U.S. negotiation, the Soviet Union apparently agreed to reconsider its infamous tax recently levied against Jews migrating to Israel.

But there were other fruits, as well.

For from the formulation, explanation and adherence to the Nixon Doctrine have come the other peace initiatives listed earlier.

Initiatives undertaken by and between Koreans, by and between Japan and China, by and between the two Germanys and East European nations.

If direct negotiations between Israel and Egypt still seem far off, at least the peace has been kept, and there is a far more realistic attitude on the part of the Arab nations surrounding Israel. There seems to be some indication of restraint on the part of the Soviet Union in that area. And this in turn apparently is a spin-off from Mr. Nixon's meeting in Moscow.

These are all hard facts. Meanwhile George and Sarge are in full cry, attacking the world and U.S. foreign policy as it existed in 1968. The Nixon Doctrine has produced a whole new generation of peace initiatives all over the globe. George and Sarge resolutely close their eyes, their ears, their minds to the real world of 1972.

We were the cop on every beat in 1968, but not today.

We were hopelessly entangled in war in Vietnam, but not today.

Our NATO allies were seriously questioning our future interest in European security, but not today.

The Berlin question was firing up again, but not today.

In the Near East, it was taken for granted that Egypt and her allies would reopen the war against Israel; the only question was how soon thereafter the great powers would be dragged in, thus beginning World War III; but not today.

Finally, what of the fruits for our own Nation of the Nixon Doctrine? In 1968, our military budget took up 55 percent of our total budget, or 9 percent of our total GNP. Today it is down to 40 percent of our total budget, and 7 percent of our GNP. In 1968, we had 3,408,000 men and women in our armed services, of whom 1,170,000 were overseas. Today we have a million less in uniform, and only half as many overseas. Our draft calls have dropped almost to zero; the next step is an all-volunteer army.

Senator McGovern calls "come home America." President Nixon has already done most of George's work for him on that count, without repudiating our friends and allies, or endangering our national security.

The world will never be entirely peaceful. But Richard Nixon has worked unremittingly, doggedly, courageously to open new paths for peace, both for our generation and the next.

History will salute this as a great-hearted and successful exercise in statecraft.

And stagecraft

Nineteen hundred and seventy one was a vintage year for the species Presidentialis Senatorus. Like the windborn Gypsy Moth, the wings of ambition hovered over an incredible number of Senate seats. The leadership vacuum of the Democratic Party provided an irrestible climate; soon the species was popping out even as mushrooms in a hothouse.

Some died aborning due to a lack of monetary and intellectual nourishment; some grew only to be crocked with half-digested platforms and platitudes; some almost ripened for the harvest only to have their roots cut by more skillful agronomists.

The most common trait of the would-be's was a brave insistence on directing our foreign policy from the interior lines of the Senate, generally by firing paper missiles into the outside world containing talismanic phrases, in hopes their mechanistic invocation would transmute lead into gold.

Eventually, all contestants but one were eliminated. The Democratic Presidential Candidate has now had three months to stand alone on center stage, with no one else to blame or praise but himself.

In terms of a sense of prudent responsibility toward the conduct of foreign policy, the contrast between the Democratic candidate in 1972 and the Republican candidate of 1968 is startling, indeed. The 1972 Democratic candidate in his wisdom has seen fit to allow "emissaries" to flit about the world, e.g., Ramsey in Hanoi, Pierre in Paris, in attempts to deal with North Vietnamese officials in both capitals.

This, during a period when American officials appointed by the Chief Executive under his constitutional powers are engaged in direct negotiations with the North Vietnamese delegation to bring about a ceasefire.

The casual and contradictory statements from the shadowy McGovern diplomatic corps have caused confusion, hurt our position, and further delayed the chance for an early peace in South Vietnam.

Such crude manipulation of the Vietnam issue is in sharp contrast to the 1968 campaign of Richard Nixon.

In the fall of 1968 the Vietnam war offered a far more tempting target for the party out of power, than in 1972. By that year we had become involved in 80 percent of the ground combat. Troop levels had risen from zero combat forces and 650 advisors under President Eisenhower, to over half a million fighting men. Combat deaths in 1968 alone totaled 14,000 (almost as many in one year as the total for the years 1969–72). Hundreds of thousands of young men were being drafted each year to fill the ranks in Vietnam. The agreement to enter into ceasefire negotiations was not achieved until the 1968 Presidential campaign was in its last week.

There was enough frustration and dissatisfaction with the war to cause a President of the United States to retire, although I am sure he could have been renominated.

To repeat, this was a situation ripe for exploitation by the party out of power. Mr. Nixon refused saying he would do nothing to interfere with negotiations, that there could be but one President of the United States at one time who alone had the constitutional authority to direct our foreign policy.

Mr. Nixon's position in 1968 was not remarkable—rather it was a restatement of a norm of responsibility which had prevailed in previous elections during wartime regardless of party.

But Mr. McGovern's antics in 1972 make Mr. Nixon seem like St. Richard arrayed against George the juvenile dragon. It hardly improves the image of American politics if one of the major party candidates can't remember whether or not he "appointed" an off-shore security dealer in Paris to negotiate offhand with the North Vietnamese delegation on the matter of war or peace, and the treatment of U.S. prisoners of war in Hanoi.

Mr. McGovern has also contributed to the language of American diplomacy by expressing a desire to "crawl to Hanoi."

This week he abandoned such splendid rhetoric, and volunteered his final runningmate to make the trip to Hanoi. Mercifully, his envoy will be allowed to walk upright. It is not known whether his entourage will include Jane Fonda and Abby Hoffman.

Senator McGovern of late bestowed his own special brand of "forgiveness" on former President Johnson, his favorite punching bag during the fight for the Democratic nomination. He has discovered that the war was not Mr. Johnson's fault, rather it was an inheritance from the Kennedy Administration. This sent shock waves through the in-laws.

What Mr. Nixon has done with his inheritance is another matter, of course.

Mr. Nixon took the world as it was in 1969—with its fevers and hatreds—its immeasurable hopes and dreams—and set about the enterprise of peacekeeping.

After three and one-half years of patient, tenacious work in terms of peaceful improvement the results are in full view all around our world.

Mr. McGovern is blind to them all. He chooses to zero in only on Vietnam, and there to deliberately misread the record of U.S. disengagement, of Nixon peace terms, of Hanoi's intentions.

We are not, as he claims, supporting South Vietnamese forces to keep the Thieu Government in power. In fact, President Thieu has agreed to step down before elections are held in South Vietnam. George ignores as well the fact that the Vietnamization policy had succeeded to the point where by March 1972, the fighting in South Vietnam had almost ceased. It was only a direct, brutal invasion of South Vietnam by North Vietnamese armored divisions which caused the fighting to resume. The South Vietnamese troops have borne the entire brunt of the ground combat, have stopped their enemies and finally retaken most of the areas of their country so savagely overrun by the North Vietnamese divisions.

No foreign troops have been on North Vietnamese soil since the French in 1954. The peace terms offered by U.S. and South Vietnamese representatives in Paris would affect not one hectare of North Vietnam territory; the elections would take place only in South Vietnam; the North Vietnam regime would not be required to indulge in those democratic processes they scorn.

What is apparent and clear, certainly to the American voter, is that Senator McGovern to the contrary, the North Vietnamese regime is the source of continued combat in that tragic peninsula. Of the four countries only North Vietnam has invaded the other three and never in turn been invaded by the other three.

One gains a more disturbing insight into its ideological intransigence by recalling that but three weeks ago Hanoi publicly congratulated the Arab terrorists for murdering 11 Israeli Olympic team members in Munich.

All this is at best misunderstood, at worst ignored or forgiven.

Thus, out of contact with the real world, the Democratic Presidential candidate in his elocutions on foreign affairs prefers panache over policy, stagecraft over statecraft.

MINORITY LEADER'S REPORT

III. THE ECONOMY

About half a millennium ago, in Canton, China, an inspired artisan introduced the carving of concentric spheres from a single piece of ivory. Today, when a Westerner first sees one of these, he is most likely to ask, "How did they get the little spheres inside each other?"

And the answer that an Asian man or woman might give is, "The little spheres were always inside the larger ones, but it took the skill and vision of a master artist to set them free."

It would follow that if the potential for growth and economic stability has always existed within the framework of the American economy, then with infinite patience, consummate skill, and excruciating courage, it has been set free by the economic policies of this Administration.

A year ago last August, President Nixon confounded his critics, jolted the country, and gave the Gnomes of Zurich indigestion by announcing his New Economic Policy.

First, prices and wages were to be frozen in order to halt the inflationary spiral.

Second, certain taxes were to be delayed or reduced in order to stimulate industry and create new jobs.

Third, the United States dollar was to be cut loose from the gold standard internationally, so as to force a realignment of world currencies along lines considered more equitable to the United States.

Charge of the lightweight brigade

Yet if one has the misfortune to find himself unavoidably listening to the election year rhetoric of Mr. Nixon's critics, one gets the distinct impression that inflation is worse than ever, unemployment as intolerable as ever, and that the entire approach of the President to economic problems has been a bad show all around.

What does the record reveal?

It shows that the rate of inflation has dropped steadily downhill from 5.9 percent in 1970, to 4.3 percent in 1971, and to 2.9 percent in the year ending August, 1972.

Price controls

The record also shows that the inflationary spiral began to slow down before wage and price controls went into effect, and that prices have been held in check since the freeze. In fact, had it not been for the prices of certain farm products—which are not controlled—the average of all prices would have risen even less since the beginning of Phase II.

And, as has been widely noted in recent months, the United States has fared far, far better than other industrialized nations during the past two years of worldwide price inflation.

In the year ending May, 1972, inflation was running at a rate of over 4 percent in Canada, almost 5 percent in Italy, over 5 percent in Japan, 6 percent in Great Britain, over 6 percent in Switzerland, almost 7 percent in Norway, almost 8 percent in the Netherlands, and about 12 percent in Spain.

Compared to the rest of the world, the President's success in halting inflation brought on by the Credit-Card Sixties appears an act of sheer wizardry. And the critics? Rachmaninoff once told a story of playing, when very young, a Beethoven sonata with several long rests in it. During one of them, a motherly lady leaned forward, patted him on the shoulder, and said; "Play us something you know, dear."

Wage increases

Workers are far better off today than yesterday. While the cost of living increased 4.3 percent in 1971, average weekly wages increased 6.2 percent. And through July of 1972, average weekly wages had increased 4.1 percent faster than cost-of-living increases. In short, wage increases which formerly lagged behind the rate of inflation are now well above cost-of-living increases, yet still within the 5 percent range sought by Phase II of the New Economic Policy.

Industry and employment

As for business, it is doing remarkably well considering we are attempting to engineer a massive shift of our trillion-dollar economy from a war-time basis to a peace-time basis. Gross National Product showed a remarkable increase of about 9 percent in the second quarter of 1972, and employment is increasing.

Employment has reached an all time high of 86.8 million men and women at work in the civilian labor force. Unemployment, which stood at 6.1 percent in August of 1971, was down to 5.6 percent in August of 1972. All this was accomplished while 500,000 soldiers were being brought home from Vietnam to join the civilian labor force.

In the past year, the Administration has created more than 2.5 million new jobs, and those jobs are not in war plants. They are not in the defense industries. They are not making bombs, or bullets, or tanks or guns. Those are peace-time jobs, and the wages paid are at an all-time, record high.

Food prices

The ability of the average worker to pay for food has risen far more in the last year than has the cost of food. Specifically, food prices rose 3.7 percent in the 12 months that

ended in July, 1972, whereas average weekly after-tax checks rose 7.2 percent. There is no doubt that workers in America are sharing profits of business far more than ever before and that, as economic recovery is attained, they will participate to an even greater degree as the wage freeze is removed. The basic point is that the American economic system is strong, and the unemployment problem is slowly being solved. The Conference Board reported on August 31, 1972, that its Help Wanted Advertising Index for July rose sharply to 103 percent from the June level of 96 percent of the 1967 average, seasonally adjusted.

Married men

The 2.6 percent unemployment rate in August for married men means most family breadwinners have a job. True, unemployment has not been slowing down as rapidly as desired because the labor force has been growing even more rapidly, fed by a surge of women and teenagers starting to look for work.

It has been said the voter knows full well who has just taken a new job and which relative is looking for work. His economic judgments are likely to be far more sensitive to such subtleties than is the gross unemployment rate.

Real spendable earnings

In terms of real progress against inflation, spendable income of a typical worker, after inflation and taxes, did not change much from the beginning of 1964 through the end of 1970. It hovered around $90 a week—in 1970—for a worker with three dependents. As the inflationary spiral was broken in 1971 and 1972, this figure now stands at nearly $96. And this little noticed number is probably the one that most nearly measures whether or not there is some money left over at the end of the week.

International payments and trade

In its quarterly review of the world economy, Britain's National Institute of Economic and Social Research last month predicted that world economic growth, led by the United States and Japan, will continue expanding in 1973 with major industrial nations matching U.S. success in curbing price inflation.

The Institute predicted that world trade will increase by about 9 percent in volume both this year and next, while total output in the industrial countries should increase by 5 to 5½ percent in 1972, and by even more in 1973.

Yet in what the late Professor Sumner Slichter of the Harvard economics faculty used to call a laboristic economy, stress continues to be on consumption as against investment. Although other factors enter in, the result is suggested in comparative figures on capital formation among the members of the Organization for Economic Cooperation and Development. Thus capital formation in Great Britain, where organized pressures for wage increases are strong, was 17.3 percent of Gross National Product in 1969. The figure for the United States was 16.7. But in Japan, where such pressures are milder and strikes are far less common, capital formation was 35.2 percent.

All of this affects the ability of a nation to compete on the world market.

Exchange rates

As the London *Economist* noted on the U.S. decision to loosen Japan's and Europe's monetary link with the dollar, "though no European or Japanese politician will admit it, the economic shock therapy which the United States chose to administer to itself and to its friends last August, has probably been the most useful, if brutal, way of waking up a world that was comatose. If the Americans made a mistake it was to ease up on the treatment in the Smithsonian agreement in December, when the moment presented itself to cure the patient for good."

The opportunities are seldom repeated. George III's coronation was a series of blunders, but the earl marshal in charge of it said to the King, "It's true, Sire, that there have been some mishaps, but I have seen to it the next coronation will be carried off with the greatest precision."

A trade surplus needed?

When all is said and done, the debate over whether or not America needs a trade surplus is perhaps the most pressing question of moment. One side says that to finance American commitments abroad, the need for a trade surplus is questionable since American investments are now returning profits at an annual rate of nearly $8 billion a year. This argument says if we can achieve a trade balance of zero, with exports equal to imports, it is quite reasonable to hope that this flow of profits can balance military costs and the outward movement of public and private capital.

The other side says that U.S. net payments for travel, transportation and miscellaneous service ($1.5 billion), and remittances, pensions and other transfers ($1.5 billion), take away $3 billion of the nearly $8 billion of net investment income, even before subtracting military transactions, U.S. Government grants and credit, and normal private capital flows. Military expenditures less transfers under military sales contracts are about $3 billion, and U.S. Government grants, excluding military, are about $2 billion, and U.S. Government loans and credits, excluding prepayments by Europe and Japan, are $2.1 billion, total net payments by the Government for military costs and foreign aid are about $7 billion. Thus our net investment income in 1971, for instance, was $2 billion short of covering U.S. payments, before allowing for any net private capital flow. Allowing for foreign investment in this country, the net outflow of U.S. private capital would probably be on the order of $4 billion a year, unless we impose stricter controls on capital outflow.

The debate has not been settled, and on it will hinge the U.S. role in world trade extending far into the next decade.

Congress and the budget

Meanwhile, bills in each House of Congress have added nearly $12 billion to the deficit in the President's budget, and $9.5 billion of these have been enacted this session. Many of these legislative actions require the President to request additional appropriations.

For example, the bill providing additional benefits for coal miners with black lung disease required the President to send up an appropriation request for nearly $1 billion.

Congress also raised social security benefits by more than $2 billion this year over the social security budget proposals of the President. That increase does not affect any appropriation bill. Nevertheless, the increase must be included in the President's budget in all future years.

Next year, the 1972 social security increase will add $6 billion to 1974 spending over the level contemplated by the President. Thus, it is simply not true that Congress has been cutting spending.

When all actions are taken into account, the increases in spending—not appropriations, and not authority to spend, but the spending *increases* forced in the last four years—total more than $13 billion. And most of it is taking place in the current fiscal year.

Actions of this Congress have already added more than $9 billion to the 1973 deficit estimated by the President last January. And Congress is considering further social security, Medicare and adult assistance liberalizations for which the Senate Finance Committee proposals would add almost $9 billion annually.

Thus, the President's proposed spending ceiling is absolutely essential to the Nation's economic well being.

CONCLUSION

If there is one certain thing in this life, it is that every part of our world is related to every other part. Nothing can be touched in the infinitely complex fabric of civilization without there being an effect on some other portion of it.

The economy, our foreign relations, legislation here at home—all are inextricably interwined. It is a mistake to suppose that free nations are removed from freer trade, and the two from a free economy.

If this Republican Administration be known for one thing, let it be for the avenues of peaceful competition and free communication it has reopened throughout our splendidly imperfect world as we move to a goal never before achieved in our time: full employment in a nation of peace.

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

Mr. SCOTT. I yield.

Mr. ALLEN. Does the distinguished Republican leader feel that the absence of his colleagues this morning might possibly be due to the fact that they feared that the distinguished Republican leader might read the full report this morning?

Mr. SCOTT. I try to keep my carrots as secret as possible, in accordance with our commitment here of the right to know. As far as I know, I have been reasonably stealthy, but perhaps, as always, word leaks out.

Mr. President, I ask unanimous consent that my report may be printed as a Senate document.

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the order previously entered, the Senator from Alabama (Mr. ALLEN) will be recognized for not to exceed 10 minutes.

RETIREMENT OF SENATOR B. EVERETT JORDAN OF NORTH CAROLINA

Mr. ALLEN. Mr. President, as we all know, words are at times inadequate to express a deeply felt reaction to events which involve family, friends, and close associates. In fact, I am still searching for words by which to convey my feeling of loss occasioned by the knowledge that the distinguished junior Senator from North Carolina, B. EVERETT JORDAN, will conclude nearly 15 years of distinguished service to his State and Nation as a U.S. Senator at the conclusion of this session of Congress.

Mr. President, my feeling of loss springs from considerations that lie deeper than personal friendship and high esteem. In truth, EVERETT JORDAN has always been to me something more than the kind, gracious, and considerate colleague whom we all know and so greatly admire. It was my great privilege and pleasure to have served as a member on the Senate Committee on Rules under his chairmanship. It was he who took

me under his wing, so to speak, when I first assumed office and shared with me his keen and appreciative insights into the workings and traditions of the U.S. Senate.

Needless to say, I revere the Senate as an institution. I have often pondered the near magical function of the Senate as a catalyst which absorbs diverse views and disparate talents of its separate Members and gently enfold them into a body of tradition which binds and enriches and transcends its individual Members and inspires each to greater efforts in pursuit of the public interest.

I have always appreciated EVERETT JORDAN as an important element in that catalyst. He came to the Senate in 1958 with a background of service in World War I; with the invaluable experience of one who had attained a successful career in business; with a distinguished political background—incorporating service as a member of the North Carolina Democratic Executive Committee and as Democratic national committeeman; and perhaps most significantly with a background of responsible leadership in numerous civic and benevolent organizations and enterprises. In addition, he knew the people of his State and faithfully represented their interests and highest aspirations with fidelity and great ability.

As a result of my close association with Senator JORDAN, I came to cherish his friendship, respect his sound judgments, and to admire his integrity and profound sense of duty and dedication to the public interest and his ability—and I think this is most significant in his make-up—to cut through the redtape and high-sounding phrases to get to the real issue involved, to which he would always apply a commonsense, down-to-earth approach.

Mr. President, Senator JORDAN has one of the most wonderful senses of humor of any man it has been my pleasure to know, and he has used that sense of humor in the discharge of his duties as a U.S. Senator and in the public interest. How often have Senators observed him smooth ruffled feelings with a well placed story? How often have we seen him make a point or settle an issue with a bit of down-to-earth humor, concerning which he is such an expert?

He has represented the people of North Carolina with great distinction. He has represented the national interest with honor and dignity. He has reflected credit upon the people of North Carolina, upon the Senate, and upon the Nation. As a result, Mr. President, Senator JORDAN became to me and remains a personification—a symbol, if you will—of the finest attributes of the U.S. Senate as an institution.

I shall eternally be grateful for his sympathetic and understanding guidance and tutelage. The Senate will miss the valuable contribution of his sound counsel and judgments in matters vitally affecting the best interest and welfare of our Nation. His State and our Nation are losing the services in the Senate of a great and good public servant. I am losing a valued counselor and cherished friend.

My wife and I extend to him and to his lovely wife, Kathrine, our warm best wishes for a long and happy life in pursuit of their heart's desire. I hope that that desire will lead them to visit us often and to share with us their observations and judgments on matters of great moment.

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

Mr. ALLEN. I am delighted to yield to the majority leader.

Mr. MANSFIELD. Mr. President, I wish to join the distinguished Senator from Alabama in his most gracious remarks about the Senator from North Carolina (Mr. JORDAN). I have had the opportunity to serve with him during all of his years in the Senate. I have served with him on various committees. I have found him to be a man of understanding and character and a man who was willing to listen to the other man's point of view; a man who conducted himself with dignity, integrity, and dedication.

He has been a true representative of the people of his State. He is a valued Member of this body, and it is with deep personal regret that I note the passing from this scene at the end of this session of this outstanding Senator, who has contributed so much to his State, his region, and the Nation as a whole.

Mr. ALLEN. I thank the distinguished majority leader.

The ACTING PRESIDENT pro tempore. Under the order previously entered, the Senator from New York (Mr. JAVITS) is to be recognized at this time.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from Maryland (Mr. BEALL) be recognized instead of Mr. JAVITS at this time.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Maryland will be recognized under the previous order for not to exceed 10 minutes, and without prejudice to the Senator from New York, who was to have been recognized at this time.

THE McGOVERN RECORD ON REVENUE SHARING

Mr. BEALL. Mr. President, for what seems like years Senator McGOVERN has stormed across the country pouring forth all manner of noxious statements about the President, about the President's handling of his office, and about America itself. We have heard the country indicted for every conceivable sin—and for some which stretch the imagination beyond recognition.

Everyone knows there is a great deal of difference between the President and GEORGE McGOVERN on the great issues that face America—and many are beginning to realize that there is a greater difference still between their views on the nature of this land. But today, I do not wish to speak merely about differences on issues. Instead, I want to speak about character and about how the characters of these two men differed in their approaches to the recently passed legislation on general revenue sharing.

I share the President's sentiments on this piece of legislation, which he first introduced nearly 3 years ago. He conceived revenue sharing as a pillar of what he called a "New American Revolution" intended to make Government more responsive to the needs of the people and better able to meet those needs. For 3 long years, the President labored to win passage of general revenue sharing—and he labors still to win support for his special revenue sharing proposals to improve government's ability to respond successfully to the people's needs in the crucial areas of law enforcement, urban development, rural development, manpower training.

I do not claim that GEORGE McGOVERN does not care about these issues—and I do not fault his character that he has not chosen to help the President in producing this legislation. Certainly GEORGE McGOVERN cares about these things—if his words can be any true guide. Indeed, he has traveled far and wide about the country haranguing the President for not having done enough in these areas.

On several occasions, he has stooped to the vilest of rhetoric to get across the point that he cares and that, in his tale of woe, President Nixon does not care about helping our cities and our States to survive the financial crunch they are now experiencing.

I promised that I would speak today about the character of the two men and it is there that I find GEORGE McGOVERN is lacking.

In a speech before the New York Society of Security Analysts, last August 29, Senator McGOVERN urged that:

> If we make the right choice, we can fulfill an agenda that includes revenue sharing with our cities and States.

Yet judging from the Senator's voting participation record, the only thing that any reasonable man could decide to the "right choice" would be a vote for President Nixon. In his performance as a member of the United States Senate, charged with making the laws of this Nation, GEORGE McGOVERN has proven himself to be no ally of the cities and the States in their fight against bankruptcy and in their struggles to meet the needs of their citizens. In fact, he has shown no real interest in addressing the needs of our cities and States save in his inflated rhetoric of promises betwixt and between every conceivable group of voters here and abroad. When it was his vote and not his voice which was important, he just was not there.

Let me illustrate my point with reference to revenue sharing, although nearly any topic would do as well because in the first 9½ months of 1972 his record of participation in Senate roll calls has been a paltry and pitiful 29 percent.

During September of this year, when there were 19 roll call votes directly relating to general revenue sharing, the month during which the Senate finally passed its bill, GEORGE McGOVERN missed all 19 votes. Every single one. And only on two of the votes about this issue of vital concern to States and localities did he even bother to announce a position.

The Senate on September 26th of this year finally passed a revised version of the legislation the President had proposed so long ago. That bill embodied a 5-year program to share nearly $30 bil-

lion in Federal revenues with State and local governments throughout the land and it also contained an appropriation of $1 billion a year for 4 years for supplementary social service grants. How did GEORGE MCGOVERN vote on this key issue he claimed was so close to his heart? The answer is simple—he did not.

With particular reference to the needs of the cities, GEORGE MCGOVERN in a news conference in New York City on September 28 of this year called the presidential election of 1972 "a referendum on the future of our cities." He went on to say:

The sharpest differences between myself and my opponent Mr. Nixon, are the differences which directly affect our cities.

For once he was right, but not in the way he implied. President Nixon has fought long, hard, and successfully to improve the lot of the cities in many ways, one of which is through general revenue sharing. But GEORGE MCGOVERN has not even bothered to take part in critical votes on the President's proposals.

In the Senate on September 6, just about 3 weeks before the Senator's news conference, an amendment was proposed revising general revenue sharing to give a greater share of Federal revenues to populous, highly urbanized States. How did Senator MCGOVERN vote with the fire of conviction in his heart that the cities were being cheated? Well, the flame went out—because GEORGE MCGOVERN did not vote. In fact, he did not even announce a position on the amendment.

Time and again, with reference to revenue sharing the Senator has abdicated his responsibilities as a Senator. Yet time and again he has gone from one end of America to another accusing President Nixon of not caring about the needs of the people. The President's record is clear and even considering general revenue sharing alone it is a record to be proud of, a record of helping State and local government to meet the people's needs. Senator MCGOVERN's record is equally clear. And it is an ignoble record of hypocrisy. It is significant not just for what it says about the depth of Senator MCGOVERN's commitment to making government more responsive to the people themselves, his commitment to helping the States and cities to survive, and his commitment to the voters of South Dakota who elected him. It is perhaps more important for what it tells us all about the Senator's character.

Perhaps the single most essential quality that a President must have, without which all other qualities are useless, are experience and the ability to lead. There was a time when no man dared even to aspire to the Nation's highest post if he were lacking in experienced leadership. But this year is a strange one for American politics—and even for the Democratic Party—because a man utterly devoid of these qualities presumes to run for the Presidency itself—a man who charges President Nixon with the basest of sins and who rolls about the country indicting America as well, yet a man who, when the time to be counted came, ignored the duties to which he was elected as a U.S. Senator and ignored the great problems of our time.

I do not claim that GEORGE MCGOVERN had any responsibility to support the measures which the President has proposed to meet these problems. I only claim that he certainly had some responsibility to be present and to vote "yea" or "nay." He did neither in case after case. He tarried not in his pursuit of ambition—not even to deal concretely with the issues about which he claims to be so concerned. As a Member of this body, I am amazed at his pretension, but as an American citizen I am horrified that a man elected to do the people's business should self-righteously accuse so many others of not meeting their elected responsibilities and in the vilest of terms, yet fulfill so little of his own responsibility. At best this is unethical; at worst, demagogic.

NATIONAL COMMISSION ON THE FINANCING OF POSTSECONDARY EDUCATION

Mr. BEALL. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 16883.

The Presiding Officer laid before the Senate H.R. 16883, relating to compensation of members of the National Commission on the Financing of Postsecondary Education, which was read twice by its title.

Mr. BEALL. Mr. President, I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BEALL. Mr. President, under the recently passed Higher Education Amendments of 1972, a commission to study the financing of postsecondary education was created; and this bill, which was passed by the House, provides for the compensation of the members of that commission.

I urge that the bill be passed.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 16883) was ordered to a third reading, read the third time, and passed.

ORDER OF BUSINESS

The PRESIDING OFFICER. At this time, in accordance with the previous order, the Chair recognizes the distinguished senior Senator from New York (Mr. JAVITS), for not to exceed 10 minutes.

Mr. JAVITS. Mr. President, I ask the Chair to give me notice when I have consumed 8 minutes.

The PRESIDING OFFICER. The Chair will do so.

(The remarks that Mr. JAVITS made at this point when he introduced S. 4110 are printed in the routine morning business section of the RECORD under Statements on Introduced Bills and Joint Resolutions.)

Mr. JACKSON. Mr. President, I ask unanimous consent that Jerry T. Verkler, William Van Ness, Jr., and Denny Miller of my staff be permitted the privileges of the floor today.

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

Mr. SCOTT. Mr. President, I want to take this occasion to note that in my 14 years' service in the Senate, and in my previous associations in the other body with the distinguished senior Senator from New York (Mr. JAVITS), I have been—as we all have—immensely impressed with his diligence, his faithfulness to the best interests of his constituents, his courage, his candor, and his unhesitating willingness and determination to defend those causes in which he believes.

We are all very proud that he is so much and so importantly a leader of thought in this body.

Mr. JAVITS. Mr. President, I thank my colleague from Pennsylvania for that very kind and gracious statement. I am very grateful.

Mr. President, I yield the floor.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. ALLEN). At this time, the Chair, without prejudice to the distinguished Senator from Connecticut (Mr. WEICKER), and under the previous order, now recognizes the distinguished Republican leader for not to exceed 10 minutes.

LAMENT FOR THE STRUTHIONINE

Mr. SCOTT. Mr. President, now that we are at the point, we believe, of what may be the last day of this session, I want to speak not so much of what we have done as to grieve a little bit over the fact that there were some who, for reasons of their own, were not here to help us and who did not furnish to us the kind of assistance we would have welcomed.

If time permits, I will discuss the "no-fault" foreign policy of the candidate of the opposition—no-fault, that is, to the enemy. But before doing so, I should like to point out that today's paper discusses what we did yesterday. We sent the largest defense appropriation bill since World War II to the White House. We also sent funds for the Departments of Justice and Commerce to the White House.

But the candidate of the opposition, who speaks so often of the need for doing something about our defense establishment—lo, he was not here.

The conferees appear to have found a solution to the problems of labor, health, and welfare. But the candidate of the opposition, who speaks so movingly on television of his interest in the poor, the underprivileged, the lame and the halt, was unrecorded not only in this step in the proceedings but also on the preceding steps—for lo, he was not here.

Yesterday, the foreign aid bill appears to have ended in an inextricable morass where, it seems to me, we had more

asinine reasons for not doing it than generally accumulate. But we did not have the help of the candidate of the opposition in solving this difficult and complex problem—for lo, he was not here.

Yesterday, too, we sent to the White House the GI education bill, increasing substantially benefits for single and married veterans and for those with one child or an additional child, including provisions for living expenses and tuition costs. On television, we see the candidate of the opposition promising to achieve for the veterans not only these benefits but in fact other benefits that we have already enacted, in a sort of ex post facto campaign appeal. But, when we provided these further benefits to the veterans yesterday and sent them on to the White House, the candidate of the opposition did not participate in helping the veterans—for lo, he was not here.

Then we had other veterans bills sent to the White House, to authorize the construction of eight new medical schools in connection with Veterans' Administration hospitals and to expand the health benefits of veterans. Need I add, Mr. President, that lo, he was not here.

We are in the area of final congressional approval of bills to forbid the official dumping of radiological, chemical, or biological warfare agents or radioactive wastes as well as other measures involving the Environmental Protection Agency. We see by way of television commercials that the candidate of the opposition loves the good earth, but when we acted upon a matter pertaining to the cleanliness of the waters of the sea, the lakes, and the rivers—lo, he was not here.

Then when we had a bill forbidding local governments from putting head taxes on passengers at terminals, and the product safety bill is about to go to the White House, I must add again that—lo, he was not here.

We are trying to do something about antinoise pollution. I diverge again a minute to say that this could also apply to campaigning. But the candidate for the opposition was not only not here to help us with the reduction of noise at airports, but he was out adding to the noise and polluting the environment.

How ridiculous and unsupported were his charges and his moral outrage at unsupported charges of moral corruption and prejudging alleged corruption without being able to support it. And—lo, the candidate was in far-off Seattle while we labored and functioned and accomplished through a good part of the night.

Then, the candidate made a speech on foreign policy which ought to have been called Why I Am An Isolationist. It could have been better delivered from under a bed than just off the Senate Chamber—which, by the way, he never deigned to enter.

But, in spite of the muffled form in the blankets and counterpanes which the candidate has wrapped around himself, there emerges a general, "Let us surrender everything note" in this speech.

Not content with the demands of Hanoi, the candidate went further than Hanoi. This is a kind of one-upmanship that I have not previously seen exercised on an enemy or an adversary. But the candidate for the opposition also proposed the ultimate indignity. Not only would we walk out of a war where we are bringing our participation to an end, and leave our ally to defend himself, but we would also even remove the rifles, the ammunition, the materials, and the planes which this Congress has appropriated money for, and which the taxpayers have paid for. He would remove them and bring them back home. And since it would cost more to bring them back, he could dump them in the sea and save money. He would remove them from the South Vietnamese and leave the South Vietnamese helpless and at the mercy of a raging enemy with no barrier between them and the south.

He should have inscribed this documen on white silk and sent it north, where it would have been better received by those people who are holding our prisoners of war, who as a condition for their betterment, are urged to advance the candidate for the opposition party to the presidency.

I do not charge that the candidate had anything to do with that situation. However, it is a picture with which we are left. And—lo, the candidate's mind is not where the candidate should be, that is, close to the facts.

Oh, we grieve and we suffer not so much for the absence of our colleague, because indeed we can function without him. We have functioned without him for something like 78 percent of the time this year. But we grieve for his absence because of the mischief he is up to. And one does grieve when one sees mischief on the loose, uncontrolled. For heavens' sake, one does not know what he will be doing on Halloween, conjuring up ghosts and goblins in the minds of people, and adjuring his adorers to fear that which is nonexistent.

He actually is a shadow figure moving in front of a paper screen on a platform of air and supported merely by the flatulence of his own nonconviction.

Oh, we do grieve for that kind of campaign. And we do suffer with our friend. And we will welcome him back as the Senator from South Dakota for a brief time thereafter. We will again instruct him in the ways of this body. We will show him how to come in and how to go out. We will show him how to answer the rollcall. We will indicate to him where he will find rest and succor. And we will cushion his return to harsh reality. Oh, Mr. President—lo, he is not here. But we will forgive him. And we will welcome him back into the bosom of this ever-loving body of his comrades.

So, GEORGE, next year come home. Come home. You will not be met with averted eyes, you will not be met with downcast countenances, O knight of the woeful countenance, you will be met as one who has erred and strayed from the path of rationality. But who in this body has not in a sense done things at the risk of error? We can only forgive the accumulation of errors in such degree and quality as to establish a new record, even for this body.

And so we assure you of a welcome home. We are glad you sought the affray.

Mr. President, I close now with this warm and friendly extension of my good will. It will be good, GEORGE, to see you end this campaign—good for you, good for the country, and who knows, but it may add one more vote in the Senate.

RESCISSION OF ORDER RECOGNIZING SENATOR WEICKER

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order which had been granted to the distinguished Senator from Connecticut (Mr. WEICKER) be vacated.

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

PRIVILEGE OF THE FLOOR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, on behalf of the distinguished Senator from Wisconsin (Mr. NELSON), that Richard Fay be allowed the privilege of the floor during the day, except for rollcall votes.

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

FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate at this time turn to the consideration of Calendar No. 1165 (H.R. 12807).

The clerk will report the measure.

Mr. CHILES. Mr. President, I object.

Mr. MANSFIELD. Mr. President, I move at this time that the Senate turn to the consideration of Calendar No. 1165 (H.R. 12807).

The PRESIDING OFFICER. The clerk will report the measure.

The legislative clerk read as follows:

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.

The PRESIDING OFFICER. The question is on agreeing to the motion of the majority leader that the Senate proceed to the consideration of calendar order No. 1165 (H.R. 12807). Putting the question.

All in favor of the motion say "aye"; opposed, "no."

Mr. CHILES. No.

The PRESIDING OFFICER. It appears to the Chair that the ayes have it. The ayes have it and the motion is agreed to.

The Senate proceeded to consider the bill.

Mr. McCLELLAN. Mr. President, 5 years ago the Comptroller General cast doubt on the legality of methods used to select architects and engineers for Federal Government contracts.

Since then, Congress has tried to clarify these procedures by legislation. In the 91st Congress, the House held hearings and passed such a measure only to have it blocked in the Senate (H.R. 16443). In this Congress, the House again

held hearings and has passed legislation to alleviate the problem—H.R. 12807—and I am hopeful the Senate will settle the issue by acting on this bill today.

H.R. 12807 is similar to S. 3156—a measure which I introduced on February 9, 1972, and which Senators PERCY, BROCK, and GURNEY are cosponsoring. Last Congress, the Committee on Government Operations voted unanimously to report H.R. 16443 to the Senate. This year there were only two dissenting committee votes on H.R. 12807.

This bill would merely cast the traditional system of selecting architects and engineers—which has been used more than 30 years—into statutory form. It would continue the present Federal policy of negotiating contracts for A/E services on the basis of demonstrated competence and qualifications for the type of professional service required and, at a fair and reasonable price to the Government.

Under H.R. 12807, architectural and engineering firms would be encouraged to submit an annual statement of qualifications and any performance data which they deem pertinent to the procuring agency. These firms would then be ranked for each proposed project on the basis of their qualifications and experience to perform the required services. Thereafter, fee negotiations would be undertaken with the firm believed to be the most qualified. After careful evaluation of that firm's cost needs, its proposal would either be selected or rejected. Should the most qualified architect or engineer fail or refuse to accept a contract offer, negotiations would then begin with the second ranked firm. This process would be repeated until a contract is consummated.

Architects and engineers realize that regardless of how they might be ranked, failure to agree to a fee that is fair and reasonable to the Government would deprive them of the opportunity to obtain the contract in question. A so-called fair and reasonable fee, would take into account the estimated value of the service to be rendered and the scope, complexity and professional nature of this service.

H.R. 12807 contains two provisions which would raise and strengthen the level of architect-engineer competition for Federal contracts. First, there must be public announcements of all requirements for architect-engineer services; and second, discussions must be held with at least three firms. These requirements will be of particular help to smaller firms and younger professionals in the field, while also enhancing the overall degree of competitiveness for these Government contracts.

Mr. President, H.R. 12807 is designed to avoid pitfalls which accompany other selection methods—such as bidding—where fees sometimes take precedence over quality. In my opinion, the auctioning off of architect and engineer services on the lowest fee basis only paves the way for the lowest quality performance. Failure to make quality of workmanship the basic selection factor could result in higher construction costs, functionally inferior structures and maintenance problems that could plague the Federal Government for years to come. The selection of architects and engineers should be based on ability, not cut-throat bidding, or some other nonquality procurement system.

H.R. 12807 fully recognizes this fundamental fact by insuring that architect-engineer fees will come into play only after an individual or firm has been selected and ranked on the basis of his qualifications. By so doing, H.R. 12807 provides the Federal Government and our taxpayers with the most competent professional for the job and at a reasonable price.

Mr. President, one further matter relating to this legislation should be mentioned.

In 1969, Congress created the Commission on Government Procurement to study all Federal procurement policies and practices—including those concerning the selection of architects and engineers. Since the Commission is required to report its findings to Congress by December 31, 1972, the question has been raised about floor consideration of H.R. 12807 before the committee has received and studied this report.

I do not believe that any further delay is justified. Were H.R. 12807 to discontinue or alter present policies or practices, there might be some justification for postponing action on this bill until after congressional review of Procurement Commission recommendations. But H.R. 12807 makes no revisions or changes in the way architect-engineer procurement matters are being handled. It would not change or alter the procedures which have been utilized so effectively for more than three decades. Should the Procurement Commission recommend changes in current procedures, we can move to amend the law if Congress is so persuaded.

Meanwhile, however, the uncertainties created by the Comptroller General's 1967 opinion should be eliminated now. Further delays will do a great injustice, not only to those who provide such services, but also the Federal Government who uses these services.

Mr. President, the selection process embodied in H.R. 12807 is similar to that used in the case of attorneys. It is fair, reasonable and professional. I believe that the architects and engineers of America—who constitute a significant part of America's professional community—deserve to have this cloud removed from their participation in Federal undertakings. I, therefore, respectfully urge that this important bill—long overdue—be favorably acted upon.

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

Mr. McCLELLAN. I yield.

Mr. JACKSON. Mr. President, I would like at this time to direct a question to the distinguished Senator from Arkansas for the purpose of clarifying the scope of this legislation.

I would like to know whether in the opinion of the Senator, the services of landscape architects are within the purview of H.R. 12807.

Mr. McCLELLAN. I see no exceptions in the language of the bill. This proposal obviously is intended to apply to all the various classifications and types of architects, if the individual providing the services is professionally trained and qualifies under appropriate State law to practice the profession.

The bill as drafted would apply to landscape architects when the controlling jurisdiction, under appropriate registration laws, requires that these individuals acquire and maintain a proper level of professional excellence.

I do not think there is any exception. This bill is designed to maintain the integrity of the professional services. It is not intended to require fee competition between architects and engineers. For instance, if a person goes to one lawyer for advice he does not then go to a half dozen other lawyers and ask, "What will you take the case for?" If that is done, the person is likely to get unsatisfactory and disappointing results.

This bill attempts to maintain the high professional standards that our engineering and architectural services have enjoyed in the past and that they deserve to have continued in the future.

Mr. JACKSON. Mr. President, I urge approval of H.R. 12807, as passed by the House, in order that we may resolve an important policy question which has been before Congress more than 5 years.

This legislation would not establish any new policy regarding the procurement of architect-engineer services by Federal agencies, but it would confirm long-established existing practices whereby such professional services are secured by a professional selection and negotiation process under which the emphasis is on professional qualification and expertise for the specialized services which are needed from time to time for the Federal agencies to carry out their missions.

Although the professional selection and negotiation procedure has been employed for at least 30 years without any hint of disadvantage to the Government, the bill before us is needed because in April 1967 the General Accounting Office issued a report on architect-engineer services suggesting that the professional selection and negotiation procedure was not in accord with that part of the procurement laws which require competitive negotiation procedures for certain types of negotiated contracts. The GAO report recognized that there is some question about its conclusion and that in any event the question of utilizing professional selection and negotiation procedure or competitive negotiation procedures is a policy matter for resolution by the Congress.

This question has been studied very carefully by the Senate Committee on Government Operations on two occasions following passage of legislation by the House to confirm the successful professional selection and negotiation procedures traditionally employed for professional services. Both in 1970 and again in July of this year the House approved such legislation. Also, the Senate committee approved a similar bill in 1970, but the heavy schedule of the Senate in the closing days of the 91st Congress prevented it from coming to the floor for a vote.

The pending bill, H.R. 12807, was again approved by the Senate Committee on Government Operations on September 25, 1972 (S. Rept. 92–1219). It is now before us in exactly the form approved by the House and by passage of this bill we can resolve the question which has become of importance in order to clarify the law and erase any doubt or confusion which may exist regarding the intent of Congress.

For many years Congress has recognized that professional services are not appropriate for competitive bidding procedures. Thus, we have over the years excluded professional services from the normal competitive bidding requirements for Government purchase of services in the Federal Property and Administrative Services Act (41 U.S.C. 252(c)), the Armed Services Procurement Act (10 U.S.C. 2304(a)), and the Public Contracts Act (41 U.S.C. 5). Also, since the question was raised by the GAO report Congress has further indicated its policy favoring the traditional professional selection and negotiation procedure for A–E services by adoption of language in the Military Construction Authorization Act for the past 3 years to so indicate.

Mr. President, there are many sound reasons for this continued support of a procedure whereby professional services are obtained on the basis of selecting the most qualified individual or firm for the needed services. Experience leaves no doubt that it is in the interest of the Government to look for quality of expertise and performance for professional services. Such services cannot be secured on a price competition basis because it is not possible to define in advance the extent, scope, and nature of the services required to fill the requirements. More often than not these all-important factors cannot be developed until the agency reaches the point of detailed and specific negotiations with the firm selected as best qualified on the basis of proven experience, background, personnel, and ingenuity in the specialized professional area involved. Price competition for professional services would be meaningless and dangerous—a contracting officer faced with the widely ranging price proposals or bids would be under pressure to accept the low price. Yet that may be the most costly decision because the low bid for the design of the ultimate facility is but a small part of the total cost of construction and lifetime maintenance, yet a poor design at lower initial cost can result in much higher total lifetime cost of that facility to the Government.

Mr. President, I will not dwell further on the many reasons for enactment of H.R. 12807 because they are spelled out with clarity and force in the report of the Senate Government Operations Committee. In conclusion, I voice support for the bill because it confirms a tried and tested procedure which has served us well for many years in providing professional services on the most efficient and economical basis. If further studies by the Government Procurement Commission or other bodies indicate improvements in our present methods let us give those proposals careful study; meanwhile let us stand by a system of demonstrated and proven sound national policy.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. CHILES. Mr. President, H.R. 12807, the bill to write into law the system of selecting architectural and engineering services, is a subject Congress has been discussing for some 5 years.

There is a subject somewhat broader in scope that Congress has also concerned itself with and that is the total procurement of Government services. Congress, in considering this subject, passed legislation which set up a Procurement Commission made up of members, some to be appointed by Congress and some to be appointed by the executive branch, to deal with all the subjects concerning Government procurement.

The distinguished chairman of the Committee on Appropriations, the Senator from Arkansas (Mr. McCLELLAN), serving in his former capacity as chairman of the Committee on Government Operations, appointed Members of the Senate to that Commission. The junior Senator from Florida was appointed to take the place of the distinguished Senator from Washington (Mr. JACKSON) who served on that Commission with distinction.

In that capacity, as chairman of the Procurement Commission, the junior Senator from Florida came into this subject, because the Commission was concerning itself with the overall question of professional services and the procurement of professional services, under the mandate from Congress that the Commission must report back to Congress in December of this year. There was appropriated from general funds, tax funds, some $7 million for the study of the Procurement Commission. One of the major items the Commission is concerning itself with is the procurement of professional services across the board. Of course, included in that are architectural and engineering services, as well as many other professional services.

Mr. President, the junior Senator from Florida feels that Congress should not legislate on this subject, pending the report of the Commission that is set up by legislation for which it appropriated some $7 million of public funds; and it would be the height of folly for Congress to now legislate on this subject pending the receipt of the report of the Commission.

The Comptroller General, who is a member of the Procurement Commission, has voiced his views in regard to this bill, to both the House Committee and the Committee on Government Operations on the Senate, in which he set forth that he feels Congress would be wise to sit on this subject until the report of the Procurement Commission is in. It is apparent that while the report of the Procurement Commission is not final, that they would defer some respects to the bill before us.

Mr. President, the bill before us says that when you are negotiating for architectural or engineering services you must talk to three firms, that you get some kind of idea of the work they are going to do; then, if you are the procurement officer, you classify those firms in regard to how you find them in their competence as one, two, three, and after that, when you sit down to negotiate a contract with them you negotiate with one at a time. You would negotiate with the top one you selected.

This kind of writing in the statute is going to prohibit a procurement officer from being able to have design competition if he desires or feels that is necessary or beneficial.

We in the Congress only have to look to the east side of the Capitol to see what can happen in those services when a procurement officer does not pay much attention to what the design competition is going to be or what the competence is going to be in the firm that is selected. Only look to the Rayburn Building. Only look to the New Senate Office Building. We get examples of what happens in tremendous cost overruns, buildings that are ill-suited for their purposes, buildings that cost the taxpayers millions and millions of dollars and hampers us in trying to carry out our functions every day. When we are building a $500 million building or a $50 million building, certainly a procurement officer should be able to sit down and require design concepts, and he should also be able to require life cost estimates, what it is going to cost to maintain that building for its lifetime.

The Procurement Commission is not seeking price competition between engineers and architects. The Procurement Commission feels it would be folly to try to select architects and engineers based on the lowest bid, but the Commission feels that what the cost of the building is going to be or what the cost of a new concept is going to be is tremendously important to the taxpayers and to the Government, as is what the lifetime cost of that building is going to be.

To write into a piece of legislation language that is going to prohibit one from looking into that would be the height of folly.

The Procurement Commission feels that we should probably negate the statute which now says we cannot pay more than 6 percent for such services on any job, the feeling being that right now the best firms will not bid or compete on certain jobs, depending on the amount of work needed, if the fee is to be limited to 6 percent. So, on the basis of the Procurement Commission studies, they are not trying to do anything that is going to provide for cost competition, for competition between architects or engineers or any professional services, and they are not trying to do anything to keep us from selecting the most competent architectural or other service firm; but the feeling is that the public is entitled to be protected, that when we are going into new design concepts—let us say we are going to build a new space center or going into another new concept—we should be able to have competition to deter-

mine what firm is going to be able to furnish the best design, what is going to be the best cost economically, what the lifetime maintenance cost is going to be.

Those are the kinds of studies the Procurement Commission is going to make.

No hearings were held in the Senate committee on this bill, to the knowledge of the junior Senator from Florida, this time or 2 years ago when this legislation was then taken before us. When the Procurement Commission has gotten into a study with architects, engineers, and businessmen who are daily buying and contracting for these services, to see how they are designing their buildings, and how they are obtaining their services, again the junior Senator from Florida feels it would be ill-advised indeed for the Senate to act on this piece of legislation, pending the filing by the Procurement Commission of its report.

The Senator from Florida would like to propose an amendment.

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

The PRESIDING OFFICER. The clerk will please state the amendment.

The legislative clerk read the amendment, as follows:

At the end of the bill insert a new section as follows:

TERMINATION DATE

SEC. 905. The provisions of this title shall terminate at the end of January 31, 1974.

Mr. CHILES. Mr. President, I understand the hour is late, that many Senators want to have a vote on this measure, because it has been considered by the Congress before.

This amendment simply provides that the provision we are now writing into law would expire on January 31, 1974, which would insure that Congress is going to get an opportunity to look at the commission report and determine what that report comes forward with, and compare the recommendations of the Procurement Commission, for which Congress provided, and for which we are spending $7 million of the taxpayers' money. It can then look at the recommendations set forth and determine whether we want to amend the legislation, carry the law on as it exists, or amend it.

It appears to the junior Senator from Florida that this is the best way for those who say, "We have got to have some policy now, that we have been acting without a policy." This would allow some policy now, but it will provide that it will expire in 2 years and we will have an opportunity to look at the commission's report to determine whether that is the best way of going into this matter or not.

Mr. PROXMIRE. Mr. President, as a point of information, are we now on H.R. 12807, the engineer and architect bill?

The PRESIDING OFFICER. The Senator is correct. The Senator from Florida has offered an amendment, which is the pending question.

Mr. PROXMIRE. Mr. President, I commend the Senator from Florida for offering the amendment. I have the same reservation as the Senator from Florida has on this bill. Frankly, I blocked it 2 years ago. I have been concerned about the lack of competition in Government procurement. It has become a scandal. There is supposed to be a fixed policy in our Government of competitively advertised bidding, and yet only 10 percent of our military procurement is advertised for competitive bidding. Here we have a bill that would move us away in another area from competitive bidding.

The Senate in passing H.R. 12807 will be lessening competition in the procurement of architectural and engineering services without the benefit of a comprehensive report that should be available to the Congress by the end of the year.

Why is it that these bills always come up in the closing days of the session, always under pressure on us to pass it now or the bill will die, when we have not had the opportunity for debate or hearings, in an orderly way, during the 2 years of the congressional session.

No one is saying that an architect should be hired by the Government on the basis of cost alone. But a good argument can be made that cost should be a factor in contracting for architectural and engineering services. The bill we have before us today will codify a procurement approach that virtually eliminates price competition with respect to architectural and engineering services. The Comptroller General of the United States feels that there should be more competition between architects in the design concept area than this bill allows. He also believes that when two or more architects or engineers are found to be technically on a par consideration should be given to price.

The passage of this proposal is particularly unfortunate at a time when the Commission on Government Procurement is about to make its recommendations to the Congress on the best way to procure architectural and engineering services. The Congress is locking itself in before receiving the advice of the experts. I sincerely hope that we will not come to regret the enactment of this legislation. I am afraid we well may.

I commend the Senator from Florida for offering his amendment, which I think is the minimum kind of requirement we should demand.

This amendment would provide, as I understand it, that this law would have a life of only 2 years, until the end of the next Congress, and we would have a chance to review this question and determine whether or not we could provide for ways to secure a greater degree of competition, recognizing, of course, that we should not select architects, engineers, or other professionals, any more than we should select doctors or lawyers, strictly on the basis of cost.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida.

Mr. McCLELLAN. Mr. President, the purpose, I think, and certainly the effect, of this amendment would be to kill this bill in the late hours of the Congress. If the amendment is adopted, there is no chance of getting the bill further considered in the House of Representatives. Those who want to kill the bill, of course, can support the amendment. Those who feel we should have legislation will oppose the amendment. It is just that simple.

Under present law, there is a 6 percent fee limitation for architect and engineer services. But I would point out for the record, Mr. President, that the Government is not getting gypped on these services. As I say, these professionals, under the law, could go as high as 6 percent. That would still prevail if the bill is defeated. But the experience has been, as demonstrated by a recent survey, that on all contracts that are under $10 million, the average fee for the architects has been 4.23 percent, and where the projects are over $10 million, Mr. President, the average fee has been 3.69 percent.

I do not think there is any idea here that the Government is getting robbed or cheated or defrauded by reason of the present system, at all. There is nothing to indicate that, the head of an agency cannot have these men bring in schedules and plans if he requests. I am sure many do discuss with these men their concept of what the building should be. No one is excluded. Everyone has the ability to present his qualifications and to get his plans qualified to be considered by the procuring agents.

Mr. President, I hope this bill will be enacted. Remember, this bill is here today because the General Accounting Office suggested that they found no legal basis for the procedure that was being followed, and suggested that Congress have an opportunity to consider this matter.

For 5 years now we have been considering it. This is the second time a bill has come over from the other House. There has been no indication that anything has been wrong with this traditional approach. I hope the amendment will be defeated, because if it is not, it means that the bill will go down and we will have to go all through this process again.

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

Mr. McCLELLAN. I yield.

Mr. PROXMIRE. I want to tell the Senator from Arkansas that I do not intend to talk at length on this bill, or do anything other than raise questions about it. I think there is a strong case for the bill.

But I am concerned about the fact that there has been continuous debate and a great deal of political pressure, including political contributions from architects and engineers to win political preference. I have been aware of that in my State. The architects do their best to put themselves in a strong political position with Senators, Representatives, and administrations, Democratic and Republican, and it has been my very strong feeling that the reason for this is that they feel very deeply that decisions are made on selecting architects on the basis of political preference rather than on an objective basis.

I realize there are other factors that are more important than strictly cost in

many and perhaps most cases for architects. But certainly where we can find architects on a professional par, I would hope we could find some way of providing a degree of real competition on the simplest objective test, which is, of course, the test of cost.

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

Mr. McCLELLAN. I yield to the distinguished Senator from Illinois.

Mr. PERCY. Mr. President, H.R. 12807 establishes Federal policy for procurement of architectural and engineering services. It would embody in law an administrative procedure for procurement of architectural and engineering services that has been used for some 30 years. The bill was passed by the House in the previous Congress and in this one. It was reported by our committee in the last Congress, but was not acted upon.

Present procedure essentially permits a Federal contracting agency to select—after limited advertising—the three firms it considers most qualified for a specific project, and then to negotiate with each separately until a reasonable price is agreed with one of them. However, the cost of the architectural or engineering services cannot exceed 6 percent of the construction cost of the project. The bill adds a new requirement that all government requirements for A–E services be advertised, a provision that I consider to be a safeguard because it will enable the entire profession to know about Federal projects, and hopefully limit favoritism in the selection process.

The major reason for casting this procedure into law now is that it has come under criticism from those who believe that the procurement of such services should be mainly on the basis of price competition. The committee, on the other hand, has accepted the validity of the argument that the Government should procure architectural and engineering services in much the same way that a private person does: by selecting a firm that he considers competent and in whom he has confidence, than agreeing on price.

Opponents argue that the bill should not be passed until the Commission on Government Procurement makes its report at the end of this year. The committee, however, having heard this argument made forcefully in executive session, believes that since the bill institutes in law a procedure that has been accepted practice for decades, there should be no objection to doing so. Furthermore, there has seemed to be a considerable degree of controversy within the Procurement Commission about the correct approach to this problem. To my knowledge the Commission has not yet been able to agree on a final recommendation to guide the Congress. When it does, the Congress can consider it along with all the other recommendations for new legislation that will be made by the Commission.

Opponents have argued that this is a bill for the "big man" in that the present procedure favors a small group of very large firms, and that the major procuring agencies all draw from the same small group. On the other hand, there is evidence from the House subcommittee's investigations that the different agencies do tend to draw from rather limited groups of firms, but that these groups are different for each procuring agency, and contain a significant number of small firms.

Opponents have suggested an implied violation of antitrust laws. This argument refers to previous Justice Department suits against three professional societies of architects and engineers on grounds that their ethics codes prevented price competition. I think it important to point out that all three associations subsequently changed their codes. There is no violation of antitrust laws in the bill, according to a Justice Department witness before the House subcommittee.

Mr. President, there is one section of this bill to which I want to refer specifically, because I find in it a considerable degree of reassurance. That is section 902, to which I referred briefly earlier, requiring public announcement of all bids for architect-engineer services.

I intend that legislative history show that this provision is to be specifically implemented by the procuring agencies. Each and every requirement for A/E services should be advertised. This is, it seems to me, a minimum kind of insurance against the possibility that the procurement system established by this bill could be used to favor certain architects, and certain contractors. I take considerable satisfaction from the fact that this provision was added in the House version of the bill at my suggestion. It is intended that it be implemented strictly.

I would now like to comment that I very much appreciate the questions raised by my colleague from Florida, who has a very perceptive mind. I think there is a tendency to run things through, in the final hours of a session, and that we ought to pause, look, and listen. My colleague from Wisconsin, who has worked so closely with me on the Banking and Currency, Appropriations, and Joint Economic Committee, has always advocated that we stop and look before acting.

Many times Government architectural contracts are made without full advertising. For that reason, I looked into this bill carefully, to make certain that we expressed, in section 902, a policy requiring full advertising. This is expressed in section 902 as follows:

> The Congress hereby declares it to be the policy of the Federal Government to publicly announce all requirements for architectural and engineering services.

Although this is stated as a policy, I want to make legislative history right now by stating that I intend, in the exercise of the oversight responsibilities we on the Government Operations Committee have, to make absolutely certain that there is public advertisement for all Government requirements for architectural-engineering services, so that there is an equal opportunity for everyone, big or small, to come in and bid.

However, I know when my son was injured yesterday in a football game, I did not go out and seek the lowest cost bidder to come in and examine him. I called one of the finest orthopedic doctors in the Washington area.

I think we ought to have the same general policy when procuring other types of professional services. I have followed this practice all my business life.

When we find out who is fully competent to do the job at hand, we can then turn our attention to the cost.

The less than 4-percent average the Senator from Arkansas has cited indicates that we have been bargaining, and bargaining very hard indeed, to keep cost down. If the one we are negotiating with does not appear competitive, we go to the next eligible one and possibly even the next one. But we only consider qualified bidders.

This is the procedure we have followed for 30 years. We know enough not to just have a 2-year bill. I hope the bill will be passed.

A further point, with regard to the comments of the Senator from Wisconsin about pressure. It may be that some architects and engineers have used pressure tactics. I have not felt any such pressure. I cosponsored this bill at the request of Senator McCLELLAN, as chairman and ranking Republican, respectively, of the Government Operations Committee, which, of course, has jurisdiction. I have found the arguments persuasive, and I am perfectly free to change my position if the arguments of merit indicate to me that I should. I would note that I know what pressure is—I have withstood intense pressure for months and months against my position on consumer production legislation.

Mr. President, I support this legislation because I believe it establishes a reasonable procurement system that results in high-quality architectural and engineering work. Over the years the system as it has operated under administrative guidelines has worked apparently well. Certainly the quality of the architecture of major Federal buildings in this city of Washington has improved. However, I do not consider that passage of this bill closes the door to enactment of a better system. I look forward to the report of the Procurement Commission. If the system it recommends has merit, I am certain our committee will perceive that merit and act accordingly.

Mr. CHILES. Mr. President, I am glad to hear the comments of the distinguished Senator from Wisconsin as well as those of the distinguished Senator from Illinois on the bill. Certainly I know the strong feelings that the distinguished Chairman of the Appropriations Committee, the Senator from Arkansas, has as to the need for this legislation.

But I really feel the Senate is missing the point, because the comments Senators are making with regard to whether we are paying 4 percent or 5.5 percent for the services is not the point. That is not what we really should be concerned with, or even whether it is 6 or 7 percent. What we really need to be concerned with is how many taxpayers' dollars are going into the building, and what will be the lifetime cost of the building. That is what we need to be concerned about.

Yes, we have been getting bids at 4 percent, certainly. And look at every kind of project you know or hear anything about that the Government has built; look at the tremendous cost overruns, in comparison with what we estimated the cost would be. What was the FBI Building estimated to cost, and what is it ultimately going to cost? What was the Rayburn Building estimated to cost, in comparison with the actual cost, or the New Senate Office Building? We got the architect 10 years before we built the building, and we went ahead and built from that set of plans. That building is a monstrosity, and we cannot efficiently utilize the space and make anything out of it.

Yet we concern ourselves about whether the fee is going to be 4 percent or 5 percent. I say that is ridiculous, because it has nothing to do with what the overall costs are going to be, the millions and millions of dollars.

This is what the Procurement Commission was trying to concern itself with. They were actually going to exempt the 6-percent ceiling; they were willing to pay more for good services, because we would come out cheaper in the long run if we pay the architect and engineer more, if we got the best, if we were able to have competition, good design competition as to what would be the life cycle cost, competition as to how is the better way to do something, so that we would not build a building where there is an underground river, or run into some of these horrible things that Senators know we have done up here and have done in every State where we have tried to build some kind of a Federal building. That is the point here, and we are missing it entirely when we are talking about what a fee is going to be.

This is the kind of thing Congress ought to look at. We ought to adopt this amendment. It would give us 2 years to operate under this bill, 2 years in which to know that we are going to be able to take advantage of a study that we pay $7 million to get. We are going to wipe that out of the window without any hearings on the Senate side and pass this kind of measure. I do not see how, as a responsible legislative body, we can do that.

Mr. GURNEY. Mr. President, I would like to express my support of H.R. 12807, both as a cosponsor of a nearly identical Senate bill—S. 3156—and as one who is deeply concerned over the need to resolve questions which have arisen regarding the intent of Congress on the matter of Federal architect-engineer procurement. In my opinion, H.R. 12807 is needed in order to clarify the fact that Congress desires that architects and engineers be selected for Federal work primarily on the basis of their qualifications rather than on the basis of a price competition. Bidding is not the proper method for obtaining professional-technical services.

It has been suggested that this legislation is unnecessary or premature; that congressional action on this subject will void any recommendations on A–E procurement by the Commission on Government Procurement. That Commission, upon which I am privileged to serve, is studying procedures for architect-engineer selection and the Commission will be making recommendations pertinent to this subject in its final report.

The final report of the Procurement Commission will undoubtedly contain recommendations on methods of Government selection of architect and engineer services, together with recommendations on all other aspects of Government procurement. These recommendations will almost certainly include a call for a consolidated Federal procurement statute, superseding the many specific and uncoordinated procurement laws now existing.

Should Congress act on those recommendations, as I hope it will, and produce such a consolidated procurement statute, the legislation now before us would simply be one of hundreds of other procurement statutes superseded by that omnibus statute. In the meantime—and let us not hide from the fact that it may be a very lengthy meantime—I believe that Congress should clearly record its intent on the manner of selection of architect and engineer services, as provided by the measure (H.R. 12807) now before us.

It is important to note that the method of architect-engineer procurement delineated in H.R. 12807 is actually a codification of existing procedure. For all intents and purposes, this bill establishes that architect-engineer services will be selected and contracts negotiated, pending any changes made by Congress subsequent to final Procurement Commission recommendations, in exactly the same manner they have been for the past 30 or more years. The bill does not establish anything new; it does not create a new procedure; it creates no new agencies; it requires no expenditures of tax moneys. Plainly and simply, it says to the executive agencies, "continue what you have been doing so successfully for the past 30 years until we find something better."

Why, then it might be asked, is this bill necessary? Its need, frankly, stems from a report by the Comptroller General to the effect that architects and engineers are subject to competitive negotiation provisions of Federal procurement laws and, as such, must submit competitive price quotations as a part of any proposals.

This would be a reasonable and acceptable practice in most procurement situations. However, a serious question arises when we consider the nature of the product which architect and engineers firms contract to provide. There can be no detailed bid specifications telling architects and engineers how many yards of concrete, feet of sewer pipe, or number of lighting fixtures they are expected to design into a job. Indeed, specifications that detailed would obviate the need for professional design. Architect and engineer firms are simply invited to submit proposals to prepare plans for a fuel storage depot, or a veterans hospital, or a similar facility and each firm is left to determine how best this may be accomplished.

Because of this new General Accounting Office opinion that the law requires architect and engineer price competition, several agencies have felt obliged to revise their longstanding procurement methods to ask architects and engineers to include fee quotations with statements of qualifications. The architects and engineers fear involvement in a bidding situation which will compromise the quality of their work.

They are well aware of the need for arriving at fair and equitable fees and are more than willing to negotiate with the Federal Government to determine a price for their services which is in line with accepted practice and is competitive with their industry. They do not, however, want to be selected on the basis of who will do the work for less. They recognize that the Government is dealing with intangibles such as imagination and creativity, and therefore, it is always possible for someone, regardless of qualifications to come up with a lower price, usually accompanied by equally lower quality standards.

Ask any practicing architect or engineer or any Federal procurement officer, and he will tell you that competition based on professional-technical qualifications is every bit as hot and demanding as competition based on price, perhaps more so. A recent study performed under the direction of the GAO, published as "report on AE services cost survey," found that costs for these services are running well below the statutory maximum of 6 percent of total construction costs. At the same time, Federal procurement officers are selecting architects and engineers from a list of the best qualified professionals available, and the Government is thus receiving the best architect and engineer services.

In other words, we are getting the best designs at less than our own Federal dollar-limit established for such services. While we are debating huge cost overruns in hardware procurement, and are assisting defense industries to avoid bankruptcy, top quality architects and engineers have quietly been planning, designing, and specifying our Government facilities at an average fee which is below the maximum set by statute. There have been no scandalous charges of cost overruns by architects and engineers. I have yet to hear of an architect or engineer firm gouging the Government through excessive fees for design services.

As I see it, this is a pretty good record. It is one which other Federal contractors would do well to emulate. All that H.R. 12807 will do is assure that the methods and procedures which have contributed to this outstanding record are continued, pending possible revelation of any new developments or considerations which would seem to mandate a change in this procedure. I think we are already doing pretty well in this regard and I join the distinguished Senator from Arkansas in urging adoption of this bill.

As a member of the Government Procurement Commission, I do not see that this bill would do any injustice or harm or deviate at all from what the Commission is doing. If the Government Procurement Commission does come up with suggestions to be incorporated into law,

Congress can do that. There is no question that the report and recommendations of the Government Procurement Commission, arrived at over a long period of time, are going to take a great deal of digesting by Congress and a long time to implement into law.

Obviously, we need this bill until that implementation takes effect. We do not know whether it is going to be next year, the year after, or 3 or 4 years down the road.

There is a need for this bill. The General Accounting Office has said so. They need clarification on the subject, and that, of course, is what the bill seeks.

I certainly hope that the Senate will act with dispatch and speed and process this bill, a excellent piece of legislation, which is due now—in fact, overdue.

Mr. BOGGS. Mr. President, I want to express my support for H.R. 12807—the Architects/Engineers bill. The purpose of this bill is to clarify the statutory language which supports the traditional way in which Government agencies have selected private architects and engineers to design our Federal facilities. The bill, by amending the Federal Property and Administrative Services Act, expressly declares it to be the policy of the Federal Government to negotiate contracts for such professional services on the basis of demonstrated competence and qualifications for the type of professional services required at a fair and reasonable price.

Mr. President, what this bill really means is that architects and engineers will be competitively screened, as to their qualifications to do the particular project, from a large number of firms which have filed the appropriate forms with the Government agency. This screening process will identify the most qualified professional team to assist the agency in carrying out its responsibility to design a Federal facility which will justly represent the taxpayer's investment.

An illustration of what I mean is the recently constructed Federal Building in Wilmington, the largest city in Delaware. Architecturally and structurally, I am sure, that building represents the very best that our taxpayers' dollars could have bought in providing the necessary office space for the Federal Government. Indeed, I have no doubt that the new building in Dover will likewise prove to be of equally fine caliber.

I have been involved in the beginnings of both of these buildings. They are perfect examples of just how well the procedures are working in producing worthwhile Federal structures.

An architect/engineer as the legal agent of the procuring agency also has a traditional position of trust to be maintained. All the architects and engineers I have come to know have recognized the fiduciary relationship to their client.

A change in the way the Federal Government procures A/E services from one of qualification and negotiation establishing mutual trust to one of bidding and selection on the basis of the lowest price makes no sense to me and is not in the public interest. To ask someone to do his very best job for you based upon mutual agreement is just not the same as asking someone to do that same job based upon the lowest price. You always receive what you pay for and the professional treatment of your agent is reciprocal, establishing a loyalty that cannot be equated to money.

The question should be asked: Will the Government save money by competitively bidding for these services? In my judgment it will cost more of the taxpayers money to introduce any sort of price competition at the selection stage. I have been told that price will not be the only consideration but will be one of several considerations. This process would open the whole process to legal judgment whenever the low bidder is not selected. The process would be wrought with judicial review and delay. Unnecessary time expended in the construction industry means money wasted.

But even more important, the whole fiduciary relationship comes under attack. I want our agencies to get the best effort available from its professional agents, not just a best effort for the price.

If an A/E does not give his best effort to advise his client of all the alternatives and assist him in making the proper decision, the first cost or more importantly the life cycle cost of the facility can more than eliminate any savings gained by competitive bidding if in fact there is a gain which in my judgment is questionable.

Again, let me reiterate my support for H.R. 12807 and encourage my colleagues to vote for this bill.

As has been stated, this bill is necessary to clarify the law and to let not only the Government but also individuals involved know where they stand under the law.

I also want to express my opposition to the amendment because I believe, as the distinguished chairman of the committee, the Senator from Arkansas (Mr. McCLELLAN), has stated, it would prevent the passage of this bill at this time. I do not believe the amendment is necessary, even though I can understand the goal and objective of it. I believe that without this amendment, Congress, a year from now or 2 years from now, can take up this matter and review it in light of whatever recommendations or studies have been made.

Although the amendment is well intended, I do not think it is necessary at this time. I oppose the amendment.

Mr. CHILES. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were not ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Indiana (Mr. HARTKE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Virginia (Mr. SPONG), and the Senator from California (Mr. TUNNEY) are necessarily absent.

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

I further announced that, if present and voting, the Senator from Washington (Mr. MAGNUSON), the Senator from Rhode Island (Mr. PELL), and the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from New Jersey (Mr. CASE), the Senators from Nebraska (Mr. CURTIS and Mr. HRUSKA), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. JORDAN), the Senator from Kansas (Mr. PEARSON), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Kentucky (Mr. COOK) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

I also announce that the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from Delaware (Mr. ROTH), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON), the Senator from Kansas (Mr. DOLE), and the Senator from Maryland (Mr. MATHIAS) are detained on official business.

If present and voting, the Senator from Nebraska (Mr. CURTIS), the Sen-

ator from Oregon (Mr. HATFIELD), the Senator from Kansas (Mr. DOLE), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 8, nays 44, as follows:

[No. 563 Leg.]

Yeas—8

Chiles	Hughes	Proxmire
Ervin	Mansfield	Stevenson
Gambrell	Nelson	

Nays—44

Aiken	Fannin	Percy
Allen	Gravel	Randolph
Anderson	Gurney	Ribicoff
Beall	Hansen	Saxbe
Bellmon	Hollings	Schweiker
Bennett	Inouye	Scott
Bentsen	Jackson	Smith
Boggs	Javits	Stafford
Buckley	Jordan, N.C.	Stennis
Burdick	Long	Stevens
Byrd, Robert C.	McClellan	Symington
Church	Miller	Talmadge
Cooper	Moss	Weicker
Dominick	Packwood	Williams
Eastland	Pastore	

NOT VOTING—48

Allott	Fong	Metcalf
Baker	Fulbright	Mondale
Bayh	Goldwater	Montoya
Bible	Griffin	Mundt
Brock	Harris	Muskie
Brooke	Hart	Pearson
Byrd,	Hartke	Pell
Harry F., Jr.	Hatfield	Roth
Cannon	Hruska	Sparkman
Case	Humphrey	Spong
Cook	Jordan, Idaho	Taft
Cotton	Kennedy	Thurmond
Cranston	Magnuson	Tower
Curtis	Mathias	Tunney
Dole	McGee	Young
Eagleton	McGovern	
Edwards	McIntyre	

So Mr. CHILES' amendment was rejected.

Mr. McCLELLAN. Third reading, Mr. President.

Mr. ERVIN. Mr. President——

The PRESIDIN GOFFICER. The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, I move that the bill be recommitted to the Government Operations Committee.

I do that for this reason. As chairman of the committee, I have been requested by the General Accounting Office and also by the Commission on Government Procurement to do what I could to prevent action on this bill at this time. I am not passing on the merits of it. I express no opinion on the merits or demerits of the bill.

However, I have the conviction that when two responsible agencies of the Federal Government ask that action not be taken on a bill at a particular time, some heed ought to be paid to their request.

This is particularly so because Congress passed a law establishing the Commission on Government Procurement and instructed that Commission, as an arm of the Congress, to study the whole question of Government procurement, including that of procuring professional services. Over $7 million has been spent on this study. And the Commission has informed me that their report will be ready in December.

It does seem to me that under these circumstances, since the architects and engineers have done without this bill since George Washington took his oath of office as first President of the United States, we might well wait until January.

I thought it was my duty to make this motion to recommit, especially in view of the fact that the Congress enacted the bill which the Government Operations Committee itself processed that created the Commission to make this study.

For that reason it seems to me that this bill ought to be recommitted to the committee until that report can be filed. I express no opinion with reference to the merits or demerits of the bill. However, it would be very unwise for Congress to pass legislation over the protest of the Commission it appointed to study the specific question that the legislation relates to.

Mr. President, I move to recommit the bill and ask for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. GURNEY. Mr. President, I always hesitate to differ with my very distinguished chairman of the Government Operations Committee, the very able senior Senator from North Carolina. However, I serve on that Commission, and I have served on it for the entire life of that Commission, ever since its inception. And I have been at the meetings of the Commission when we discussed this very issue back and forth. And it is my own conviction that we ought to go ahead and pass this legislation because there will be a voluminous report by the Government Procurement Commission covering several volumes and there will be a multitude of things about procurement and every conceivable facet of procurement by the Government.

It is very obvious that the report, when received by Congress, is going to be split among various committees. It will be studied probably for some years before it will ever be acted upon in toto.

It seems to me that it would be far wiser for the Congress to go ahead and enact this bill which is needed, which has been asked for by the General Accounting Office, and which is resolving the area of procurement where we have dispute and uncertainty at the moment.

Now, there is no reason in the world after the Government Procurement Commission report comes out that Congress cannot look at it. If we want to revise this bill or revamp it and come up with some other conclusion, we can do so at that time. But in the meantime, it seems to me we need this bill as part of our procurement legislation. As I say again, as a member of the Government Procurement Commission who has served on it since its inception and as one who has been privy to the discussions on this very issue, that I think we should go ahead at this time and pass the legislation.

Mr. CHILES. Will the Senator from North Carolina yield?

Mr. ERVIN. I yield.

Mr. CHILES. I understand that the General Accounting Office has requested that Congress needs to work in this area to do something. But the distinguished chairman of the Government Operations Committee received, a letter, did he not, from Mr. Staats, the Comptroller General of the United States, in which he said:

> Finally, we renew our recommendation that legislative action be postponed pending the Commission on Government Procurement report on the procurement of professional services which will be made in December of this year. Passage of H. R. 12807 at this time would deny to the Congress the benefits of the Commission's report.

Mr. ERVIN. Yes; I received a letter from the Comptroller General to that effect, and the Comptroller General, as everyone knows, is the arm of Congress and of the Senate, with authority to deal with matters of this kind.

Just in reply to what my good friend, the Senator from Florida, has to say, there is no necessity to postpone action on a bill of this nature until somebody has studied the entire report on Government procurement. All a committee would have to do is study that part of the report which deals with this specific question. The Chairman of the Government Procurement Commission has informed me there has been no definite conclusion reached in this matter. There has been a good deal of discussion about it. But the Commission has not completed the study and has not reached a firm decision on this point.

It seems to me that if we are going to treat the Commission on Government Procurement with the lack of consideration which action on this bill would imply, we might as well tell them not to file any report at all.

Mr. McCLELLAN. Mr. President, I only wish to make this observation. Passage of this bill will do nothing on earth to vitiate whatever that Commission may finally recommend. We pass a law requested by the Comptroller General 5 years ago, in which he asked Congress to act. Now we are ready to act, so why not act? The Commission report will come in. Everybody will consider it. I do not know which way they will report. They do not know themselves. Let us

The PRESIDING OFFICER. The Senpass this bill and legalize by statute the practice being followed.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. BIBLE), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), the Senator from Indiana (Mr. HARTKE), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), the Senator

from Virginia (Mr. SPONG), the Senator from California (Mr. TUNNEY), and the Senator from Minnesota (Mr. HUMPHREY) are necessarily absent.

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

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON), the Senator from Rhode Island (Mr. PELL), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from New Jersey (Mr. CASE), the Senators from Nebraska (Mr. CURTIS and Mr. HRUSKA), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. JORDAN), the Senator from Kansas (Mr. PEARSON), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

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The Senator from New Hampshire (Mr. COTTON) and the Senator from Kansas (Mr. DOLE) are detained on official business.

If present and voting, the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. HATFIELD), the Senator from Kansas (Mr. DOLE), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 6, nays 50, as follows:

[No. 564 Leg.]

YEAS—6

Chiles	Jordan, N.C.	Nelson
Ervin	Mansfield	Proxmire

NAYS—50

Aiken	Dominick	Packwood
Allen	Eastland	Pastore
Anderson	Fannin	Percy
Bayh	Gambrell	Randolph
Beall	Gravel	Ribicoff
Bellmon	Gurney	Saxbe
Bennett	Hansen	Schweiker
Bentsen	Hollings	Scott
Boggs	Hughes	Smith
Buckley	Inouye	Stafford
Burdick	Jackson	Stennis
Byrd, Harry F., Jr.	Javits	Stevens
	Long	Stevenson
Byrd, Robert C.	Mathias	Symington
Cannon	McClellan	Talmadge
Church	Miller	Weicker
Cooper	Moss	Williams

NOT VOTING—44

Allott	Dole	Hatfield
Baker	Eagleton	Hruska
Bible	Edwards	Humphrey
Brock	Fong	Jordan, Idaho
Brooke	Fulbright	Kennedy
Case	Goldwater	Magnuson
Cook	Griffin	McGee
Cotton	Harris	McGovern
Cranston	Hart	McIntyre
Curtis	Hartke	Metcalf
Mondale	Pell	Thurmond
Montoya	Roth	Tower
Mundt	Sparkman	Tunney
Muskie	Spong	Young
Pearson	Taft	

So the motion to recommit was rejected.

Mr. BENTSEN. I wish to announce my support for this legislation, H.R. 12807, which is urgently needed to insure that the Federal Government will continue to avail itself of the highest caliber architectural and engineering services so necessary to the efficient and economical execution of our Federal construction programs.

Annually we appropriate billions of dollars for Federal construction and the Federal agencies award construction contracts to the lowest responsive bidder on estimates based on the plans and specifications developed by the architect and engineer during the design stage. Quite obviously, it is to the advantage of the Government and the taxpayer to acquire the highest qualified services at this stage, for these services will be translated into the most efficient buildings and facilities costing less to construct and maintain. Considering the billions of dollars the Government will invest in construction during the decades ahead, I think it is only wise for us to make certain that we insist on getting the highest quality of services for the funds expended. Why attempt to save money in the short run by settling for second-rate services when the results of inferior quality are more costly in the long run?

It is important to keep in mind, during the course of our debate today, and in discussing architectural and engineering services, we are talking about professions which present very unique considerations as far as procurement is concerned. It is my understanding that many of our State and local governments have recognized this fact and exempted architectural and engineering services from price competition. These States, like virtually all of the A–E's private and industrial clients, recognize the complexity and nature of these services. I know that my own State of Texas has such a statute. The Texas Legislature, in its wisdom, realized that architectural and engineering services do not end at the drafting board, but rather they are the first and most critical step in the construction process.

Mr. President, I make this point because there will be those who will argue that we will be setting a very dangerous precedent by the enactment of this legislation. In response, let me only point out that it can hardly be a matter of precedence when we legislatively ratify a procedure that has been practiced for over 30 years; and second, that we recognize the very unique nature of the services involved in this legislation. I for one would certainly not condone this selection process in other areas of procurement where competitive bidding is so practical and necessary, and I do not see how a vote for this bill can be construed as setting precedence in these other areas. All we are doing in this legislation is recognizing that direct price competition will not secure the highest qualified professional services which are so crucial in insuring an efficient and economical facility. This must be our primary consideration if we are truly interested in a facility of high functional and esthetic value which has a reasonably low construction and maintenance cost. These benefits will simply not accrue if we do not demand the highest caliber of professional workmanship in the planning and design stages.

The traditional procedures for procuring architectural and engineering services, which have evolved over the course of the past years, are a proven success and have been adopted by Federal, State, and local governments as well as industry. I cannot understand why changes should be made to a proven system.

There are many complexities in this issue and I do not profess to fully understand them all, but I do know that it is a proven time-tested procedure and in my opinion it would be unwise to tamper with success. It is for these reasons that I urge passage of this legislation in its present form.

Mr. RANDOLPH. Mr. President, we are all aware of the contribution of American architects and engineers to our physical well-being and to our environment. In the public works field, architects, and engineers are responsible for the designs of our Nation's highways, airports, dams, bridges, tunnels, mass transit facilities, and dozens of similar projects. In view of the vast sums of tax dollars appropriated annually for the design and construction of such projects, it behooves the Congress and the executive branch to strive to obtain the best professional services at the most reasonable cost to the taxpayer.

I do not suggest that the Government should try to find the lowest A–E bidder and sign a contract. On the contrary, I am of the school that holds that a bargain is that which is excellent, not that which is cheap. The intent of this bill is to assure excellence in the quality of Federal designs. This should, in the long run, mean that we get better structures at lower construction costs and these structures will be designed in a manner that will permit their being maintained and operated economically and efficiently.

Ask 10 A–E firms to bid on the design of a particular facility and many agencies will take the easy way out and select the low bidder. Under such circumstances, we may end up with a technically capable architect or engineer, but one who, for lack of experience or because of a desire to stay within his bid, reduces the time spent on field surveys, or in the preparation of detailed drawings, or in providing inspection services. As a result, the Government may have saved itself a half of 1 percent on the design fee while adding 5 to 10 percent to the cost of construction, operation or maintenance.

The procedures for selecting architects and engineers, as stipulated in H.R. 12807, are sound. They have worked exceptionally well over the years. They begin with the widest competition possible. All interested A–E firms are invited to submit qualifications, experience ré-

sumés, and other data, indicating their competence to perform the work. From this information, a listing of potential A–E contractors is developed. This listing is then narrowed down to those firms which are most qualified, after which contracting offices may call in several firms for interviews to discuss particular approaches or to explain details which were impossible to cover in written requests for proposals.

Eventually this listing is further reduced to the three most qualified firms—the firms best suited to undertake the particular project. Because public works vary—both in scope and in what it is that is being built—the qualified firms vary. When the most qualified for a particular job is at last determined, its officers are invited in for detailed negotiations. This may take 1, 2, or even 3 days and, eventually, after reaching agreement on such finite details as depth-of-soils tests, number of progress reviews, and who will supervise the work, the A–E's and the Government contracting officials begin negotiations on a fee for the work which is fair and equitable both to the Government and to the A–E.

If they cannot reach an agreement, the second best firm is called in and the process starts all over again.

This system assures selection of the most skilled and responsible members of the architectural and engineering professions. Under this arrangement, architects and engineers find no need to compromise the quality of their designs or the level of effort which they will contribute to them in order to meet lower fee quotations of others.

More importantly, this system has proved to be one which protects the taxpayers for it involves two competitions. The first is a competition based upon quality of performance. The second is a competition to assure performance of the work within a cost estimate previously determined by competent, experienced, Federal contracting officers. The A–E must demonstrate on the basis of projected cost that his fee is fair and reasonable, and he must accept whatever adjustment the Government demands if he wishes to obtain the contract. He knows that if he holds out for an unreasonable fee, the Government will terminate negotiations and will call in the next most qualified firm.

Another important consideration in the selection of A–E firms, is their ability to meet design schedules to enable the timely award of construction contracts. Factors such as their current workload and the professional and technical manpower which a firm can commit are taken into consideration by the contracting agency in selecting the firm. As chairman of the Committee on Public Works, I have witnessed inflation in the construction industry reach an annual rate of 12 percent. In this atmosphere, the ability of the A–E firm to meet design schedules is crucial. Failure to do so will result in construction delays at a cost to the taxpayer approaching 1 percent a month caused by inflation. As you can see, it would not take many months for the inflationary effect to overcome the small percentage paid to the A–E for his services.

I have personally been pleased to note that traditional procurement methods have not excluded the new or small firms from engaging in Federal work. It has been suggested by some that selection of A–E firms solely on the basis of which is most qualified to perform the work will restrict contract awards to only large, well-established firms and will eliminate the small young A–E's from consideration. A look at the record proves the exact opposite. A General Accounting Office summary of the top 20, 1971, A–E contracts in each of four Federal agencies—Department of Defense, General Services Administration, National Aeronautics and Space Administration, and Corps of Engineers—shows only four A–E firms on more than one list and, of the 60 identifiable A–E firms on the four lists, 25 are so small they grossed less than $1 million in receipts in 1971. In fact, at least five firms on the four lists of top-dollar A–E contractors have less than 25 employees and two have less than four.

There seems to be little question but what the executive agencies are awarding contracts to A–E firms based upon their qualifications and without regard to their size of ability to submit grandiose proposals. The fact is that little firms—in fact, very small firms—are getting their fair share of Federal work, which is, after all, what the Congress, the agencies, and the professions have been saying all along and what this legislation seeks to preserve.

Until some better procedure is advanced, the present method of architect-engineer selection and negotiation is proving itself in terms of performance and I am happy to express my support of this bill which is intended solely to codify that procedure and to eliminate any further confusion regarding it.

PERSONAL TAX EXEMPTIONS FOR CERTAIN AMERICAN SAMOANS

Mr. LONG. Mr. President, I move that the Senate insist on its amendments to H.R. 1467 and request a conference with House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, the motion is agreed to, and the Chair appoints——

Mr. JAVITS. Mr. President, may we know what the bill is? Senators get up and mention numbers.

Mr. LONG. That is the tax treatment bill for American Samoans.

Mr. JAVITS. That is fine. May I suggest to the leadership that instead of compelling one of us to raise any question, it be the standard rule that when a bill number is mentioned, the bill be described?

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read the bill by title, as follows:

A bill (H.R. 1467) to amend the Internal Revenue Code of 1954 with respect to personal exemptions in the case of American Samoans.

The PRESIDING OFFICER. The question is on the motion of the Senator from Louisiana to ask for a conference and appoint conferees. Without objection, the motion is agreed to——

Mr. NELSON. Mr. President, may I ask a question? Was it one of these amendments or bills that was discussed in the colloquy between the chairman of the committee and the Senator from Florida (Mr. CHILES) yesterday?

Mr. LONG. No.

Mr. MANSFIELD. That bill was on the calendar.

Mr. LONG. In the colloquy I discussed 13 legislative proposals we will have a chance to vote on today, if the Senate will let us vote on them, which I put in the RECORD. This is not one of the 13.

Mr. NELSON. Will the distinguished chairman of the committee answer another question? The Senator from Iowa (Mr. MILLER) had an amendment to that bill. Is that correct?

Mr. LONG. He offered an amendment, and it was agreed to.

Mr. NELSON. What were the provisions of that amendment?

Mr. LONG. It deals with the minimum tax. I might say that the Senator from Iowa (Mr. MILLER) is here. I would like him to explain the amendment. It is rather technical. It deals with the minimum tax and also deals with the effective date. It is limited to a very closely prescribed situation, as I understand it.

Mr. MILLER. Mr. President, if I could have the attention of the Senator from Wisconsin, the House on June 24, 1971, adopted an amendment to the minimum tax and made it retroactive. They adopted this amendment for the purpose of closing a gap in the definition of "tax purposes" for the minimum tax. This again actually originated in the House when the House defined "tax purposes." The Senate Finance Committee used the same definition. The same definition was used in my minimum tax amendment, which, the Senator may recall, was adopted on the floor.

The difficulty with the retroactive situation was that there were apparently a few bona fide operations which were in existence long before the Tax Reform Act of 1969, if they have their principal place of business in a territory or in a foreign country, and if they are doing a substantial amount of business; and our best information was that the House did not intend, in its definition of tax purposes, to do anything about them. Unfortunately, their retroactive amendment did so.

All this does is to make sure that the retroactive application of this House measure does not affect bona fide operations, and bona fide operations are defined in the amendment which—for the purposes of legislative history which I stated on the Senate floor last night—as coordinated with the Treasury Department, provides these definitions.

We are advised by the Treasury De-

partment that there is no objection to this amendment, that it will have a negligible impact on revenue, and that they will administer it according to the bona fide definition.

Mr. LONG. Mr. President, I have just discovered, to my dismay, that the CONGRESSIONAL RECORD of last night, because of the late hours of the Senate, did not include all of the Senate's business. Senators will note that in the Daily Digest there is a statement that the American Samoan bill was passed. I only learned while this bill was pending that the Senate RECORD does not go through to present the letter which the Treasury sent to us.

Mr. NELSON. There is a second edition. It is in two parts.

Mr. LONG. I thought that I had put in the RECORD last night the letter from the Treasury.

Mr. MANSFIELD. One is Thursday and one is Friday.

Mr. LONG. I did offer for the RECORD last night the letter from the Treasury stating there is no objection to the amendment offered by the Senator from Iowa (Mr. MILLER) as modified. The Senator had made a previous proposal about which the Treasury felt some concern. They did not object to the amendment limited to the type of situation to which the Senator wanted it to apply. They feared that it might be abused.

So the amendment was modified to satisfy the Treasury, and I offered the letter, at least, for the RECORD.

I am informed that it will be in the second part of the RECORD for yesterday, which is not yet on Senators' desks. All I am seeking to do at the moment is to obtain the appointment of conferees, so that we can talk about the amendment.

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

Mr. LONG. Yes.

Mr. NELSON. All I was trying to get clear in my mind was whether or not this bill, which was offered as an amendment to the bill that was considered last night, was a part of that group of bills that were taken up in the Committee on Finance and discussed in a colloquy between the chairman and the Senator from Florida.

Mr. LONG. No, it is not. Those measures will also apparently appear in the second section of yesterday's RECORD, because I wanted the Senate to know about them. That is just something beyond our control, when we overload the printer. I tried to get before us a record, which I thought was there. I understand the problem in these closing days, when we meet until midnight; by 9 o'clock the next morning he is not able to give us a record of everything that transpired.

It should be here later in the day, and I hope those matters will be in the RECORD, so Senators can look at them. I am sure the Senator is familiar with those proposals, because I believe he was in the Finance Committee meeting where we discussed them and voted on most of them.

Mr. NELSON. Yes, except there were some that were complicated, so I wanted a chance to study them before I took a position here on the floor of the Senate.

Are the committee reports here on the bills that were discussed by the Senator from Louisiana and the Senator from Florida yesterday?

Mr. LONG. We had hoped that the House was going to send us 12 bills that are on the House Calendar, and then we hoped that we would be able to report those 12 bills from the Finance Committee with a committee report, and each one containing at least one amendment, some containing two.

We are not going to be able to do that, because the House is not going to pass those 12 bills. That leaves us no alternative but to call up the one remaining tax bill which remains, H.R. 7577. It is not on the calendar yet, but the Finance Committee agreed to report it, and as soon as the committee report can be made available to the Senate we will report it. Then we will offer each Senator the opportunity to offer, if he cares to do so, any of those 13 amendments which I placed in the RECORD yesterday and made available to Senators and to the press, and then the Senate can work its will and do whatever it wants to do about it. At that point we will ask for a conference with the House.

Please understand that I do not arrogate to myself, as I do not think any Senator should try to arrogate to himself, the right to exclude anyone from having the opportunity to offer an amendment on that bill. If a Senator has something about which he is concerned, as do the Senator from California (Mr. TUNNEY) and the senior Senator from California (Mr. CRANSTON), I would cheerfully admit that they are right to offer their amendments and let the Senate vote however it wants to on them. At this late stage in the game, I am sure the Senator will understand that on any amendment that is offered, if the House says, "No, we are not going to be able to have any long conference to insist on it," we will have to take the House's bill in short order.

But I do think we ought to offer Senators the opportunity, particularly with respect to matters they have been thinking about and discussing for some time, to offer their tax measures, be they something to increase taxes or something to reduce taxes, on this bill. And I hope that we can send the President those measures that the Senate can agree to more or less unanimously without any serious objection.

Mr. NELSON. Respecting the 12 or so bills in the Finance Committee, there are three or four of them, anyway, that have some complicated detail in them that is not clear to me, and I am not sure that I would support them. My question is, Will there be committee reports on each of those before us, so that we can review them before there is any debate and vote on them?

Mr. LONG. It is my understanding that our staff has prepared a full written explanation of each of those legislative proposals, which we will be happy to make available to the Senate. At this point, assuming that we are going to adjourn tonight, I do not believe we will be able to go to the printer and get it printed and get it back, but we can use a Xerox machine and give the Senate as many copies as it wants of the same language. It is just that when you are acting on the last day of the session—and we hope this will be the last day—you are not able to bring something in in the nice, fine, polished paper and the print that you would like, when you are legislating on the last day.

We can make available to every Senator who wishes what the committee report would say if we had the opportunity to lay it on the table and vote on it in the normal course.

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

Mr. LONG. I yield.

Mr. MANSFIELD. I think I should say that I was on the floor yesterday when the chairman of the committee sent to the desk 13 amendments which he thought might or might not be brought up today because there was no time for action in the committee, evidently, and the purpose, as I recall, was to have these printed in the RECORD so that Senators would be able to look at them and study them today.

Unfortunately, and despite the chairman's good intentions, half of the RECORD has not been printed because we were in session too late last night. But the intention was to give Senators who were interested, and those are many interested, some information as to what these amendments, proposed or otherwise, look like, and in that way the amendments were prepared ahead of time, so that nothing would be pulled on them in a shotgun fashion.

The question now is on a bill which was on the calendar, I believe, since Wednesday and is not included among the 12 or 13 which the distinguished Senator from Florida raised in a colloquy with the distinguished chairman of the committee last evening.

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

Mr. LONG. I yield.

Mr. PROXMIRE. Were hearings held on these 13 bills—not the one that is up now?

Mr. LONG. No. They were discussed in executive session. We are aware of the Treasury position with regard to those measures. These are not the kinds of bills on which we usually hold hearings. Generally speaking, they are small revenue measures, and they do not involve a large amount of money. They involve possibly a half million dollars. So far as I know, none of them involves more than that.

There is one amendment involving a carry-forward and carry-back proposal, with regard to which we are informed there is no long-term Treasury loss. I would assume, with regard to that item, that there would be a short-term Treasury loss which would be offset by the long-run effect. I do not know what the short-term impact of that bill would be. I know that the Treasury informs us that there is no long-term effect of it.

Mr. PROXMIRE. In view of the fact

that it is a policy of the committee not to hold hearings on these minor bills and that no report will be made available——

Mr. LONG. We will make available to the Senator, if he would like to have it, everything the report would say if we had a committee report, and answer any question he wishes to ask about it. So far as I am concerned, I would like to provide any information the Senator would desire. The only measure that involves more than a half million dollars is one I voted against. I was inclined to vote against it because it lacked any further information. We will make it available to the Senator when we call it up.

Mr. MANSFIELD. I have just received word that contact has been made with the Printer, and the second part of the RECORD will not be ready until tomorrow.

At this time, I want to issue a very strong request—as strong as I can make it—to the Printer to get the second part of yesterday's RECORD up today, and as early as possible.

Mr. PROXMIRE. We will not have a report. There were no hearings, for perhaps good reasons. But is there any reason why we should not consider these bills next year, in an orderly way, when we can have our staff check it? Here it is Saturday, and I do not have a staff member here. It is their day off. It is hard to come in with a stack of new bills and determine whether we should vote for or against them.

Mr. LONG. So far as the Senator from Louisiana is concerned, it is purely up to the Senate. The Senate can do whatever it wishes. Of all the measures we are talking about, not one has the least bit of interest to the Senator from Louisiana, but they are of concern to other Senators.

So far as this Senator is concerned, I am willing to stay here for another week and consider anything that would be unfinished business when we go home. But the House is planning to adjourn, and the Senate does have some unfinished business which I think should be concluded.

With regard to the 13 items I have mentioned, I have no doubt that 8 of them could pass by unanimous consent. As a matter of fact, there is another one that the Senator from Vermont wants to offer. It has to do with istle. I do not know what istle is, but they have an item about istle. He has an amendment that I think could be adopted unanimously. Ask the Senator from Vermont whether he is willing to wait until next year.

Mr. MANSFIELD. Mr. President, I wonder whether we could have a vote on the pending bill, so that the distinguished chairman of the committee can go to a conference, and then take up this matter again.

Mr. DOMINICK. Mr. President, before we do that, could I ask one question of the chairman?

Is this bill out of the Finance Committee a tax bill or a tariff bill? If it is a tariff bill, I am going to have an amendment, myself.

Mr. LONG. This is a tax bill, but I do believe we have a tariff bill on the calendar.

I have tried to see that the calendar was not stripped of every tax bill, because if we did that, it would mean that at that point the Senate would be foreclosed from acting on anything like what the Senator has in mind, even though it might meet with unanimous approval of the Senate and nobody in the Press Gallery or anybody else could conceive of any reason why it should not pass and it would have the support of the Treasury and everybody else, but could not be acted upon. I have tried to leave a bill available so that Senators could offer a proposal. I do not know what the proposal is, but if nobody has any reason why it should not be passed——

Mr. MANSFIELD. Could we pass this bill?

The chair appointed the following conferees on the part of the Senate: Mr. LONG, Mr. ANDERSON, and Mr. BENNETT.

H.R. 12807—FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was read the third time, and passed.

PERSONAL TAX EXEMPTION FOR CERTAIN AMERICAN SAMOANS

Mr. MANSFIELD. Now, Mr. President, the colloquy can be resumed.

Mr. JAVITS. Mr. President, I should like to ask a question of the Senator from Louisiana.

As I understand it there will be a bill; the Senator will have it on the floor; and any of us who have amendments agreed to by the Government department concerned and the Treasury will have a reasonable opportunity to have them favorably considered.

Mr. LONG. That will be the Senator's only chance. For example, the Senator from California (Mr. TUNNEY) has a proposal that he wants to make.

Mr. JAVITS. I have one also.

Mr. LONG. Mr. CHURCH has a proposal that has to do with writers donating their manuscripts to the Library of Congress. Mr. AIKEN also has a proposal. If we do not know of any good reason why they should not be voted on, we will vote.

I regret that we have not had the opportunity for a dozen bills on which Senators could make their proposals. That is not within our province.

Mr. JAVITS. I think it is a very fair arrangement. I have a proposal that relates to qualifying certain types of housing projects.

Mr. PROXMIRE. If these bills come up without reports, without hearings, if they say they are minor bills but affect taxes, I am just going to talk and talk and talk—Monday, Tuesday, and Wednesday. Any Member can do that, and I am going to do that.

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

Mr. PROXMIRE. I yield.

Mr. TUNNEY. I would hope the Senator would not talk and talk and talk if a bill has gone through the departments and has favorable reports from every department, a bill which should come before the Senate and which we hoped to take up several weeks ago, but because of the revenue sharing bill and H.R. 1, we were not able to do so.

I have an amendment which has been cleared by all the departments. There is no objection to it whatever. It relates to wine. It relates to the carbon dioxide content in wine. It is going to improve the quality of wine, as a matter of fact.

Mr. PROXMIRE. You cannot improve the quality of California wine.

Mr. TUNNEY. I would agree that it is very difficult; but the fact is that in wines of low alcohol content, an increase in the amount of natural carbon dioxide which is allowed to be retained by law would improve the taste and color of those wines and in addition prevent it from spoiling as swiftly from the presence of oxygen.

I would hope the Senator would not make a general fiat that he is going to talk against all these small amendments that are coming up because they do not relate to his State or his province or his interest.

Mr. PROXMIRE. That is not the reason. This is Saturday. We all hope to adjourn. We do not have a staff available to analyze these bills. We are not in a position to make a serious judgment on them.

The Senator may be correct. He is enormously persuasive. He may be right. Much as I respect the President and much as I respect the agencies downtown, our function is to make our own judgments.

Mr. TUNNEY. That proposal has been introduced in the House and has been in the Finance Committee. The Senator from Louisiana (Mr. LONG), the chairman of the committee, and the staff, have had the opportunity to look at it, so that I am sure the Committee would find it acceptable. Just look at the proposal and at the reports and at the reasons I have mentioned, and the Senator could not possibly say that this is a proposal that should not go through the Senate today.

Mr. LONG. Well, Senator, standing right beside me is the best tax expert available to us here and as soon as we have disposed of the debt limit bill in conference, I will be happy to make him available to the Senator. I say with confidence that the Senator does not have anyone on his staff who would be better able to understand this measure than Mr. Woodworth standing beside me right here. He will be glad to explain everything to the Senator.

The way I like to legislate is where we do business by unanimous consent so that everything that goes through is something that we want, and nothing goes through if it is something that we do not want. The Senator can do it on his own terms, of course, and if he does not like anything he can object. The Senator from Wisconsin has always been a reasonable man. He has never been arbitrary. He is fairminded. I would think

that with regard to these matters, I will be happy to make our tax expert available to him on precisely every one of the items the Senator is interested in. We are satisfied that they should become law and when the Treasury is satisfied that they should become law, no one knows of any objection to them. The Senator is a fairminded person and I know that he will not refuse the right of the Senate unanimously to vote on something where everyone can agree it is a good bill. If the Senator has any doubt about a bill, I would concede his ability to prevent it from passing, and I respect the Senator for that. I have sat here when the Senator talked for 24 hours plus, when he spoke that long. He has the power to kill any bill of a revenue nature that we are talking about which has not yet passed the Senate. He could probably kill all those that have passed, if he wanted to. So I would plead with him to give Senators the same consideration if he were in their position. I will make available to the Senator the best tax expert we have on the committee.

Mr. CHILES. Mr. President, as I understand it, in spite of the fact that we do not have any printing—and that is not the fault of the distinguished chairman of the committee—he is going to make available to us in some form, whether mimeographed or not—Xeroxed, I believe—a list of the 13 bills because these are not in the RECORD and we will need a list of the things and what they do. All I want to find out is what they do, how much money they will cost, and whom they benefit, and then I can make up my mind whether I want to vote for them or not. That is one thing I would like to be able to get. I think the Senate is entitled to that, and then we can work our will.

Mr. LONG. By all means, I want the Senator to have it and we will make it available. I am sorry that the printer did not accommodate those of us who are concerned about this matter by having this on Senators' desks this morning. However, I thought it was there.

Mr. CHILES. One of the bills has gone to conference. We have completed that, but I do not know, now, who would benefit, or how much it would cost, and I would like to know that before the conference report comes back. I heard about the bona fide corporations and I heard about this definition and that definition—long term, short term, and so forth.

Mr. LONG. It benefits the State of West Virginia—who else, I do not know. West Virginia has a tax on automobiles which is a problem with that State. Who else, I could not tell the Senator except for Samoa.

Mr. CHILES. There was something about the minimum tax, was there not?

Mr. LONG. I have no idea. I did not ask. I do not have any idea. The Senator from Iowa offered the amendment. Maybe the Senator could find out what he wants to know from him, as to who the beneficiaries might be. I personally did not ask and would prefer not to. Just let us vote on the merits of the proposition and treat everyone alike. I would not want to be prejudiced by it.

Mr. NELSON. I am on the Finance Committee and I realize that the chairman has been busy and in conference. I have been trying for 3 days to find out, and to get a summary of the bills. I know that Mr. Woodworth, one of the ablest men in this Congress, and other members of the Finance Committee staff, have been tied up every single day on pending legislation. I asked for a summary 3 days ago, as a member of the committee. But they have been so busy that I still do not have the summary. I do not have a list of the bills. They are not here yet. I want a list of the bills—there are three or four of them that I want to be sure are carefully examined. I think I may oppose them but I do not know because I cannot get the bills to read them.

Mr. LONG. If it was within my power to compel the Senator's attendance at the committee meetings, he would know.

Mr. NELSON. I was at the committee meetings. The Finance Committee was passing on the bills. They were complicated, and he was trying to do so in 5 minutes, the day before yesterday. I asked the staff, Senator, for a summary, as a member of the Finance Committee, and I have not got that list yet. I was there, but I could not understand the explanations, and I do not know whether any other members of the committee understood them. I have been asking for the bills that they were explaining from prepared text. I was told that the staff would furnish it. So do not give me that. Just give me a list of the bills and a summary. That is all I am asking for.

Mr. LONG. It was put in the RECORD. I will be happy to provide it for the Senator. So far as I know, we have not yet voted on the bills or amendments. Perhaps someone protested that he wanted more time to study something on a particular subject.

Mr. NELSON. I said I wanted more time. On the airlines, I wanted to understand that one. The Senator said I was not there. I was there. I asked for a summary 3 days ago. All I want is a list of bills and I do not want any reflections on whether I was present or not.

Mr. LONG. I recall the Senator was there part of the time, but I do not recall whether he was there all the time or not. But if the Senator was there—frankly, I had to step out myself for a few minutes while the meeting was going on, but everyone who wanted to offer an amendment explained it, and every question was answered that was asked about it, so far as I can recall. I do not recall of any question that was asked that was not answered to the best of the ability of those present to answer them.

I did put a summary in the RECORD. It is there. So far as I am concerned, Senator, just do whatever you want to do about it. Let your conscience be your guide. I am only trying to accommodate other people. I would think, if the Senator had one of those 13 measures, or even 1, such as the Senator from Vermont wants to offer, that he would be asking people to take time to consider the proposition; and, as I understand it, that is all the Senator is asking.

Mr. NELSON. That is all I am asking. That is all. As a member of the committee, that is what I have asked for for 3 solid days.

Mr. LONG. The Senator will have it. I urge the Senator to be here because we will provide it to him.

Mr. HUGHES. When?

Mr. MANSFIELD. Mr. President, first, may I say—is the Senator from Florida here? Anyway, if I may have the attention of the Senate, I should like, if those who have amendments to offer to tariff bills, to take up the two carillon bills some time this morning and, later, for those who have amendments, to take up H.R. 640, which is also a tariff bill.

And in that way those who have indicated to the respective legislative committees that they are interested in these bills would have as much opportunity on this one and the other two could be cleared out of the way because they are of minor significance.

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

Mr. MANSFIELD. I yield.

Mr. JAVITS. Mr. President, that does not include tax items?

Mr. MANSFIELD. We have no tax bills. There are three tariff bills.

Mr. JAVITS. The Senator from Louisiana said that he would report one.

Mr. MANSFIELD. The Senator is correct.

Mr. JAVITS. So, the Senator would prefer that we have the tax items on the tax bills rather than on these.

Mr. MANSFIELD. I would not care.

Mr. JAVITS. I wonder if the chairman of the committee minds.

Mr. MANSFIELD. Mr. President, I could ask the chairman of the Finance Committee. I indicated that I would like to take up two carillon measures and that if anyone had an amendment, he could offer it to H.R. 2640, which is also a carillon bill. The Senator from New York raised a question about a tax bill being reported out. My answer was that none of these three were tax bills. And the Senator from New York said that you were going to report out a tax bill.

Mr. JAVITS. And that the Senator from Louisiana said that he would prefer to have us do it on a tax bill.

Mr. LONG. I believe that we will have a tax bill and a tariff bill. I prefer that Senators offer tax amendments on tax bills and tariff amendments on tariff bills.

H.R. 12807—ARCHITECTURAL AND ENGINEERING SERVICES

Mr. BEALL. Mr. President, I ask unanimous consent to have a statement by the distinguished Senator from Tennessee printed in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

STATEMENT BY SENATOR BROCK

I am delighted with the Senate passage of H.R. 12807 which gives the Federal Government authority to negotiate contracts for architectural and engineering services on the

basis of competence and qualification and not on the basis of the lowest bid.

This method of procurement will better assure high quality design, economical construction and maintenance, and facilities designed to "protect the health, safety and welfare of the American public" as obligated by the code of ethics of professional engineers.

The cost of intangibles such as imagination, technical skill, creativity, innovation and attention to details cannot be compared on a price basis.

H.R. 12807 does include a requirement which limits the cost of these services to no more than 6% of the construction cost of the project. It is realistic and sound legislation.

I was a cosponsor of the Senate version of this bill. I was also a sponsor of the 1970 House bill which died in the Senate when it was reported out of Committee too late to be considered before adjournment of the 91st Congress. So, I am doubly pleased with the Senate's action in passing H.R. 12807 during the closing days of the 92d Congress.

Mr. AIKEN. Mr. President, I have had for a long time an amendment extending for 3 years the suspension of the duty on istle fibers. That is a material that does not come into competition with anything in this country so far as I know.

It is practically all imported from Mexico and has been excluded from duty for 15 years. And the House Ways and Means committee has approved a companion bill for this suspension. They may vote on it late today, I understand. That means that it will not get here in time for any action on that bill by the Senate.

Our only recourse seems to be to include it as an amendment to the pending measure.

The Tariff Commission reported on August 8 that it has no objection to it. It has also been approved by the State Department and the Commerce Department. While it is not a major industrial item, its use does provide some business in this country for quite a few people.

Mr. MANSFIELD. Mr. President, before I ask that the Senate go into executive session, may I say that from what I have heard about the Tunney amendment and the Aiken amendment, it seems to me that they are of a nature which should be given consideration. And I hope that consideration will be forthcoming.

Mr. AIKEN. Mr. President, I would have submitted this to be printed except that up to now I had no idea what bill to offer it to.

EXECUTIVE SESSION

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

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

RAILROAD RETIREMENT BOARD

The legislative clerk read the nomination of James L. Cowen, of Illinois, to be a member of the Railroad Retirement Board.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

PUBLIC HEALTH SERVICE

The legislative clerk proceeded to read sundry nominations in the Public Health Service.

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

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc.

FEDERAL METAL AND NONMETAL MINE SAFETY BOARD OF REVIEW

The legislative clerk read the nomination of Peter J. Bensoni, of Minnesota, to be a member of the Federal Metal and Nonmetal Mine Safety Board of Review.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

ACTION

The legislative clerk read the nomination of Charles W. Ervin, of California, to be an Associate Director of ACTION.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

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, the President will be notified forthwith.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

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

CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of the calendar, beginning with Calendar Order No. 1233 and up to and including Calendar Order No. 1241.

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

RELEASE OF CERTAIN RESTRICTIONS ON ACQUISITION OF LANDS FOR RECREATIONAL DEVELOPMENT AND PROTECTION OF NATURAL RESOURCES AT FISH AND WILDLIFE AREAS

The bill (H.R. 10384) to release certain restrictions on the acquisition of lands for recreational development and for the protection of natural resources at fish and wildlife areas administered by the Secretary of the Interior was considered, ordered to a third reading, read the third time, and passed.

INTERNATIONAL CENTER FOR SITES FOR CHANCERIES FOR FOREIGN EMBASSIES

The bill (S. 4039) to amend Public Law 90–553 concerning an international center for sites for chanceries for foreign embassies 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 first sentence of section 6 of Public Law 90–553 (82 Stat. 958) is hereby amended to read as follows:

"There is hereby authorized to be appropriated without fiscal year limitation, not to exceed $2,200,000 to carry out the purposes of section 5 of this Act: *Provided,* That such sums as may be appropriated hereunder shall be reimbursed to the Treasury from proceeds of the sale or lease of property to foreign governments and international organizations as provided for in the first section of this Act."

AUTHORIZATION FOR MEMBERS OF THE ARMED FORCES WHO ARE IN MISSING STATUS TO ACCUMULATE LEAVE WITHOUT LIMITATION

The Senate proceeded to consider the bill (H.R. 14911) to amend titles 10 and 37, United States Code, to authorize members of the Armed Forces who are in a missing status to accumulate leave without limitation, and for other purposes which had been reported from the Committee on Armed Services with an amendment on page 2, line 11, after the word "title", strike out "37." and insert "37. However, a member whose death is prescribed or determined under section 555 or 556 of title 37 may, in addition to leave accrued before entering a missing status, accrue not more than one hundred and fifty days' leave during the period he is in a missing status, unless his actual death occurs on a date when, had he lived, he would have accrued leave in excess of one hundred and fifty days, in which event settlement will be made for the number of days accrued to the actual date of death. Leave so accrued in a missing status shall be accounted for separately and paid for under the provisions of section 501 of title 37."

Mr. HARRY F. BYRD, JR. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

At the end of the bill add the following new sections:

SEC. 4. Chapter 4 of title 10, United States Code, is amended as follows:

(1) Section 134 is amended to read as follows:

§ 134. Deputy Secretaries of Defense: appointment; powers and duties; precedence

"(a) There are two Deputy Secretaries of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as a Deputy Secretary of Defense within ten years after relief from active duty as a commissioned officer of a regular component of an armed force.

"(b) The Deputy Secretaries shall perform

such duties and exercise such powers as the Secretary of Defense may prescribe. The Deputy Secretaries, in the order of precedence, designated by the President shall act for, and exercise the powers of, the Secretary when the Secretary is disabled or there is no Secretary of Defense.

"(c) The Deputy Secretaries take precedence in the Department of Defense immediately after the Secretary."

(2) Section 135(c) and 136(e) are each amended by striking out "Deputy Secretary" and inserting in place thereof "Deputy Secretaries".

(33) The item in the analysis relating to section 134 is amended to read as follows:

"134. Deputy Secretaries of Defense: appointment; powers and duties; precedence."

SEC. 5. Section 171(a)(2) of title 10, United States Code, is amended by striking out "the" and inserting in place thereof "a".

SEC. 6. Section 5313(1) of title 5, United States Code, is amended to read as follows:

"(1) Deputy Secretaries of Defense (2)."

SEC. 7. Section 303(c) of the Internal Security Act of 1950 (50 U.S.C. 833(c)) is amended to read as follows:

"(c) Notwithstanding section 133(d) of title 10, United States Code, only the Deputy Secretaries of Defense and the Director of the National Security Agency may be delegated any authority vested in the Secretary of Defense by subsection (a).".

Amend the title so as to read: "An Act to amend titles 10 and 37, United States Code, to authorize members of the armed forces who are in a missing status to accumulate leave without limitation, to amend title 10, United States Code, to authorize an additional Deputy Secretary of Defense, and for other purposes."

Amend section 3 of the bill to read as follows:

SEC. 3. The first and second sections of this Act become effective as of February 28, 1961.

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

Mr. HARRY F. BYRD, JR. Mr. President, this amendment is identical to Calendar Order No. 1238, which is on the Consent Calendar, a bill to authorize an additional Deputy Secretary of Defense, and for other purposes. Normally it would be called up in a few moments. The reason I am offering this as an amendment to H.R. 14911 is to facilitate the parliamentary situation in the House.

Mr. MANSFIELD. Mr. President, I had no idea that this would be done. I knew an amendment was going to be offered. However, I ask unanimous consent that the bill be withdrawn temporarily.

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

Mr. MANSFIELD. Mr. President, there is nothing wrong with it. However, some questions will be asked and we will need a little more time.

DISTRICT OF COLUMBIA TEACHERS' SALARY ACT AMENDMENTS OF 1972

The bill (H.R. 15965) to amend the District of Columbia Teachers' Salary Act of 1955 to increase salaries, to provide certain revisions in the retirement benefits of public school teachers, and for other purposes was considered, ordered to a third reading, read the third time, and passed.

BILL PASSED OVER

The bill (S. 3237), a bill to authorize an additional Deputy Secretary of Defense, and for other purposes, was announced as next in order.

Mr. MANSFIELD. Mr. President, over.

The PRESIDING OFFICER. The bill will be passed over.

NORTH CAROLINA-VIRGINIA BOUNDARY

The joint resolution (H.J. Res. 912) granting the consent of Congress to an agreement between the States of North Carolina and Virginia establishing their lateral seaward boundary was considered, ordered to a third reading, read the third time, and passed.

PROVIDING FOR FREE ENTRY OF A CARILLON FOR USE OF THE UNIVERSITY OF CALIFORNIA

The bill (H.R. 4678) to provide for the free entry of a carillon for the use of the University of California at Santa Barbara was announced as next in order.

Mr. MANSFIELD. Mr. President, I would like to take up this bill. However, if anyone raises objection, there will be no sweat in passing it over.

Mr. BEALL. Mr. President, reserving the right to object, this is not a bill to which one could attach tax amendments.

Mr. MANSFIELD. No. It is one of three carillon bills, and I thought that we might get it out of the way.

Mr. BEALL. What bill is that?

Mr. MANSFIELD. Calendar No. 1240.

Mr. JAVITS. Mr. President, there is another carillon bill on the Calendar which could be used, calendar No. 1050.

Mr. MANSFIELD. Yes, but there is also H.R. 640.

Mr. JAVITS. There is some doubt about H.R. 640. This is a straight carillon bill.

Mr. MANSFIELD. Mr. President, over on Calendar No. 1240, a bill (H.R. 4678) to provide for the free duty of a carillon for the use of the University of California at Santa Barbara.

The PRESIDING OFFICER. The bill will be pased over.

WAIVER OF EMPLOYEE DEDUCTIONS FOR FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PURPOSES DURING A PERIOD OF ERRONEOUS REMOVAL OR SUSPENSION

The bill (H.R. 11563) to amend chapter 87 of title 5, United States Code, to waive employee deductions for Federal Employees' Group Life Insurance purposes during a period of erroneous removal or suspension was considered, ordered to a third reading, read the third time, and passed.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate again go into executive session.

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

COAST GUARD

Mr. MANSFIELD. Mr. President, I send to the desk two nominations in the Coast Guard, which have been cleared all the way around, and ask unanimous consent for their immediate consideration and that the committee be discharged from the nominations

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

The legislative clerk read the nominations of Rear Adm. Mark A. Whalen and Rear Adm. Benjamin F. Engel to be commander, Pacific area, and commnder, Atlantic area, U.S. Coast Guard with the rank of vice admiral, while so serving.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

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, the President will be notified forthwith.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 27) to establish the Glen Canyon National Recreation Area in the States of Arizona and Utah, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. 1462) to provide for the distribution to the Sisseton and Wahpeton Tribes of Sioux Indians of their portion of the funds appropriated to pay judgments in favor of the Mississippi Sioux Indians in Indian Claims Commission dockets numbered 142 and 359, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

DISPOSITION OF JUDGMENT FUNDS OF THE OSAGE TRIBE OF INDIANS OF OKLAHOMA

Mr. MANSFIELD. Mr. President, I am about to ask unanimous consent that the Senate turn to the consideration of Calendar No. 921, H.R. 7093, an act to provide for the disposition of judgment funds of the Osage Tribe of Indians of Oklahoma. Before I make the request, I wish to make an explanation.

This bill has been on the calendar since July 19. There has been a hold on

the bill, but about 2 weeks ago the joint leadership announced that holds would not be honored from that time on. Nevertheless, on several occasions when it was possible to bring up this bill, the majority leader decided not to, in the hope that it could be taken up at a time when all parties were present.

This bill has been reported by the Committee on Interior and Insular Affairs unanimously. The distinguished chairman of that committee, the Senator from Washington (Mr. JACKSON) has been after me to call up this bill, and the distinguished Senator from Oklahoma (Mr. BELLMON) has politely and courteously raised the question from time to time. We are down to possibly the last day of the session.

I had intended to bring up this bill two days ago. But when I found that a particular Senator was not in town I decided to wait until the next day, which was yesterday. Yesterday this matter could have been brought up but I decided to wait another day. I served notice last night that today we would take up the bill in which the distinguished Senator from Arkansas and the distinguished Senator from Florida (Mr. CHILES) were interested, and after that the Osage Indian bill.

I make this explanation at this time because I like to lean over as far backward as I can for every Senator. But with the time drawing to a close I feel I have to exercise a certain responsibility.

Mr. President, therefore, I ask unanimous consent at this time that Calendar No. 921, H.R. 7093, be laid before the Senate and made the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7093) to provide for the disposition of judgment funds of the Osage Tribe of Indians of Oklahoma.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with amendments on page 2, at the beginning of line 2, strike out "the sum of $1,000,000" and insert "an amount equal to 30 per centum of the judgment together with interest thereon"; and, in line 6, after "(b)", strike out "The sum of $1,000,000 plus any funds that revert to the Osage Tribe may be advanced, expended, invested, or reinvested for the purpose of financing an education program or other socioeconomic programs of benefit to the Osage Tribe of Indians of Oklahoma, such programs to be administered as authorized by the Secretary of the Interior" and insert "An amount equal to 30 per centum of the judgment together with interest thereon plus any funds that revert to the Osage Tribe may be advanced, expended, invested, or reinvested for the purpose of financing an education program or other socioeconomic programs of benefit to all members of the Osage Tribe of Indians of Oklahoma, whether allotted or unallotted, such programs to be administered as authorized by the Secretary of the Interior".

Mr. MANSFIELD. Mr. President, I wish to make a request. If this bill is passed, I would hope there would be no motion made at this time to reconsider and table.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from Utah was recognized.

Mr. MANSFIELD. Mr. President, will the Senator from Utah yield to me briefly?

Mr. MOSS. I yield.

DISPOSITION OF JUDGMENT FUNDS IN FAVOR OF CERTAIN INDIANS—CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, I submit a report of the committee of conference on S. 3230, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3230) to provide for the disposition of funds appropriated to pay a judgment in favor of the Assiniboine Tribes of Indians in Indian Claims Commission docket numbered 279–A, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the House to the Bill (S. 3230) to provide for the disposition of funds appropriated to pay a judgment in favor of the Assiniboine Tribes of Indians in Indian Claims Commission docket numbered 279–A, and for other purposes, having met, after full and free conference, have been unable to agree.

HENRY M. JACKSON,
LEE METCALF,
HENRY BELLMON,
Managers on the Part of the Senate.

WAYNE N. ASPINALL,
ED EDMONDSON,
JOHN P. SAYLOR,
JOHN N. HAPPY CAMP,
Managers on the Part of the House.

The report was agreed to.

Mr. MANSFIELD. Mr. President, this is a matter of concern to Montana and has to do with the Assiniboine Indians.

I move that the Senate concur in the amendment of the House to S. 3230.

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

The motion was agreed to.

ORDER OF BUSINESS

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

Mr. MOSS. I yield briefly to the majority whip.

INDIAN PEAKS AREA, COLO.

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1198.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1198) to authorize the Secretary of Agriculture to review as to its suitability for preservation as wilderness the area commonly known as the Indian Peaks Area in the State of Colorado, which was to strike out all after the enacting clause and insert:

That (a) the Secretary of Agriculture, in accordance with the provisions of subsection 3(d) of the Wilderness Act of September 3, 1964 (78 Stat. 892) relating to public notice, public hearings, and review by State and other agencies, shall review, as to its suitability or nonsuitability for preservation as wilderness, the area (or any portion thereof) located partially in Arapaho National Forest and partially in Roosevelt National Forest, containing approximately seventy-one thousand acres, lying generally south of the southern boundary of Rocky Mountain National Park, Colorado, and commonly referred to as the "Indian Peaks Area," as generally depicted on a map entitled "Indian Peaks Study Area", dated October 4, 1972, and shall report his findings to the President. The President shall advise the United States Senate and the House of Representatives of his recommendations with respect to the designation of such area or portion thereof as "wilderness," together with maps and a definition of boundaries. Any recommendation of the President to the effect that such area or portion thereof should be designated as "wilderness" shall become effective only if so provided by an Act of Congress.

(b) The review required by this Act, including any reports and recommendations with respect thereto, shall, except to the extent otherwise provided in this Act, be conducted in accordance with the applicable provisions of the Wilderness Act.

SEC. 2. There is hereby authorized to be appropriated such amount as may be necessary to carry out the provisions of this Act.

Mr. ROBERT C. BYRD. Mr. President, the House amendment to S. 1198 reduces the area to be studies for possible inclusion in the wilderness system by some 4,000 acres. This and other differences between the two versions might require a conference if more time remained. However, because of the lateness of the session, the sponsor of S. 1198, the senior Senator from Colorado (Mr. ALLOTT), has requested that we accept the changes.

Therefore, Mr. President, on behalf of the Senator from Washington (Mr. JACKSON) I move that the Senate concur in the amendment of the House to S. 1198.

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

The motion was agreed to.

GATEWAY NATIONAL RECREATIONAL AREA, N.Y. AND N.J.—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Washington (Mr. JACKSON), I submit a report of the committee of conference on S. 1852, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1852) to provide for the establishment of the Gateway National Recreation Area in the States of New York and New Jersey, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of Oct. 12, 1972, at pp. 35539–35541.)

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Washington (Mr. JACKSON), I wish to say that the conference met and worked out what I believe to be a fair and equitable settlement of the differing versions of this important legislation. There is probably no other area of the Nation where recreational facilities are more sorely needed than in our great urban centers. With the enactment of the Gateway National Recreation Area in the East, the Congress will be establishing an area where public recreational facilities will be available to the Nation's largest metropolitan area, composed of Greater New York City and the surrounding communities.

Yesterday, Congress completed action and sent to the President a bill to establish the Golden Gate National Recreation Area in the West in the San Francisco metropolitan area. It is fitting and proper that we follow that action by completing the final steps in the legislative process in connection with the present bill.

I move the adoption of the conference report on S. 1852.

Mr. BUCKLEY. Mr. President, I take great pleasure in the Senate's approval of the conference report on S. 1852, a bill, which I cosponsored, to create a Gateway National Recreation Area in the States of New York and New Jersey. With persistence and hard work the Congress, the administration, and the many fine governmental and citizen groups in New York and New Jersey have brought into reality this novel concept, a national urban park in the midst of the largest metropolitan area of the Nation. The benefits which the creation of Gateway National Recreation Area will bring to the 20 million people residing within a day's traveling distance from the seashore are incalculable.

This country's coastal areas are among its greatest natural resources, and among its scarcest. The competing demands which are placed on the coastal areas for all kinds of activities make it all the more significant that the Congress has agreed to collect the various available properties in the area of New York Harbor and to set them aside for the recreational use of so many. The recreation area will contribute in a major way in making our crowded eastern cities more livable by bringing these cities' inhabitants within close reach of the ocean. By protecting the wetlands and wildlife preserve in Jamaica Bay, one of the units of the recreation area, we also contribute to the preservation of some of our most delicate resources, the primitive estuarine and marine life on which higher forms of life depend.

The creation of Gateway "East", like the proposal to create Gateway "West" in San Francisco, Calif.—the Golden Gate National Recreation Area—represents the epitome of the "parks to the people" recreational philosophy which President Nixon has promoted throughout his administration. The measure is now cleared for the President's signature, and I have no doubt that he will be tremendously gratified to have the opportunity to sign this fine piece of legislation into law.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

ESTABLISHING THE FOSSIL BUTTE NATIONAL MONUMENT, WYO.—CONFERENCE REPORT

Mr. HANSEN. Mr. President, I submit a report of the committee of conference on S. 141, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 141) to establish the Fossil Butte National Monument in the State of Wyoming, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective House this report signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of October 12, 1972, at pages 35541–35542.)

Mr. HANSEN. Mr. President, I am satisfied that the agreement reached by the conference committee on S. 141 is a reasonable compromise, and I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

WAIVER OF PRINTING OF CONFERENCE REPORTS AS SEPARATE SENATE REPORTS

Mr. ROBERT C. BYRD. Mr. President, did I not earlier in the session get blanket unanimous consent for the remainder of this session to provide that the printing of a conference report as a separate document by the Senate be dispensed with in all cases in which the House, which acts first on the conference report, had previously printed the report, together with the joint statements of the conference committee?

The PRESIDING OFFICER. That has been previously agreed to.

Mr. ROBERT C. BYRD. I thank the Presiding Officer, and I thank the Senator from Utah for yielding.

DISPOSITION OF JUDGMENT FUNDS OF THE OSAGE TRIBE OF INDIANS OF OKLAHOMA

The Senate resumed the consideration of the bill (H.R. 7093) to provide for the disposition of judgment funds of the Osage Tribe of Indians of Oklahoma.

Mr. MOSS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is Calendar No. 921, H.R. 7093.

Mr. MOSS. Mr. President, this is a bill having to do with disposition of judgment of funds of the Osage Tribe of Indians of Oklahoma. This is a judgment that has been granted according to the statute and this is a provision for distribution. This bill has been passed in the House and came to the Senate where it was considered; and the Senate made some amendments to the bill.

Mr. President, I ask unanimous consent that the Senate committee amendments be withdrawn.

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

Mr. MOSS. I might say, by way of explanation, again because of the lateness of the hour and the importance of the bill, it was deemed advisable by the sponsor of the bill in the Senate and the committee that the amendments not be pursued, so that we might act on the House bill, and perhaps complete our action here today.

This matter, as the majority leader pointed out, has been pending a long time on the calendar, and it is hoped that we can dispose of it today.

My colleague, the Senator from Oklahoma (Mr. BELLMON), is the author of the Senate version of this bill and serves on the committee. I am glad to yield to him for whatever time he needs.

Mr. BELLMON. Mr. President, I thank the distinguished Senator.

Mr. President, the Osage claim was filed on March 14, 1951, with the Indian Claims Commission. Final award was made by the Commission on September 15, 1970, and funds were appropriated in payment on January 8, 1971.

H.R. 7093, which we are now considering, was introduced in the first session of the 92d Congress. Hearings were held

in the House, and the bill passed on April 19, 1972. The Senate Committee on Interior and Insular Affairs held hearings on S. 1456, which is the same bill as the House version, and S. 3234 on March 28, 1972, and reported the bill to the Senate on July 19, 1972, and it has been on the calendar since that time.

As amended, H.R. 7093 provides for distribution of $12,250,000, plus interest, on a per capita basis, with a reservation of $1 million to be used for programs of an educational or other socioeconomic nature.

This matter has been pending for more than 20 years. There has been a heavy cost of litigation. Legal fees amount to more than $1,300,000. Unless the Senate takes action today, these figures will continue to mount. There have already been more than 240 motions filed in connection with this claim.

In my opinion, the matter should have been settled years ago.

I am pleased that the Senate is taking action on it today.

I ask unanimous consent that a letter from Representative ED EDMONDSON, who represents the district where most of the Osage Indians live, be made a part of the RECORD at this time.

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

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 2, 1972.

HON. HENRY JACKSON,
Chairman, Committee on Interior and Insular Affairs, New Senate Office Building, Washington, D.C.

DEAR CHAIRMAN JACKSON: I have spoken to several members of your Committee about the need for action on the distribution bill for the Osage Indian Tribe, H.R. 7093, which passed the House on April 17, 1972.

I would deeply appreciate anything you can do to secure passage of this bill, in the form in which it passed the House, before the end of the current session of the Congress.

With best wishes and kindest personal regards,

Sincerely yours,

ED EDMONDSON,
Member of Congress.

Mr. BELLMON. Representative EDMONDSON states, briefly, that he would appreciate passage of the bill and asks that it be enacted before the end of the current session of Congress because he also knows the importance of this legislation to his constituents.

Let me say, in conclusion, that I appreciate the courtesy of the majority leader in bringing this matter before the Senate at this time. It has been on the calendar for more than 3 months. If we do not act, the matter will be put off for many additional months, during which time those who should benefit from this legislation will, in many cases, suffer hardships. I believe the majority leader is performing a very fine service to those affected by this legislation in bringing up the bill for action today.

The PRESIDING OFFICER. If there be no further discussion or amendment to be offered, the question is on the third reading of the bill.

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

CONSUMER PRODUCT SAFETY ACT—CONFERENCE REPORT

Mr. MOSS. Mr. President, I submit a report of the committee of conference on S. 3419, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two houses on the amendment to the bill (S. 3419) to protect consumers against unreasonable risk of injury from hazardous products, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of October 12, 1972, at pp. 35592–35601.)

Mr. MOSS. Mr. President, I move that the Senate agree to the conference report on S. 3419.

This bill represents the culmination of 10 years of legislative effort to secure the consumer's right to safety in the marketplace. The bill creates an independent regulatory agency composed of five Commissioners who would have the authority to set product safety standards for consumer products of all types. The Commission would also be empowered to ban certain products which could not be made safe by the establishment of a safety standard. Consumer products which were imminently hazardous could be removed immediately without administrative proceedings through court action initiated by the Commission.

This bill provides the Federal Government with the weaponry to make significant inroads against unsafe consumer products in the marketplace, thereby preventing many of the 20 million product-associated injuries that occur each year. The bill also contains safeguards against bureaucratic indifference. Congress for the first time has created a mechanism whereby private citizens can compel, through petition court preceedings, an agency to initiate action to protect the public health and safety. The Commission responsibility provisions agreed to by the conference committee will guarantee that the promises of safety made by the sponsors of this legislation will be met in subsequent years.

Mr. President, while the bill agreed to by the conference committee is a great step forward for the American consumer, I cannot help but express my regret that the Senate was not able to prevail in its efforts to upgrade the quality of Government regulation of foods and drugs by transferring the Food and Drug Administration to this new, independent regulatory agency. Those of us concerned about the safety of products in the marketplace realize that we have more work to do with respect to the safety of foods, drugs, cosmetics, and medical devices. I share the frustration expressed by Senator PERCY that we have created a new, independent regulatory agency to watch out over consumer products but have done nothing to upgrade the performance of the agency responsible for the safety of foods and drugs. We must fight that battle again next year.

I understand the distinguished Senator from New Hampshire (Mr. COTTON) will be on the floor shortly and would like to be present before final action is taken on the conference report.

I also intend to insert a floor statement by the chairman of the Commerce Committee (Mr. MAGNUSON).

Mr. President, I would like to offer the following remarks concerning specific provisions of the product safety bill agreed to by the committee of conference. My comments will expand the joint statement of managers in those areas where I believe greater comment is appropriate:

First. Establishment of Federal agency to regulate consumer product safety: The Senate bill would have established a comprehensive program to regulate foods, drugs, cosmetics, medical devices, and other consumer products. The House bill provided only for the regulation of consumer products. In the Senate bill proper staffing of the agency was assured by a provision authorizing the appointment of 25 supergrades. In agreeing to the House amendment which contained no similar provision, the Senate did not in any way recede from its commitment to a properly staffed agency. It is my hope that sufficient supergrade positions will be allocated to this important new regulatory agency.

Second. Consumer information: The Senate bill provided for the establishment of a "public information room" designed to insure all interested parties access to consumer safety information. The House amendment had no specific provision requiring the establishment of a public information room. Although the Senate conferees agreed to the general language of the House bill, I am hopeful that the new independent regulatory agency will take appropriate steps to assure the public access to consumer safety information so as to prevent injury and make consumer participation in agency proceedings meaningful.

Third. Meaning of phrase "Unreasonable risk of injury associated with a consumer product": The Senate bill defined the phrase "unreasonable risk of injury presented by a consumer product." The definition set forth a balancing test which emphasized the primacy of health and safety over other factors. Two particular measures of public health and safety were to be considered: the degree of anticipated injury and the frequency of such injury. In those situations where either the degree of anticipated injury or the frequency of such injury could be reduced without affecting the "performance" or "availability" of that class of consumer product, then almost any risk capable of producing injury would become unwarranted. When "performance" or "availability" were affected, then a

balancing of competing interests would have to be undertaken. The House bill did not contain a specific definition of "unreasonable hazard." Note that the House bill defined "hazard" as "risk of injury." The report accompanying the House amendment to S. 3419 set forth the same kind of balancing test which was incorporated in the definition of "unreasonable risk of injury presented by a consumer product" in the Senate bill.

While the full reach of the term "unreasonable risk" will be left for the courts to decide, it is my hope that they will be guided by this important legislative history which sets forth an important balancing test. It is also my hope that the courts will take notice of the fact that the word "associated" was chosen so as to convey the fact that the risk of injury did not have to result from "normal use" of the consumer product but could also result from such things as "exposure to or reasonable foreseeable misuse of the consumer product." See, for example, the definition of "use" in the Senate bill.

Fourth. Title V of the Senate bill: Title V of the Senate bill amended the Federal Hazardous Substances Act to strengthen that act by requiring submission of product formulas, the results of screening tests for hazards, and antidote and treatment information. Title V also deleted the present exemption from the Federal Hazardous Substances Act for food, drugs, and cosmetics in certain fields. The House amendment did not contain an express provision for the collection of this information. But under section 27(e), the House amendment authorized the Commission to require any manufacturer—

To provide to the Commission such performance and technical data related to performance of safety as may be required to carry out the purposes of the Act.

In agreeing to the deletion of title V, the Senate conferees were hopeful that the Commission under authority of section 27(e) would obtain formulation, information and toxicological test data on consumer products so as to aid the poison prevention activities of the Consumer Product Safety Commission.

Fifth. Safety analysis: The Senate bill authorized the Commissioner of Product Safety to require the manufacturer of a consumer product to subject such product to a detailed safety analysis. The purpose of the safety analysis study was to identify and thereby eliminate risks associated with the use of consumer products short of promulgating a consumer product safety standard. The House amendment did not contain specific provisions relating to safety analysis. However, a House provision agreed to in conference—section 27(e)—does authorize the Commission to obtain information to the same extent as if the safety analysis provisions of the Senate bill had been included.

Sixth. Retention of the names of first purchasers: The Senate bill authorized the Product Safety Commissioner to establish procedures to be followed by those persons in the distribution chain and consumers themselves in securing and maintaining the names and addresses of first purchasers of consumer products. In determining whether or not to require the maintenance of the names and addresses of first purchasers, the Commissioner would be required to consider the severity of the injury that could result if the consumer product was manufactured not in compliance with an applicable standard, the likelihood that a particular type or class of consumer product would be manufactured not in compliance, and the burden imposed upon the manufacturer, and ultimately the consumer, in requiring the maintenance of the names. Although the names of first purchasers would not be required to be maintained for all consumer products subject to consumer product safety standards, the recall of noncomplying consumer products would be very difficult without the names of the first purchasers.

The House amendment did not contain a specific provision relating to the maintenance of the names and addresses of first purchasers. However, in section 16(d) of the House amendment, which was accepted by the committee of conference, the Commission is authorized to require any manufacturer, private labeler, or distributor—but not retailer—to establish and maintain such records as may be reasonably required for the purpose of implementing the act. Therefore, there is authority to require the maintenance of the names and addresses of first purchasers within the bill as reported by the committee of conference. It is my hope that retailers will cooperate with manufacturers, private labelers, or distributors who are requested by the Commission to maintain the names and addresses of first purchasers. It is also my hope that the Commission looks to the guidelines set forth in the Senate bill in order to determine which manufacturers, private labelers, or distributors should be required to retain such information.

Seventh. Submission of Legislative Recommendations: The Senate bill authorized and directed the Administrator of the Food, Drug, and Consumer Product Agency to submit legislative recommendations directly to the Congress without prior review of the Office of Management and Budget or any other Federal officer or Agency. The House amendment contained no comparable provision. The committee of conference agreed to the Senate provision authorizing and directing the direct submission of legislative recommendations. One might ask: "Why is this necessary?"

A recent situation involving administration proposed amendments to the Auto Safety Act illustrates the need for this provision. The agency responsible for implementing the Auto Safety Act, namely, the National Highway Traffic Safety Administration, submitted to the Secretary of Transportation, which in turn submitted to the Office of Management and Budget, a proposed amendment to the auto safety law to require automobile manufacturers to repair without charge vehicles which had been recalled because they contained a safety-related defect. The Department of Commerce communicated to the Office of Management and Budget their opposition to this amendment to the auto safety law. The Office of Management and Budget refused to submit the legislative recommendations for free repair of safety-related defects. In other words, the agency charged with responsibility of preventing death and carnage on our Nation's highways was precluded from communicating to Congress its desires concerning improvement of this legislation.

Only good fortune enabled the Congress to find out that there had been a difference of opinion and that, in fact, the National Highway Traffic Safety Administration endorsed legislation authorizing them to require the free repair of defective automobiles subject to recall. On the basis of this experience and similar experiences, those of us interested in a viable safety program want to know what the agency responsible for implementing the safety program thinks they need in the way of new authority to protect the health and safety of the American consumer. Therefore, we have required submissions of legislative recommendations to Congress, without prior review of OMB or anyone else.

Eighth. Private remedies: Both the Senate bill and the House amendment authorize an individual who has been injured by a consumer product that has been produced by a manufacturer who knows that the product does not meet an applicable product safety standard to sue such manufacturer in Federal court if the person's injuries were alleged to be greater than $10,000. In creating this Federal right but limiting the access to the Federal courts to injuries causing damage alleged to be greater than $10,000, the Senate and House conferees did not mean to preclude State courts from concurrent jurisdiction in enforcing the Federal right in those situations where the extent of injury was less than $10,000.

Ninth. Legal action by Commission: The Senate bill authorized the Administrator of the Food, Drug, and Product Safety Agency to "initiate, prosecute, defend, or appeal any court action in the name of the Agency for the purpose of enforcing the laws subject to its jurisdiction, through his own legal representative or through the Attorney General, and direct the course of all litigation." The House amendment had no similar authorization. The committee of conference agreed to a provision which gives the Commission the authority to initiate, prosecute, defend, or appeal any court action in the name of the Commission for the purpose of enforcing the laws subject to its jurisdiction. But the Commission may not use its own legal representatives if the Attorney General notifies him that he does not concur. In the event of such notice the action would be handled by the Attorney General in the name of the Commission.

Mr. President, this concludes my detailed remarks concerning S. 3419. I

urge my colleagues to report its passage in the Senate and I urge the President to sign this important consumer measure into law as soon as possible.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the chairman of the Committee on Commerce (Mr. MAGNUSON).

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

STATEMENT OF SENATOR MAGNUSON

Mr. President, today is truly a momentous day for the American consumer. The enactment of the Consumer Product Safety Act will mark the culmination of five very long and intensive years of study and analysis of the problem of safety presented by the growing number of consumer products in the marketplace. The formulation of this bill is the result of work by many segments of the society: engineers, lawyers, businessmen, consumers, economists, statisticians and medical personnel, just to name a few.

The bill which the Senate and House conferees have agreed upon is an adequate start towards protecting the American consumer from unsafe products. The new Consumer Product Safety Commission has been given a strong mandate from Congress to drastically reduce losses from product-related injuries. We have armed the Commission with an administrative procedure which will enable it to act "before the bodies stack up" while at the same time, insuring affected industries due process. Finally, we have afforded consumers an opportunity to actively become involved in the regulatory process.

The great disappointment of the bill which the Conference Committee has produced is its failure to effect any change in the federal regulatory structure of foods, drugs, cosmetics and medical devices. It is a well known fact that the American people have lost faith in the Food and Drug Administration's ability to provide the required measure of protection against adulterated foods and drugs.

A recent G.A.O. report revealed that 40 per cent of the food plants in the United States operate under unsanitary conditions and that only 3 of every 10 plants are in compliance with existing sanitary standards. It was also of little comfort to learn of the totally inadequate "filth tolerance standards" that F.D.A. has adopted for the food industry.

The Senate adopted by a vote of 69–10 the recommendation of three Committees that responsibility for foods and drugs should be transferred to the new Product Safety Agency. Even when that provision was defeated in Conference, Senators Kennedy, Percy, Ribicoff and Javits persisted in attempting to create a more functionally independent F.D.A. within H.E.W. It was only when the entire product safety bill was threatened, that they receded in their efforts. To these colleagues, and to the American people, I pledge that next year we shall begin the badly needed work of revitalizing food and drug regulation in the federal government.

With the enactment of S. 3419, we begin a new era in the cause of the consumer. In 1962, President Kennedy told consumers that they had an inalienable "Right to Safety" in the products they purchase in the marketplace. Today, one decade later, we have finally crafted the machinery to begin insuring that right.

Mr. MOSS. I am very happy to yield to the ranking Republican member of the committee, the Senator from New Hampshire (Mr. COTTON).

Mr. COTTON. Mr. President, S. 3419—the Food, Drug and Consumer Product Safety Act of 1972—was considered and passed by the Senate this past June. At that time I voted against passage of the bill because:

First, there was no demonstrated need for the establishment of an independent food, drug, and product safety agency which would have had transferred to it the Food and Drug Administration now lodged within the Department of Health, Education, and Welfare;

Second, the impact of including "an electronic product" in the definition of "consumer product," coupled with the repeal of the Radiation Control for Health and Safety Act, was not clear; and

Third, the confusion arising out of the legislative interpretation given to the term "subject to regulation."

Mr. President, although there still exists opposition to the establishment of an independent product safety regulatory agency, I am pleased to note that my three principal concerns have, in large measure, been met by the conference report on S. 3419 now pending before the Senate.

The conference report on S. 3419 does establish an independent Consumer Product Safety Commission. But, it does not transfer to that Commission the functions of the Food and Drug Administration within the Department of HEW. The conference report in section 31 also provides that "the Commission shall have no authority under this act to regulate any risk of injury associated with electronic product radiation emitted from an electronic product—if such risk of injury may be subjected to regulation under" the Radiation Control for Health and Safety Act. The matter of the legislative interpretation of "subject to regulation," the exclusions from the definition of "consumer product," has been met, in large measure, by following the format of the House provision.

I am pleased to note, also, that as far as cost is concerned the 3-year appropriation authorization provided for the conference substitute is approximately one-fifth that which passed the Senate. It therefore represents a more reasonable and less costly approach.

Finally, Mr. President, the conference substitute in section 10 does provide for interested persons to petition the Product Safety Commission to commence a proceeding for the issuance, amendment, or revocation of a consumer product safety rule. Quite frankly, I did have some initial concern that such an action against the Commission there might involve money damages to be recovered from the Commission. However, I am pleased to note that the joint explanatory statement of the Committee of Conference makes clear that this is not possible with the following language:

Section 10 does not authorize the petitioner to recover damages from the Commission or any of its employees.

Mr. President, I fought long and hard last June in this very Chamber attempting to structure this organization within the Department of HEW. While I still feel that my proposal represents a more logical first step in approaching the problem of consumer product safety regulation, both this body and the House felt otherwise and, although not agreeing entirely, I can accept that result. If there is to be such an independent Product Safety Commission, then I believe the conference report, which is the result largely of the efforts of the distinguished chairman of our Committee on Commerce (Mr. MAGNUSON), represents a commendable approach.

Mr. President, I therefore urge the adoption by the Senate of the conference report on S. 3419—the Consumer Product Safety Act.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. MOSS. Mr. President, may I say just one further word? I wish to commend the Senator from New Hampshire for his very constructive and able assistance on this matter. It required a great deal of time and committee consideration. He was always very magnanimous during the consideration of the bill; he did not agree with all of it, and stated his position very clearly, but never at any time did he use any restraint on our going ahead. And when the committee finally acted, he cooperated, as he always does, fully and completely, in the presentation of the matter to the Senate for its action.

Mr. COTTON. Mr. President, I thank the distinguished Senator from Utah for his very generous words. We did have rather strong disagreements about the independent agency. As the Senator knows, when the bill passed the Senate I struggled to keep it within the HEW. But I do think the result of the conference is a very constructive one, and I am happy to join in advocating the passage of this measure. I am grateful to the distinguished Senator from Utah for his constant fairmindedness and courtesy throughout the consideration of this long and rather controversial measure.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

FLAMMABLE FABRICS ACT AUTHORIZATIONS, 1973

Mr. MOSS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5066.

The PRESIDING OFFICER (Mr. CHILES) laid before the Senate H.R. 5066, which was read as follows:

Resolved, That the House agree to the amendment of the Senate numbered 1 to the bill (H.R. 5066) entitled "An Act to authorize appropriations for fiscal year 1972 to carry out the Flammable Fabrics Act."

Resolved, That the House insists on its disagreement to the amendment of the Senate numbered 2 to the aforesaid bill.

Resolved, That the House recede from its disagreement to the amendment of the Senate to the title of the aforesaid bill, and concur therein.

Mr. MOSS. Mr. President, this bill has been acted upon by the Senate once before and amended to provide that the children's sleepwear standard which applies only to sizes 0 through 6X be extended to apply to all sleepwear up to size 14. This extension of the sleepwear

standard was to be made by the Secretary of Commerce and was to be effective no later than July 1, 1973.

Because the Flammable Fabrics Act responsibilities are being transferred to the new Consumer Product Safety Commission, our House colleagues urged us not to place in cement the effective date of the new standard. They argued that the Commission would more adequately safeguard the interests of consumers and delay the effective date of such standard beyond July 1, 1973, only if the Commission were persuaded that that effective date presented a technically impossible situation for the textile industry.

In the interest of assuring authorization of this important consumer safety program and with the realization that the new independent regulatory agency will be very mindful of the consumer interest, I move that the Senate agree to H.R. 5066 as amended by the House.

I move that the Senate recede from its amendment No. 2.

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

The motion was agreed to.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. CHILES) 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.)

MESSAGES FROM THE PRESIDENT

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 1478) to regulate interstate commerce by requiring premarket testing of new chemical substances and to provide for screening of the results of such testing prior to commercial production, to require testing of certain existing chemical substances, to authorize the regulation of the use and distribution of chemical substances, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H.R. 15375) to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations for fiscal year 1973, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had passed a bill (H.R. 13396) to authorize an increase in land acquisition funds for the Delaware Water Gap National Recreation Area, and for other purposes, in which it requested the concurrence of the Senate.

PRIVILEGE OF THE FLOOR

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Mr. Ken McLean, a staff member of the Committee on Banking, Housing and Urban Affairs, be permitted to remain on the floor for the consideration of a series of amendments that will be offered.

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

NATIONAL CAPITAL AREA TRANSIT ACT OF 1972

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 1214, S. 4062.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read the bill by title, as follows:

A bill (S. 4062) 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.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. INOUYE. 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. MOSS. 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. INOUYE. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and that there be inserted in lieu thereof an amendment in the nature of a substitute.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Strike out all after the enacting clause, and insert new language as follows:

SHORT TITLE

SECTION 1. This Act may be cited as "National Capital Area Transit Act of 1972".

STATEMENT OF FINDINGS AND PURPOSES

SEC. 2. The Congress finds that (1) an adequate and economically sound transportation system or systems, including bus and rail rapid transit, serving the Washington metropolitan area is essential to commerce among the several States, and among such States and the District of Columbia, and to the health, welfare, and safety of the public; (2) economies and improvement of service will result from the unification of bus transit facilities within the Washington metropolitan area; (3) the Washington Metropolitan Area Transit Authority is a body corporate and politic organized pursuant to interstate compact among the States of Maryland and Virginia and the District of Columbia, with the consent of Congress, to plan, develop, finance, and operate improved transit facilities in the Washington metropolitan area transit zone; (4) an appropriate solution to the current bus transportation emergency is public ownership and operation of bus transit facilities within the Washington metropolitan area; (5) the cost of such public ownership should be shared by the Federal and local governments in the Washington metropolitan area in accordance with the matching formula authorized by the Urban Mass Transportation Act of 1964 (49 U.S.C. 1601–1612); and (6) to these ends it is necessary to enact the provisions hereinafter set forth.

TITLE I

CONSENT TO COMPACT AMENDMENT

SEC. 101. (a) The Congress hereby consents to amendments to articles XII and XVI of title III of the Washington Metropolitan Area Transit Regulation Compact (D.C. Code, sec. 1–1431 note) substantially as follows:

(1) Section 56 of article XII is amended by adding at the end thereof the following new paragraph:

"(e) The Authority may acquire the capital stock or transit facilities of any private transit company and may perform transit service, including service by bus or similar motor vehicle, with transit facilities so acquired, or with transit facilities acquired pursuant to article VII, section 20. Upon acquisition of the capital stock or the transit facilities of any private transit company, the Authority shall undertake the acquisition as soon as possible of the capital stock or the transit facilities of each of the other private transit companies within the zone requesting such acquisition. Lack of such request, however, shall not be construed to preclude the Authority from acquiring the capital stock or the transit facilities of any such company pursuant to section 82 of article XVI."

(2) Subsection (a) of section 82 of article XVI is amended by deleting "or by a private transit company" at the end of such subsection and by inserting in lieu thereof the following: "whenever such property cannot be acquired by negotiated purchase at a price satisfactory to the Authority".

(b) The Commissioner of the District of Columbia is authorized and directed to enter into and execute on behalf of the District of Columbia amendments, substantially as set forth above, to title III of the Washington Metropolitan Area Transit Regulation Compact with the States of Virginia and Maryland.

ACQUISITION OF PRIVATE BUS COMPANIES OPERATING WITHIN THE WASHINGTON METROPOLITAN AREA

SEC. 102. (a) Based on the findings set forth in section 2 of this Act, it is the sense of the Congress that the Washington Metropolitan Area Transit Authority (hereafter in this Act referred to as the "Transit Authority") should initiate negotiations as soon as possible with the ownership of D.C. Transit System, Incorporated (and its subsidiary, the Washington, Virginia, and Maryland Coach Company), the Alexandria, Barcroft, and Washington Transit Company, and the WMA Transit Company for acquisition by the Transit Authority of capital stock or facilities, plant, equipment, real and personal property of such bus companies of whatever nature, whether owned directly or indirectly, used or useful for mass transportation by bus of passengers within the Washington metropolitan area. It is further the sense of the Congress that representatives of the Transit Authority should participate in any labor contract negotiations undertaken prior to acquisition by the Transit Authority of such bus companies.

(b) The franchise to operate a system of mass transportation of passengers for hire granted to D.C. Transit System, Incorporated, by the Act of July 24, 1956 (70 Stat. 598) is hereby canceled, effective upon the date immediately preceding the date on which the Transit Authority acquires the transit facilities of D.C. Transit System, Incorporated.

(c)(1) The Transit Authority, and any transit company owned or controlled by the Transit Authority, may operate charter service by bus in accordance with article III of the Washington Metropolitan Area Transit

Regulation Compact only between any point within the transit zone and any point in the State of Maryland or Virginia, or a point within 250 miles of the Zero Mile Stone located on the Ellipse.

(2) For the purposes of this subsection, the term "transit zone" means the area designated in section 3 of article III of the Washington Metropolitan Area Transit Regulation Compact.

(d) D.C. Transit System, Incorporated, a corporation of the District of Columbia, may—

(1) continue to exist as such a corporation and amend its charter in any manner provided under the laws of the District of Columbia;

(2) avail itself of the provisions of the District of Columbia Business Corporation Act in respect to a change of its name; and

(3) become incorporated or reincorporated in any manner provided under the laws of the District of Columbia.

Nothing in this Act shall be construed so as to cause or require the corporate dissolution of D.C. Transit System, Incorporated.

TITLE II

DISTRICT OF COLUMBIA AUTHORIZATIONS

SEC. 201. (a) The Commissioner of the District of Columbia is authorized to contract with the Transit Authority for payment to it of the District's share of the cost to the Transit Authority of acquiring—

(1) the private bus companies referred to in section 102(a) of this Act; and

(2) any rolling stock, real estate, or other capital resources required for the operation of bus service in the District of Columbia either at the time of acquisition of such bus companies or at some future time.

(b) Subsection (b) of the first section of the Act of June 6, 1958 (D.C. Code, sec. 9–220) (relating to the borrowing authority of the District of Columbia), is amended by adding at the end thereof the following new paragraph:

"(5) Loans may be made under this subsection to carry out the purposes of section 210(a) of the National Capital Area Transit Act of 1972."

TITLE III

FINANCING

SEC. 301. The Transit Authority, for the purpose of effecting the acquisition of the mass transit bus system or systems as contemplated by this Act, together with such improvements or replacement of acquired equipment and facilities as may be found necessary or desirable by the Secretary of Transportation (hereafter in this title referred to as the "Secretary") in conjunction with such acquisition and within a reasonable time thereafter, not to exceed six months, is eligible for capital grant assistance pursuant to section 3 of the Urban Mass Transportation Act of 1964. For this purpose, the Transit Authority shall be considered a "local public body" within the meaning of that section and, accordingly, the Secretary may authorize and approve capital grant assistance to the Transit Authority in the maximum amount provided for in the Urban Mass Transportation Act of 1964 toward the cost of acquisition of such bus system or systems, including the cost of improvements to or replacement of acquired equipment and facilities approved by the Secretary in conjunction with such acquisition. Such assistance shall be provided from funds available to the Urban Mass Transportation Administration of the Department of Transportation.

SEC. 302. (a) If the Secretary should determine that immediate action is urgently required to protect the public interest in the National Capital area, he may waive any or all provisions of the Urban Mass Transportation Act of 1964 (except section 13(c) thereof), and immediately grant to the Transit Authority from funds available to the Urban Mass Transportation Administration of the Department of Transportation such sums as are contemplated under section 301.

(b) The Secretary, after determining that immediate action is necessary in the public interest in accordance with subsection (a) of this section, may, in accordance with subsection (c) of this section, advance from funds available to the Urban Mass Transportation such funds as he determines to be necessary for payment to the Transit Authority to provide temporary financing for that portion of the cost of acquisition of the mass transit bus system or systems contemplated by this Act, together with associated improvements to or replacement of acquired equipment and facilities, which are not provided for by the Secretary pursuant to section 301 of this Act. For this purpose, such advance shall not be construed as a loan made under section 3 of the Urban Mass Transportation Act of 1964. Funds advanced pursuant to this section shall be considered as "other than Federal funds" within the meaning of section 4(a) of the Urban Mass Transportation Act of 1964.

(c) The Secretary shall not advance funds under this section until he has determined that the Transit Authority has the capacity and ability to arrange for repayment of such advance in accordance with section 303 of this Act.

SEC. 303. The advance authorized under section 302(b) shall be repaid by the Transit Authority to the Urban Mass Transportation Administration of the Department of Transportation from contributions by the District of Columbia and other local government jurisdictions or from other non-Federal sources as may be available to the Transit Authority and which were not estimated to be available for financing the mass transit rail rapid system authorized by the National Capital Transportation Act of 1969. Repayment of such advance may be deferred by the Secretary of Transportation, at the request of the Transit Authority, but not beyond the end of the fiscal year following the fiscal year in which the advance was made. Repayment shall be made with interest at a rate to be determined by the Secretary of the Treasury calculated in accordance with the formula set forth in section 3(c) of the Urban Mass Transportation Act of 1964. Principal and interest repaid pursuant to this section shall be credited to the Urban Mass Transportation Fund and shall be considered a restoration of obligational authority available to the Secretary under section 4(c) of the Urban Mass Transportation Act of 1964.

TITLE IV

SEC. 401. (a) The United States District Court for the District of Columbia shall have complete and exclusive jurisdiction over any proceedings by the Transit Authority for the condemnation of property, wherever situated, of D.C. Transit System, Incorporated (including its subsidiary, the Washington, Virginia, and Maryland Coach Company), the Alexandria, Barcroft, and Washington Transit Company, and the WMA Transit Company. Such proceedings shall be instituted and maintained in accordance with the provisions of this section and the provisions of subchapter IV of chapter 13 of title 16, District of Columbia Code, except that the court may appoint a commission in accordance with rule 71A(h) of the Federal Rules of Civil Procedure in connection with the issue of compensation arising out of any such proceedings.

(b) Any such condemnation proceedings shall be commenced by the Attorney General of the United States, upon the request of the Transit Authority, by filing with the United States District Court for the District of Columbia a complaint and declaration of taking containing a description of the land and other assets to be taken, together with a sum of money deposited with the registrar of such court in accordance with the applicable provisions of law set forth in subsection (a) of this section. Upon such filing and deposit, title to the possession of the assets described in any such complaint and declaration of taking shall pass to the Transit Authority and the value of the assets so acquired shall be determined as of that date.

(c) The trial of any such condemnation proceedings shall be a preferred cause and shall be commenced at the earliest date convenient to the court.

(d) Any proceeding brought by the Transit Authority under this section against the Alexandria, Barcroft, and Washington Transit Company shall be transferred, upon motion made by such Transit Company, to the United States District Court for the Eastern District of Virginia, and such district court shall have, upon such transfer, complete and exclusive jurisdiction over such proceeding. Any action brought by the Transit Authority under this section against the WMA Transit Company, shall be transferred, upon motion made by the WMA Transit Company, to the United States District Court for the District of Maryland, and such district court shall have, upon such transfer, complete and exclusive jurisdiction over such proceeding.

TITLE V

AUDIT AND REVIEW

SEC. 501. The Comptroller General of the United States shall have access to all books, records, papers, and accounts and operations of the Transit Authority, and any company with which the Transit Authority is conducting negotiations under this Act, and any company eligible to receive or receiving any funds authorized by this Act. The Comptroller General is authorized to inspect any facility or real or personal property of the Transit Authority or of such companies.

TITLE VI

ARLINGTON CEMETERY AND SMITHSONIAN STATIONS

SEC. 501. The Comptroller General of the tion Act of 1969, approved December 9, 1969 (83 Stat. 320) as amended, is hereby further amended by adding at the end thereof the following new section:

"SEC. 13. (a) The Secretary of Transportation shall make payments to the Transit Authority in such amounts as may be requisitioned from time to time by the Transit Authority sufficient, in the aggregate, to finance the cost of designing, constructing, and equipping (1) a rail rapid transit station partially under Memorial Drive designed to serve the Arlington Cemetery with two entrances surfacing adjacent to the sidewalks north and south of Memorial Drive and east of Jefferson Davis Highway, and (2) an additional entrance in the vicinity of the northeast end of the Smithsonian Station surfacing on the Mall south of Adams Drive; except that the aggregate amount of such payments shall not exceed $7,385,000.

"(b) There are authorized to be appropriated to the Secretary of Transportation, without fiscal year limitation, not to exceed $7,385,000 to carry out the purposes of this section. The appropriations authorized in this subsection shall not be subject to the provisions of this Act requiring contributions by the local governments and shall be in addition to the appropriations authorized by section 3(c) thereof."

Mr. INOUYE. Mr. President, S. 4062 has four principal purposes, first, to grant congressional consent to the public acquisition and operation of mass transit bus facilities in the Washington metropolitan area; second, to authorize payments by the District of Columbia Government for its share of the cost of acquiring those facilities; third, to authorize and approve capital grant assistance to the Washington Metropolitan Area Transit Authority under the provisions

of the Urban Mass Transportation Act of 1964 toward the cost of acquisition of such system; and fourth, to provide for a Metro station at the Arlington National Cemetery and an additional entrance from the Mall to the station serving the Smithsonian complex.

Mr. President, the committee amendment is very simple. It provides that any condemnation proceeding brought by the transit authority against the Alexandria, Barcroft, and Washington Transit Co. shall be transferred, upon motion made by such company, to the U.S. District Court for the Eastern District of Virginia; and similarly, if a suit be brought by the transit authority against the WMA Transit Co., it shall be transferred upon motion by that company to the U.S. District Court for the District of Maryland.

Mr. President, I have been advised that several Senators would like to speak on this subject. I am pleased to yield to the Senator from Maryland (Mr. MATHIAS).

Mr. MATHIAS. Mr. President, I thank the distinguished Senator from Hawaii for yielding. Speaking for the minority side of the Committee on the District of Columbia, I want to say we are in full accord with the committee amendment which the Senator from Hawaii has offered, and I thank the Senator from Hawaii and the chairman of the Committee on the District of Columbia, the Senator from Missouri (Mr. EAGLETON) for expediting this legislation.

The doctors tell us that walking is a very healthful thing, but it might have been too much of a good thing around here in November and December for a great many residents of the Washington metropolitan area if this bill had not been passed. It is a very critical necessity, I think, that we do pass this measure.

Some Senators have come to me within the last 24 hours and said, "Why is it really so vital? We have Metro going. We hope some day we are going to ride the subway."

A critical necessity for the Washington metropolitan area is a balanced transportation system, and a functioning bus system is a necessary supplement to Metro and to every other form of transportation in the area.

It would be a very great tragedy if, because of the neglect of Congress, the bus companies were allowed to grind to a halt; then we would have to throw out the lifeline in some very expensive and difficult way.

I believe that this bill does set in motion the necessary authority to keep the bus transportation system moving as one of the ingredients to a balanced system within the District of Columbia.

I hope the Senate will adopt the committee amendment and pass the measure and get it to the House without any further delay.

Mr. INOUYE. I thank the Senator.

Mr. President, I yield to the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.).

Mr. HARRY F. BYRD, JR. I thank the distinguished Senator from Hawaii and the distinguished Senator from Missouri, the chairman of the District committee, for the committee amendment which has just been presented. This amendment, insofar as the acquisition of any buslines in Virginia and Maryland are concerned, protects the owners of those buslines as to which court shall have jurisdiction. In the case of a Virginia busline, it would be the Federal district court in Virginia; and in the case of a Maryland busline, it would be the Federal district court in Maryland. I think this is an important and necessary amendment, and I am grateful to the District committee for presenting the amendment today.

I invite attention to one other aspect of the proposed legislation: As I understand it, the acquisition cost of these buslines, including the one in Washington, which is the largest of those involved, would be paid two-thirds by the Federal Government, and the remaining one-third would be divided among the jurisdictions of Maryland, Virginia, and the District of Columbia.

Mr. INOUYE. The Senator is correct.

Mr. HARRY F. BYRD, JR. So, as a practical matter, the entire acquisition cost will be borne by the taxpayers—either the taxpayers of the United States, through the Federal share of the acquisition cost, or through the taxpayers of the local jurisdictions.

Mr. INOUYE. The Senator is correct.

Mr. HARRY F. BYRD, JR. That being the case, I am wondering what safeguards there are in the proposed legislation as to the price that will be paid for the properties. I have particular reference to the property in the District of Columbia.

Mr. INOUYE. The safeguards would be the legal safeguards that would be provided by the appropriate courts in the condemnation suits.

Mr. HARRY F. BYRD, JR. I have been informed—I am not sure of the accuracy of the statement, and that is why I want to find out whether the distinguished Senator from Hawaii, a member of the District Committee, has additional information—that the unfunded retirement costs for the D.C. Transit System are in the neighborhood of $40 million.

Mr. INOUYE. I yield to the senior Senator from Maryland to respond to that inquiry.

Mr. MATHIAS. I thank the Senator from Hawaii for yielding.

There is an unfunded balance which is due to the employees' pension fund, and that, of course, would be a matter of negotiation between the union and D.C. Transit. It would be a consideration in any final transaction which would be concluded by the acquiring authority and by the stockholders of D.C. Transit before any final sale is concluded. We are aware of that. The District Committee will be watching it very closely.

Let me say this—and the committee report, on page 6, points it out: This would be a liability of the transit company which would have to be considered in fixing the price, and nothing in this act would be construed as granting the transit authority the power to assume or otherwise acquire liabilities of D.C. Transit. Whatever was due to the pension bond would be such a liability.

Another liability which has been mentioned is the obligation to remove tracks in various parts of the city which are lying under the paving of the streets. They have been ordered to be removed, and that is another obligation which will have to be negotiated before this transaction can be concluded.

Mr. HARRY F. BYRD, JR. Is it the Senator's view that under the proposed legislation, the taxpayers are adequately protected, particularly in regard to the unfunded retirement costs or obligations of D.C. Transit?

Mr. MATHIAS. I should like to respond by reading to the Senator a letter addressed by Jackson Graham, general manager of the Washington Metropolitan Area Transit Authority, to Senator EAGLETON, dated October 13, 1972:

> In anticipation of the possibility that the Authority would be authorized to take over the four Washington area bus companies, there has been staff activity to prepare the organization for its responsibilities. As part of that effort, there have been informal meetings with representatives of the D.C. Transit Company and of the other area bus companies to identify areas in which negotiations would be necessary for orderly take-over and to establish the procedures by which these negotiations would be carried forward.
>
> There have been no agreements whatsoever between the Authority and any company concerning values or liabilities of any sort. We fully expect that the ultimate implementation of the take-over will be accomplished through such condemnation procedures as are provided for in the pending legislation and that values and liabilities, including liability for track removal and pension funds will be determined by the Court.

So I believe we can assure the Senator from Virginia that the taxpayers will not ultimately bear the burden of these liabilities of the companies.

Mr. HARRY F. BYRD, JR. I appreciate that comment from the Senator from Maryland.

That is basically what I am seeking to establish on the floor of the Senate—that nothing in the proposed legislation would permit the overlooking or the disregarding of unfunded obligations in the negotiations and in a condemnation suit.

Mr. MATHIAS. I think the Senator has served a very useful purpose in calling the attention of the Senate to these matters. But to make the legislative history perfectly clear, I ask unanimous consent that Mr. Graham's letter, addressed to Senator EAGLETON, be printed at this point in the RECORD.

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

WASHINGTON METROPOLITAN
AREA TRANSIT AUTHORITY,
Washington, D.C., October 13, 1972.

Hon. THOMAS F. EAGLETON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EAGLETON: In anticipation of the possibility that the Authority would be authorized to take over the four Washington area bus companies, there has been staff activity to prepare the organization for its responsibilities. As part of that effort, there have been informal meetings with representatives of the D.C. Transit Company and of the other area bus companies to identify areas in which negotiations would be necessary for orderly take-over and to establish the procedures by which these negotiations would be carried forward.

There have been no agreements whatsoever between the Authority and any company

concerning values or liabilities of any sort. We fully expect that the ultimate implementation of the take-over will be accomplished through such condemnation procedures as are provided for in the pending legislation and that values and liabilities, including liability for track removal and pension funds, will be determined by the Court.

Sincerely,

JACKSON GRAHAM.

Mr. MATHIAS. I refer again to the language that appears on page 6 of the committee report which makes it clear that these liabilities are to be included as a part of the transaction, and that we will not simply wake up some day and find that they are another part of the public burden.

Mr. HARRY F. BYRD, JR. I think that is very important, and I thank the Senator from Maryland.

I have one other question. Does the committee have an indication or an estimate as to how much money may be involved in the purchase of D.C. Transit?

Mr. INOUYE. We have been advised that all three acquisitions would be in the vicinity of $40 million.

Mr. HARRY F. BYRD, JR. All three acquisitions would be in the vicinity of $40 million. Does the Senator have a breakdown so far as the cost of the D.C. Transit acquisition is concerned?

Mr. INOUYE. It is rather difficult to determine accurately. This is the purpose of the condemnation itself. The estimate is in the neighborhood of $20 million.

Mr. HARRY F. BYRD, JR. The other two, then, would be in the neighborhood, taken together, of $15 million, and D.C. Transit would be in the neighborhood of $25 million; is that correct?

Mr. INOUYE. The Senator is correct.

Mr. HARRY F. BYRD, JR. I thank the distinguished Senator from Hawaii.

Mr. PROXMIRE. Mr. President, will the Senator from Hawaii yield?

Mr. INOUYE. I yield.

Mr. PROXMIRE. Is there any precedent for simply providing two-thirds acquisition cost for any similar kind of facility in the past, either in the District of Columbia or anywhere else?

Mr. INOUYE. This is in accordance with the provisions of the Mass Transit Act.

Mr. PROXMIRE. Under the provisions of the Mass Transit Act, the Federal Government provides two-thirds of the cost?

Mr. INOUYE. The Senator is correct.

Mr. PROXMIRE. That is for the acquisition.

Mr. INOUYE. For the acquisition, yes.

Mr. PROXMIRE. The acquisition of a private mass transit system, whether in Milwaukee or in Honolulu.

Mr. INOUYE. The Senator is correct. This is in accordance with the provisions of the Mass Transit Act.

Mr. MATHIAS. Mr. President, will the Senator from Wisconsin yield for a question?

Mr. PROXMIRE. I yield.

Mr. MATHIAS. I might point out, it even happens in Baltimore.

Mr. PROXMIRE. I can believe that it happens in Baltimore but not in Milwaukee or anywhere else in Wisconsin.

Did the Senator say that we have no way of telling how much this would cost or why the estimate is $20 million for acquisition of the District of Columbia Transit System? I have heard over the radio and read in the newspaper that the estimate would be much higher than that, that Chalk is talking about $75 million.

Mr. INOUYE. Mr. Chalk is a party to a suit——

Mr. PROXMIRE. I understand that, but what way do we have to put a ceiling on this thing? Do we rely entirely on the courts to decide whether it will be $30 million, $40 million, or $50 million, and that is it?

Mr. INOUYE. The bill does not provide for any ceiling. It would be determined by the courts as to what the final figure would be.

Mr. PROXMIRE. Is it possible that in the appropriations process the Appropriations Committee would simply just not appropriate the funds because they were too high, or are we committed?

Mr. INOUYE. I presume, as to the appropriating committees of the two houses, if they decided to withhold funds from the Mass Transit Authority, we could, indirectly, set a ceiling.

Mr. PROXMIRE. They could designate the funds for a particular system where the settlement seems too high that they would not pay it, or would that be subject to a point of order?

Mr. INOUYE. I would presume that we could do that in the appropriating process, or through legislation, but the committee has full faith and confidence in the three courts involved here and we feel that they will come out with a just result.

Mr. PROXMIRE. The Senator says this is in accordance with the provisions of the Mass Transit Act. In other acquisitions, is the Congress as equally uninformed as the size of acquisition costs?

Mr. INOUYE. The Senator is correct.

Mr. PROXMIRE. Is Congress in a position where it has to rely on our courts in other cities once they make a commitment in advance in this way?

Mr. INOUYE. The Senator is correct.

Mr. PROXMIRE. Does it not seem to the Senator from Hawaii that this is putting the taxpayer at a considerable disadvantage?

Mr. INOUYE. I agree with the Senator. The acquisition of the Metropolitan Area Transit Systems is by far the most public one. No one ever heard of a Baltimore acquisition, for example. We have had hearings on this acquisition.

Mr. PROXMIRE. If the courts should decide it was necessary to pay $50 million or $60 million, or whatever the cost may be by the legislation we pass this morning, we are committed to paying that amount and there is no further recourse unless the Appropriations Committee simply decided it will not appropriate the money; is that correct?

Mr. MATHIAS. Mr. President, will the Senator from Wisconsin yield at that point?

Mr. PROXMIRE. I yield.

Mr. MATHIAS. Are we not, really, getting now into the philosophy of condemnation proceedings? If Congress is going to say—let us say we need a piece of land for national defense purposes, and we go through the normal condemnation proceedings, but regardless of what judge and jury come up with, we will not pay more than a certain amount; are we not then putting into question the whole nature of our approach to the acquisition of private property for paramount public interest?

Mr. PROXMIRE. I am not going to delay this. I just wanted to ask questions as to what our liability was here. I am sure it will go through. It has been approved. This is not a case of something being done at the last minute. There has been a great deal of deliberation about it, and hearings have been held. I just wanted to ascertain for the RECORD, as clearly and simply as I could, what this means. I am a member of the Banking Committee where we are responsible for mass transit and maybe we could work something out in the future so that we could provide a little more precise safeguard for the taxpayers, rather than rely on something that could be $20 million, $30 million, or $40 million, with no knowledge, no control over, and no limit to it.

Mr. MATHIAS. I wish to assure the distinguished Senator from Wisconsin that I was not implying for one moment that there was anything dilatory about his questions. They are very good questions. I am merely saying that we seem to be reaching dangerous ground by talking about changing the basic philosophy of our condemnation procedure, that we may be establishing a tribunal which at least in theory is equipped to ascertain what is the value of something and whether it is an accurate value or not, whether we would pay to a private owner what the proper value is, or what the tribunal might think it is.

I think that if Congress were to predetermine the ceiling, it would make it absolutely impossible to try any condemnation cases. I have had some small experience in that area. A jury, for example, would not be unaware of what the Congress' ceiling might be and that, in and of itself, might be detrimental, because the jury might assume that is what Congress thinks it is worth, and that is what the owner will get; so that this is an area we should approach with great caution.

Mr. PROXMIRE. The Senator is right. All I want to do is develop the principles which might apply to the future in such cases, so that when we do act in the future on mass transit legislation we will know more of what has been done and what the experience has been.

Frankly, in the 15 years I have served in Congress, it seems that every time we build a building in the District of Columbia, or buy something in the District of Columbia, the cost is two or three times what it would be in Providence, R.I., Milwaukee, or Baltimore. We build a little extension over in the New Senate Office Building and it costs more than the most expensive building in the history of Milwaukee, or in the State of Wisconsin, although Milwaukee is the same size city as Washington, and the labor costs are the same.

So this is something a little bit different and we should be more aware of and

sensitive to it, and try to get as much information about it as we can. The points made by the distinguished Senator from Maryland are very good. I do not intend to delay this matter. I just wanted to elicit as much information for myself as I could on this subject.

Mr. MATHIAS. Mr. President, I thank the Senator from Wisconsin as well as my colleague (Mr. BEALL) and every other Member of the Senate. The Senator from Hawaii (Mr. INOUYE), is the moving figure in this matter. He has already made a distinguished record for himself, of careful observation of the events in the District of Columbia, and I certainly will be working with him and watching the cases very carefully.

Mr. INOUYE. Mr. President, I am pleased to yield now to the distinguished Senator from Maryland (Mr. BEALL).

Mr. BEALL. Mr. President, I want to thank and to congratulate the distinguished Senator from Hawaii (Mr. INOUYE), the chairman of the Committee on the District of Columbia, the Senator from Missouri, and my distinguished colleague (Mr. MATHIAS), for their concern and perseverance in bringing this legislation up today, because it has been obvious for some time that the local transit system under the current ownership has not had the economic viability that would allow it to provide the services necessary.

My colleagues Mr. MATHIAS points out that it is absolutely essential to the maintenance of a balanced transportation system that this bill be passed before Congress goes home this year.

Now if my colleague from Maryland would engage in colloquy with me, I should like to ask him a question or two.

Concern was expressed by charter bus operators in the adjoining areas as to the kind of competition they might have.

My understanding of the bill is that it does not provide any monopoly situation for a publicly owned transportation system in the charter field, and no particular advantage will accrue to the new bus operator in this area. Also, as a result of the legislation and the hearings, rather than being opposed to the bill owners of public buslines in the area are very ardent advocates of the measure because they recognize that it is necessary for their own good that the transportation system have the kind of economic base and the kind of balance that would be created today. Is that a correct statement?

Mr. MATHIAS. Mr. President, to respond to the question of my colleague from Maryland, the committee certainly was aware of the concern that there might be at least some implication of a monopoly and we moved to deal with such an idea.

Mr. President, on page 5 of the committee report there is a paragraph on charter operations. The committee believes that the private companies which operate charter service in the Washington area have to have every opportunity for fair competition, and particularly in view of the fact that the new area, when and if consummated, would in effect be a public competitor with private enterprise.

So, I think we have made it clear in the committee report that there should be no monopolistic character to the charter service rendered by the new bus service of the transit authority.

I would say furthermore that the committee will be watching this particular area very closely. And I am grateful to my colleague, the junior Senator from Maryland, for raising this point.

I would like to make it perfectly clear that if there is any tendency to move out and saturate this field, Congress would have to react very vigorously.

Mr. BEALL. Mr. President, I thank my colleague for making the record abundantly clear on this point. I congratulate my senior colleague and also the Senator from Hawaii (Mr. INOUYE) for bringing the bill to the floor today.

It is much in the interest of this area that the bill pass before Congress adjourns.

Mr. INOUYE. Mr. President, I am pleased to submit a statement for the distinguished Senator from Virginia (Mr. SPONG), and I ask unanimous consent that it be printed in the RECORD.

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

STATEMENT BY SENATOR SPONG

Efficient mass transportation services are essential to the National Capital Area and I commend the Chairman and Members of the District of Columbia Committee for their diligent attention to this subject. I also wish to express my appreciation for the willingness to accept my amendment relating to the condemnation procedures provided in the pending bill.

As I wrote the committee earlier, I strongly support the change that would provide that any condemnation suit in which two of the Virginia or Maryland bus companies are involved would be tried in that same state. I know of no justification for requiring these two Virginia or Maryland corporations to submit to a condemnation proceeding outside of the state in which they are incorporated. I believe it is wholly consistent with the intent of the transit compact and the rules of fairness to make this change in the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 4062) was passed.

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

Mr. MATHIAS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I had considered, as I told the Senate, calling up Calendar Order 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 upholsterers' pins free of duty.

I shall not do so at this time because I think that when I do the distinguished chairman of the Committee on Finance should be on the floor as well as all others who have indicated an interest in amendments to this bill and to the other two calendar bills.

In the meantime, Mr. President, I intend to ask unanimous consent at this time that the Senate stand in recess subject to the call of the Chair. However, before the question is put, I would request as strongly as I can that no unanimous-consent requests be granted unless they are cleared with the two leaders in case some Member comes on the floor and wants to make a speech, or something of that sort.

AMENDMENT OF COMPREHENSIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION ACT OF 1970

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

Mr. MANSFIELD. I yield.

Mr. HUGHES. Mr. President, last night, in the passage of a House bill relating to alcoholism, an amendment offered by the Senator from New York was agreed to with the understanding that the bill would be withdrawn if there was objection in the House to that amendment.

The Senator from Iowa determined and discussed with the Senator from New York the fact that there is objection in the House. The Senator from Iowa would like to have the bill reconsidered. The Senator from New York was on the floor a moment ago, and he has agreed to reconsider the bill and withdraw his amendment.

Mr. MANSFIELD. Mr. President, that is my understanding. And I would assume that proposal would be agreeable to both sides. It certainly is on this side.

Mr. President, this commitment was made last night in open session.

I therefore ask unanimous consent—and I would not do this unless I was positive that it met with the approval of the Republican leadership, and if there is any objection, I, of course, would not press this—that the Senate turn to the consideration of H.R. 16675 and that the—Mr. President, I withhold that. The Senator from New York is now in the Chamber.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

PUBLIC HEALTH SERVICE NOMINATIONS

Mr. MANSFIELD. Mr. President, as in executive session I ask unanimous consent because of an error that the confirmation of the nominations of Eddie G.

Smith, Jr., of the District of Columbia, and Ethel Weinberg, of Pennsylvania, be reconsidered. They should not have been on the calendar. A mistake was made. And I ask that the confirmation of the nominations be withdrawn or vitiated or abrogated, or reconsidered.

The PRESIDING OFFICER. Without objection the confirmation of the nominations is vitiated.

AMENDMENT OF COMPREHENSIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION ACT OF 1970

Mr. JAVITS. Mr. President, H.R. 16675, a bill relating to the extension of the so-called Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, is at the desk at my request. The bill was passed last night. No motion was made to reconsider. I propose to make such a motion in a moment, after explaining to the Senate why and to ask that the action taken last night be vitiated and the bill passed again. This is the reason.

Mr. President, I attached to the bill, at the suggestion of two Senators deeply interested, the Senator from Pennsylvania (Mr. SCHWEIKER) and the Senator from Massachusetts (Mr. KENNEDY), an extension of the so-called lead-based paint bill. This measure is urgently needed because an appropriation has been made, but there is no law. The law expired; hence, the desirability to extend it.

I assured the Senator from Iowa (Mr. HUGHES)—and he and I are deeply concerned with the alcoholism extension bill; he is the chairman of the subcommittee and I am the ranking member of the subcommittee—that if any way that amendment interfered with the immediate transmittal of this bill as passed by the House and Senate, for the President's signature, that I would do everything I could to strike the amendment which was delaying it because the bill as passed could go to the President.

I have heard from the Senator from Iowa that there is such a possibility of delay.

Accordingly, Mr. President, I ask unanimous consent that the action taken on Senate for passage, free of any amendment.

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

The bill will be stated by title.

this bill last night be now vitiated and that the bill again be laid before the

The bill was read by title as follows:

A bill (H.R. 16675) to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 to extend for one year the program of grants for State and local prevention, treatment, and rehabilitation programs for alcohol abuse and alcoholism.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 16675) was ordered to a third reading, read the third time, and passed.

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

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

The motion to lay on the table was agreed to.

AUTHORIZATION FOR MEMBERS OF THE ARMED FORCES WHO ARE IN MISSING STATUS TO ACCUMULATE LEAVE WITHOUT LIMITATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1236, H.R. 14911, and that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The bill was stated by title as follows:

A bill (H.R. 14911) to amend titles 10 and 37, U.S. Code, to authorize members of the armed forces who are in a missing status to accumulate leave without limitation, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Armed Services with an amendment on page 2, line 11, after the word "title", strike out "37." and insert "37. However a member whose death is prescribed or determined under section 555 or 556 of title 37 may, in addition to leave accrued before entering a missing status, accrue not more than one hundred and fifty days' leave during the period he is in a missing status, unless his actual death occurs on a date when, had he lived, he would have accrued leave in excess of one hundred and fifty days, in which event settlement will be made for the number of days accrued to the actual date of death. Leave so accrued in a missing status shall be accounted for separately and paid for under the provisions of section 501 of title 37."

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, I sent to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment, ordered to be printed in the RECORD, is as follows:

At the end of the bill add the following new sections:

SEC. 4. Chapter 4 of title 10, United States Code, is amended as follows:

(1) Section 134 is amended to read as follows:

"§ 134. Deputy Secretaries of Defense: appointment; powers and duties; precedence

"(a) There are two Deputy Secretaries of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as a Deputy Secretary of Defense within ten years after relief from active duty as a commissioned officer of a regular component of an armed force.

"(b) The Deputy Secretaries shall perform such duties and exercise such powers as the Secretary of Defense may prescribe. The Deputy Secretaries, in the order of precedence, designated by the President shall act for, and exercise the powers of, the Secretary when the Secretary is diabled or there is no Secretary of Defense.

"(c) The Deputy Secretaries take precedence in the Department of Defense immediately after the Secretary."

(2) Sections 135(c) and 136(e) are each amended by striking out "Deputy Secretary" and inserting in place thereof "Deputy Secretaries".

(3) The item in the analysis relating to section 134 is amended to read as follows:

"134. Deputy Secretaries of Defense: appointment; powers and duties; precedence."

SEC. 5. Section 171(a)(2) of title 10, United States Code, is amended by striking out "the" and inserting in place thereof "a".

SEC. 6. Section 5313(1) of title 5, United States Code, is amended to read as follows:

"(1) Deputy Secretaries of Defense (2)."

SEC. 7. Section 303(c) of the Internal Security Act of 1950 (50 U.S.C. 833(c)) is amended to read as follows:

"(c) Notwithstanding section 133(d) of title 10, United States Code, only the Deputy Secretaries of Defense and the Director of the National Security Agency may be delegated any authority vested in the Secretary of Defense by subsection (a).".

Amend section 3 of the bill to read as follows:

SEC. 3. The first and second sections of this Act become effective as of February 28, 1961.

Mr. HARRY F. BYRD, JR. Mr. President, the amendment which I have sent to the desk which has just been stated is the same as Calendar No. 1238, S. 3237, which is on the calendar. It has been approved unanimously by the Committee on Armed Services. It provides for an additional Deputy Secretary of Defense.

At the present time, the Secretary of Defense has only one deputy. He has assistant secretaries, but only one deputy. The Secretary of Defense had strongly requested an additional deputy prior to the retirement of former Deputy Secretary David Packard. Mr. Packard came before the Committee on Armed Services and made what I thought was a very strong case for providing the Secretary of Defense with an additional deputy. Secretary Packard himself was a very able man. I thought he did a magnificent job as Deputy Secretary of Defense. It was his view and it is the view of Secretary of Defense Laird—and incidentally, I think Secretary Laird is making an outstanding Secretary of Defense—that we need one additional man in the top echelon.

The House has passed legislation, ap-

proved legislation, providing for a Second Deputy Secretary of Defense. The Senate has held it up because some members of the committee were not satisfied as to certain aspects of this matter. Since then, however, the Department of Defense has written the committee a letter taking care of the objection which was raised. The objection is that if there are two Deputy Secretaries of Defense, which one will have precedence and authority in the event the Secretary of Defense is not available?

The letter from the Department of Defense made clear that when the nomination is submitted to the Senate, the nomination for the office of Deputy Secretary of Defense, that the President or the Secretary of Defense through the President would make clear to Congress which of the two deputies would have precedence. That being cleared up, the committee was unanimous in its view that this legislation should be approved.

The reason I am suggesting this as an amendment to H.R. 14911, rather than as a separate bill is to alleviate and facilitate the parliamentary situation. S. 3237, of course, is a Senate bill, and it would complicate matters for a Senate bill to be handled in the House at this late date. But the House already has passed legislation authorizing a second deputy, and the appropriate officials in the House who have been contacted would prefer it to be handled as an amendment to H.R. 14911, a bill authorizing members of the Armed Forces who are missing in action to accumulate leave without limitation, and so forth.

So I recommend to the Senate that the legislation creating a Second Deputy Secretary of Defense be added to this House bill as an amendment.

I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I think there are considerable advantages in this proposal. The Defense Department deserves credit, for proposing it. Certainly, one of the great weaknesses we have suffered under other administrations, as well as this administration, is weakness in procurement. David Packard was an excellent Deputy Secretary of Defense and he was especially skilled in the procurement area, but there are not many David Packards in this country. I think it makes sense to have one Secretary of Defense for Procurement and one for Operations. I understand that is the purpose—providing we meet the divided authority problem in this measure?

Mr. HARRY F. BYRD, JR. The bill does not specify that, but it is my understanding that that is what is desired to be accomplished.

Mr. PROXMIRE. I understand that the Senator from Missouri (Mr. SYMINGTON), and perhaps others, also, were concerned about this divided authority. There is no Cabinet office for which it is more necessary to make clear who is going to be in charge. The Secretary of Defense, of course, under the President, has great responsibility to act with complete authority, and without any question as to who is in charge.

The reason why it is necessary to make a record on this is that the Defense Department refused to specify which of the two deputies would succeed the Secretary. It objected to the position of the Senator from Missouri (Mr. SYMINGTON). Finally the Department agreed it would indicate which deputy would succeed the Secretary and said it would specify that, when the nomination was sent up here, which Deputy Secretary who would succeed the Secretary of Defense in the event of his incapacity.

I want to make that change in attitude part of the legislative record in the first place.

In the second place, would the Senator from Virginia put the Defense Department's letter in the RECORD?

Mr. HARRY F. BYRD, JR. Yes.

Mr. PROXMIRE. I think it might be helpful to put that commitment of the Defense Department in the RECORD, to make it clear that although they disagreed at first as to who would succeed, who would be second to the Secretary of Defense, they now have changed their mind and would let us know at the time they send up the nomination.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the letter from the Secretary of Defense to the chairman of the Armed Services Committee dealing with this matter be inserted in the RECORD at this point.

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

THE SECRETARY OF DEFENSE,
Washington, D.C., October 12, 1972.

Hon. JOHN C. STENNIS,
Chairman, Senate Armed Services Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Even at this late date in the session, I would like to again request consideration of S. 3237 to provide authorization for a second Deputy Secretary of Defense.

From discussions between my staff and various members of your committee, it is my understanding that a question has been raised in connection with the assurance I gave in my letter of February 9 that if a second Deputy Secretary of Defense is authorized and appointed the President would formally designate which of the two Deputy Secretaries would take precedence, when both are present, to act in the absence of the Secretary of Defense. Please accept my assurance that at the time of the nomination of a second Deputy Secretary of Defense and at the time of the nomination of a Deputy Secretary of Defense to fill an ensuing vacancy, the President would designate which of the two Deputy Secretaries would take precedence to act in the absence of the Secretary.

It is my understanding that this assurance will allay previous objections to the legislation by members of your committee and under these circumstances I sincerely hope that your committee and the Congress will find it possible to enact this authorization prior to adjournment.

Sincerely,

MELVIN R. LAIRD.

Mr. PROXMIRE. I thank the Senator from Virginia, and I support the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HARRY F. BYRD, JR. Mr. President, I feel, just as the Senator from Wisconsin and the Senator from Missouri, that it should be made clear just what the line of authority is, and while I felt certain that that would have to be done, anyway, I think it is better to have the RECORD clear and I think it is better that the committee received, as it did, from the Defense Department the letter making it clear that when the nomination is submitted, the duties and precedents will be specified. I think it is an important point, and I commend the Senator from Missouri and the Senator from Wisconsin for their position in this regard.

I just want to say one other word. The Defense Department is responsible for the expenditure of $77 billion each year. That is a gigantic sum of money. I frankly do not see how they have been able to operate the Defense Department with one Secretary and one Deputy. I think they need additional help in the higher echelon. I think it is important, if they are going to keep a close eye on operations, they should also keep a close eye on procurement, and it will take two persons with carefully delineated responsibilities to do this.

So I am pleased to support this legislation, and I urge, first, adoption of the bill.

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

Mr. HARRY F. BYRD, JR. I yield.

Mr. DOMINICK. I congratulate the Senator on his amendment. I wanted to bring up another subject if I could. In our general legislative subcommittee we had a bill which, if I recall, was passed by the House, providing for increased pay or rank—I have forgotten which; pay, I guess—insofar as professors at the academies are concerned.

Mr. HARRY F. BYRD, JR. Yes.

Mr. DOMINICK. I have had a number of inquiries about it. My understanding is that we passed it through the subcommittee on which I serve, without any objection from anybody, and it is now before the full committee.

Mr. HARRY F. BYRD, JR. Mr. President, if the Senator will yield at that point, hearings were held on that legislation, and, just as the Senator from Colorado has, I have received a great many phone calls in regard to that subject also. I might say that our distinguished colleague from Arizona (Mr. GOLDWATER) is very much interested in that. It has not been reported out of the subcommittee. The subcommittee has been polled—we were not able to have another meeting this late in the session—and the Senator from Colorado and the Senator from Virginia responded in the affirmative. Three other Senators responded in the negative. One Senator was not available and had not been in Washington, because of other commitments. The remaining member of the committee has not yet made a firm decision. So as it stands today, the subcommittee is three-to-two in opposition to the proposal.

Mr. DOMINICK. Are they in opposition to the proposal or are they just in opposition by holding it out?

Mr. HARRY F. BYRD, JR. The holding was done by the staff. My understanding is that the opposition is to the proposal.

Mr. DOMINICK. So it was not the intention of the Senator from Virginia to offer that as an amendment?

Mr. HARRY F. BYRD, JR. No. I doubt if that would be appropriate. If there were to be a meeting of the full committee, then I would propose to report to the full committee the attitude of the subcommittee and let the full committee make a decision, but, in the absence of the full committee, I would regard it as inappropriate for me, at least, to offer it.

Mr. DOMINICK. I appreciate the invariable courtesy and total integrity of the Senator from Virginia in taking this stand.

I do want to say that I am in favor of the bill. I think most of us will be when we finally come to grips with it. I hope if we do not do it in this bill—and I will not do it, in view of the position of the Senator from Virginia—that we insure that prompt action will be taken in the way of hearings and determination, because the academies are finding that they are losing very capable people when they can retire at the age of 52 at the same retirement pay that they would get if they retired at age 65. So we are losing their services for that 14-year period.

Mr. HARRY F. BYRD, JR. If the bill is introduced, and I think it will be—and it is referred to the committee which has such general legislation, I shall be glad to confer with the Senator from Colorado and the Senator from Arizona and call for early hearings on the bill, and hope the committee will make an early decision.

Mr. DOMINICK. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Virginia.

The amendment was agreed to.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "An Act to amend titles 10 and 37, United States Code, to authorize members of the armed forces who are in a missing status to accumulate leave without limitation, to amend title 10, United States Code, to authorize an additional Deputy Secretary of Defense, and for other purposes."

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 1238, S. 3237, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, Senate bill 3237 will be indefinitely postponed.

GLEN CANYON NATIONAL RECREATION AREA, ARIZ.

Mr. MOSS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 27.

The PRESIDING OFFICER (Mr. NELSON) laid before the Senate the amendment of the House of Representatives to the bill (S. 27) to establish the Glen Canyon National Recreation Area in the States of Arizona and Utah," which was to strike out all after the enacting clause, and insert:

That in order to provide for public outdoor recreation use and enjoyment of Lake Powell and lands adjacent thereto in the States of Arizona and Utah and to preserve scenic, scientific, and historic features contributing to public enjoyment of the area, there is established the Glen Canyon National Recreation Area (hereafter referred to as the "recreation area") to comprise the area generally depicted on the drawing entitled "Boundary Map Glen Canyon National Recreation Area," numbered GLC–91,006 and dated August 1972, which is on file and available for public inspection in the office of the National Park Service, Department of the Interior. The Secretary of the Interior (hereafter referred to as the "Secretary") may revise the boundaries of the recreation area from time to time by publication in the Federal Register of a revised drawing or other boundary description, but the total acreage of the national recreation area may not exceed one million two hundred and thirty-six thousand eight hundred and eighty acres.

SEC. 2. (a) Within the boundaries of the recreation area, the Secretary may acquire lands and interests in lands by donation, purchase, or exchange. Any lands owned by the States of Utah or Arizona, or any State, political subdivisions thereof, may be acquired only by donation or exchange. No lands held in trust for any Indian tribe may be acquired except with the concurrence of the tribal council.

(b) Nothing in this Act shall be construed to affect the mineral rights reserved to the Navajo Indian Tribe under section 2 of the Act of September 2, 1958 (72 Stat. 1686), or the rights reserved to the Navajo Indian Tribal Council in said section 2 with respect to the use of the lands there described under the heading "PARCEL B".

SEC. 3. (a) The lands within the recreation area, subject to valid existing rights, are withdrawn from location, entry, and patent under the United States mining laws. Under such regulations as he deems appropriate, the Secretary shall permit the removal of the nonleasable minerals from lands or interests in lands within the national recreation area in the manner prescribed by section 10 of the Act of August 4, 1939, as amended (53 Stat. 1196; 43 U.S.C. 387 et seq.), and he shall permit the removal of leasable minerals from lands or interests in lands within the recreation area in accordance with the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181 et seq.), or the Acquired Lands Mineral Leasing Act of August 7, 1947 (30 U.S.C. 351 et seq.), if he finds that such disposition would not have significant adverse effects on the Glen Canyon project or on the administration of the national recreation area pursuant to this Act.

(b) All receipts derived from permits and leases issued on lands in the recreation area under the Mineral Leasing Act of February 25, 1920, as amended, or the Act of August 7, 1947, shall be disposed of as provided in the applicable Act; and receipts from the disposition of nonleasable minerals within the recreation area shall be disposed of in the same manner as moneys received from the sale of public lands.

SEC. 4. The Secretary shall administer, protect, and develop the recreation area in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented, and with any other statutory authority available to him for the conservation and management of natural resources to the extent he finds such authority will further the purposes of this Act: *Provided, however,* That nothing in this Act shall affect or interfere with the authority of the Secretary granted by Public Law 485, Eighty-fourth Congress, second session, to operate Glen Canyon Dam and Reservoir in accordance with the purposes of the Colorado River Storage Project Act for river regulation, irrigation, flood control, and generation of hydroelectric power.

SEC. 5. The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the boundaries of the recreation area in accordance with applicable laws of the United States and the States of Utah and Arizona, except that the Secretary may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, any regulation of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department.

SEC. 6. The administration of mineral and grazing leases within the recreation area shall be by the Bureau of Land Management. The same policies followed by the Bureau of Land Management in issuing and advertising mineral and grazing leases on other lands under its jurisdiction shall be followed in regard to the lands within the boundaries of the recreation area, subject to the provisions of sections 3(a) and 4 of this Act.

SEC. 7. The Secretary shall grant easements and rights-of-way on a nondiscriminatory basis upon, over, under, across, or along any component of the recreation area unless he finds that the route of such easements and rights-of-way would have significant adverse effects on the administration of the recreation area.

SEC. 8. (a) The Secretaries of the Department of Interior and the Department of Transportation, together with the Highway Department of the State of Utah, shall conduct a study of proposed road alinements within and adjacent to the recreation area. Such study shall locate the specific route of a scenic, low-speed road, hereby authorized, from Glen Canyon City to Bullfrog Basin, crossing the Escalante River south of the point where the river has entered Lake Powell when the lake is at the three thousand seven hundred-foot level. In determining the route for this road, special care shall be taken to minimize any adverse environmental impact and said road is not required to meet ordinary secondary road standards as to grade, alinement, and curvature. Turnouts, overlooks, and scenic vistas may be included in the road plan. In no event shall said route cross the Escalante River north of Stephens Arch.

(b) The study shall include a reasonable timetable for the engineering, planning, and construction of the road authorized in section 8(a) and the Secretary of the Interior shall adhere to said timetable in every way feasible to him.

(c) If, for any reason, the Construction does not proceed according to the said timetable, the Secretary of the Interior shall provide an easement to the State of Utah (the State consenting) for the construction and maintenance of the said road. The existence of any such easement shall not impair the eligibility of the State of Utah for Federal funding under any program for which it would otherwise be eligible for funds to build this road; nor shall the existence of such an easement invalidate any authorization for appropriation available to the Secretary of the Interior for such road construction. The easement shall contain such terms and conditions as the parties shall determine necessary to implement the purposes of this Act.

(d) The Secretary of the Interior is authorized to construct and maintain markers and other interpretive devices consistent with highway safety standards.

(e) The study specified in section 8(a) hereof shall designate what additional roads are appropriate and necessary for full utilization of the area for the purposes of this Act and to connect with all roads of ingress to, and egress from the recreation area.

(f) The findings and conclusions of the Secretaries of Interior and Transportation, and the Highway Department of the State of Utah, specified in section 8(a), shall be submitted to Congress within two years of the date of enactment of this Act, and shall include recommendations for any further legislation necessary to implement the findings and conclusions. It shall specify the funds necessary for appropriation in order to meet the timetable fixed in section 8(b).

SEC. 9. Within two years from the date of enactment of this Act, the Secretary of the Interior shall report to the President, in accordance with subsections 3(c) and 3(d) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132 (c) and (d)), his recommendations as to the suitability or nonsuitability of any area within the recreation area for preservation as wilderness, and any designation of any such area as wilderness shall be in accordance with said Wilderness Act.

SEC. 10. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, not to exceed, however, $175,000 for the acquisition of lands and interests in lands and not to exceed $37,325,400 for development. The sums authorized in this section shall be available for acquisition and development undertaken subsequent to the approval of this Act.

Mr. MOSS. I call up an amendment which I have at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 5, lines 9 and 10 strike everything after the word "The" through the comma on line 10 and insert in lieu thereof the word "Secretary".

On page 6, strike lines 6 through 18, and redesignate (d) (e) and (f) on the following subsections by striking those letters and inserting in lieu through the letters (c) (d) and (e).

On page 6, line 19, strike "of the Interior".

On page 7, lines 4 and 5, strike "Secretaries of Interior and Transportation" and insert in lieu thereof the word "Secretary".

On page 7, line 13, strike "of the Interior".

On page 7, line 23, strike "$175,000" and insert in lieu thereof "$400,000".

Mr. MOSS. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

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

Mr. MOSS. Mr. President, the House of Representatives has finally passed a modified version of my bill, S. 27, to establish Glen Canyon National Recreation Area in Utah and Arizona. Though the time is late, I have not given up hope that Congress might enact this bill into law in the 92d Congress.

In an effort to reach that goal, I am now presenting a bloc of amendments to the House-passed version. It is my hope that these changes will be accepted by the Senate and the bill returned to the House. If the House accepts these modifications, there will be no need for a conference committee. In the waning days of this Congress, this is perhaps the only way that the Glen Canyon National Recreation Area can be established this year. Some of my amendments are technical amendments, simply creating conforming language throughout the bill. I have stricken reference to the Secretary of Interior and the Secretary of the Department of Transportation and substituted simply the words "Secretary" which is defined in the bill as designating the Secretary of the Interior. This will clarify the authority and responsibility for any work regarding roads discussed in the bill. Language will remain in the bill mandating a study for the location of the specific route of a scenic, low-speed road, from Glen Canyon City to Bullfrog Basin.

My amendment eliminates section 8(c) which would have provided for State construction of the scenic road if the Interior Department does not maintain the timetable set in the bill. There is no precedent for this type of delegation of authority to any State, and members of the Senate Interior Committee absolutely will not accept this section of the bill.

One other change raises the level of authorization for acquisition of lands or interest in lands from $175,000 to $400,000. This change is based on current National Park Service estimates. Previous assessments of land value are very inaccurate today. Appraisals were made many years ago and current information indicates that $175,000 will not be enough to accomplish the purposes of this act.

The creation, by statute, of the Glen Canyon National Recreation Area will be warmly welcomed in Utah and Arizona and among recreation enthusiasts everywhere who seek to visit the remarkable area. I believe that the compromise I am proposing is workable and feasible and will benefit the public interest. I certainly hope that the Senate will agree to these amendments and that the House will subsequently follow that lead.

The PRESIDING OFFICER. The question is on agreeing to the amendments, en bloc, of the Senator from Utah.

The amendments were agreed to.

Mr. MOSS. I move that the Senate concur in the amendment of the House of Representatives, as amended.

The motion was agreed to.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. MANSFIELD. Mr. President, to repeat, some time later today it is anticipated that the Senate will proceed to the consideration of Calendar No. 1169, H.R. 640, to amend the tariff schedules of the United States. However, that will not be done until and unless the distinguished chairman of the Committee on Finance (Mr. LONG) is present in the Chamber. I think that is only proper, in view of the fact that he is engaged in two very important conferences at this time.

I request further that if the Senate is convened at the call of the Chair, all unanimous-consent requests except the ordinary ones about rescinding a quorum call or something like that be referred to the leadership for approval before any action is taken.

With that understanding, I move that the Senate stand in recess subject to the call of the Chair.

The motion was agreed to; and at 12:44 p.m. the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 1:57 p.m., when called to order by the Presiding Officer (Mr. BEALL).

DWIGHT D. EISENHOWER MEMORIAL BICENTENNIAL CIVIC CENTER ACT

Mr. GRAVEL. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3943.

The PRESIDING OFFICER (Mr. BEALL) laid before the Senate the amendment of the House of Representatives to the bill (S. 3943) to amend the Public Buildings Act of 1959, as amended, to provide for the construction of a civic center in the District of Columbia, and for other purposes, which was to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Dwight D. Eisenhower Memorial Bicentennial Civic Center Act."

SEC. 2. The Congress hereby finds and declares that—

(1) it is essential to the social and economic development of the District of Columbia to establish major centers of commercial and economic activity within the city;

(2) such a center of activity would result from the development of a civic center located in the downtown area of the District of Columbia;

(3) a civic center would (A) attract large numbers of visitors to the downtown area and result in increased business activity in the area surrounding the center; (B) enable national organizations to hold their conventions and other meetings in the District of Columbia and thereby encourage citizens from the entire Nation to visit their Capital City; (C) provide a new source of revenue for the District of Columbia as a consequence of its operations and the expanded commercial activities resulting therefrom; and (D) provide expanded employment opportunities for residents of the District of Columbia;

(4) it is fitting that said civic center be established as a memorial to the late President, Dwight D. Eisenhower;

(5) the prompt provision of major convention facilities in the District of Columbia will significantly contribute to the commemoration of the Nation's bicentennial year; and

(6) the powers conferred by this Act are for public uses and purposes for which public powers may be employed, public funds may be expended, and the power of eminent domain and the police power may be exercised, and the granting of such powers is necessary in the public interest.

SEC. 3. The Public Buildings Act of 1959 (73 Stat. 479), as amended (40 U.S.C. 601 et seq.), is amended by adding at the end thereof the following new section:

"SEC. 18. (a) In order to provide for the District of Columbia facilities for the holding of conventions, exhibitions, meetings and other social, cultural, and business activites, the Commissioner of the District of Columbia (hereinafter, ':Commissioner') is authorized to provide for the development, construction, operation, and maintenance of the civic center to-designated as the Dwight D. Eisenhower Memorial Bicentennial Civic Center on a site in the Northwest

section of the District of Columbia within an area bounded by Eighth Street, H Street, Tenth Street, New York Avenue, and K Street.

"(b)(1) Such civic center shall be in accordance with a plan, indicating the design and estimated costs, approved by the Commissioner and the District of Columbia Council, and approved by the National Capital Planning Commission pursuant to section 5 of the National Capital Planning Act of 1952 (D.C. Code, sec. 1–1005) and section 16 of the Act approved June 20, 1938 (D.C. Code, sec. 5–428), and reviewed by the Commissioner of Fine Arts to the extent required by section 1 of the Act approved May 16, 1930 (D.C. Code, sec. 5–410).

"(2) Notwithstanding the provisions of section 12 of the District of Columbia Redevelopment Act of 1945, as amended (D.C. Code, sec. 5–711), the urban renewal plan, approved pursuant to section 6(b)(2) of such Act (D.C. Code, sec. 5–705(b)(2)), for an urban renewal area in which the civic center is located shall be deemed to be modified by the plan approved pursuant to this subsection and the National Capital Planning Commission shall certify such urban renewal plan, as modified, to the District of Columbia Redevelopment Land Agency.

"(3) In the development of the civic center in accordance with the plan approved pursuant to this subsection, the Commissioner, notwithstanding any other provision of law, may open, extend, widen, or close any street, road, highway, alley, or part thereof, by the filing of a plat or plats in the Office of the Surveyor of the District of Columbia showing such opening extension, widening, or closing.

"(c) The Commissioner shall require by purchase, gift, condemnation, or otherwise all real property necessary to provide for the civic center.

"(d)(1) The Commissioner is authorized to enter into purchase contracts, including negotiated contracts, for the financing, design, construction, and maintenance of the civic center. The Commissioner is further authorized to lease the site described in subsection (a) at a nominal rental for a period of not more than thirty-five years. The payment term of said purchase contracts shall not be more than thirty years from the date of acceptance of the civic center and such purchase contracts shall provide that title to the civic center shall vest in the District of Columbia at or before the expiration of the contract term and upon fulfillment of the terms and conditions stipulated in the purchase contracts. Such terms and conditions shall include provision for the application to the purchase price agreed upon therein of installment payments made thereunder.

"(2) Such purchase contracts shall include such provisions as the Commissioner, in his discretion, shall deem to be in the best interest of the District of Columbia and appropriate to secure the performance of the Obligations imposed upon the party or parties that shall enter into such agreement with the Commissioner. The purchase contracts shall provide for payments to be made to—

"(A) amortize the cost of site acquisition, including relocation payments required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and such other moneys as may be advanced by the contractors to the District of Columbia;

"(B) amortize the cost of construction of improvements to be constructed;

"(C) provide a reasonable rate of interest on the outstanding principal as determined under subparagraphs (A) and (B) above; and

"(D) reimburse the contractors for the cost of any other obligations required of them under the contract, including (but not limited to) payment of taxes, costs of carrying appropriate insurance, and costs of repair and maintenance if so required of the contractors.

"(3) For the purpose of the purchase contracts provided by this subsection for the erection of the civic center, the Commissioner is authorized to enter into agreements with any person, copartnership, corporation, or other public or private entity to effectuate any of the purposes of this subsection.

"(4) No purchase contract for the construction of such civic center shall be entered into, pursuant to the authority of this section, until thirty legislative days following submittal to and approval by the Senate and House Committees for the District of Columbia, and the Senate and House Committees on Appropriations, of the design, plans, and specifications, including detailed cost estimates, of such civic center.

"(e) The full faith and credit of the Government of the District of Columbia is hereby committed to guarantee, upon such terms and conditions as may be prescribed by the Commissioner, the fulfillment of all obligations imposed by the provision of this section.

"(f)(1) The Commissioner is authorized to accept and administer gifts, personal services, securities, or other property of whatever character to aid in carrying out the purposes of this section.

"(2) The Commissioner is further authorized to provide for the operation of any or all aspects of the civic center by any department or agency of the Government of the District of Columbia, or may provide for the performance of such operations, including the use or rental of the civic center or its equipment, motor vehicle parking facilities, concessions, and other activities, by contract entered into with any person, copartnership, corporation, or other public or private entity, upon such terms and conditions as may be stipulated in the agreements, and for such purposes may utilize or employ the services of personnel of any agency or instrumentality of the United States or the District of Columbia, with the consent of such agency or instrumentality, upon a reimbursable or nonreimbursable basis, and may utilize voluntary or uncompensated personnel."

SEC. 4. (a) There is authorized to be appropriated out of the revenues of the District of Columbia such sums as may be necessary to carry out the purposes of this Act. Such sums shall remain available for obligation until expended.

(b) There is authorized to be appropriated, without fiscal year limitation and out of any money in the Treasury not otherwise appropriated, not to exceed $14 million for a contribution to the District of Columbia as the Federal share of carrying out the purposes of this Act.

SEC. 5. The Federal office building and United States courthouse to be constructed in the southwest portion of that block bounded by Mitchell Street, Pryor Street, Central Avenue, and Trinity Avenue, in Atlanta, Georgia, is hereby designated as the "Richard B. Russell Federal Building", in memory of the late Richard Brevard Russell, a distinguished Member of the United States Senate from 1933 to 1971, and any reference to such building in any law, regulation, document, map, or other paper of the United States shall be deemed a reference to such building as the "Richard B. Russell Federal Building".

SEC. 6. The Federal building to be constructed in the block bounded by the west side of New Orleans Avenue, north of Main Street, and the east of Jackson Street, in Hattiesburg, Mississippi, shall hereafter be known and designated as the "William M. Colmer Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such Federal building shall be held to be a reference to the "William M. Colmer Federal Building".

SEC. 7. The Federal building to be constructed in the block of West Commerce Street bounded on the west side by Columbus Street and on the east side by James Street, in Aberdeen, Mississippi, shall hereafter be known and designated as the "Thomas G. Abernethy Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such Federal building shall be held to be a reference to the "Thomas G. Abernethy Federal Building".

SEC. 8. The Federal building being constructed in the block bounded by Ninth Street Northwest, Tenth Street Northwest, E Street Northwest, and Pennsylvania Avenue Northwest, in the District of Columbia, shall hereafter be known and designated as the "J. Edgar Hoover F.B.I. Building". Any reference in a law, map, regulation, document, record, or other paper of the United States, to such Federal building shall be held to be a reference to the "J. Edgar Hoover F.B.I. Building".

SEC. 9. The Federal office building now under construction in the Capital Plaza area of Frankfort, Kentucky, is hereby designated as the "John C. Watts Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "John C. Watts Building".

SEC. 10. The Federal building in the block bounded by Second Street Southwest, Third Street Southwest, Cleveland Avenue South, and Dewalt Avenue South, in Canton, Ohio, shall hereafter be known and designated as the "Frank T. Bow Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such Federal building shall be held to be a reference to the "Frank T. Bow Federal Building".

SEC. 11. The jet propulsion laboratory at 4800 Oak Grove Drive, Pasadena, California, shall hereafter be known and designated as the "H. Allen Smith Jet Propulsion Laboratory". Any reference in a law, map, regulation, document, record, or other paper of the United States to such jet propulsion laboratory shall be held to be a reference to the "H. Allen Smith Jet Propulsion Laboratory."

SEC. 12. The Federal building at 1515 Clay Street Oakland, California, shall hereafter be known and designated as the "George P. Miller Federal Building." Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "George P. Miller Federal Building".

SEC. 13. The United States courthouse and Federal building at 302 Joplin Street, Joplin, Missouri, shall hereafter be known and designated as the "Durward G. Hall Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Durward G. Hall Federal Building".

SEC. 14. The United States courthouse and Federal building at 225 Cadman Plaza, Brooklyn, New York, shall hereafter be known and designated as the "Emanuel Celler Federal Building". Any reference in a law map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Emanuel Celler Federal Building".

SEC. 15. The post office, United States courthouse and Federal building at 401 West Trade Street, Charlotte, North Carolina, shall hereafter be known and designated as the "Charles R. Jonas Federal Building,". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Charles R. Jonas Federal Building".

SEC. 16. The United States courthouse and Federal building at the corner of Princess Street and Water Street, Wilmington, North Carolina, shall hereafter be known and designated as the "Alton Lennon Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Alton Lennon Federal Building".

SEC. 17. The post office and Federal building now under construction in the block bounded on the north by East Sixth Street, west by North Diamond Street, south by East Fifth Street, and east by North Adams Street, Mansfield, Ohio, shall hereafter be known and designated as the "Jackson E. Betts Federal Building". Any reference in a law, map regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Jackson E. Betts Federal Building".

SEC. 18. The Federal building in the block bounded on the north by Edmond Street, south by Charles Street, west by Eighth Street, and east by Ninth Street, St. Joseph, Missouri, shall hereafter be known and designated as the "William R. Hull Federal Building". Any reference in a law, map, regulations, document, record, or other paper of the United States to such building shall be held to be a reference to the "William R. Hull Federal Building".

SEC. 19. The United States courthouse and Federal building to be constructed in the block bounded on the north side by Lombard Street, east by Hanover Street, south by Pratt Street, and west by Hopkins Place, Baltimore, Maryland, shall hereafter be known and designated as the "Edward A. Garmatz Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Edward A. Garmatz Federal Building".

SEC. 20. The post office and Federal building to be constructed in New Bedford, Massachusetts, under authority of the Public Buildings Amendments of 1972, Public Law 92-313, shall hereafter be known and designated as the "Hastings Keith Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Hastings Keith Federal Building".

SEC. 21. The post office and Federal building at 333 West Fourth Street, Tulsa, Oklahoma, shall hereafter be known and designated as the "Page Belcher Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Page Belcher Federal Building".

SEC. 22. The Federal building at the corner of Main Street and High Street, Farmville, Virginia, shall hereafter be known and designated as the "Watkins M. Abbitt Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Watkins M. Abbitt Federal Building".

SEC. 23. The Federal building to be constructed in Roanoke, Virginia, under authority of the Public Buildings Amendments of 1972, Public Law 92-313, shall hereafter be known and designated as the "Richard H. Poff Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Richard H. Poff Federal Building".

SEC. 24. The post office and Federal office building at the corner of Lincoln and Central Streets, Essex Junction, Vermont, shall hereafter be known and designated as the "Winston Prouty Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Winston Prouty Federal Building".

SEC. 25. The Earth Resources Observation System Facilities Development Foundation at 101 West Ninth Street, Sioux Falls, South Dakota, shall hereafter be known and designated as the "Karl E. Mundt Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Karl E. Mundt Federal Building".

SEC. 26. The Department of Health, Education, and Welfare South Building located at 330 C Street Southwest, Washington, District of Columbia, is hereby designated, and shall be known as, the "Mary Switzer Memorial Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Mary Switzer Memorial Building".

SEC. 27. The Federal office building to be constructed in Fitchburg, Massachusetts, on the site bounded by Maine and Academy Streets on the Marrman Parkway, is hereby designated and shall be known as the "Philip J. Philbin Federal Office Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Philip J. Philbin Federal Office Building".

SEC. 28. The post office and Federal office building to be constructed in the block bounded by Grinage Street, Verret Street, Lafayette Street, and High Street in Houma, Louisiana, is hereby designated as the "Allen J. Ellender Post Office and Federal Office Building", in memory of the late Allen J. Ellender. Any reference to such building in any law, regulation, document, map, or other paper of the United States shall be deemed a reference to such building as the "Allen J. Ellender Post Office and Federal Office Building".

SEC. 29. The Federal building at 334 Meeting Street, Charleston, South Carolina, shall hereafter be known and designated as the "L. Mendel Rivers Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "L. Mendel Rivers Federal Building".

SEC. 30. The United States courthouse and Federal building at the corner of Avenue A and Seventh Street, Opelika, Alabama, shall hereafter be known and designated as the "George W. Andrews Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to a reference to the "George W. Andrews Federal Building".

SEC. 31. The Federal building to be constructed in Florence, South Carolina, on the site bounded east by Sanborn Street, west of North McQueen Street, and north by West Evans Street, shall hereafter be known and designated as the "John L. McMillan Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "John L. McMillan Federal Building".

SEC. 32. The United States courthouse and Federal building located at 400 Rood Avenue, Grand Junction, Colorado, shall hereafter be known and designated as the "Wayne N. Aspinall Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Wayne N. Aspinall Federal Building".

SEC. 33. The post office, United States courthouse and Federal building at 207 West Main Street, Wilkesboro, North Carolina, shall hereafter be known and designated as the "Johnson J. Hayes Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Johnson J. Hayes Building".

SEC. 34. The effective period for each provision relating to the Speaker of the House of Representatives in the Ninety-first Congress which is contained in H. Res. 1238 Ninety-first Congress, as enacted into permanent law by chapter VIII of the Supplemental Appropriations Act, 1971 (84 Stat. 1989), is hereby extended for an additional two years from the date on which (but for this section) such provision would expire.

SEC. 35. The United States courthouse and Federal building to be constructed in the block bounded by the proposed Makai Street, Halekauwila Street, Kakaako Street, and Ala Moana Boulevard, in Honolulu, Hawaii, shall hereafter be known and designated as the "Prince Jonah Kuhio Kalanianaole Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Prince Jonah Kuhio Kalanianaole Building".

SEC. 36. The Federal office building to be constructed in the city of Albany, New York, is hereby designated as the "Leo W. O'Brien Federal Building", in honor of Leo W. O'Brien, a distinguished Member of the United States House of Representatives from 1952 to 1967, and any reference to such building in any law, regulation, document, map, or other paper of the United States shall be deemed a reference to such building as the "Leo W. O'Brien Federal Building".

SEC. 37. The United States Federal office bounded on the south side by Market Street, north by Art Street, east by Sixth Street, and west by Seventh Street, Philadelphia, Pennsylvania, shall hereafter be known and designated as the "William J. Green Jr. Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "William J. Green Jr. Federal Building".

SEC. 38. The United States courthouse to be constructed in the block bounded on the south side by Market Street, north by Art Street, east by Sixth Street, and west by Seventh Street, Philadelphia, Pennsylvania, shall hereafter be known and designated as the "James A. Byrne Federal Courthouse". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "James A. Byrne Federal Courthouse".

SEC. 39. The Federal building at East Ninth Street and Lakeside Avenue, Cleveland, Ohio, shall hereafter be known and designated as the "Anthony J. Celebrezze Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Anthony J. Celebrezze Federal Building".

SEC. 40. The post office and Federal building at Jefferson and Walnut Streets, Green Bay, Wisconsin, shall hereafter be known and designated as the "John W. Byrnes Post Office and Federal Building". Any reference in a law, map, regulation, document, or other paper of the United States to such building shall be held to be a reference to the "John W. Byrnes Post Office and Federal Building".

SEC. 41. (a) Except as provided in subsection (b), this Act shall take effect on the date of its enactment.

(b) Sections 6 and 7, sections 10 through 23, inclusive, sections 25, 31, 32, 38, and 40 shall take effect January 4, 1973.

Mr. GRAVEL. Mr. President, the construction of the Eisenhower Civic Center in downtown Washington is envisioned as the catalyst that will accelerate the revitalization of a part of our city that has long been neglected.

Washington is perhaps alone among major American cities in lacking a facility of this type where large gatherings of people can be held for a wide variety of purposes. As a result, the city cannot attract the kind of events that would further its position as a major center for tourists.

This gap in the civic amenities of Washington has long been recognized, and there have been numerous efforts to fill it. The legislation now before the Senate would permit the city to provide the kind of civic center worthy of our Nation's Capital.

The Subcommittee on Buildings and Grounds, which I chair, has examined the civic center proposals and we strongly endorse the legislation now before the Senate and urge its approval.

EISENHOWER CIVIC CENTER IS NEEDED TO SERVE THE NATIONAL CAPITAL

Mr. RANDOLPH. Mr. President, as a Member in the Congress for nearly 28 years, I have been aware of the need for a building in Washington where large gatherings could assemble. It seems ironic, in fact, that the city which is the seat of our Federal Government does not have the ability to host a national political convention.

Perhaps even more important for the thousands of people who live and work in Washington is the absence of a facility to help enrich the cultural and commercial life of the city.

Mr. President, the members of the Committee on Public Works and its Subcommittee on Buildings and Grounds under the able leadership of the Senator from Alaska (Mr. GRAVEL) have considered this deficiency very carefully. The need for the proposed Eisenhower Civic Center has been viewed in the light of how other public facilities have been developed in Washington. We are convinced that the need for the Civic Center is great and that the legislation before the Senate embodies the soundest method of providing it. We are here helping the people of the country as well as the Washington area.

Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

ORDER OF BUSINESS

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

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

JUDGMENTS IN FAVOR OF THE MISSISSIPPI SIOUX INDIANS

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1462.

The PRESIDING OFFICER (Mr. BEALL) laid before the Senate the amendments of the House of Representatives to the bill (S. 1462) to provide for the distribution to the Sisseton and Wahpeton Tribes of Sioux Indians of their portion of the funds appropriated to pay judgments in favor of the Mississippi Sioux Indians in Indian Claims Commission dockets numbered 142 and 359, and for other purposes, which were to strike out all after the enacting clause and insert:

That the funds appropriated by the Act of June 19, 1968 (82 Stat. 239), to pay compromise judgments to the Mdewakanton and Wahpakoota Tribe of Sioux Indians, and the Sisseton and Wahpeton Tribes of Sioux Indians, in Indian Claims Commission dockets numbered 142, 359, 360, 361, 362, and 363, together with interest thereon, after payment of attorney fees and litigation expenses and the costs of carrying out the provisions of this Act, shall be distributed as provided in this Act.

TITLE I

SEC. 101. (a) The Flandreau Santee Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska shall bring current their membership rolls as of the date of this Act. The Lower Sioux Indian Community at Morton, Minnesota, the Prairie Island Indian Community at Welch, Minnesota, and the Shakopee Mdewakanton Sioux Community of Minnesota shall prepare rolls of their members who are lineal descendants of the Mdewakanton and Wahpakoota Tribes, and who were born on or prior to and are living on the date of this Act, using available records and rolls at the local agency and area offices, and any other available records and rolls. Applications for enrollment must be filed with each group named in this section and such rolls shall be subject to approval of the Secretary of the Interior. The Secretary's determination on all applications shall be final.

(b) The Secretary of the Interior shall prepare a roll of the lineal descendants of the Mdewakanton and Wahpakoota Tribe who were born on or prior to and are living on the date of this Act whose names or the names of a lineal ancestor appears on any available records and rolls acceptable to the Secretary, and who are not members of any of the organized groups listed in subsection (a). Applications for enrollment must be filed with the Area Director, Bureau of Indian Affairs, Aberdeen, South Dakota. The Secretary's determination on all applications for enrollment shall be final.

SEC. 102. After deducting the amounts authorized in section 1 of this Act, the funds derived from the judgment awarded the Indian Claims Commission dockets numbered 360, 361, 362, 363, and one-half of the amount awarded in docket numbered 359, plus accrued interest, shall be apportioned on the basis of the rolls prepared pursuant to section 101 of this Act. An amount equivalent to the proportionate shares of those persons who are members of the Flandreau Santee Sioux Tribe of South Dakota, the Santee Sioux Tribe of Nebraska, the Lower Sioux Indian Community, the Prairie Island Indian Community, and the Shakopee Mdewakanton Sioux Community shall be placed on deposit in the United States Treasury to the credit of the respective groups. Eighty per centum of such funds on deposit to the credit of the Flandreau Santee Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska shall be distributed per capita to such tribal members, and the remainder may be advanced, deposited, expended, invested, or reinvested for any purpose designated by the respective tribal governing bodies and approved by the Secretary of the Interior. One hundred per centum of such funds on deposit to the credit of the Lower Sioux Indian Community, the Prairie Island Indian Community, and the Shakopee Mdewakanton Sioux Community shall be distributed per capita of such tribal members: *Provided*, That none of the funds may be paid per capita to any person whose name does not appear on the rolls prepared pursuant to section 2 of this Act. The shares of enrollees who are not members of such groups shall be paid per capita.

TITLE II

SEC. 201. (a) The Devils Lake Sioux Tribe of North Dakota, and the Sisseton and Wahpeton Sioux Tribe of South Dakota, shall bring current their membership rolls of the date of this Act. The Assiniboine and Sioux Tribes of the Fort Peck Reservation, Montana, shall prepare rolls of their members who are lineal descendants of the Sisseton and Wahpeton Mississippi Sioux Tribe, who were born on or prior to and are living on the date of this Act, and who are entitled to enrollment on their respective membership rolls in accordance with the applicable rules and regulations of the tribe or group involved, using available records and rolls at the local agency and area offices, and any other available records and rolls. Applications for enrollment must be filed with each group named in this section and such rolls shall be subject to approval by the Secretary of the Interior. The Secretary's determination on all applications for enrollment shall be final.

(b) The Secretary of the Interior shall prepare a roll of the lineal descendants of the Sisseton and Wahpeton Mississippi Sioux Tribe who were born on or prior to and are living on the date of this Act whose names or the name of a lineal ancestor appears on any available records and rolls acceptable to the Secretary, and who are not members of any of the organized groups listed in subsection (a). Applications for enrollment must be filed with the Area Director, Bureau of Indian Affairs, Aberdeen, South Dakota. The Secretary's determination on all applications for enrollment shall be final.

SEC. 202. (a) After deducting the amount authorized in section 1 of this Act, the funds derived from the judgment awarded in Indian Claims Commission docket numbered 142 and the one-half remaining from the amount awarded in docket numbered 359, plus accrued interest, shall be apportioned on the basis of reservation residence and other residence shown on the 1909 McLaughlin annuity roll, as follows:

Tribe or group	*Percentage*
Devils Lake Sioux of North Dakota	21.6892
Sisseton-Wahpeton Sioux Tribe of South Dakota	42.9730
Assiniboine and Sioux Tribe of the Fort Peck Reservation, Montana	10.3153
All other Sisseton and Wahpeton Sioux	25.0225

(b) The shares of the Devils Lake Sioux Tribe of North Dakota, the Sisseton and Wahpeton Sioux Tribe of South Dakota, and the Assiniboine and Sioux Tribe of the Fort Peck Indian Reservation, Montana, as apportioned in accordance with subsection, (a), shall be placed on deposit in the United States Treasury to the credit of the respective groups. Seventy per centum of such funds shall be distributed per capita to their tribal members: Provided, That none of the funds may be paid per capita to any person whose name does not appear on the rolls prepared pursuant to section 201(a) of this Act. The remainder of such funds may be advanced, deposited, expended, invested, or reinvested for any purpose designated by the respective tribal governing bodies and approved by the Secretary of the Interior: Provided, That, in the case of the Assiniboine and Sioux Tribe of the Fort Peck Reservation, Montana, the Fort Peck Sisseton-Wahpeton Sioux Council shall act as the governing body in determining the distribution of funds allotted for programing pur-

poses: Provided further, That the Sisseton-Wahpeton Sioux Tribe of South Dakota shall act in concert with its membership residing in the Upper Sioux Community in Minnesota and its membership affiliated with the Urban Sisseton-Wahpeton Council of the Minneapolis-Saint Paul area in jointly submitting programing proposals to the Secretary.

(c) The funds allocated to all other Sisseton and Wahpeton Sioux, as provided in subsection (a), shall be distributed per capita to the persons enrolled on the roll prepared by the Secretary pursuant to section 201(b) of this Act.

TITLE III

SEC. 301. No person shall be eligible to be enrolled under this Act who is not a citizen of the United States.

SEC. 302. Any person qualifying for enrollment with more than one group shall elect the group with which he shall be enrolled for the purpose of this Act.

SEC. 303. The sums payable to enrollees or their heirs or legatees who are minors or who are under a legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary of the Interior determines appropriate to protect the best interest of such persons after considering the recommendations of the governing bodies of the groups involved.

SEC. 304. None of the funds distributed per capita under the provisions of this Act shall be subject to Federal or State income taxes.

SEC. 305. The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act, including the establishment of deadlines.

And amend the title so as to read: "An Act to provide for the disposition of funds appropriated to pay judgment in favor of the Mississippi Sioux Indians in Indian Claims Commission dockets numbered 142, 359, 360, 361, 362, and 363, and for other purposes."

Mr. MANSFIELD. Mr. President, the Senate passed S. 1462 to authorize the distribution of the Sisseton-Wahpeton Tribes—Upper Sioux—of Sioux Indians' portion of a judgment against the United States recovered by the Mississippi Sioux Indians. The judgments in favor of the Sisseton-Wahpeton Tribes totaled $5,874,039.50.

The Mdewakanton-Wahpakatoo—Lower Sioux—tribes also shared in the Mississippi Sioux judgment. Their share totaled $6,375,960.50; S. 1462 as passed by the Senate did not provide for the distribution of Lower Sioux' share of the judgment.

The House of Representatives amended S. 1462 by adding the Lower Sioux' share of the judgment and providing for the distribution of the funds to the authorized tribes and descendents of the aboriginal tribes. The House amendment makes no substantial changes to the Senate's original language and I am satisfied with their language providing for the distribution of the Lower Sioux' share of this judgment.

Therefore, Mr. President, I move that the Senate concur in the amendments of the House to S. 1462.

The motion was agreed to.

AVAILABILITY OF CERTAIN MATERIAL

Mr. MANSFIELD. Mr. President, very shortly, we will take up the conference report on the HEW appropriation bill, but before the distinguished chairman of the committee, the senior Senator from Washington (Mr. MAGNUSON), is recognized, I invite attention of the Senate to the fact that there is certain material on their desks relative to the amendments which were asked to be printed in the RECORD last evening, as well as information containing summaries put out by the Finance Committee. Thus, every Senator has a copy on his desk and, furthermore, copies have been sent up to the radio and press galleries.

QUORUM CALL

Mr. MAGNUSON obtained the floor.

Mr. MANSFIELD. Mr. President, will the Senator from Washington yield to me without losing his right to the floor?

Mr. MAGNUSON. I yield.

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

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

NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT AMENDMENTS OF 1972

Mr. HARTKE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 15375.

The Presiding Officer (Mr. FANNIN) laid before the Senate the amendment of the House of Representatives to the bill (H.R. 15375) to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations for fiscal year 1973, which was in lieu of the matter proposed to be inserted by the Senate amendment, insert:

That this Act may be cited as the "National Traffic and Motor Vehicle Safety Act Amendments of 1972".

SEC. 2. Section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) is amended to read as follows:

"SEC. 121. For the purpose of carrying out this Act there is authorized to be appropriated $52,714,000 for the fiscal year ending June 30, 1973.".

SEC. 3. Section 123 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1410) is amended to read as follows:

SEC. 123. (a) Except as provided in subsection (d) of this section, upon application by a manufacturer at such time, in such manner, and containing such information as required in this section and as the Secretary shall prescribe, the Secretary may, after publication of notice and opportunity to comment and under such terms and conditions and to such extent as he deems appropriate, temporarily exempt or renew the exemption of a motor vehicle from any motor vehicle safety standard established under this title if he finds—

"(1)(A) that compliance would cause such manufacturer substantial economic hardship and that the manufacturer has, in good faith, attempted to comply with each standard from which it requests to be exempted,

"(B) that such temporary exemption would facilitate the development or field evaluation of new motor vehicle safety features which provide a level of safety which is equivalent to or exceeds the level of safety established in each standard from which an exemption is sought,

"(C) that such temporary exemption would facilitate the development or field evaluation of a low-emission motor vehicle and would not unreasonably degrade the safety of such vehicle, or

"(D) that requiring compliance would prevent a manufacturer from selling a motor vehicle whose overall level of safety is equivalent to or exceeds the overall level of safety of nonexempted motor vehicles; and

"(2) that such temporary exemption woud be consistent with the public interest and the objectives of the Act.

Notice of each decision to grant a temporary exemption and the reasons for granting it shall be published in the Federal Register.

"(b) The Secretary shall require permanent labeling of each exempted motor vehicle. Such label shall either name or describe each of the standards from which the motor vehicle is exempted and be affixed to such exempted vehicles. The Secretary may require that written notification of the exemption be delivered to the dealer and first purchaser for purposes other than the resale of such exempted motor vehicle in such manner as he deems appropriate.

"(c)(1) No exemption or renewal granted under paragraph (1)(A) of subsection (a) of this section shall be granted for a period longer than three years and no renewal shall be granted without reapplication and approval conforming to the requirements of subsection (a).

"(2) No exemption or renewal granted under paragraph (1)(B), (1)(C), or (1)(D) of subsection (a) of this section shall be granted for a period longer than two years and no renewal shall be granted without reapplication and approval conforming to the requirements of subsection (a).

"(d)(1) No manufacturer whose total motor vehicle production in its most recent year of production exceeds 10,000, as determined by the Secretary, shall be eligible to apply for an exemption under paragraph (1)(A) of subsection (a) of this section.

"(2) No manufacturer shall be eligible to apply for exemption under paragraph (1)(B), (1)(C), or (1)(D) of subsection (a) of this section for more than 2,500 vehicles to be sold in the United States in any 12 month period, as determined by the Secretary.

"(e) Any manufacturer applying for an exemption on the basis of paragraph (1)(A) of subsection (a) of this section shall include in the application a complete financial statement showing the basis of the economic hardship and a complete description of its good faith efforts to comply with the standards. Any manufacturer applying for an exemption on the basis of paragraph (1)(B) of subsection (a) of this section shall include in the application research, development, and testing documentation establishing the innovational nature of the safety features and a detailed analysis establishing that the level of safety of the new safety feature is equivalent to or exceeds the level of safety established in the standard from which the exemption is sought. Any manufacturer applying for an exemption on the basis of paragraph (1)(C) of subsection (a) of this section shall include in the application research, development, and testing documentation establishing that the safety of such vehicle is not unreasonably degraded and that such vehicle is a low-emission motor vehicle. Any manufacturer applying for an exemption on the basis of paragraph (1)(D) of subsection (a) of this section shall include in the application a detailed analysis of how the vehicle provides an overall level of safety equivalent to or exceeding the overall level of safety of nonexempted motor vehicles.

"(f) The Secretary shall promulgate regulations within 90 days (which time may be extended by the Secretary by a notice published in the Federal Register stating good cause therefor) after the date of the enactment of this subsection for applications for exemption from any motor vehicle safety standard provided for in this section. The Secretary may make public within 10 days of the date of filing an application under this section all information contained in such application or other information relevant thereto unless such information concerns or relates to a trade secret, or other confidential business information, not relevant to the application for exemption.

"(g) For the purpose of this section, the term 'low-emission motor vehicle' means any motor vehicle which—

"(1) emits any air pollutant in amounts significantly below new motor vehicle standards applicable under section 202 of the Clean Air Act (42 U.S.C. 1857f 1) at the time of manufacture to that type of vehicle; and

"(2) with respect to all other air pollutants meets the new motor vehicle standards applicable under section 202 of the Clean Air Act at the time of manufacture to that type of vehicle."

Mr. HARTKE. Mr. President, I move that the Senate agree to the House amendment to the Senate amendment to H.R. 15375, authorizing appropriations for the National Traffic and Motor Vehicle Safety Act.

The motion was agreed to.

QUORUM CALL

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

The PRESIDING OFFICER (Mr. FANNIN). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

MESSAGE FROM THE HOUSE— ENROLLED BILLS SIGNED

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 1973. An act to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes;

S. 2674. An act to remove a cloud on the title to certain lands located in the State of New Mexico;

S. 3755. An act to amend the Airport and Airway Development Act of 1970, as amended, to increase the United States share of allowable project costs under such Act; to amend the Federal Aviation Act of 1958, as amended, to prohibit certain State taxation of persons in air commerce, and for other purposes;

H.R. 8756. An act to provide for the establishment of the Hohokam Pima National Monument in the vicinity of the Snaketown archeological site, Arizona, and for other purposes;

H.R. 9727. An Act to regulate the transportation for dumping, and the dumping, of material into ocean waters, and for other purposes;

H.R. 14128. An Act for the relief of Jorge Ortuzar-Varas and Maria Pabia de Ortuzar.

H.R. 14370. An act to provide fiscal assistance to State and local governments, to authorize Federal collection of State individual income taxes, and for other purposes;

H.R. 14424. An act to amend the Public Health Service Act to provide for the establishment of a National Institute on Aging;

H.R. 14989. An act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1973, and for other purposes;

H.R. 16593. An act making appropriations for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes; and

H.R. 16754. An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. ROBERT C. BYRD).

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS BILL, 1973—CONFERENCE REPORT

Mr. MAGNUSON. Mr. President, I submit a report of the committee of conference on H.R. 16654, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. FANNIN). The report will be stated by title.

The second assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 16654) making appropriations for the Departments of Labor and Health, Education, and Welfare, and related agencies for the fiscal year ending June 30, 1973, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of October 12, 1972 at page 35592.)

Mr. MAGNUSON. Mr. President, conferees met on Thursday, on H.R. 16654, on the second Labor and HEW appropriation bill for 1973. One was vetoed. The conferees accepted in concept the Senate bill—the total Senate bill—which approved of a formula which would meet some of the objections, hopefully we think, of the veto. The Senate bill would allow the President to scale down any item in the Senate bill by as much as 10 percent of what was in the vetoed bill. Therefore, the Senate programs would be existent and no one could take this program and throw it out and put this other one in. It was a question of priority.

The one difference in the conference agreement is that we lowered the total floor amount of the bill. The percentage now that the President may reduce the Senate bill by, in any item he may choose, is from 10 to 13 percent, and this would bring the bill, if he did this on every one, within the figure of the House bill, which lowered the original vetoed bill close to $935 million.

The conference bill now limits the use of the funds contained in the bill for operation and maintenance of schools in federally impacted areas to the entitlements based on the number of so-called A and B children. In all other respects, the House agreed with the Senate bill.

I think we should state that we had many votes here the other night on whether the industrial occupational health and safety laws would apply to anyone employing under 15 people.

The Senate finally arrived at the figure of 3, after several amendments. The House accepted that. So I want that in the RECORD.

Frankly, I was very pleased about it, because I thought maybe we might have to get somewhere in between, because originally they stuck to the 15. These are the only two amendments in the bill.

I move the adoption of the conference report, subject to any discussion other Senators may have.

Mr. JAVITS. Mr. President, would the Senator be kind enough to yield?

Mr. MAGNUSON. I yield.

Mr. JAVITS. I think the conference led by Senators MAGNUSON and COTTON did very well, considering the temper of the situation and the House and even here.

I would like to pledge, as I pledged before, our utmost effort in legislative oversight to see that it is intelligently administered. I would also say that we are pushing very hard for the bill, which will allow consultation with employers of 25 or less workers, without their places being inspected. Members of the Senate will remember that we discussed that the other day.

So I think the conferees did very well with that and I certainly am pleased. I think the Senate should be very gratified by the work of its conferees.

On the other subject of the cuts being made by the President, the plan of the Senate-adopted bill remains the same, except that the Senate included from 12 to 13 percent.

Mr. MAGNUSON. That is correct. In simple terms, if under the Senate program we appropriated and agreed on a thousand dollars, which was a vetoed bill, the President could make that $870, if he wished.

Mr. JAVITS. I see.

Mr. MAGNUSON. But he could not cut out the program.

Mr. JAVITS. I see. I think again, we do not like the whole thing; but still it is de minimis, and I wish we could have settled the debt ceiling that easily.

Mr. COTTON. If the Senator will yield.

Mr. JAVITS. I yield.

Mr. COTTON. I want to thank the Senator from New York for his kind words of assurance, particularly in view of the matter of trying to straighten out the situation so that employers with less than 25 employees can receive inspections without necessarily being penalized.

I also would emphasize, and I am sure that my chairman has already made

plain—and I think everyone understands it—that this 13-percent cut which the President is permitted to take, is up to 13 percent. He does not have to take it all, unlike the bill that we thrashed out a couple of years ago.

This is not confined to line items. It means that no program—whether it is a line item or whether it is a subdivision of a line item—that Congress has appropriated for can be eradicated. The worst it can suffer is the 13-percent cut.

I am very hopeful that we now have a bill that can be signed and that at last the schools in the country and others will not have to wait any longer to know where they stand and to what they are entitled.

I would like to take this opportunity to say that it is always a privilege to work under the leadership of the Senator from Washington, who is fair, considerate, and practical.

It is always helpful to have our staff headed by Harley Dirks, along with our minority staff, member, Bob Clark, as well as Proctor Jones, and Mrs. Gloria Butland working with us.

This bill is always a long, hard trail. I hope we have reached the end of it for this year.

Mr. MAGNUSON. Mr. President, I move that the Senate adopt the conference report.

The PRESIDING OFFICER (Mr. FANNIN). The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

Mr. MAGNUSON. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment, which I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

On page 42 of the Senate engrossed amendment, strike out all after line 13 over through and including line 5 on page 43, and insert:

SEC. 409. Notwithstanding any other provision of law, the President is authorized to withhold from obligation and expenditure from the amounts contained in this Act, such sums as he may deem necessary; however, the amounts withheld shall not cause the total available for obligation to be less than $29,300,000,000 in the aggregate for the appropriations made herein: Provided, That no amount specified in any appropriation provision contained in this Act or any activity within such appropriation may be reduced by more than 13 per centum: Provided further, That the amount available for obligation for any appropriation provision determined pursuant to this section shall be substituted for the amount for such appropriation provision contained in this Act and for the application of any formula for the distribution of funds: Provided further, That notwithstanding any other provision of this Act, none of the funds contained herein shall be used to carry out the provisions of Section 403(1)(C) of Title I of the Act of September 30, 1950, as amended.

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

The motion was agreed to.

Mr. MAGNUSON. 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. STEVENS. 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. STEVENS. Mr. President, I ask unanimous consent that Charles Cook, majority counsel for the Senate Interior and Insular Affairs Committee, be allowed the privilege of the floor at this time at the request of the chairman of the Committee on Interior and Insular Affairs.

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

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

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

PROHIBITION OF USE OF CERTAIN SMALL VESSELS IN U.S. FISHERIES

Mr. STEVENS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3358.

The PRESIDING OFFICER (Mr. FANNIN) laid before the Senate the amendment of the House of Representatives to the bill (S. 3358) to prohibit the use of certain small vessels in U.S. fisheries, which was to strike out all after the enacting clause and insert:

That, during the five-year period beginning on the date of the enactment of this Act, it shall be unlawful for any person on board any prohibited vessel—

(1) to transfer at sea or cause to be transferred at sea any prohibited fish; or

(2) to land or cause to be landed any prohibited fish in any part of the United States.

SEC. 2. (a) Any person who knowingly—

(1) violates the first section of this Act;

(2) takes, sells, transfers, purchases, or receives any prohibited fish which are transferred or landed in violation of the first section of this Act; or

(3) violates any regulation issued pursuant to section 4 of this Act;

shall be liable to a civil penalty of not more than $1,000, in addition to any other penalty provided by law. Each separate unlawful transfer or landing of prohibited fish shall constitute a separate violation of the first section of this Act.

(b) Any prohibited fish transferred or landed in violation of the first section of this Act, or the monetary value thereof, shall be subject to forfeiture.

SEC. 3. (a) The judges of the United States district courts and the United States magistrates may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this Act and the regulations issued pursuant thereto.

(b) Enforcement of this Act and the regulations issued pursuant thereto shall be the joint responsibility of the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating.

(c) Any person authorized to carry out enforcement activities hereunder shall have the power to execute any warrant or process issued by any officer or court of competent jurisdiction for the enforcement of this Act and the regulations issued pursuant thereto.

(d) Such person so authorized shall have the power, with or without a warrant or other process, to search any vessel subject to the jurisdiction of the United States.

(e) Such person so authorized may seize, whenever and wherever lawfully found, all prohibited fish transferred, landed, taken, sold, purchased, or received in violation of the provisions of this Act or the regulations issued pursuant thereto. Any prohibited fish so seized may be disposed of pursuant to the order of a court of competent jurisdiction, pursuant to the provisions of subsection (f) of this section or, if perishable, in a manner prescribed by regulations of the Secretary concerned.

(f) Notwithstanding the provisions of section 2464 of title 28, United States Code, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any prohibited fish seized if the process has been levied, on receiving from the claimant of the prohibited fish a bond or stipulation for the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction of the violation, conditioned to deliver the prohibited fish seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and subject to the direction of the court, the prohibited fish may be sold for not less than its reasonable market value and the proceeds of such sale placed in the registry of the court pending judgment in the case.

SEC. 4. The Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating are authorized jointly and severally to issue such regulations as may be necessary to carry out the provisions of this Act.

SEC. 5. As used in this Act—

(1) The term "person" means a person as defined in section 1 of title 1, United States Code.

(2) The term "prohibited fish" means, with respect to any prohibited vessel, the fish, mollusk, crustacean, or other form of marine animal or plant life which such vessel was authorized to engage in the catching of before the prohibition described in paragraph (3)(C) of this section was imposed on such vessel by the foreign country concerned.

(3) The term "prohibited vessel" means any vessel of less than five net tons which was—

(A) constructed in a foreign country,

(B) used in a fishery of such foreign country, and

(C) subsequently prohibited by such foreign country from being used in such fishery;

but does not mean any such vessel which was acquired by a citizen of the United States or a resident alien before the date of the enactment of this Act.

Mr. STEVENS. Mr. President, on October 11 the House of Representatives passed S. 3358 with an amendment in the nature of the substitute. The differences, although several, are mainly technical in nature. The major differences are as follows:

Under section 2 of the House version either the fish or the "monetary value thereof" will be subjected to forfeiture. This will facilitate enforcement.

Section 3 of the House bill provides the National Oceanic and Atmospheric Administration with authority to enforce the bill and the procedure for doing so. Subsections (a), (c), (d), (e), and (f) were added by the House Merchant Marine and Fisheries Committee to specify the enforcement procedures. These provisions were patterned after the enforcement provisions of the Tuna Conventions Act of 1950, as amended (16 U.S.C. 959). After examination of the several acts under which NOAA has enforcement authority, it was believed by all parties that the Tuna Conventions Act provided the best vehicle. As a result, the provisions of that act granting to the agency the necessary powers of enforcement and providing a system of seizure and disposition of prohibited fish were included in this bill.

Section 5 of the House version adds a definition of "person" identical to that found in 1 United States Code 1. This was implicit in the Senate version. The definition of "prohibited vessel" in the same section was similarly clarified.

At this point, I request unanimous consent to insert in the RECORD a legal memorandum comparing H.R. 16793, as reported from the House Merchant Marine and Fisheries Committee, with S. 3358, as passed by the Senate.

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

COMPARISON OF H.R. 16793 WITH S. 3358

The House version of S. 3358 as reported by the House Merchant Marine and Fisheries Committee (H.R. 16793) would make it unlawful for a prohibited vessel to transfer at sea or to land any prohibited fish in a port of the United States. The prohibition would expire five years from the date of enactment. The essential provisions of the House and Senate version are the same. As noted in the section-by-section comparison below, the House version containing more detailed enforcment provisions.

Section 1 of S. 3358 would make it unlawful for a prohibited vessel to transfer at sea or to land any prohibited fish in a port of the United States. The prohibition would continue for five years from the date of enactment. The House version is the same except that the phrase "for a period of five years from the date of enactment" in S. 3358 reads "during the five year period beginning on the date of enactment." This and the reparagraphing of the first sections of the House version so as to list transfer and landing in separate numbered subparagraphs are only stylistic changes.

Section 2 of the Senate version provides that fish landed in contravention of the Act are liable to forfeiture. The House version provides that the fish "or the monetary value thereof" are subject to forfeiture. This addition indicates more clearly that the fish themselves need not be impounded while waiting the outcome of judicial proceedings. This and the expanded provisions of Section 3 will facilitate enforcement of the bill and do not depart from the enforcement scheme contemplated in the Senate version.

Section 2 of the Senate version also provides for a $1,000 fine for knowingly taking, selling, transferring, purchasing, or receiving fish landed in contravention of the Act. The House version contains a similar provision, but also provides that an unlawful transfer and landing or a knowing violation of regulations issued under the Act would be subject to the same fine. These additions clarify a potential ambiguity in the Senate version and should promote effective enforcement.

Section 3 of S. 3358 provides that the Act will be jointly administered by the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating. The House version places enforcement responsibility in the same departments and, in added subsections 3 (a), (c), (d), (e), and (f) specifies the enforcement provisions. These provisions, patterned after the enforcement provisions found in the Tuna Conventions Act of 1950, (16 U.S.C. 959) expressly provide that the Secretaries of the departments concerned will have the necessary powers of enforcement and provide a system of seizure and disposition of prohibited fish which has been found to be fair and effective in the enforcement of the Tuna Convention Act.

Section 4 of S. 3358 exempts from the provisions of the Act any vessel acquired prior to the date of enactment by a citizen of the United States or a resident alien. This exemption is incorporated in the definition of "prohibited vessel" in the House version. The effect of each provision is identical.

Section 5 of S. 3358 is identical to Section 4 of H.R. 16793.

Section 6 of S. 3358 defines "prohibited fish," "prohibited vessel," and "offense." The House version does not include "offense" in the definition section but, in the final sentence of Section 2(a), incorporates the definition (each separate landing or transfer in contravention of the Act) found in S. 3358. The House version (Section 5) adds a definition of "person" which specifically refers to the definition of "person" found in 1 U.S.C. 1. The definition of 1 U.S.C. 1 is implicit in the Senate version. The inclusion of "offense" in the Senate definitions and "person" in the House version are stylistic only.

The definition of "prohibited vessel" contains the same elements in both versions of the bill (except that the House version includes in the definition the exemption provided as a separate Section 4 in the Senate bill as noted above). The slight difference in wording of the 3rd criterion in the definition of "prohibited vessel" (Senate: "has been subsequently prohibited in such country from continuing to engage in such fishery" *vs* House: "(was) subsequently prohibited by such foreign country from being used in such fishery") does not alter that criterion.

Similarly the definition of "prohibited fish" in the bills contain slight variations in wording which do not affect the substance of the definition.

Mr. STEVENS. Mr. President, H.R. 16793 is identical to the text of S. 3358, as passed by the House of Representatives on October 11.

Mr. President, I move that the Senate concur in the amendments of the House to S. 3358.

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

The motion was agreed to.

EXTENSION OF PROVISIONS OF COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT ACT OF 1964, AS AMENDED

Mr. STEVENS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3524.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 3524) to extend the provisions of the Commercial Fisheries Research and Development Act of 1964, as amended", which was to strike out all after the enacting clause and insert:

That section 4(a) of the Commercial Fisheries Research and Development Act of 1964 (16 U.S.C. 779(a)), as amended, is further amended by changing the words "for the fiscal year beginning July 1, 1969, and for the three" to "for the fiscal year beginning July 1, 1973, and for the four".

SEC. 2. Section 4(c) of the Commercial Fisheries Research and Development Act of 1964, as amended, is further amended by changing the words "for the fiscal year beginning July 1, 1969," to "for the fiscal year beginning July 1, 1973,".

SEC. 3. Section 4(b) of the Commercial Fisheries Research and Development Act of 1964, as amended, is further amended by changing the words "for the fiscal year beginning July 1, 1969, and for the three succeeding fiscal years, $650,000 in each year," to "for the fiscal year beginning July 1, 1973, and for the four succeeding fiscal years, $1,500,000 in each such year,".

SEC. 4. The provisions of this Act shall be effective July 1, 1973.

Mr. STEVENS. Mr. President, this bill is similar to H.R. 14384. The House Committee on Merchant Marine and Fisheries reported that bill with an amendment. The amendment would increase the amount of funds authorized to be appropriated to carry out section 4(b) of the act—the fisheries resource disaster provision—from $650,000 to $1.5 million per year. The need for this additional funding was recently highlighted by the tropical storm Agnes which inflicted millions of dollars of damage to the fisheries resources of the Chesapeake Bay.

The Representative from Maryland, the chairman of the House Merchant Marine and Fishers Committee (Mr. GARMATZ), pointed out to the House the necessity for this increase, and this is the only difference in the two bills.

Mr. President, I move that the Senate concur in the amendment of the House to S. 3524.

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

The motion was agreed to.

AUTHORIZATION FOR INCREASE IN LAND ACQUISITION FUNDS FOR THE DELAWARE WATER GAP NATIONAL RECREATION AREA

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 13396.

The PRESIDING OFFICER (Mr. FANNIN) laid before the Senate H.R. 13396, a bill to authorize an increase in land acquisition funds for the Delaware Water

Gap National Recreation Area, and for other purposes, which was read twice by its title.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, on behalf of the Senator from Washington (Mr. JACKSON) and the Senator from Colorado (Mr. ALLOTT), I offer the following amendments and ask that they be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

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

The amendment, ordered to be printed in the RECORD, is as follows:

SEC. 2. That section 2 of the Act of September 1, 1965 (79 Stat. 612) is amended by adding at the end thereof the following:

"Provided further, That whenever an owner of property elects to retain a right of use and occupancy pursuant to this Act, such owner shall be deemed to have waived any benefits or rights under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (884 Stat. 1894)."

Mr. MANSFIELD. Mr. President, the purpose of this first amendment is to waive the application of the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 if property owners decided to retain possessory interests to which the act entitles them. The Interior Committee believes that when landowners take advantage of the so-called Cape Cod formula which allows them to remain in possession of their property within a park area, they or their heirs and successors should not also receive the same benefits for relocation which accrue under existing law for those whose homes are taken immediately for some public purpose such as for highway construction or urban renewal programs. Parks are unique in this regard and I believe the Government's acquisition policy should reflect this difference. Of course, if a person sells his home outright and must move, he would be entitled to all benefits accruing to a similar person under the Uniform Relocation Assistance and Real Property Acquisition Policies Act.

If this amendment is adopted then the amount of money can be reduced over $3,000,000. Therefore, the second amendment would reduce the figure "$68,812,000" as passed by the House to "$65,000,000."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The next amendment will be stated.

The amendment was read as follows:

On page 1, line 6, strike "$68,812,000" and insert in lieu thereof "$65,000,000".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The third amendment will be stated.

The amendment was read as follows:

That the Secretary of the Interior is authorized and directed to issue, subject to the provisions of section 2, to Frank W. Whitenack of Georgetown, Colorado, a patent in fee (exclusive of oil, gas, and other mineral rights) to the following described tract of land, situated in the vicinity of Georgetown, Colorado:

Beginning at a stake at corner numbered 1, whence the northeast corner section 5, township 4 south, range 74 west, sixth principal meridian bears north 29 degrees 57 minutes west 761.7 feet, thence east 279.7 feet to corner numbered 2, thence south 176.0 feet to corner numbered 3, thence south 82 degrees 16 minutes west 200.5 feet to corner numbered 4 which is also corner numbered 1, survey numbered 18737, Dora Lode, thence south 7 degrees 44 minutes east 150 feet to corner numbered 5, which is also corner numbered 4, survey numbered 18737 Dora Lode, thence north 82 degrees 16 minutes east 180.1 feet to corner numbered 6, thence south 992.6 feet to corner numbered 7, thence west 660 feet to corner numbered 8, thence north 502 feet to corner numbered 9, thence south 60 degrees 20 minutes east 119.4 feet to corner numbered 10, which is also corner numbered 3 survey numbered 408 Mills Placer, thence north 17 degrees 30 minutes east 919.7 feet to the place of beginning.

The patent in fee authorized by this Act shall be issued subject to the payment by the said Frank W. Whitenack to the Secretary of the Interior of an amount equal to the fair market value of the property conveyed as determined by the Secretary after appraisal, exclusive of improvements placed thereon by Frank W. Whitenack and his grantees.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SCOTT. Mr. President, I express my warm gratitude to the senior Senator from Nevada (Mr. BIBLE), chairman of the subcommittee that handled this bill, for his assistance in expediting its consideration by this body.

I also express my unrestrained support for the enactment of this important measure, which we also introduced in the Senate as S. 3497, increasing the amount authorized for purchase of the remaining land within the previously designated boundaries of the Delaware Water Gap National Recreation Area.

This increased monetary authorization of $31.4 million is based on the administration's latest estimate of the amount needed to complete acquisition of those 47,675 total acres previously authorized for this great national recreation area.

Enactment of this measure is urgently needed to alleviate the economic hardship too long endured by the owners of that remaining acreage. Many of these fine people have long been living in economic limbo, since 1965, awaiting for the Federal Government to purchase their property, ever since its designation that year as a part of this renowned recreation area. Their endurance has been admirable, their impatience understandable. We now urge the most expeditious administration of this act for their deserved relief.

The Delaware Water Gap National Recreation Area was established by Public Law 89–158 in 1965 as part of the Tocks Island multipurpose project. Its reservoir lake will serve our needed public purposes in the Delaware River Basin of flood control, water conservation, energy supply and water recreation; its surrounding national recreation area will serve its related land recreation purpose. The 1965 act directs the Secretary of the Army to acquire that related land as part of his acquisition of properties for the project, and periodically to transfer such land to the Secretary of the Interior for administration in a manner coordinated with other project purposes, as detailed in Public Law 89–158.

Mr. President, we are aware that the Governors of Pennsylvania and New Jersey recently proposed that the recreation use of this needed multi-purpose conservation development be limited to a level of 4 million visitor-days annually. The 1965 act directs that the administration of this combined development be coordinated with the Delaware River Basin Compact Commission, of which those honorable Governors are statutory members. We are thus confident that this matter will be resolved in a manner that reflects their proper concern with the optimum recreation use of this multipurpose development in years ahead.

Mr. HANSEN. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Colorado.

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

STATEMENT BY SENATOR ALLOTT

As amended by the Senate, H.R. 13396 has had added to it the provisions of S. 4067 which passed the Senate on Oct. 11th of this year.

The necessity for S. 4067 at this time is that a lawsuit has been filed by the United States to evict several impoverished families from some 14 acres of federally claimed land in Colorado.

These people are not trespassers or squatters, their good faith claim of title goes back to the 1930's.

In 1962, the Senate passed an identical measure but the House Interior and Insular Affairs Committee said it was unnecessary because of a general law, which became law that year.

Unfortunately, the federal government construes that general law differently and I am advised there is good reason to believe it is correct in interpretation.

The amendment, I hasten to point out does not donate any federal land. It, instead, provides that these families may get title to the land by paying its fair market value.

I believe it is incumbent upon the House to now pass legislation which will permit the longstanding dispute to be resolved short of forcing these innocent families off this land upon which they have built their homes. If the House acts on such legislation, the lawsuit may be equitably resolved. If not, the eviction proceedings will continue, including the effort of the United States to also require these people to remove their homes from the land and the additional attempt to actually charge these people rent for all the years they have lived there.

I was advised that the procedures in effect in the House at this time indicated that it might not be possible to consider S. 4067 independently.

By attaching the provisions of S. 4067 to

H.R. 13396, the opportunity is provided the House to act upon it.

Mr. CASE. Mr. President, I am glad to vide sufficient funds to complete the support the pending bill which will pro- 47,675-acre Delaware Water Gap National Recreation Area in New Jersey and Pennsylvania.

The proposed national recreation area was authorized by Congress in 1965 in legislation which I cosponsored. At the time it was the first such park established by Congress east of the Mississippi.

Part of the national recreation area lies in the northwest corner of my State. It is a beautiful area of rolling countryside bordering on the historic Delaware River.

But it also is on the edges of a rapidly growing urban region. It thus is subject to all of the pressures of urbanization and commercial exploitation.

Unless we lock up this land as part of the public domain, it will be chewed up and we will have lost a unique natural treasure.

Fortunately, Congress' action in 1965 has made it possible to begin the job of protecting this parkland. With the first $37 million authorized by Congress, 21,806 acres have been acquired, 14,900 acres in my State alone. In addition, the Government owns another 10,325 acres which will be part of the park. In all, about 15,542 acres remain to be purchased.

But land speculation, unexpectedly high condemnation costs and the costs of relocating residents, among other matters, have combined to use up all of the money authorized by Congress.

To finish the job, we are advised, it will take another $27.5 million. The authorization for this amount is provided in the pending bill. The House of Representatives already has passed the bill, although with a slightly different figure.

I urge our body to act promptly and affirmatively on the pending bill so that the difference may be ironed out in conference and the bill cleared for the President before this Congress adjourns.

And once the bill becomes law and the necessary additional appropriations are made, there should be no delay in completing the acquisition of the remaining 15,542 acres of the recreation area.

In this regard, it will be up to the Army Corps of Engineers promptly to buy the land. The corps was given this role because it also is buying land for the Tocks Island dam and reservoir project, which is adjacent to the national recreation area.

By having the corps buy the land for both projects, it is properly felt that the costs to the Government can be held down.

However, the two projects are separate; they are not interdependent. The recreation area may proceed to completion even if the dam and reservoir, as presently is the case, are delayed.

This noninterdependence, if I may call it that, was spelled out in an exchange of letters I had with the Department of the Interior earlier this year.

The essence of the Interior Department's advice to me is that completion of the park is legally permissible.

The Department strongly suggests that the park without the dam and reservoir would involve a more appropriate use of the natural resources of the area for recreational purposes than it would if the dam and reservoir were built. With this I warmly agree.

I ask unanimous consent that the full text of my exchange of letters with the Interior Department be printed in the RECORD.

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

WASHINGTON, D.C.,
April 4, 1972.

Hon. ROGERS C. B. MORTON,
Secretary of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: I am most concerned about a statement made by the Army Corps of Engineers in its environmental impact report on the Tocks Island dam and reservoir project. On Page II of the report entitled "Tocks Island Lake, Pennsylvania, New Jersey and New York," the Corps states that "under the authorizing statute and the legislative history (of Public Law 89–158 establishing the Delaware Water Gap National Recreation Area) the National Recreation Area cannot proceed without the Tocks Island multi-purpose project."

Please advise me whether this coincides with your own understanding of the law which created the recreation area. Specifically:

1. Does PL 89–158, in fact, require that "the National Recreation Area cannot proceed without the Tocks Island multi-purpose project"?

2. If construction of the dam and reservoir is delayed, or if this project is scrapped altogether, may the Department of the Interior continue to acquire land for the recreation area and, indeed, act to complete it?

I would appreciate hearing from you on this matter as soon as possible.

With best wishes,
Sincerely,

CLIFFORD P. CASE,
U.S. Senator.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 1, 1972.

Hon. CLIFFORD P. CASE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CASE: Secretary of the Interior Morton has asked us to thank you for your letter of April 4 concerning the Delaware Water Gap National Recreation Area. We are pleased to have the opportunity to comment on the statement made by the Corps of Engineers in its environmental impact report on the Tocks Island Dam and Reservoir Project to the effect that this Department cannot proceed under Public Law 89–158 without the Tocks Island multipurpose project.

In answer to your specific questions, Public Law 89–158 in no way requires that the recreation area cannot proceed without the Tocks Island Lake. While it was true that the recreation area when authorized was presumed to surround a large reservoir previously authorized for the Delaware River by the Flood Control Act of 1962 (P.L. 87–874) it would only require revision in planning to have a viable recreation area with the carrying capacity virtually as great as that provided with the original impoundment.

Public Law 89–158 was authorized in its specific form making the Secretary of the Army responsible for acquisition of the land for the recreation area rather than to have two Agencies of the Federal Government engaged in the acquisition of lands in the same area at the same time and under dissimilar authorities prior to the enactment of Public Law 91–646 on January 2, 1971, providing uniform acquisition and relocation procedures for all Federal Agencies and State Agencies using Federal assistance. Public Law 89–158 also provided that the land, when acquired, would be transferred to the Secretary of the Interior for administration. Moreover, historic land ownership pattern adjacent to the Delaware River was such that the farms took in some riverfront, some first and second beach lands, and some upland timber so that to have two Agencies engaged in acquisition would actually require the payment of severance damage where the tracts could not be acquired simultaneously. It is this to which the act refers when it speaks of having the recreation coordinated with other purposes and not as the Army would now try to make it appear—that one is mutually dependent upon the other.

The answer to your second question is categorically "yes," provided the monetary limitation which has been reached is increased in accordance with H.R. 13225 and H.R. 13396 (copies enclosed) which have been introduced to accomplish this. As a corollary of this question, if the Tocks Island Lake project were to be scrapped altogether, then the land which has been acquired for this would be excess to the needs of the Secretary of the Army and would be reported to the General Services Administration for disposition under the Real Property and Administrative Services Act of 1949. If this were to happen, we would certainly apply for transfer of the additional lands now totaling about 10,000 acres to be added to the recreational area lands which would increase the *land area* available for recreation by 25 percent.

The revised plan for the recreation area without the dam would give less emphasis to water-oriented facilities than did the reservoir-centered plan. This does not mean that water recreation would be seriously lacking; however, by utilizing the existing stream where we control some 7 miles below the site where the dam was originally to have been built and by obtaining the excess land of the Department of the Army, we would gain another 11 or more miles of riverfront which it has heretofore purchased under the Flood Control Act. Under this revised concept, there would be plenty of swimming and emphasis on the more subdued forms of boating, such as canoeing on the stream and in the various ponds which abound in the area. By having many separate water recreation units, this would provide a greater variety, with family and organizational groups having their own good time together with more privacy, freedom, and seclusion than might ever have been hoped for in large complexes where the danger of differing recreational attitudes can become competitive.

Probably one of the reasons that the Corps felt required to state as it did in its environmental impact statement related to Secretary Morton's press release of September 21, 1971, when he released copies of a staff report by the National Park Service, concluding that a viable recreation area would be possible with or without the Tocks Island Dam. This study was made at the request of the President's Council on Environmental Quality in response to the question from the Council "as to whether a viable recreation area would be possible without the Tocks Island Dam."

We very much appreciate the great personal interest you have shown in the Delaware Water Gap National Recreation Area and the support you have given this Department in its efforts to establish this outstanding recreational asset for the benefit of the American people.

Sincerely yours,

NATHANIEL REED,
Assistant Secretary of the Interior.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that an excerpt from the House report on H.R. 13396 be printed in the RECORD.

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

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 13396) to authorize an increase in land acquisition funds for the Delaware National Recreation Area, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Amend the title so as to read:

To authorize an increase in land acquisition funds for the Delaware Water Gap National Recreation Area, and for other purposes.

PURPOSE

The purpose of H.R. 13396 which was introduced by Representatives McDade, Dow, Rooney of Pennsylvania, and Thompson of New Jersey, like that of H.R. 13225 by Representative McDade, is to authorize an increase in the appropriation ceiling for the acquisition of lands at the Delaware Water Gap National Recreation Area in the States of Pennsylvania and New Jersey.

BACKGROUND

The Delaware Water Gap National Recreation Area was authorized by Congress in 1965. At the time that it was created, it was established that the natural, scenic, scientific and historic values in this large, relatively unspoiled area along the Delaware River could help to serve the recreation needs of the large population centers located nearby.

As authorized, the national recreation area includes 47,675 acres of land. In addition, the 24,300 acres included in the Tocks Island Dam project which was separately authorized, would be used in conjunction with the recreation area.

This legislation does not alter the present boundaries of the national recreation area in any way and it does not add any additional area for acquisition that was not originally contemplated for purchase. H.R. 13396 merely authorizes the additional appropriations which will be needed if the acquisition program for this recreation area is completed as originally planned.

NEED

Like other proposals which have been considered by the Congress in the past, the Delaware Water Gap National Recreation Area was established to help serve the recreation needs of the millions of people living in the communities and cities nearby. As an outdoor resource it offers outstanding potential for a variety of recreational opportunities and already enjoys extensive visitor use. While it is difficult to estimate the exact number of people who make side trips off of one of the Interstate Highways to enjoy a short scenic drive or a picnic lunch, the National Park Service has developed data showing the use made of existing visitor facilities which indicates that visitor use has grown from 666,000 visitor-days in 1969 to 1.7 million visitor-days in 1972. As the lands are acquired and the public use areas developed, the rate of visitation will continue to grow; however, until all phases of the project are completed, it is impossible to calculate what the annual visitor use might be.

Unfortunately, the present land acquisition authorization is inadequate to complete the land acquisition program for the national recreation area. Considerable progress has been made, but much of the land remains in private ownership and is not open to the public.

Since the enactment of the authorizing legislation, all of the $37,412,000 has been appropriated and all except $2,725,407 has been expended. To date only 21,806.78 acres of the 37,349.47 acres of privately owned lands have been acquired (the remaining lands are mostly in public ownership and are not to be acquired). It is estimated that an additional $31,400,000 will be required to purchase the remaining 15,542.69 acres within the recreation area.

The members of the Subcommittee on National Parks and Recreation were advised by a spokesman for the Department of the Interior that the increases in land acquisition costs are attributable to several factors which can be divided into two categories. The first are those related to the general land market in and surrounding the project area. Factors in this category are: (1) a 15-percent annual increase in property values, based on paired sales. These are sales used in preparing earlier acquisition estimates and used again, after having changed hands again in the interim, to prepare the present cost estimate. This annual increase, much higher than the national average, is primarily attributable to the influences of the rapidly expanding metropolitan areas surrounding the project. This manifests itself mainly in the form of a big burgeoning second home market at the present time although the beginning of permanent residential pressures, encouraged by improving highway access, is also on the horizon.

The second category are those factors that relate to this project specifically. These are: (1) Unrecorded outsales that existed at the time the original cost estimates were prepared substantially exceeded the allowances made for them. This is largely attributable to the vitality of the summer homesite market which was active within the project area during the legislative process and for some time after the area was authorized. (2) Land acquisition funds for the Tocks Island Lake project did not materialize in a timely manner, resulting in the loss of a coordinated land acquisition program. This made it necessary to bypass major properties that were involved in both Federal projects and thus left them subject to the high rate of annual increase in value. (3) The size of the project and funding limitations left the opportunity open for landowners within the area to improve their properties prior to acquisition. (4) The new costs resulting from the Uniform Relocation Assistance and Real Property Acquisition Act accounts for a substantial portion of the increase. (5) The final item is still largely a conjectural matter. This involves anticipated deficiencies in the original estimates of adverse court awards. Authorization for this purpose may or may not be used in its entirety.

COST

The provisions of H.R. 13396 authorize an increase in the land acquisition appropriation limitation from $37,412,000 to $68,812,000.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs considered H.R. 13396, approved the bill by a voice vote, and recommended its adoption by the House of Representatives.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 13396) was read the third time, and passed.

HOUSE CONCURRENT RESOLUTION 710—EXTENSION OF GREETINGS TO THE AMERICAN PUBLIC HEALTH ASSOCIATION ON 100TH ANNIVERSARY OF ITS FOUNDING

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 710.

The PRESIDING OFFICER (Mr. FANNIN). The Chair lays before the Senate a message from the House on House Concurrent Resolution 710, which the clerk will state.

The legislative clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That the Congress extends its greetings and felicitations to the American Public Health Association on the occasion of the one hundredth anniversary of its founding.

Mr. MANSFIELD. Mr. President, I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the consideration of the concurrent resolution?

There being no objection, the concurrent resolution was considered and agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had agreed to a concurrent resolution (H. Con. Res. 718) providing for the reprinting of additional copies of House Report 92–1519, entitled "Securities Industry Study," in which it requested the concurrence of the Senate.

HOUSE CONCURRENT RESOLUTION 718—PROVIDING FOR REPRINTING OF HOUSE REPORT 92–1519 ENTITLED "SECURITIES INDUSTRY STUDY"

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate the message from the House of Representatives on House Concurrent Resolution 718.

The PRESIDING OFFICER (Mr. FANNIN). The Chair lays before the Senate a message from the House on House Concurrent Resolution 718, which the clerk will state.

The legislative clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That there shall be reprinted for the use of the House Committee on Interstate and Foreign Commerce four thousand copies of House Report 92–1519, entitled "Securities Industry Study".

Mr. MANSFIELD. Mr. President, I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to consideration of the concurrent resolution?

There being no objection, the resolution was considered and agreed to.

AMENDMENT OF UNITED STATES CODE TO PROVIDE FOR TWO ADDITIONAL MEMBERS OF THE NATIONAL HISTORICAL PUBLICATIONS COMMISSION

Mr. ROTH. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 15763.

The PRESIDING OFFICER laid before the Senate H.R. 15763, an act to amend chapter 25, title 44, United States Code, to provide for two additional members of the National Historical Publications Commission, and for other purposes, which was read twice by its title.

Mr. ROTH. Mr. President, I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. ROTH. Mr. President, I am very much pleased that the Senate has been able to find time in this very busy period to give consideration to H.R. 15763. This bill is similar to S. 3899, which was introduced by Senators PELL, BROCK, and myself. H.R. 15763 will permit an expansion of the work of the National Historical Publications Commission in assisting in the collecting, editing, and publishing of documentary source material important to American history. In particular, the passage of this bill will permit the Commission to engage in a broader range of projects pertinent to our Nation's bicentennial celebration.

During the past two decades, the Commission has assisted universities, foundations, charitable organizations, and other groups in the publication of the letters, papers and other documentary sources of famous Americans such as Thomas Jefferson, John C. Calhoun, Henry Clay, Benjamin Franklin, Alexander Hamilton, Woodrow Wilson, Andrew Johnson, James K. Polk, Ulysses S. Grant, John C. Fremont, Jefferson Davis, George Mason, and John Marshall. This important work helps to organize, preserve, and make readily available to all Americans the wisdom of the men and women who did so much to shape our Nation's values, traditions, and ideals.

This legislation is not expensive. There is an annual ceiling on appropriations under this program of $2 million—about the cost of a single bridge on an interstate highway. For every $1 of public money spent, $2 of private money goes toward these programs. I think this is money very well and wisely spent because our history helps provide the fabric of the Nation. I hope the Senate will give favorable consideration to H.R. 15763.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 15763) was ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 16810) to provide for a temporary increase in the public debt limit and to place a limitation on expenditures and net lending for the fiscal year ending June 30, 1973; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MILLS of Arkansas, Mr. ULLMAN, Mr. BURKE of Massachusetts, Mrs. GRIFFITHS, Mr. BYRNES of Wisconsin, Mr. BETTS, and Mr. SCHNEEBELI, were appointed managers on the part of the House at the conference.

The message also announced that the House had passed the bill (S. 942) to establish a Commission on Security and Safety of Cargo, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the bill (S. 3858) to amend the Public Health Service Act to improve the program of medical assistance to areas with health manpower shortages, and for other purposes, with with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. 3876) to amend the Securities Exchange Act of 1934 to provide for the regulation of clearing agencies and transfer agents, to create a National Commission on Uniform Securities Laws, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17034) making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes; that the House receded from its disagreement to the amendments of the Senate numbered 3, 4, 9, 11, 12, 13, 20, 22, 25, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 71, 76, and 84 to the bill and concurred therein; and that the House receded from its disagreement to the amendments of the Senate numbered 10, 18, 23, 24, 61, 70, and 78 to the bill and concurred therein, severally with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 1536. An Act to amend section 319 of the Immigration and Nationality Act;

H.R. 8063. An act to provide for financing the economic development of Indians and Indian organizations, and for other purposes;

H.R. 8273. An act to amend section 301 of the Immigration and Nationality Act;

H.R. 13158. An act to name a bridge across a portion of Oakland Harbor, Calif., the "George P. Miller-Leland W. Sweeney Bridge";

H.R. 16676. An act to amend the Community Mental Health Centers Act to extend for 1 year the programs of assistance for community mental health centers, alcoholism facilities, drug abuse facilities, and facilities for the mental health of children;

H.R. 16804. An act to rename the Mineola Dam and Lake as the Carl L. Estes Dam and Lake; and

H.R. 17038. An act designating the Oakley Reservoir on the Sangamon River at Decatur, Ill., as the William L. Springer Lake.

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled bill (H.R. 10556) to authorize the Secretary of the Interior to sell reserved mineral interests of the United States in certain land in Georgia to Thomas A. Buiso, the record owner of the surface thereof.

The ACTING PRESIDENT pro tempore (Mr. ROBERT C. BYRD) subsequently signed the enrolled bill.

(The routine morning business transacted during the day is printed at this point in the RECORD, as follows:)

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT OF THE COMMISSION ON THE ORGANIZATION OF THE DISTRICT OF COLUMBIA

A letter from Congressman Ancher Nelsen, transmitting, for the information of the Senate, a report of the Commission on the Organization of the Government of the District of Columbia, Volumes I and II (with accompanying documents); to the Committee on the District of Columbia.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MOSS (for Mr. MAGNUSON), from the Committee on Commerce, with an amendment:

S. 1971. A bill to declare a portion of the Deleware River in Philadelphia County, Pennsylvania, nonnavigable (Rept. No. 92-1302).

By Mr. LONG, from the Committee on Finance, with amendments:

H.R. 7577. A bill to amend section 3306 of the Internal Revenue Code of 1954 (Rept. No. 92-1303).

Mr. LONG. Mr. President, I ask unanimous consent to file a report on H.R. 7577.

The PRESIDING OFFICER. The report will be received.

Mr. LONG. Mr. President, in view of the fact that this will be the only tax bill on the Senate calendar and it is hoped that the leadership can schedule this bill to be considered some time later in the day, when all Senators have been notified, I ask unanimous consent that the bill may be called up and considered at some time later in the day.

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

By Mr. MATHIAS, from the Committee on the Judiciary, without amendment:

H.J. Res. 733. Joint resolution granting the consent of Congress to certain boundary agreements between the States of Maryland and Virginia (Rept. No. 92-1304).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable report of a nomination was submitted:

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

Sidney P. Marland, Jr., of New York, to be Assistant Secretary for Education in the Department of Health, Education, and Welfare; with a printed report (Ex. Rept. 92-39).

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. JAVITS:

S. 4110. A bill to strengthen State workmen's compensation programs, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. MANSFIELD (for Mr. McGOVERN):

S. 4111. A bill to provide for a national program of catastrophe insurance. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. SCOTT (for himself and Mr. ALLOTT) (by request):

S. 4112. A bill to designate certain lands as wilderness. Referred to the Committee on Interior and Insular Affairs.

By Mr. INOUYE (for himself, Mr. MAGNUSON, Mr. BEALL, Mr. CANNON, Mr. COTTON, Mr. GRIFFIN, Mr. HOLLINGS, Mr. LONG, Mr. Moss, and Mr. STEVENS):

S. 4113. A bill to establish an international Commerce Service within the Department of Commerce. Referred to the Committee on Commerce.

By Mr. INOUYE (for himself and Mr. MAGNUSON):

S. 4114. A bill to authorize the Secretary of Commerce to engage in certain export expansion activities, and for related purposes;

S. 4115. A bill to increase the recognition of foreign economic policy considerations in Federal decision-making.

S. 4116. A bill to provide for a system of uniform commodity descriptions and tariffs filed with the Federal Maritime Commission;

S. 4117. A bill to facilitate the exportation of recycled solid waste materials;

S. 4118. A bill to establish a Commission on Foreign Procurement Practices; and

S. 4119. A bill to increase the role of foreign trade zones in the expansion of United States exports. Referred to the Committee on Commerce.

S. 4120. A bill to amend the Export Trade Act. Referred jointly, by unanimous consent, to the Committees on the Judiciary and Commerce.

By Mr. HUMPHREY:

S. 4121. A bill to alleviate the financial crisis confronting the public schools of the Nation by providing grants and loan guarantees for the construction of elementary and secondary schools, by providing increased financial resources for elementary and secondary education and by promoting the equitable distribution of such resources within the States through the establishment of a National Educational Trust Fund, and to establish a Department of Education. Referred to the Committee on Labor and Public Welfare.

By Mr. MATHIAS:

S. 4122. A bill for the relief of Maria Helena de Souza; and

S. 4123. A bill for the relief of Lynne B. MacDonald. Referred to the Committee on the Judiciary.

By Mr. STEVENSON:

S. 4124. A bill to amend section 109 of title 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II. Referred to the Committee on Veterans' Affairs.

By Mr. HARTKE:

S.J. Res. 274. A joint resolution to protect nondisclosure of information and sources of information coming into the possession of the news media. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JAVITS:

S. 4110. A bill to strengthen State workmen's compensation programs, and for other purposes. Referred to the Committee on Labor and Public Welfare.

WORKMEN'S COMPENSATION IMPROVEMENT ACT OF 1972

Mr. JAVITS. Mr. President, I introduce a bill designed to establish minimum standards for State workmen's compensation laws and to assist and encourage the States in other ways to improve their workmen's compensation laws. I was the author of the law which established the National Commission on State Workmen's Compensation Laws, and the legislation I am introducing today is specifically designed to implement the Commission's comprehensive recommendations for improving State workmen's compensation without federalizing the whole workmen's compensation system.

Under the bill:

First. Each State would have until January 1, 1975, to meet 18 substantive minimum standards. The standards are based on the recommendations of the National Commission. The following are some of the more important standards:

Full coverage of all work-related injuries and diseases;

Compulsory coverage for all employers with respect to all employees on whose earnings social security taxes must be paid;

No maximum limitations on total benefits for death or temporary or permanent total disability;

No maximum limitation on the type or extent of medical care or rehabilitation services;

Totally disabled workers must be paid at least 66⅔ percent of their average weekly wage, subject to a maximum of no less than 100 percent of statewide average weekly wages during 1975, rising to no less than 200 percent of statewide average weekly wages commencing January 1, 1978;

Minimum payments of not less than 50 percent of statewide average weekly wages but not more than the injured worker's average weekly wage;

Survivor benefits to widows and children until at least age 18, or age 23 if a student;

Waiting period of not more than 3 days with retroactive benefits paid after 14 days;

Special provisions for dealing with injuries to employees suffering preexisting impairment, including establishment of a special fund;

Appropriate periodic adjustment of benefits for those already receiving benefits to reflect the increases in statewide average weekly wages and benefit levels;

Free choice of physicians;

The State agency to have the right to determine appropriate medical and rehabilitation services;

Attorney's fees to be added to an award where claimant has been successful in formal adjudicatory proceedings; and

Applicability of the State law if the injury occurs within the State, if the employment was principally located in the State, or if the employee was hired in the State.

Second. Each State would also have until January 1, 1975 to file an approved State plan providing for, among other things, the establishment of a single State workmen's compensation agency with authority and responsibility to supervise medical care and rehabilitation services and to make examinations and reports in controverted cases. Each such agency would also be required to provide fair and expeditious procedures for resolving contested cases and to take an active role in informing employees of the features of the State workmen's compensation program and assisting them in processing their claims.

Third. If the Secretary of Labor determines, after adequate notice and opportunity to be heard to the States and other interested persons, that the State law does not meet Federal minimum standards or that the State plan is not acceptable, the Longshoremen's and Harbor Workers' Compensation Act would apply within the State. The Secretary would be required to maintain continuing surveillance over State laws and State plans and to make a specific determination as to the adequacy of State laws at least once every 2 years. If a State law is found inadequate by the Secretary, the State could resume control of its workmen's compensation program if it is able to demonstrate compliance with minimum Federal standards at the next biannual examination of the Secretary of Labor.

Fourth. A Federal Workmen's Compensation Advisory Commission composed of five members, appointed by the President by and with the advice of the Senate would be established. Three members would be from the public, one would be from labor, and one would be from business or insurance. The Commission would monitor the progress of the States in making improvements and complying with minimum standards, advise the Secretary of its conclusions as to the status of State programs, review the adequacy of State plans, engage in research and

development of recommendations for improvement in workmen's compensation programs, and recommend appropriate action for establishing new or improved standards. The Commission would be specifically directed to study the question of permanent partial disability, as recommended by the National Commission on State Workmen's Compensation Laws.

Fifth. New Federal minimum standards would be promulgated by the Secretary, but only after he has obtained a recommendation from the Advisory Commission and afforded all interested parties an opportunity to comment on and, where a hearing is requested, to appear at such hearing. New standards would have to be delayed for such period as would give the States a reasonable opportunity to take action necessary to comply with the new standard.

Sixth. States or other interested persons could obtain judicial review of decisions by the Secretary with respect to the status of State laws, State plans, or new standards.

Seventh. The Secretary of Labor could make grants to the States for the next 3 years to assist them in planning for improvements in State workmen's compensation laws. The Federal share for each grant could be up to 90 percent of the total cost of the project. $15 million would be available for such grants during each of the next 3 fiscal years.

Mr. President, the National Commission on State Workmen's Compensation Laws was charged with the responsibility of determining whether present State laws constitute an adequate, prompt, equitable system of workmen's compensation. It was the unanimous view of the 15 members of the Commission that present State laws fall far short of meeting that criterion. As the Commission stated in its report,

> Our intensive evaluation of the evidence compels us to conclude that State workmen's compensation laws are in general neither adequate nor equitable. While several States have good programs, and while medical care and some other aspects of workmen's compensation are commendable, strong points too often are matched by weak.

More specifically, the Commission found that despite widely accepted agreement in principle on recommended standards for workmen's compensation published by agencies such as the U.S. Department of Labor and and the International Association of Industrial Accident Boards and Commissions, as well as the Model Workmen's Compensation Code developed by the Council of State Governments, most States' laws fail to meet many of such recommended standards. As the Commission stated,

> Of 16 recommendations for workmen's compensation published by the Department of Labor, the average State meets only eight. The wide variation among the States also is disturbing. While 9 States meet at least 13 of the recommendations, 10 States meet 4 or fewer.

The shortcomings of present State laws are not merely technical. For example, 15 percent of all employees remain uncovered by any workmen's compensation law despite virtual unanimity in previous recommendations for more universal coverage. Exemptions based on number of employees or types of employment are still common. Many States also in effect limit coverage by compensating only "accidental" injuries or excluding full coverage of occupational diseases. My bill would require full coverage of all employees on whose earnings social security taxes must be paid—including domestics, farmworkers and public employees—and all types of work-related disability.

In the area of income replacement, the record is particularly bad. Despite many previous recommendations for a maximum weekly limit of at least 66⅔ percent of statewide average weekly wages, 32 States fail to meet this standard, which itself is woefully inadequate. As the Commission noted, the record on income replacement was better in 1940 than it is now. The Commission recommended, and my bill includes, minimum standards which provide for progressive increases in maximum benefit levels so that ultimately the maximum will be not less than 200 percent of statewide average weekly wages. With this kind of maximum, most workers who have the misfortune to suffer total disability will actually receive 66⅔ percent of their average weekly wages.

In dollar terms, under present maximums in effect in most States—generally less than $100 per week—any worker earning over $150 per week does not receive two-thirds of his lost wages if he is totally disabled. Under the maximums which would be established by my bill, maximums would be raised from their current levels to between $220 and $350 a week, depending upon the particular statewide average weekly wage. Assuming a maximum of $300 per week, that would mean that any worker earning $450 a week would actually get two-thirds of his income if he suffered a totally disabling work-related injury.

Another defect in present law which has persisted despite previous recommendations to the contrary are maximums on the total amount of benefits for permanent disability, death benefits, and expenses for medical care. There is no conceivable justification for such maximums, and my bill would eliminate them, in accordance with the Commission's recommendations.

My bill would also implement the Commission's recommendations that workmen's compensation agencies should play a more active role in seeing to it that injured workers receive proper medical attention, in furnishing assistance to workers in processing claims, and in evaluating questions of the extent and cause of disability. The State plan submitted by a State would have to demonstrate that the State workmen's compensation agency was implementing an effective administrative program in these and other areas. The objective here, which cannot be stressed too strongly, is to require State agencies to go beyond the functions of a passive referee adjudicating contested claims and actually reach out to help the injured worker, as recommended by the Commission.

Most of the provisions of my bill are specifically designed to translate the recommendations of the National Commission on State Workmen's Compensation Laws into a reality. However, my bill does go somewhat further than the Commission in certain respects. For example, under my bill the States would be required to establish maximum weekly benefit limitations of not less than 200 percent of average weekly wages by January 1, 1978. The Commission recommended that the States reach this level by 1981. In view of the small cost to raise maximums from 100 percent to 200 percent of statewide average weekly wages, as compared to the initial cost of reaching 100 percent of the statewide average weekly wage, a delay until 1981 does not seem justifiable.

Indeed, we did not wait this long in reaching 200 percent of national average weekly wages as the maximum limit in the longshoremen's and harbor workers' compensation bill recently passed by the Senate. Increasing maximum weekly benefits from 100 percent to 200 percent of statewide average weekly wages is estimated by the Commission to increase workmen's compensation costs by less than 5 percent.

On the other hand, the average cost of going from 50 percent—which is about what many State laws now provide—to 100 percent of statewide average weekly wages is estimated by the Commission as 35 percent of the current cost of workmen's compensation premiums. To put the matter in further perspective, it should also be noted that in the vast majority of States, workmen's compensation costs are now less than 1 percent of the payroll.

Another area in which my bill differs from the Commission's recommendations is in the requirement that State laws provide for adding legal fees to compensation awards, at least where a claimant has been successful in obtaining or increasing an award through formal adjudicatory proceedings before the State or on appeal. The Commission made no recommendations on this subject.

The standard in my bill is based on a comparable provision contained in the Model Workmen's Compensation Code developed under the auspices of the Council of State Governments in 1963. It is also consistent with the provisions included in the recently enacted amendments to the Longshoremen's and Harbor Workers' Compensation Act. The objective of this standard is to provide for payment of legal fees by the employer only where the parties have been unable to resolve the matter in informal proceedings.

The effect will be, especially when coupled with the provision of the bill which requires the agency to furnish assistance to the injured employee in processing his claim, to discourage the use of an attorney at the informal stages of the

proceedings. But, where settlement proves impossible, and a claimant succeeds in obtaining or increasing an award through formal proceedings or appeals, the standard in my bill would spare the employee the necessity of bearing the cost of attorney's fees, as he does now under most State laws.

Another area in which my bill goes further than the Commission concerns the method of enforcement of Federal minimum standards. The Commission's suggestion was that in States with laws that did not meet Federal standards, employers should be subject to suits in the Federal courts by injured employees, or perhaps local U.S. attorneys, to recover benefits which would have been payable had Federal standards been met. With all deference to the Commission, this is in my opinion a cumbersome procedure inconsistent with the whole notion of workmen's compensation as an administrative system which is supposed to provide prompt and inexpensive relief to injured workers.

My bill adopts a plan which I believe is much simpler and much more efficacious. If the State law is determined by the Secretary of Labor not to meet Federal minimum standards, or the State does not file or implement an approved State plan, then the Federal Longshoremen's and Harbor Workers' Compensation Act will apply in the State. The Longshoremen's and Harbor Workers' Compensation Act, as amended by the bill passed recently by the Senate embodies all of the standards specified in this bill for State laws, so that the net result will be that if a State law does not meet the standards then employers will have to provide essentially the same benefits as a matter of Federal law. I am, of course, assuming that the amendments passed by the Senate to the Longshoremen's Act will be enacted into law.

In my opinion, this approach is calculated to encourage and preserve the State workmen's compensation system as we know it and at the same time provide a Federal fail-safe mechanism in the event that the States are just not willing to amend their laws to meet minimum standards of adequacy and fairness. This is basically the approach we took in connection with the black lung benefits program, and its simplicity and effectiveness make it the most sensible way to handle the issue. I recognize, of course, that there are many who still hold strong views about the right of the States to exercise exclusive authority over workmen's compensation and that this enforcement plan is bound to be one of the most controversial points about my bill.

I repeat now what I have said many times before in connection with this matter: the States deserve enormous credit for initiating this humane program; however, the mere fact that the States initiated workmen's compensation laws is no reason for the Federal Government to stay its hand forever in the face of the documented inadequacies of the workmen's compensation laws of many States.

Let me emphasize as strongly as I can that my bill does not federalize workmen's compensation. Rather, it attempts to build upon what is good in the present system of State laws and to give the States encouragement and technical and financial assistance in improving their laws to meet what amounts to universally accepted standards of decency. If the Federal effort is to be effective, there must be some mechanism for insuring that the States act to improve their laws, for our past experience with purely voluntary efforts and exhortation to the States leave no room for doubt that this matter cannot be left to voluntary action by the States. There must be a Federal stick as well as a Federal carrot if the standards that everyone agrees should be met are actually to be met.

For the same reason, I cannot accept the Commission recommendation that Congress enact no legislation before January 1, 1975, in this area in order to give the States a chance voluntarily to improve their laws. I do not quarrel with the thesis that the States should be given a reasonable amount of time to act to bring their laws up to date, but that does not mean that Congress should not act now. If we wait until 1975 even to consider acting, clearly much of the momentum which the Commission report has generated will be lost.

We ought to act now, but in our action give the States a reasonable time to act. This is why my bill provides that the minimum standards specified in it will not go into effect until January 1, 1975. Under my bill the States will have 2 full years to make the necessary improvements in their laws to meet the minimum standards; surely that is a reasonable time in which to make the necessary changes.

Mr. President, I recognize that we are in the closing days of the session and there is no prospect for action on my bill until next year. Nevertheless, I thought it would be important to introduce this proposal now so that the parties who are interested in workmen's compensation reform will have a chance to study it and so that perhaps we can refine it between now and the beginning of next year when I shall reintroduce it. I hope very much that the people throughout the country who are involved in workmen's compensation programs—from the business community, from the labor movement, from the insurance industry, and from State and Federal agencies—will study this proposal and will give me the benefit of their comments.

My bill does not embody every recommendation of the National Commission and, as I have indicated, in some respects it goes somewhat farther than the Commission recommended. I would be most interested in having the benefit of comments and suggestions of my colleagues and any expression of interest by any Senator; and of people who are interested in this issue during the coming months as we prepare to take up this issue next year. In that connection, I am pleased to say that the distinguished chairman of the Labor and Public Welfare Committee, Senator WILLIAMS, has assured me that this legislation will be given high priority during the next session of Congress.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD at this point.

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

S. 4110

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Workmen's Compensation Improvement Act of 1972".

FINDING AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) the vast majority of American workers, and their families, are dependent on workmen's compensation systems for their basic economic security, medical treatment, and rehabilitation in the event such workers suffer disabling injury or death in the course of their employment, and that the full protection of American workers from job-related injury or death requires an adequate, prompt, and equitable system of workmen's compensation in addition to an effective program of occupational health and safety regulation;

(2) each year fourteen thousand American workers die and ninety thousand workers are permanently impaired as a result of work-related injuries or diseases and that work-related deaths and disabilites strike men and women in their most productive years when they are most likely to have a dependent family;

(3) disabilities and deaths due to work-related injuries or diseases cause hardship for workers and their families, reduce the effectiveness of manpower resources in the United States, and impose a substantial burden on interstate commerce in terms of lost income, lost production, and diminished consumer expenditures;

(4) the four basic objectives of workmen's compensation include (A) broad coverage of employees and work-related injuries and diseases; (B) substantial protection against interruption of income; (C) the provision of sufficient medical and rehabilitative services; and (D) the encouragement of safety;

(5) the National Commission on State Workmen's Compensation Laws, established pursuant to the Occupational Safety and Health Act of 1970, determined that, despite recent improvements, many existing State workmen's compensation laws fail to meet objectives set forth in paragraph (4) and thus fail to provide adequate and fair protection to workers and the families of workers injured or killed on the job; and

(6) the improvements that are necessary to insure that an adequate, prompt, and equitable system of workmen's compensation is available to all American workers can and should be achieved without altering the primary legislative and administrative responsibility of the States for workmen's compensation programs, and there is a need for the Federal Government to encourage and assist the States in meeting this responsibility and, where necessary, to assure that workmen's compensation programs within the several States meet minimum standards of adequacy, promptness, and fairness.

(b) It is the purpose of this Act through the exercise of congressional power to regulate commerce and to provide for the general welfare to—

(1) encourage and provide technical and financial assistance to the States to make improvements in their existing workmen's compensation programs designed to provide all American workers and their families an adequate, prompt, and equitable system of workmen's compensation in the event they suffer work-related disabling injury or death;

(2) establish minimum standards of adequacy and fairness for State workmen's compensation programs and procedures by which such standards may be implemented by an appropriate Federal agency in those States which do not comply with them; and

(3) establish appropriate procedures for

monitoring the progress of the States in improving their workmen's compensation programs and meeting such minimum standards and for revising and improving such minimum standards.

DEFINITIONS

SEC. 3. For the purpose of this Act—

(a) The term "Secretary" means the Secretary of Labor.

(b) The term "Advisory Commission" means the National Advisory Commission on Workmen's Compensation established under this Act.

(c) The term "employer" means any person who employs any individual but shall not include the United States.

(d) The term "person" includes one or more individuals, governments, governmental agencies, political subdivisions, labor unions, partnerships, associations, mutual companies, joint-stock companies, trust, unincorporated organizations, trustees, trustees in bankruptcy, or receivers.

(e) The term "employee" means any individual employed by an employer on whose earnings such employer is required to pay taxes under the Social Security Act, including any individual employed in domestic service, except that such term shall not include any individual insofar as his employment is covered by the Federal Employees Compensation Act (5 U.S.C. 81), the Federal Employees Liability Act (45 U.S.C. 51 et seq.), or the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.), nor shall it include a master or member of a crew of any vessel.

(f) The term "statewide average weekly wage" means the average weekly earnings of production or nonsupervisory workers on private nonagricultural payrolls within the State, as determined by the Secretary.

MINIMUM STANDARDS; APPLICABILITY OF FEDERAL LAW

SEC. 4. (a) Commencing on January 1, 1975, and during each two-calendar-year period thereafter, unless the workmen's compensation law of a State has been determined by the Secretary during the calendar year preceding such two-year period to meet the minimum standards prescribed in or pursuant to this section during such two-year period, the provisions of the Longshoremen's and Harbor Workers' Compensation Act, as amended (33 U.S.C. 901 et seq.) shall apply within such State.

(b) The minimum standards which each State workmen's compensation law shall meet in order to satisfy the requirements of this section are—

(1) Compensation, medical benefits, rehabilitation services, and other benefits provided under the law shall be provided by each employer for disability or death to his employees caused by any injury arising out of and in the course of their employment. For the purpose of this section (A) the term "injury" means any harmful change in the human organism, whether or not the result of an accident, and includes damage to or loss of a prosthetic appliance and any disease, except communicable disease unless the risk of contracting such disease is increased by the nature of the employment, and (B) any injury shall be deemed to have arisen out of and in the course of employment is work-related factors were a significant contributing cause of the injury.

(2) Coverage under the State law shall be compulsory for all employers with respect to all of their employees.

(3) There shall be no maximum limitation on the total amount of compensation payable in cases of death or temporary or permanent total disability.

(4) There shall be no maximum limitations on the type or extent of medical care or rehabilitation services (or expenses for such care or services) in any case.

(5) The compensation payable to injured workers for temporary or permanent total disability or to surviving dependents in death cases shall be not less than 66⅔ per centum of the worker's average weekly wage subject to the following permissible maximums:

(A) During the period from January 1, 1975, to December 31, 1975, the maximum weekly benefits payable shall be not less than 100 per centum of the statewide average weekly wage on January 1, 1974.

(B) During the period from January 1, 1976, to December 31, 1976, the maximum weekly benefits payable shall be not less than 133⅓ per centum of the statewide average weekly wage on January 1, 1975.

(C) During the period from January 1, 1977, to December 31, 1977, the maximum weekly benefits payable shall be not less than 166⅔ per centum of the statewide average weekly wage on January 1, 1976.

(D) During the two-year period commencing on January 1, 1978, and during each two-year period thereafter, the maximum weekly benefits payable shall be not less than 200 per centum of the average weekly wage in the State on January 1 of the year preceding the commencement of the two-year period.

(6) The minimum weekly compensation benefits for temporary or permanent total disability shall be not less than 50 per centum of the average weekly wage within the State or the injured worker's actual weekly wage, whichever is less. The minimum weekly benefits in death cases shall be not less than 50 per centum of the average weekly wage within the State.

(7) Where an injury causes death, or an employee who is entitled to receive compensation for total permanent disability subsequently dies, death benefits shall be payable to the deceased employee's widow or widower for life or until remarriage, with at least two years' benefits payable upon remarriage, and to surviving children until at least age eighteen or until at least age twenty-three if the surviving child is a full-time student in an accredited educational institution.

(8) The waiting period for benefits shall not be longer than three days and the period for qualifying for retroactive benefits during such waiting period shall not be longer than fourteen days.

(9) There shall be special provisions for dealing with injuries to employees suffering a preexisting impairment, including provisions for the establishment and financing of a second injury found comparable to the provisions of sections 8(f) and 44 of the Longshoremen's and Harbor Workers' Compensation Act, as amended.

(10) Provision shall be made for appropriate periodic adjustment of benefits being paid for previously incurred disability or death, including death or disability incurred prior to the date of this Act, to reflect increases in statewide average weekly wage levels and the benefit levels, or maximum limits thereon, provided for under the State law.

(11) Injured employees shall have the right to make an initial selection of physican either from among all licensed physicians in the State or from among a panel selected or approved by the State workmen's compensation agency.

(12) The State workmen's compensation agency shall have the right to determine the appropriate medical and rehabiliation services in each case.

(13) Each employer, carrier, employee, attorney, physician, and other parties directly involved in carrying out the provisions of the law, shall be required to file with the State workmen's compensation agency such reports concerning the manner in which he has carried out his responsibilities under the workmen's compensation law as the agency may require.

(14) The time limit for filing a claim shall be three years after the date the claimant knew, or by the exercise of reasonable diligence should have known, of the existence of the disability and its possible relationship to his employment or, where payment of compensation has been made without an award on account of disability or death, within one year after the date of the last payment.

(15) Fees payable to claimants' attorneys shall be subject to regulation by the State workmen's compensation agency.

(16) Attorney's fees shall be added to an award where a claimant has succeeded in obtaining or increasing the award through formal adjudicatory proceedings.

(17) Compromise and release agreements shall be permitted only under conditions specified in the law and only with the approval of the State agency or a responsible official of the agency.

(18) An injured employee or the survivors of a deceased employee shall be permitted to claim benefits under the law if the injury or death for which benefits are claimed occurred within the State, if the employment of the employee out of and in the course of which the injury or death arose was principally localized within the State or if the employee was hired for such employment in the State.

(19) The State shall have filed a State plan which has been approved by the Secretary as meeting the requirements of section 5 of this Act.

(20) Such other standards as the Secretary may promulgate from time to time as hereinafter provided.

(c) During any period when the Longshoremen's and Harbor Workers' Compensation Act is applicable within a State pursuant to this Act, (1) it shall apply to all employers (as defined in this Act) within the State with respect to the injury or death of any employee (as defined in this Act) of such employers irrespective of the place where the injury or death occurred, and (2) if any of the minimum standards specified in subsection (b) of this section would require higher compensation or death benefits to be paid than would be required under the Longshoremen's and Harbor Workers' Compensation Act then such standard shall apply within such State during such period.

STATE PLANS

SEC. 5. (a) Any State which desires to maintain or assume responsibility for administration and enforcement of a workmen's compensation program shall submit to the Secretary a State plan which meets the requirements of this section.

(b) The Secretary shall approve the plan submitted by a State under subsection (a), or any modification thereof, if such a plan in his judgment—

(1) designates a State agency as responsible for administering the plan throughout the State;

(2) provides for the development and enforcement of a workmen's compensation program which meets the minimum standards prescribed in section 4 of this Act;

(3) provides for the establishment within the State Workmen's Compensation agency of a division with authority and responsibility to supervise medical care and rehabilitation services and to make examinations and reports in cases where controversy exists over medical questions such as the existence, degree or cause of disability;

(4) provides procedures for resolving contested cases, including appellate procedures within the agency or the courts which are fair and expeditious;

(5) provides for the appointment of employees of the State workmen's compensation agency through the State civil service system or other system based on merit;

(6) provides for the establishment and implementation by the State workmen's compensation agency of a continuing program to inform employees of the features

of the State workmen's compensation program and to assist employees in processing their claims before the agency;

(7) gives satisfactory assurances that the State workmen's compensation agency will be adequately funded and for maintenance of at least the current level of effort by the State;

(8) requires employers in the State to make such reports concerning work-related injuries and workmen's compensation benefits to the State workmen's compensation agency or to the Secretary as the Secretary may from time to time reasonably require;

(9) provides that the State agency will make such reports to the Secretary in such form and containing such information, as the Secretary shall from time to time reasonably require.

(c) If the Secretary rejects a plan submitted under subsection (a), he shall afford the State submitting the plan due notice and opportunity for a hearing before so doing.

DETERMINATIONS BY THE SECRETARY

SEC. 6. (a) On or before January 1, 1974, and on or before January 1 of each second year thereafter the Secretary shall make a preliminary determination as to whether each State law meets the minimum standards prescribed in section 4 as applicable during the next two-year period, and as to whether the State has submitted a State plan meeting the requirements of section 5. The Secretary shall promptly publish his preliminary determination in the Federal Register and notify the Governor and the State workmen's compensation agency of his findings. Upon publication of his preliminary determination the Secretary shall afford the State agency, the advisory commission and other interested persons, a period of not less than one hundred and twenty days to present any information which may be pertinent to the making of a final determination with respect to the State law and the State plan, including any statutory or administrative changes which may have been made subsequent to the preliminary determination.

(b) On or before September 1, 1974, and on or before September 1 of each second year thereafter, the Secretary shall make a final determination as to whether the State law meets the minimum standards prescribed in section 4, and the State plan meets the requirements of section 5 for the two-year period commencing on the following January 1. He shall promptly publish his findings in the Federal Register and notify the Governor of the State and the State workmen's compensation agency of his determination.

(c) The Secretary may make such inspections as are necessary to ascertain whether a State plan should be approved and to evaluate the manner in which an approved State plan is being carried out. The Secretary shall, on the basis of reports submitted by the State agency and his own inspections, makes a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan, and meeting the minimum standards prescribed in section 4. Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that during any two calendar year period in which a State plan is in effect there has been a failure to comply substantially with any provision of the State plan (or any assurance contained therein), or that the State law no longer meets the minimum standards prescribed in section 4, he shall notify the State agency of his withdrawal of approval of such plan. Thirty days after the State agency has received such notice such plan shall cease to be in effect, and the Longshoremen's and Harbor Workers' Compensation Act shall thereafter apply in such State during the balance of such two calendar year period, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan.

(d) In making determinations under this section the Secretary shall consider, in addition to the applicable State statutes, the regulations of the State workmen's compensation agency and the body of administrative and judicial decisions interpreting and applying such law. A State law shall be deemed to comply with the minimum standards prescribed in section 4 if it provides for benefits and procedures which are substantially equivalent to or more favorable to injured employees than the benefits and procedures specified in section 4.

NEW STANDARDS

SEC. 7. (a) The Secretary may by rule promulgate any new or improved minimum workmen's compensation in the following manner:

(1) Whenever the Secretary, upon the basis of information submitted to him in writing by the Advisory Commission, an interested person, a representative of any organization of employers or employees, or a State or political subdivision, or on the basis of information developed by the Secretary or otherwise available to him, determines that a rule should be promulgated in order to serve the objectives of this Act, the Secretary may request the recommendations of the Advisory Commission appointed under section 10 of this Act. The Secretary shall provide the Advisory Commission with any proposals of his own together with all pertinent factual information developed by the Secretary or otherwise available. The Advisory Commission shall submit to the Secretary its recommendations regarding the rule to be promulgated within ninety days from the date of the Secretary's request or within such longer or shorter period as may be prescribed by the Secretary, but in no event later than two hundred and seventy days from the date of the Secretary's request.

(2) The Secretary shall publish a proposed rule promulgating a new or improved minimum workmen's compensation standard in the Federal Register and shall afford interested persons a period of thirty days after publication to submit written data or comments.

(3) On or before the last day of the period for the submission of written data or comments under paragraph (2), any interested person may file with the Secretary written objections to the proposed rule, stating the grounds therefor and requesting a public hearing on such objections. Within thirty days after the last day for filing such objections, the Secretary shall publish in the Federal Register a notice specifying the standard to which objections have been filed and a hearing requested, and specifying a time and place for such hearing.

(4) Within sixty days after the expiration of the period provided for the submission of written data or comments under paragraph (2), or within sixty days after the completion of any hearing held under paragraph (3), the Secretary may issue a rule promulgating a new or improved minimum workmen's compensation standard or make a determination that a rule should not be issued. The Secretary shall delay the effective date of any new or modified standard for such period as is necessary to afford States or State workmen's compensation agencies a reasonable opportunity to take such action as may be necessary to comply with the standard.

JUDICIAL REVIEW

SEC. 8. Any State, any employer or association of employers employing more than one thousand employees in a State, or any organization of employees representing more than one thousand employees within a State, may obtain review of decisions by the Secretary under sections 5, 6, and 7 by filing in the United States court of appeals in the circuit in which the State is located within thirty days following receipt of notice of the Secretary's decision a petition to review in whole or in part the decision of the Secretary. A copy of such petition shall forthwith be served upon the Secretary, and thereupon the Secretary shall certify and file in the court the record upon which the decision complained of was issued as provided in section 2112 of title 28, United States Code. Unless otherwise ordered by the court on the basis of a clear showing of probable success on the merits, and a finding that irreparable injury would otherwise result, the filing of a petition for review shall not stay the effect of the Secretary's decision. Unless the court finds that the Secretary's decision is not supported by substantial evidence the court shall affirm the Secretary's decision. The order of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

GRANTS TO STATES

SEC. 9. (a) The Secretary is authorized, during the fiscal year ending June 30, 1973, and the two succeeding fiscal years, to make grants to the States which have designated a State agency under section 5 to assist them—

(1) in identifying their needs and responsibilities in the area of workmen's compensation,

(2) in developing State plans under section 5, or

(3) in developing plans for—

(A) establishing systems for the collection of information concerning workmen's compensation;

(B) increasing the expertise and enforcement capabilities of their personnel engaged in workmen's compensation programs; or

(C) otherwise improving the administrative and enforcement of State workmen's compensation laws, consistent with the objectives of this Act.

(b) The Governor of the State shall designate the appropriate State agency for receipt of any grant made by the Secretary under this section.

(c) Any State agency designated by the Governor of the State desiring a grant under this section shall submit an application therefor to the Secretary.

(d) The Secretary shall review the application, and shall approve or reject such application.

(e) The Federal share for each State grant under subsection (a) of this section may not exceed 90 per centum of the total cost of the application. In the event the Federal share for all States under either such subsection is not the same, the differences among the States shall be established on the basis of objective criteria.

(f) Prior to June 30, 1975, the Secretary shall transmit a report to the President and to the Congress, describing the experience under the grant programs authorized by this section and making any recommendations he may deem appropriate.

(g) There is hereby authorized to be appropriated during fiscal year 1973 and each of the next two fiscal years the sum of $15,000,000 for the purpose of carrying out the provisions of this section, which shall remain available until expended.

ADVISORY COMMISSION

SEC. 10. (a) There is hereby established the Federal Workmen's Compensation Advisory Commission, to be composed of five members, appointed by the President by and with the advice of the Senate. One of the members shall be appointed from among representatives of labor, one member shall be appointed from among representatives of business or insurance, and three members shall be appointed from among representatives of the general public. The President shall designate one of the public members to serve as Chairman. Three members of the

Commission shall constitute a quorum. The terms of office of the members of the Commission shall be four years, except that of the members first appointed, one member shall be appointed for a term of one year, one member shall be appointed for a term of two years, one member shall be appointed for a term of three years, and two members shall be appointed for a term of four years.

(b) The Commission shall—

(1) monitor the progress of the several States in making improvements in their workmen's compensation programs and in complying with the minimum standards provided in section 4 of this Act;

(2) advise the Secretary of its conclusions as to the compliance or noncompliance of State programs with the minimum standards prescribed in section 4 of this Act;

(3) review the adequacy of State plans submitted under section 5 of this Act;

(4) engage in research and development of recommendations for improving workmen's compensation programs, including, without limitation, recommendations for standards for determining the compensation payable for permanent partial disability;

(5) recommend appropriate administrative or legislative action to establish new or improved standards under section 7 of this Act;

(6) furnish technical assistance to the States for the purpose of assisting them to improve workmen's compensation programs; and

(7) monitor and evaluate the administration of Federal workmen's compensation programs and make recommendations for appropriate administrative and legislative changes.

(c) (1) The Commission or any authorized subcommittee or members thereof, may, for the purpose of carrying out the provisions of this title, hold such hearings, take such testimony, and sit and act at such times and places as the Commission deems advisable. Any members authorized by the Commission may administer oaths of affirmation to witnesses appearing before the Commission or any subcommittee or members thereof.

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

(d) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provision of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title, and

(2) procure temporary and intermitent services to the same extent as is authorized by section 3109 of title 5, United States Code.

(e) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(f) Members of the Commission, other than the Chairman, shall receive compensation for each day they are engaged in the performance of their duties as members of the Commission at the daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

(g) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new clause:

"( ) Chairman, Federal Workmen's Compensation Advisory Commission."

(h) The Commission shall transmit to the President and to the Congress, not later than February 1 of each year, a report of its activities, together with such recommendations as it deems advisable.

STATISTICS

SEC. 11. (a) In order to further the purposes of this Act, the Secretary, in consultation with the Secretary of Health, Education, and Welfare, shall develop and maintain an effective program of collection, compilation, and analysis of workmen's compensation statistics. Such program may cover all employments whether or not subject to any other provisions of this Act.

(b) To carry out his duties under subsection (a) of this section, the Secretary may—

(1) promote, encourage, or directly engage in programs of studies, information, and communication concerning workmen's compensation statistics;

(2) make grants to States or political subdivisions thereof in order to assist them in developing and administering programs dealing with workmen's compensation statistics; and

(3) arrange, through grants or contracts, for the conduct of such research and investigations as give promise of furthering the objectives of this section.

(c) The Federal share for each grant under subsection (b) of this section may be up to 50 per centum of the State's total cost.

(d) The Secretary may, with the consent of any State or political subdivision thereof, accept and use the services, facilities, and employees of the agencies of such State or political subdivision, with or without reimbursement, in order to assist him in carrying out his functions under this section.

(e) Employers shall file such reports with the Secretary as he shall prescribe by regulation, as necessary to carry out his functions under this Act.

(f) Agreements between the Department of Labor and States pertaining to the collection of Workmen's Compensation statistics already in effect on the effective date of this Act shall remain in effect until superseded by grants or contracts made under this Act.

AUDITS

SEC. 12. Within one hundred and twenty days following the convening of each regular session of each Congress, the Secretary shall prepare and submit to the President for transmittal to the Congress a report upon the subject matter of this Act, the progress toward achievement of the purpose of this Act, the needs and requirements in the field of Workmen's Compensation, and any other relevant information.

SEPARABILITY

SEC. 13. If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

APPROPRIATIONS

SEC. 14. There are authorized to be appropriated to carry out this Act for each fiscal year such sums as the Congress shall deem necessary.

EFFECTIVE DATE

SEC. 15. This Act shall take effect upon the date of its enactment.

By Mr. MANSFIELD (for Mr. McGOVERN):

S. 4111. A bill to provide for a national program of catastrophe insurance. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. MANSFIELD. Mr. President, I send to the desk for introduction on behalf of my distinguished colleague, Senator McGOVERN, a bill, the National Catastrophe Insurance Act of 1972.

I also ask unanimous consent to have printed in the RECORD a statement of Senator McGOVERN which, in his absence, explains the purpose of the bill and the reasons for its introduction, together with the text of the bill.

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

STATEMENT BY SENATOR McGOVERN

Mr. President, in June of this year, Hurricane Agnes and the floods it created left a trail of incredible destruction and personal tragedy. Never before in our history has a natural disaster had such a cruelly devastating impact on the lives and property and futures of so many Americans. And yet the response to this great national disaster on the part of our national government has not been sufficient. Nixon Administration officials themselves have joined the voices of local governing officials to complain about the inefficiency with which rehabilitation is being carried out.

In August, I toured the flood-ravaged Wyoming Valley of Eastern Pennsylvania. What I saw there—nine weeks after Hurricane Agnes had rocked the East Coast from Florida to New York—was profoundly moving and deeply discouraging. The magnificent spirit of the homeless and destitute has been commendable as they attempt to reconstruct their lives. But they need more assistance. As my distinguished colleague in the House of Representatives, Representative Boland of Massachusetts, pointed out on Wednesday of this week, Hurricane Agnes's destruction has affected the lives of millions of people. He pointed out that an estimated $450 million of Federal funds are being made available to facilitate the recovery of the stricken seven-state area—$200 million in previously appropriated urban renewal funds and $250 million in new funds, approval of which is expected before Congress adjourns. These funds are urgently needed to restore damaged communities. But more needs to be done—one estimate is that damage to Pennsylvania alone is estimated at more than $2.5 billion.

Efforts to undertake a massive reconstruction are indispensable. But one should look to the future as well.

In this connection, I am introducing today The National Catastrophe Insurance Act of 1972 in order to establish financial protection against disasters of a similar magnitude if, unfortunately, these should occur. I want to acknowledge the work of Representative Daniel Flood of Pennsylvania, the able Member of the Pennsylvania delegation who has introduced financial-protection legislation in the House of Representatives. His bill has drawn 27 cosponsors. We share the same outlook—an ounce of prevention is worth a pound of cure.

My bill would establish a National Catastrophe Insurance Corporation to administer a program of national catastrophe insurance, designed to prevent severe economic dislocations from catastrophes, to provide reparations on an insurance basis, and to provide financial protection to those exposed to losses arising out of catastrophes. The Corporation would be a Federally chartered one composed of eleven Directors appointed by the President with the advice and consent of the Senate. The Board of Directors would consist of a majority of representatives of the Federal Government, but representation would also be drawn from state and local government and consumers. The Corporation would be provided at its beginning such money as the

Congress thinks necessary. Thereafter, the Corporation would have authority to borrow from the Secretary of the Treasury such interest-bearing funds as may be necessary to meet its obligations. Furthermore, the Directors, after public hearings, would specify a surcharge to be levied on existing property and liability insurance premiums. Maximum surcharge would be five percent. This surcharge would be paid to an individual's insurer along with the regular insurance premium. If the home-owner sustained a catastrophic loss, he would be reimbursed immediately through his insurance company in the same manner as if he had sustained a fire loss. All of his damage—to the extent of his property insurance coverage—would be repaid as a matter of right. No longer would the victim of a flooding catastrophe, for example, be required, in effect, to go to the government—hat in hand—and plead for help.

Under the terms of my legislation, I point out, there is a retroactive feature in that the Directors would be empowered to provide for payment of flood losses which were incurred since January 1st of this year and which were incurred in areas or localities declared major disaster areas by the President.

One point more, Mr. President. The Directors of the Corporation would be empowered, after public hearing, to specify perils other than flooding to be covered—perils that are typically uninsured or uninsurable such as earthquake, atomic accident, war damage, or mud-slide.

This Nation has been providing disaster relief for everyone except those who need it most and can afford it least. We can bail out the incompetent executives of Lockheed. We can provide disaster insurance for the mismanaged Pennsylvania Railroad. But when the ordinary family is wiped out by a disaster for which they bear no responsibility, we tell them that they must make it on their own—except for soup kitchens and emergency clothing distribution set up immediately after the tragedy.

The lesson of Hurricane Agnes is that we must establish a permanent, adequately financed apparatus to care not for the most advantaged in our society, but for the least advantaged.

The victims of Hurricane Agnes have shown courage and resourcefulness. We in government can do no less.

S. 4111

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "National Catastrophe Insurance Act of 1972".

PURPOSE

SEC. 2. It is the purpose of this Act to provide for a National Catastrophe Insurance Corporation to administer a program of national catastrophe insurance, designed to prevent severe economic dislocations from catastrophes, to provide reparations on an insurance basis, to provide protection to all those exposed to losses arising out of catastrophes, and to encourage the prevention and minimization of losses arising out of catastrophes.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "catastrophe insurance" means insurance against flood and other perils specified by the Board of Directors of the National Catastrophe Insurance Corporation to cover losses.

(2) "property insurance" means all insurance issued by insurance companies in force in any State on any real property or personal property located in any State other than insurance on motor vehicles.

(3) "insurance company" means any insurance company or group of companies under common ownership which is authorized to engage in the insurance business under the laws of any State, and also includes any pool or association or insurance companies formed, associated or otherwise created for the purpose of sharing risks.

(4) "premium surcharge" means a percentage of property and liability insurance premiums to be specified by the Board of Directors of the Corporation on all types of property and liability insurance except workmen's compensation, bonds and health insurance.

(5) "State" means each of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Canal Zone.

(6) "jurisdiction" means any State or subdivision thereof which the Secretary finds has the legal authority to adopt and effectively enforce local land use and control measures to reduce the potential for covered catastrophe.

(7) "Corporation" means National Catastrophe Insurance Corporation.

(8) "Board of Director" means the members of the Board of Directors of the Corporation.

ESTABLISHMENT AND AUTHORITY OF THE NATIONAL CATASTROPHE INSURANCE CORPORATION

SEC. 4. (a) There is established a National Catastrophe Insurance Corporation, which shall have an eleven-member Board of Directors appointed by the President of the United States with the advice and consent of the Senate. The Board shall consist of representatives of—

(1) State and local governments;

(2) the Federal Government; and

(3) consumer interests.

Not less than a majority of the Board at any time shall be representatives of the Federal Government, and every such representative shall immediately cease being on the Board as soon as he is removed from his Federal position. The Board of Directors is authorized to appoint such advisory committees as it may find useful.

(b) The Corporation shall have the following powers:

(1) To collect, manage and invest in United States Government securities, funds produced by the surcharge and other funds necessary to fulfill the purposes of this Act.

(2) To disburse funds to reimburse insurance companies, to pay reasonable operating expenses and make other reasonable disbursements in accordance with its corporate purposes.

(3) To purchase reinsurance to the extent deemed appropriate and available by the Board of Directors.

(c) The Corporation is authorized (1) to adopt, alter, and use a corporate seal; (2) to have succession until dissolved by Act of Congress; (3) to make and enforce such bylaws, rules, and regulations as may be necessary or appropriate to carry out the purposes or provisions of this chapter; (4) to make and perform contracts, agreements, and commitments; (5) to prescribe and impose fees and charges for services by the Corporation; (6) to settle, adjust, and compromise, and with or without consideration or benefit to the Corporation to release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Corporation; (7) to sue and be sued, complain and defend, in any State, Federal, or other court; and (8) to acquire, take, hold, and own, and to deal with and dispose of any property.

(d) (1) Members of the Board of Directors and advisory committee members shall be reimbursed for reasonable expenses incurred pursuant to their duties as members. The members of the Board of Directors and persons appointed to assist the Board shall not be liable personally on the bonds or other obligations of the Corporation and the right of creditors shall be solely against the Corporation.

(2) The Board of Directors may appoint such staff, technical experts and other agents and employees, permanent or temporary, as it may require and may determine the qualifications and fix compensation of such persons.

(3) The Board of Directors may delegate to one or more of its agents or employees such of its powers as it shall deem necessary to carry out the purposes of this Act.

(c) (1) The Board of Directors shall, after a public hearing thereon, specify the premium surcharge after consideration of actuarial data and the financial requirements of the Corporation, but the surcharge may not exceed five percent. The surcharge may vary on an individual basis, a State-wide basis, a territorial basis, a country-wide basis, or any combination thereof in order partially to reflect variation in risk and control measures. Each insurance premium shall be surcharged and the amount of surcharge shall not be subject to agents' or brokers' commission or company expense and shall be paid in its entirety by the insurance companies to the Corporation at such times as the Board of Directors shall specify.

(2) The Board of Directors shall submit an annual report of the Corporation's operations to the President for submission to the Congress and such report shall contain data on the Corporation's activities under this Act and may contain recommendations for necessary additional legislation related to purposes of this Act.

(3) The Board of Directors shall, after a public hearing thereon, specify the perils to be covered such as earthquake, subsidence, war damage, atomic accident, or mudslide. Such perils shall be those which are typically uninsured or uninsurable and of such a nature as to generate losses that are likely to result in a Federal disaster declaration.

(4) The amount of catastrophe insurance may be subject to such deductibles, coinsurance provisions, and other terms and conditions as may be necessary to achieve the purpose of the Act and the soundness of the financing arrangements.

(5) The amount of catastrophe insurance may be limited to a percentage of the property insurance in force for each owner. Such percent shall be established by the Board of Directors after public hearing, and may later be increased or decreased as the Board of Directors deems appropriate.

MANDATED COVERAGE

SEC. 5. Each property insurance policy now in effect or hereafter issued other than motor vehicle property insurance policies shall be endorsed to extend coverage to flood and other catastrophe perils as specified by the Board of Directors of the Corporation.

ELIGIBILITY FOR COVERAGE

SEC. 6. No catastrophe insurance or reinsurance shall be offered under this Act in any jurisdiction where the Board of Directors determines that appropriate and adequate land use and control measures to avoid and mitigate future catastrophes have not been adopted. The Board of Directors is authorized to require periodic and reasonable revision of zoning actions and building codes in eligible jurisdictions on the basis of past experience or new information as a condition of the continued eligibility of such jurisdictions for national catastrophe insurance.

FINANCING

SEC. 7. (a) There is established in the Treasury of the United States a fund for the operating expenses and capital fund of the Corporation.

(b) There is appropriated to the fund established under subsection (a), out of any

money in the Treasury not otherwise appropriated, such sums as the Congress may determine to carry out the purpose of this Act.

(c) To maintain the fund established under subsection (a), the Corporation is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized to purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations which shall be treated as public debt transactions of the United States.

RETROACTIVE PAYMENTS

SEC. 8. The Board of Directors shall provide for payment of flood losses and losses from other catastrophic perils which were incurred after January 1, 1972, and which lead to a declaration of a major disaster area by the President. Such loss payments shall be made to all insured and non-insured owners of real property and owners of household contents in accordance with loss settlement procedures normally employed by property insurance companies—to the extent of the existing property insurees' coverage. The Corporation may request the insurance industry, government agencies, and any other public or private agency or organization to assist it in adjusting such claims. All such loss payments shall be reduced by any State or Federal assistance grants or loans paids or payable to such owners.

By Mr. INOUYE (for himself, Mr. MAGNUSON, Mr. BEALL, Mr. CANNON, Mr. COTTON, Mr. GRIFFIN, Mr. HOLLINGS, Mr. LONG, Mr. MOSS, and Mr. STEVENS):

S. 4113. A bill to establish an international Commerce Service within the Department of Commerce. Referred to the Committee on Commerce.

Mr. INOUYE. Mr. President, last year Senators MAGNUSON, COTTON, GRIFFIN, HOLLINGS, STEVENS, and I introduced S. 2754, the Export Expansion Act of 1971.

Title I of that bill authorized the establishment of a service to be known as the International Commerce Service within the Department of Commerce. This service would have been charged with the responsibility of representing American commercial interests in U.S. diplomatic missions abroad as commercial minister, counselor, attaché, officer or such other titles as may be prescribed by the Secretary of Commerce. Officers of the service would also have diplomatic immunity and a status equivalent to that enjoyed by Foreign Service officers of comparable rank and salary. In effect, then, the International Commerce Service would have assumed the function of commercial officer, which now resides in the Foreign Service.

The bill was prompted by a long, simmering dissatisfaction with the commercial representation that American business had been receiving overseas. In a study conducted by the consulting firm of Cresap, McCormick, and Paget, an overwhelming majority of American firms queried expressed displeasure with the services they had received—or failed to receive—from Foreign Service commercial officers.

This attitude was confirmed by a personal survey conducted by my own Subcommittee on Foreign Commerce and Tourism. By a 4-to-1 margin, the corporations responding to a question about the transfer of the commercial function to the Department of Commerce from the Department of State favored the move.

These complaints about inadequate field support are longstanding. During the post-World War II era, the United States concentrated on international political, diplomatic, and military problems. The creation of a stable, secure world order was quite properly given priority, and on the whole—but at great price—the sacrifices of the American people have been rewarded. The threat of a nuclear holocaust has receded somewhat, and the great powers have reached a delicate political equilibrium.

This progress has been similarly paralleled by the growth of the global economy. Immediately, after the Second World War, the United States was the world's preeminent economic power, the only major nation whose industrial plant was intact. Consequently, there was never any problem in selling American goods to other nations. The large payments surpluses which we accumulated after the war reflected our economic dominance. The combination of these two factors, the threat to our security and the vigor of American industry, resulted in concentrating on the political function and downgrading, or at least minimizing, the commercial function.

Today we no longer can afford this luxury of neglecting the commercial aspect of our foreign policy. For the first time last year the United States sustained a merchandise trade deficit of approximately $2.1 billion f.o.b. At midyear this figure had deteriorated further to an annual rate of $7.7 billion, and the latest August statistics show an annual deficit rate of $5.5 billion. As the dollar devaluation takes effect, this gap should narrow, but there is a strong difference of opinion whether devaluation will be sufficient to bring our trade account into balance. Furthermore, it is highly unlikely that simple monetary reforms and devaluation can restore our once healthy surpluses.

In 1970, for the first time the United States ceased to be the world's largest exporter of manufactured goods. That honor belongs to West Germany. In terms of volume and value, the European Community has far surpassed our foreign trade, although the United States remains the single largest exporting nation.

The changes in our economic status must be reflected by our commercial officers stationed abroad. Until very recently, the Department of State and the Foreign Service seem to have been oblivious to our relative economic decline and the shift of emphasis in international affairs to economic issues. Even today we have only 192 commercial officers stationed in 95 overseas posts. This figure is proportionately far less than any other major industrial country. The failure of the State Department to give appropriate attention to foreign trade prompted Senator MAGNUSON and me to include a proposed transfer in our omnibus export expansion bill.

The hearings which the Subcommittee on Foreign Commerce and Tourism conducted on title I of the bill convinced me that outside of the State Department there was very little interest in retaining the commercial function there. Nevertheless, at the request of the Administration, we defered action on this title until a study of the issue could be completed.

I am pleased to advise my colleagues that the Department of State has been aware of the Congress' concern and is acting to improve the commercial services program. It has taken several steps to improve its responsiveness on commercial matters. Most recently, on August 18, a decision memorandum was issued by Deputy Secretary John Irwin increasing the priority and importance of commercial work, improving career opportunities within the commercial cone for advancement within the Foreign Service, encouraging closer cooperation between private business and the Department of State, and providing more training and information to commercial officers serving overseas. I ask unanimous consent to have a copy of the memorandum and a summary of its major provisions printed in the RECORD at this point.

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

STRENGTHENING BUSINESS SERVICES AND TRADE PROMOTION

In my circular cable to you on the occasion of the swearing in of Willis Armstrong, (State 026228, 15 February 1972), I stressed the importance the President and I attach to effective governmental support of American business. The Department is moving forward, in close cooperation with the Department of Commerce, to strengthen and improve our export promotion programs. The overseas element of this effort is one of the primary missions of the Foreign Service and of each of our diplomatic and consular posts.

I enclose with this airgram a copy of the decision memorandum of August 18 which details the Department's approach to business relations and directs the implementation of a series of specific measures. I would appreciate your seeing to it that your staff is familiar with this program and with the importance I wish to have devoted to it.

I am aware of the fine work our posts are doing to support American business objectives and I congratulate you upon your efforts to date. In a time of balance of payment pressures we must further reinforce our trade promotion programs. Many of the ideas submitted from the field have been incorporated in this decision memorandum. Additional thoughts and recommendations from the field are always of value and are welcome.

ROGERS.

STRENGTHENING BUSINESS SERVICES AND TRADE PROMOTION

THE DEPUTY SECRETARY OF STATE,
Washington, D.C., August 18, 1972.

I have approved the action program which follows, and which was discussed in my meetings of July 13 and 14. This program incorporates, inter alia, recommendations of the Pritzlaff Report, Willis Armstrong's interim action program, the draft report of the Inspector General of the Foreign Service on the commercial function, several recent GAO studies, recommendations made to me by the Director General of the Foreign Service, and Open Forum Panel suggestions. You should proceed energetically to implement the various tasks assigned in this memorandum in the closest possible coordination with our colleagues in the Department of Commerce. I will plan to meet again with Secretary Peterson and his associates in the coming weeks to discuss the broad outlines of our mutual program.

This memorandum concerns governmental trade promotion and relations with American business. While it is essential that these services be strengthened, no amount of promotion can substitute for a national commercial policy which facilitates trade and makes exporting more profitable. The Bureau of Economic Affairs will take the lead in the Department in developing proposals, some of which may require legislation, that hold promise of a significant impact on the U.S. balance of trade.

I. ORGANIZATION OF THE STATE DEPARTMENT EFFORT

The Bureau of Economic Affairs will have basic responsibility for the function of trade promotion and business services. E, supported by the geographic bureaus, will be responsible for working with Commerce on substantive programming. E, in consultation with the Department of Commerce, the geographic bureaus, M, A, and M/DG will prepare a program budget presentation for the function, including identification of all related resources. E will take the lead in planning and recommending global allocation of resources. This will be done through the PARA system and the budget and execution process, with geographic bureau participation. E (with the support of Commerce Department officers) will help justify this budget before OMB and, based upon our judgment of the utility at the time, before the Congress.

The Director General will continue to be responsible for the personnel aspects of commercial work, including recruitment, training (with FSI), assignment, promotion and career planning. M/DG, after appropriate consultation, will develop the personnel system outlined in this paper, negotiate mutually satisfactory working arrangements with Commerce, and implement the economic/commercial cone program.

II. STATE DEPARTMENT POSITIONS ON THE CENTRAL ISSUES

A. Personnel management and career specialization

Commercial work will be integrated as fully as possible with other Foreign Service responsibilities. Economic specialization and commercial specialization will comprise a single career cone. There will be more cross fertilization between the various economic and commercial sub-specialties. Our ultimate objective is to have in supervisory counselor positions only persons who have demonstrated competence in both fields. There will be a maximum integration of commercial and economic activities and officers overseas. The role and prestige of the commercial officer will be enhanced; this is the objective of many of the reform actions now in train.

A recent paper drafted in the Bureau of International Commerce proposes the separation of commercial officers into a distinct commercial cone. This more restrictive approach would isolate commercial specialists. It would relieve the pressure for generalized attitudinal change in the FSO corps, and would tend to subordinate commercial work, the very opposite of our purpose. Commercial specialists deserve the same opportunities for broadening out-of-track assignments as their fellow FSOs, and the training they need to compete for senior executive positions. It is necessary that services to American business be regarded and be handled as an integral part of overseas mission responsibilities. The entire mission, starting with the Ambassador, must be concerned with business relations and export promotion.

The 1967 State/Commerce agreement on an integrated cone has not been effectively implemented. We must proceed expeditiously with such implementation, collaborating as fully as possible with the Department of Commerce. At the same time, we will define and catalogue the particular skills involved in trade promotion and business services and maintain improved records as to the qualifications of our officers for various commercial assignments.

M/DG will chair the State team in personnel discussions with the Commerce Department, and will explain the reasoning behind our firm preference for an integrated economic/commercial career specialization, operating, like the rest of the Foreign Service, under the ultimate authority of the Secretary of State. In this context, the State team will be prepared to work out mutually satisfactory arrangements regarding, *inter alia:*

1. Commerce participation in the recruitment, assignment, training and promotion of economic/commercial cone officers, and in the determination of commercial position responsibilities;

2. Increased in-and-out FSR appointments of executives from private business to positions designated for this purpose both in Washington and the field, subject to their demonstrated qualifications, position authorizations, and necessary appropriations;

3. Commerce participation in inspection and evaluation missions in coordination with S/IG;

4. An expansion of budgeted positions for FSO assignments in Commerce.

B. Budgeting

Our understood long range objective (to be realized if possible in FY 1975) is the development of fully compatible and coordinated business support budgets for State and Commerce. In fact, the joint budget should ideally be prepared, regarded and justified as an integrated functional resource package, dovetailing domestic and overseas commercial services/trade promotion programs. The fact that the same Congressional appropriations committees approve the budgets of the two departments will, we hope, facilitate this project. It will take patience and goodwill to develop the essential candor, trust, and cooperation between all levels of State and Commerce. We expect, therefore, that personnel involved will approach this task in the proper manner of cooperation designed to ensure success.

Meanwhile, starting with a scheduled PARA review, State will prepare a functional trade promotion/business services budget for its own resources for FY 1974 and will present it to OMB in this manner. The Congressional presentation will also be made functionally if the committee chairmen agree; if not, the appropriations request will be broken down geographically and the functional description added as an annex, or in some similar fashion. E should take the lead, in coordination with A, M, M/DG and the geographic bureaus, in seeking the assistance and collaboration of Commerce in this effort.

Of course, we will expect to be kept fully informed of Commerce FY 74 budget plans in order to prevent conflict and redundancy. For example, some of Commerce's market development programs, and particularly the Regional Trade Development Centers, appear to duplicate Embassy functions and to risk a fragmentation of overseas operations; such expanded overseas programs designed to focus upon particular markets should more appropriately be financed through the State budget and be directed by the Ambassador and his commercial counselor.

C. Programing

The Commerce and State Departments should allot high priority to the development of commercial operations programs by country and region. This subject is addressed clearly and succinctly in the draft S/IG report; it has been emphasized in every recent study of governmental trade promotion work. Objectives, priorities, and allocation of resources must be considered and tailored on a market by market basis. Both domestic and overseas activity must be included, and particular attention should be paid to the degree of development of each market. Such planning can succeed only as an intimate cooperative endeavor of the Commerce Department, the overseas missions, and the State Department, and should utilize existing PARA machinery. I recognize that this necessary cooperative effort will be hard work for both departments. In State, E and the geographic bureau country directorates must plan to devote time and attention to the development of market programs.

We should propose to Commerce that one country market in each geographic region be designated for an initial attempt to develop integrated trade promotion programs, and that these pilot programs receive favored attention for resources. It is essential to approach this major task on a functional as well as a geographical basis, so as to consider the validity worldwide of the various tools of trade promotion (missions, fairs, WTDRs, trade opportunity reports, trade centers, special trade development centers, etc.). Thus, different categories of markets should be chosen for the pilot projects so as to permit the various market plans to be coordinated and regarded collectively as a global pilot project. The State/Commerce Country Program Working Group could be expanded into a joint task force for this purpose. E should proceed with the geographic bureaus and Commerce to select the most useful markets in each region for this exercise and should seek the views of the Department of Commerce as to the most promising way to conduct the work.

D. Reforms of Current Commerce Department Procedures

A number of immediate and longer range State Department actions are set forth in this paper. Others will be developed in coordination with Commerce as the program progresses, and, of course, we will welcome other Commerce Department ideas. The Commerce Department has recognized the need for substantial changes in its own traditional practices as well. Without these changes, which have been recommended in the various recent evaluations, other reforms can have only limited impact. The State Department is prepared to assist in every way it can, but Commerce, like State, must accomplish its own internal reforms. The Pritzlaff Report, the S/IG draft, and particularly the McKinsey recommendations provide a useful blueprint. This challenging agenda appears to include:

1. Developing more integrated management of the export promotion effort, including particular attention to Commerce field offices and a reorganization of the Bureau of International Commerce.

2. Increased attention to stimulating American firms to enter the export market and to produce for export.

3. Introduction of a subscription service for the provision of commercial intelligence

to business. This proposal, already, we understand, generally favored in Commerce, is discussed in the draft S/IG report. The British system can provide a useful model and we can profit from their experience.

4. Reduction of Washington paperwork demands upon overseas missions to permit more time, with improved Washington guidance, for creative commercial work, development of contacts, and unearthing of export opportunities. This problem is described eloquently in the Pritzlaff Report.

III. IMMEDIATE ACTIONS

In addition to the implementation assignments related to personnel management, budgeting and programming, there is to be immediate implementation of the following more specific measures discussed in my meetings of July 13 and 14.

7. M/DG, in consultation with E, Commerce and the geographic bureaus, should designate approximately 25 consular posts in major markets, or markets with high potential, as "Commercial Interest Posts." The Director General should announce the Department's objective of assigning principal officers to these posts from the economic commercial cone, or from those officers of another cone who have had significant commercial experience and are otherwise qualified. I would appreciate a report from the Director General by September 30 and again by December 31 regarding our progress in meeting this goal.

2. The Director General will make known the Department's objective of drawing approximately one-fourth of DCM assignments from the economic/commercial cone or from those officers of another cone who have had significant commercial experience and are otherwise qualified. Nominations for Chief of Mission from the career service should reflect the growth in emphasis upon Foreign Service economic and trade promotion responsibilities. I would appreciate an interim report from the Director General by September 30 and again by December 31 on our progress toward reaching these goals.

3. M/DG and E should review positions in the Economic Bureau and by September 30 redesignate as "commercial affairs officer" a substantial number of positions now designated as "international economist." I understand INR will redesignate about three such positions, and each geographic bureau will redesignate approximately five. E and the other bureaus involved should coordinate with the position classification experts of M/DG to ensure logic and consistency in these changes of nomenclature. The redesignations should be based upon a broad definition of commercial work ranging from particular actions to general policy objectives relating to the support of American business abroad. The number of positions affected cannot be determined until the review is undertaken.

4. M/DG, after consultatio· with E, will by September 15 issue general instructions that rating officers comment in performance evaluations upon the rated officer's concern for American business interests and his effectiveness in this area. Such comment will apply to the performance year beginning this summer and to all officers of the Foreign Service, regardless of cone or personnel category.

5. S/PC, in consultation with E, M/DG and the geographic bureaus, will prepare by September 15 for my consideration a draft letter which, if approved, would be for the Secretary's signature to all Chiefs of Mission. It would suggest organizational and managerial approaches designed to improve services to American business and to enhance the prestige, job content and relative status of the commercial officer.

6. E, in consultation with EXIM Bank and Commerce, will by September 30 transmit to the field a new, comprehensive unclassified circular describing U.S. Government export credit and credit guarantee facilities.

7. E, in consultation with S/IG, M/DG, L, and Commerce, should draft a complete revision of 10 FAM 940 to 947. Developments in State/Commerce reforms over the next six months will shape the new regulations. However, E should recommend to me by September 15 new language for those sections of the manual which require urgent improvement. E should explore whether it is possible to draft legally and politically acceptable language defining the circumstances under which U.S. missions may properly concentrate their support on the efforts of one particular American firm seeking a foreign contract. Electrical communication of commercial traffic should be emphasized, and any regulatory inhibition to its use deleted.

8. M/DG, in consultation with E and other bureaus, should seek to effect by the end of this calendar year approximately five exchange assignments with private business, commercial or financial institutions. The various bureaus under M leadership will designate the positions into which these private experts will be placed, and I will appreciate a report on September 30 and again on December 31 regarding our progress in meeting this goal.

9. M/FSI, in cooperation with M/DG, E and Commerce, should, by reordering priorities within the limits of its present budgeting and personnel ceilings, prepare and schedule an appropriate course designed to orient senior officers without extensive economic background in the practical elements of business practices and international economics related to Foreign Service responsibilities. E should define the objectives of the course by September 15, and M/FSI should prepare the curriculum for implementation this autumn. I would appreciate a progress report from FSI by October 15.

10. M/FSI should, within its present ceilings, explore with private business corporations and associations the availability of suitable training programs in international business practice and the operations of multinational corporations, and report back to me by September 15.

11. M will adjust the list of positions qualifying for Career Minister eligibility to include the six economic/commercial minister positions in London, Paris, Bonn, Rome, Saigon and Tokyo.

12. The Bureau of Economic Affairs is renamed the Bureau of Economic and Business Affairs, with the symbol designation EB. M will publish the necessary instructions for this change in nomenclature by September 15.

JOHN N. IRWIN II.

DIRECTIVE ISSUED—DEPARTMENT TO STRENGTHEN TRADE PROMOTION EFFORT

Deputy Secretary John N. Irwin II, last month directed major changes designed to strengthen the Department's trade promotion effort.

In a Decision Memorandum issued August 18, Mr. Irwin instructed various offices within the Department to prepare to implement the following "immediate" actions:

Designate approximately 25 consular posts in important markets as "Commercial Interest Posts," with the objective of assigning principal officers to these posts from the economic/commercial cone, or from those officers of another cone who have had sufficient commercial experience.

Establish the objective of drawing approximately one-fourth of DCM assignments from the economic/commercial cone or from those officers of another cone who have had significant commercial experience.

Issue general instructions that rating officers comment in performance evaluations upon the rated officer's "concern for American business interests and his effectiveness in this area."

Prepare a letter from the Secretary to Chiefs of Mission, suggesting ways to improve services to American business and to enhance the prestige, job content and relative status of the commercial officer.

Transmit to the field an updated circular describing U.S. Government export credit and credit guarantee facilities.

Revise and update 10 FAM pertaining to commercial work.

Arrange approximately five exchange assignments with the U.S. private sector by the end of 1972.

Organize a course to orient senior officers without extensive economic background in the elements of business practices and international economics related to Foreign Service responsibilities.

Explore availability within private business of suitable training programs in international business.

Adjust the list of positions qualifying for Career Minister eligibility to include the six economic/commercial minister positions in London, Paris, Bonn, Rome, Saigon and Tokyo.

The Economic Bureau will also be renamed the Bureau of Economic and Business Affairs. In addition, a substantial number of positions in the "EB" Bureau will be redesignated from "international economist" to reflect the commercial as well as economic function of the position. INR will redesignate about three such positions and each geographic bureau will redesignate approximately five.

As in the past, the new "EB" Bureau will have within State the basic responsibility for the function of trade promotion and business services. The Department and the Foreign Service perform an essentially support role for the Commerce Department, which is primarily concerned with assisting the American business community.

The Irwin Memorandum calls for a closer coordinated Commerce/State effort in the planning, budgeting and operation of trade promotion programs.

Using the PARA mechanism, the full range of commercial activities will be evaluated on a country-by-country basis, and specific priorities established. These programs will be translated into a consolidated budget presentation for the entire commercial function. In this way, the memorandum suggests, resources can be allocated according to program priorities, and the State Department commercial budget can be dovetailed with Commerce's trade promotion budget.

In response to the Irwin Memorandum, Ambassador William O. Hall, Director General of the Foreign Service, has established a Special Group concerned with the personnel aspects of economic/commercial work.

The Special Group, headed by Robert B. Hill, will report through Robert C. Brewster, Deputy Director General and Director of Personnel. Members include Peter A. Selp and Albert L. Glad. Ruth Brill is the secretary.

Major objectives of the Group are:

(1) to monitor compliance with executive decisions affecting economic/commercial work, as these relate to M/DG responsibilities;

(2) to conduct talks with Commerce, in consultation with EB, on economic/commercial personnel operations;

(3) to review recommendations for improvement of the Foreign Service economic/commercial function, as these relate to personnel operations, seeking prompt implementation of those considered desirable and feasible, through the appropriate action officers in M/DG and in consultation with other Bureaus as necessary; and

(4) to serve generally as a catalyst in the development and implementation of other

proposals in the personnel area designed to enhance the prestige and effectiveness of economic/commercial work.

The Special Group will welcome all ideas. The offices are in 1873 N.S.

The Decision Memorandum resulted from a series of Departmental studies in recent months to identify weaknesses in the commercial program and recommended improvements. At the same time, the Commerce Department has been scrutinizing its own trade promotion organization and programs, and undertaking important changes. Although the OMB has not yet reported on its comprehensive review of the economic/commercial function, both State and Commerce are already taking actions to improve their performance in this area.

At the invitation of Assistant Secretary Willis C. Armstrong last May, State and Commerce began a series of detailed discussions on the commercial function, with a view towards recommending improvements for early implementation. Bruce C. Ladd, Jr., Deputy Assistant Secretary for Commercial Affairs and Business Activities, has represented State in these talks.

Another significant initiative was the appointment of a "Commercial Coordinator" in each of the geographic bureaus. These individuals are assuming responsibility for overseeing commercial activities in their area, to include country programs and resource allocation. They also serve as the principal point of coordination on commercial matters with the EB Bureau. The Commercial Coordinators are listed below:

Africa, Donald S. Spigler; East Asia, Henry Bardach; Europe, John D. Rendahl; Near East and South Asia, Stanley D. Schiff; Latin American, Jordan T. Rogers.

Within EB, the Office of Commercial Affairs (OCA) has been taking an increasingly active part in programming and resource allocation for the commercial program. OCA is establishing itself as the principal backstop office within State for overseas commercial activities.

DEPARTMENT OF STATE,
INFORMATION MEMORANDUM,
October 5, 1972.

To: The Acting Secretary
From: S/PC—Joseph W. Neubert, Acting

STRENGTHENING BUSINESS SERVICES AND TRADE PROMOTION: PROGRESS REPORT

I am pleased to report that the action program set in train by your Decision Memorandum of August 18, 1972 is proceeding as directed. We are still, however, in the early stage of a long range undertaking which will require determined interagency effort and adequate appropriations by the Congress. This memorandum will summarize implementation to date.

A. Career management

The Director General (DG) established an "Economic-Commercial Special Group" of personnel experts to implement the improvements you directed in the integrated economic-commercial specialization cone of the Foreign Service. Actions already taken are itemized later in this memorandum.

Unfortunately, the Department of Commerce has preferred to postpone discussion of Commerce participation in the management of the strengthened economic-commercial cone pending release of the OMB Study. As you know, Assistant Secretary of Commerce Andrew Gibson recently forwarded to the Office of Management and Budget another new proposal for the transfer of jurisdiction from the Secretary of State to the Secretary of Commerce.

This delay in interagency discussion of the improvements we are introducing in the Foreign Service personnel system has not impeded the development of closer working relations between the two departments in other areas, nor has it delayed an energetic and welcome effort in the Commerce Department to proceed with recommended internal reforms.

B. The State Department's commercial and business services budget

The Bureau of Economic and Business Affairs (EB), with the help of officers of the Department of Commerce and of other interested bureaus in State, has prepared a global functional budget request for FY-1974, fully synchronized with the similar Commerce request. We are proposing 132 new commercial positions at home and abroad, of which 65 would be Americans and 67 would be local national employees. Our request reflects recommendations by our Ambassadors and geographic bureaus, needs identified in the PARA process, and Commerce Department evaluation of the most promising markets for American exports. The new commercial positions so urgently desired by our Ambassadors in Eastern Europe are included, for example.

We have proposed increases of $140,000 in travel funds, a need stressed by Ambassador Pritzlaff. The training system for economic-commercial officers throughout their careers has been revised in close coordination between the Foreign Service Institute (FSI), the Director General, EB and Commerce. Several courses have been added, and the content of others has been strengthened by more intensive work in international marketing, corporate finance, the multinational corporation, trade promotion operations, and so forth. At the suggestion of the Department of Commerce, FSI is integrating under its management certain courses previously supervised separately by Commerce.

Another new request is for funds to finance regional conferences in each major geographic area. This will permit executives from the Departments of State and Commerce to meet with our commercial attachés to discuss new export promotion programs, problems, and opportunities.

Altogether, we are requesting approximately $2.4 million in additional funds for the world-wide business services program; under a separate budget heading, we are also requesting increased representational funds for export promotion purposes.

EB, assisted by the geographic bureau executive directors, the Director of FSI, and three officials of the Department of Commerce defended this program budget request in a hearing before OMB examiners on October 3. The examiners complimented Department representatives on a presentation markedly improved over previous years. We hope our request for resources will be approved despite indications that the Administration's FY 74 budget must be unusually stringent.

C. Market programming

The Bureau of Economic and Business Affairs is consulting with the commercial coordinators of our geographic bureaus and with the Department of Commerce in selecting pilot markets for special review and planning, as you directed. The Commerce Department is interested in cooperating fully with us in market programming, and is itself making substantial progress in its export targeting system, an effort to identify product sectors for priority attention. Commerce is also expanding its campaign to persuade selected manufacturers to enter the export market, and our programming work will help identify the most promising opportunities for profitable export.

We intend to relate our market programming work closely to the PARA system and to the allocation of our resources. We have already agreed with the Commerce Department to add supplementary trade promotion resources in the form of special trade development centers in Seoul and in Caracas, and appropriations are being requested by both departments for this purpose in FY 74.

The staff positions in these experimental centers, of which three are already in existence, have been divided between State and Commerce. As you know, we anticipate that our evaluation of this problem will lead to the conclusion that trade development centers, like the other overseas operations of our missions, should be staffed by Foreign Service personnel in State Department positions. Our Foreign Service Reserve system provides flexible authority for appointing officers with special expertise, either from the private sector or from Commerce, when that is required. We have informed OMB and the Department of Commerce that we are reviewing this situation and may decide to place the 28 overseas American positions in these centers, now staffed by the Department of Commerce, under the State Department budget for FY 1975.

D. Immediate actions

Your Decision Memorandum assigned 12 actions for immediate implementation.

1. *Designation of "Commercial Interest Posts".*

The Secretary's airgram to all diplomatic and consular posts (A–9463, September 20, 1972) transmitted the text of your Decision Memorandum and publicized our intention to designate about 25 "Commercial Interest Posts" and to assign officers of the economic-commercial cone or with significant commercial experience as principal officers to such posts. This was also publicized in the lead article of the September "State Department Newsletter". A list of posts proposed for this designation has been developed by the Director General, EB and the geographic bureaus and is now being reviewed by the Department of Commerce.

2. *Selection of Deputy Chiefs of Mission.*

Our intention to select approximately one-fourth of our deputy chiefs of mission (DCM) from the economic-commercial cone (or from officers of other cones with significant commercial experience) has been publicized and the Director General has issued appropriate instructions to his staff. Since the date of your memorandum, only one DCM (a political officer to Bangladesh) has been named. However, three other DCM assignments are now under consideration and the primary candidates for two of these are economic-commercial officers.

3. *Redesignation of Positions.*

In consultations between classification specialists and the Bureau of Economic and Business Affairs, 69 positions in EB have been identified for redesignation from "international economist" to "economic/commercial officer". The necessary administrative action is in process. Other positions in EB, primarily "financial economist" and "international transportation and communications officer", have less relation to commercial matters and will remain unchanged. In the geographic bureaus, ARA has identified 5 positions for redesignation as "economic-commercial officer", AF has proposed 4, EA 4, EUR 4, and NEA 5. The Bureau of Intelligence and Research has proposed 4 positions for redesignation as "economic-commercial analyst". Classification specialists are conferring with these bureaus to ensure consistency of standards in implementing the changes.

4. *Performance Evaluation.*

By Circular Airgram 9648, September 25, 1972, the Director General instructed all rating officers, effective immediately, to comment on the rated officer's concern for American business and his effectiveness in this field.

5. *Letter from the Secretary of State to all Chiefs of Mission.*

In lieu of the proposed letter the Secretary has transmitted a personal airgram (CA–9463, September 20) enclosing copies of your Decision Memorandum and reaffirm-

ing his strong interest and that of the President in effective governmental support of American business. We intend to transmit suggestions for improved organizational and managerial treatment of the commercial function in separate messages.

6. *Circular Describing U.S. Government Export Credit Availability.*

The Export-Import Bank has agreed to prepare a circular message to overseas posts describing export credit and credit guarantee facilities available to American exporters. This message, now under preparation, will bring up to date a similar circular transmitted in December, 1969.

7. *Revision of the Foreign Affairs Manual.*

As a result of consultations between the Bureau of Economic and Business Affairs and the Department of Commerce, the World Trade Directory Report and Trade Opportunity Report programs have been thoroughly revised. Instructions have been sent to the field, including a directive that telegraphic facilities be used for commercial intelligence. The Foreign Affairs Manual is being revised to reflect the new standing instruction. The Department of Commerce, in coordination with the State Department, is installing facilities for direct two-way electrical communication of commercial intelligence with field posts.

In consultation with the offices of the Director General and the Legal Adviser, EB has drafted proposed new language for Section 10 of the Foreign Affairs Manual allowing increased prerogative to our posts, under appropriate circumstances, to concentrate their support behind that particular American exporter or contractor who has the prospect of winning a contract or making a major export sale against foreign competition. This suggested revision has been discussed with several offices of the Department of Commerce and is now being reviewed by that Department. The proposal has been discussed informally with the staff of the Senate Committee on Commerce, and EB plans to discuss it also with business leaders.

8. *Exchange Assignments with Private Business.*

After careful consideration of certain difficulties inherent in attempting to arrange exchanges through the President's Commission on Personnel Interchange, the Director General has determined that a separate Department of State exchange program should be established, administered by the Office of Personnel in cooperation with EB. A notice is in preparation to invite applications from interested Foreign Service Officers and further contact will be undertaken with business firms who have already expressed interest in participation.

9. *FSI Training for Senior Officers*

The Foreign Service Institute, after consulting with Assistant Secretary Armstrong has prepared the curriculum for a special one week course for senior officers at the office director/DCM level designed to orient individuals without extensive economic background in the practical elements of business practice, marketing, and international economics. The course will be addressed by senior government officials as well as private business and banking leaders. The first such course will take place November 13–17, 1972.

10. *Assignment of Foreign Service Personnel to Private Business Training Programs.*

FSI has consulted with the American Management Association, the American Banking Association, the New York World Trade Center, the Business Council for International Understanding, and several private corporations regarding the availability of suitable training programs on the part of these organizations and FSI is pursuing the project. Appropriations for this program have been requested in the FY 74 budget.

11. *Increased Stature for Economic-Commercial Minister Positions Overseas.*

On September 8, 1972, the Acting Deputy Under Secretary for Administration approved the addition of the economic-commercial minister positions in London, Paris, Bonn, Rome, Saigon and Tokyo to the list of those qualifying for career minister eligibility.

12. *Redesignation of the Bureau of Economic Affairs.*

The Bureau of Economic Affairs was renamed the Bureau of Economic and Business Affairs, with symbol designation "EB", effective September 15, 1972.

Mr. INOUYE. Mr. President, this increased attention to the needs of commercial services is very encouraging. I am hopeful that it reflects a fundamental change in attitude about the importance of a vigorous promotion of American goods and services and a new realism about the new international economic environment.

Unfortunately, reform within the Department of State has had a tendency to wither and fade. I remember only too well how an agreement between the Department of State and the Department of Commerce was rendered meaningless by the subordination of commercial needs to the grandiose political world views of the State Department. In view of the grave economic problems confronting our country, we cannot afford to neglect again our export industries.

In spite of the progress that has been made, I am not confident that the great urgency I and my cosponsors feel about our economic condition has been sufficiently conveyed to the Department of State for whom commercial issues are but one of many concerns. Therefore, I intend to reintroduce this bill in the next Congress and to keep reintroducing it until I feel adequate progress has been made in the Department of State to give our commercial interests appropriate priority and attention or until the bill is enacted.

I hope, of course, that a transfer will not be necessary. A unitary Foreign Service has a great deal of appeal and logic. However, we cannot continue to play a meaningful role in international affairs if our economic capabilities decline still further. I look forward to what the Department of State can do to reorder its priorities and trust that its successes may render this bill unnecessary.

By Mr. INOUYE (for himself and Mr. MAGNUSON):

S. 4114. A bill to authorize the Secretary of Commerce to engage in certain export expansion activities, and for related purposes;

S. 4115. A bill to increase the recognition of foreign economic policy considerations in Federal decisionmaking;

S. 4116. A bill to provide for a system of uniform commodity descriptions and tariffs filed with the Federal Maritime Commission;

S. 4117. A bill to facilitate the exportation of recycled solid waste materials;

S. 4118. A bill to establish a Commission on Foreign Procurement Practices; and

S. 4119. A bill to increase the role of foreign trade zones in the expansion of U.S. exports. Referred to the Committee on Commerce.

S. 4120. A bill to amend the Export Trade Act. Referred jointly, by unanimous consent, to the Committees on the Judiciary and Commerce.

Mr. INOUYE. Mr. President, on October 27 of last year, Senator MAGNUSON and I introduced the Export Expansion Act of 1971, S. 2754, a bill designed to stimulate American exports by enlarging existing or authorizing new Federal export promotion projects, providing incentives to States, municipalities, and individuals to engage in exporting, streamlining existing programs to make them more effective in export expansion, and authorizing new funds for export expansion activities.

Hearings on S. 2754 were originally scheduled for November, but at the request of the administration, they were deferred until early the following year. They were finally held on January 24, 25, 26, 27, and 28, and February 17 and 18, 1972. Although they were very lengthy, I believe that it was imperative to give everyone—both proponents and opponents of the bill—a chance to be heard on the bill.

The bills that Senator MAGNUSON and I are introducing today are basically similar to the provisions of S. 2754, with modifications to reflect the testimony received during the hearings. However, for jurisdictional reasons, we have decided to break up S. 2754 into separate bills which can be referred more easily to committees in the House of Representatives which ordinarily handle these subjects, in the event that the measures receive favorable action by the Senate next year.

We are introducing these bills today to provide interested Senators and private individuals an opportunity to comment on them prior to action in the next Congress. As soon as the 93d Congress convenes, I intend to reintroduce these bills and to expedite their passage. The Subcommittee on Foreign Commerce and Tourism, of which I am chairman, has built an ample legislative record justifying rapid action on the legislation.

I have prepared a separate statement on one of the bills, which would transfer the International Commercial Service functions from the Department of State to the Department of Commerce. This is the only bill on which Senator MAGNUSON and I sought cosponsors from the Committee on Commerce because we wished to underscore the fact that there is broad discontent with the low priority which the State Department has hitherto given to the commercial function.

Mr. President, I do not believe that anyone in the Congress needs to be reminded of our grave international trade position. Through the end of June, we were running a merchandise trade deficit at an annual rate of $7.7 billion. The latest statistics for the month of August show a reduction in this figure to an annual rate of $5.5 billion. This decline is encouraging, but the size of the deficit is still very disquieting.

The deterioration from last year's $2.1

billion deficit should be the cause for great alarm to the Congress and the Executive. If these deficits were being matched by other earnings, we might have less cause for concern about our international trade position. However, our basic balance of payments is virtually unchanged, which means that the outflow of dollars has been little affected.

Many respected economists have argued that the dollar devaluation and reforms in the monetary system will bring our trade account closer to equilibrium. These changes would require two or more years to become fully effective, during which time we would continue to sustain massive outflows of dollars.

However, this conventional wisdom has been challenged by other economists. A recent study by the International Economic Policy Association entitled "The U.S. Balance of Payments: From Crisis to Controversy," concluded that only a limited volume of trade is price-sensitive and that even if we eliminate the trade deficit next year—which is by no means assured—we should not expect a large surplus for several years if at all.

This crisis in our balance of payments and foreign trade has prompted many calls for the establishment of barriers to imports into this country through a variety of means, including high tariffs, quotas, and "Buy America" requirements. I believe that such legislation is ill-considered and dangerous. The passage of such a bill would not only be an admission that we cannot compete with the rest of the world, but it would also precipitate a massive trade war in which everyone would lose. Proponents of such legislation sometimes forget that there are hundreds of thousands of Americans employed in export industries, which surely would suffer retaliation from nations affected by our protectionism.

The new legislation, which will be described in detail below, constitutes a positive program to encourage American exports. The package is not a panacea for our commercial ills. Rather, we believe that the bills would make a significant beginning in forging a coherent foreign economic policy and machinery to deal with the important economic issues of our time.

EXPORT EXPANSION

This is an omnibus bill covering a variety of subjects with the common objective of establishing new programs and new incentives to promote American exports.

Title I would establish a Trade Development Corps to consist of up to 500 Americans from private industry with master of business administration degrees or individuals who otherwise have exceptional skills to be assigned on trade development projects by serving abroad, making market analyses, assisting with trade exhibits, assisting other Government personnel or conducting investigations to make American exports more competitive.

Title II would authorize a program of grants to local, State, and regional governments for projects designed to encourage exporting by small, medium-sized, and inexperienced firms.

Title III would establish a new export training program within the Department of Commerce to train new and potential American exporters.

Title IV would authorize regional American merchandise centers, which would serve as multipurpose trade centers offering such diverse services as warehousing, distributing, translating, displaying, counseling, et cetera. The aim of this title is to provide these services to the new exporter on a variable fee basis until he is able to sustain himself in that particular market, at which time he would be replaced by another new American exporter.

Title V would establish a joint export association program to permit the Government to enter into cost sharing contracts with private firms and individuals.

Title VI directs the Secretary of Commerce to reduce to the greatest extent possible documentation requirements under this bill.

Title VII would reorganize the Department of Commerce by separating the post of Assistant Secretary of Domestic and International Business into two separate assistant secretaryships to provide a single focus within the Department for international business operations. This section would also establish an International Business Administration and a Domestic Commerce Administration, upgrading these two functions from Bureau level. Finally, title VII would require biennial authorizations for international business activities. This new requirement would enable the Congress to examine the budget requests for foreign commercial programs every other year apart from other Department of Commerce items and make such changes as may be necessary to improve our export performance.

WEBB-POMERENE ACT AMENDMENTS

Many businessmen have charged that the strict application of antitrust laws have had an adverse effect on American exports since foreign corporations do not face similar restrictions. The Export Expansion Act of 1971, S. 2754, contained a title authorizing chartered export associations, which would have allowed the establishment of groups of firms to engage in export activities as long as they operated within the legal confines of a charter approved by the Department of Commerce.

During hearings on the bill, Miles Kirkpatrick, Chairman of the Federal Trade Commission, testified in opposition to it and suggested instead that the Export Trade Act of 1918, more commonly known as the Webb-Pomerene Act, be amended to exempt trade associations from private treble damage actions and individuals from criminal penalties. The bill being introduced today embodies these suggestions. I ask unanimous consent to have printed in the RECORD a letter which I received from Chairman Kirkpatrick regarding his January statement.

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

FEDERAL TRADE COMMISSION,
Washington, D.C., July 11, 1972.

HON. DANIEL K. INOUYE,
Chairman, Subcommittee on Foreign Commerce and Tourism, Senate Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR SENATOR INOUYE: This is with reference to my testimony before the Subcommittee on Foreign Commerce and Tourism on January 25, 1972, on S. 2754, the Export Expansion Act of 1971.

As I noted in my testimony, I have serious reservations concerning the use of antitrust exemptions as a means of increasing export trade. I do not believe that past experience gives any reason to expect significant benefits to come from such exemptions. Moreover, I fear that such legislation may have an adverse effect on domestic competition. However, should the Congress determine that legislation of this kind is needed, the Commission suggests amendment of the Webb-Pomerene Export Trade Act of 1918 rather than new legislation. In my testimony, I suggested several ways in which that Act could be broadened to accomplish some of the purposes of Title VII of the Export Expansion Act of 1971.

Subsequent correspondence with Mr. James B. Olsen, Editorial Assistant, Senate Commerce Committee, resulted in the Commission's General Counsel undertaking to draft language to amend the Webb-Pomerene Act in accord with my suggestions. In essence, the suggested amendments would: (1) eliminate the criminal sanctions under the Sherman Act and treble damage actions under the amended Clayton Act insofar as these antitrust laws relate to associations registered under the Webb-Pomerene Act, and (2) expands the coverage of the Act beyond the "goods, wares and merchandise" to which it is presently limited. On the enclosed redraft of the Act, the suggested amendments have been underscored.

Other changes have been made in the Act, principally to assist the Commission in the administration and enforcement of this Act, notably by providing that the Commission, by its attorneys, may seek compliance with the provisions thereof. Additional changes have been made in the interest of clarity, but do not substantially affect the purposes or intent of the Act.

If there are any questions regarding this proposed draft, you may wish to call Mr. Alan S. Ward, Director of our Bureau of Competition (962–5231).

Sincerely,

MILES W. KIRKPATRICK,
Chairman.

Mr. INOUYE. Mr. President, the bill also amends the Webb-Pomerene Act by including the export of services among those activities exempted. In an economy that is increasingly service-oriented, it is highly important to equalize the treatment accorded to manufactured goods and services.

The sponsors of this legislation intend this bill to be a working paper with provisions that may be changed as additional information becomes available. Neither Senator MAGNUSON nor I am wedded to the bill if data shows that these amendments are inappropriate. Nevertheless, the effect of antitrust laws on our export efforts is an issue that needs careful study if our competitive position is to be maintained.

FOREIGN TRADE ZONES

A recent study of foreign trade zones conducted by the General Accounting Office has concluded that foreign trade zones play a minor role in our export

promotion efforts. This inadequate effort is the result of legal interpretations of the Foreign Trade Act and the lack of direction or interest by the Federal Government in using the zones for this purpose.

The bill being introduced today would allow the import of fuel, machinery, and goods into foreign trade zones for manufacture and export provided that none of these items is entered into the customs territory of the United States. Furthermore, the bill charges the Secretary of Commerce, who is the Chairman of the Foreign Trade Zones Board, to report to the Congress annually on what the Board is doing to encourage the use of the zones for export purposes.

COMMISSION ON FOREIGN PROCUREMENT PRACTICES

The bill establishes a Commission on Foreign Procurement Practices to study foreign governments procurement procedures and to compare them to American regulations. The Commission would be responsible for issuing a report on what can be done to equalize international procurement practices and, if discriminatory practices against American companies persist, how the United States should respond to foreign firms which seek to do business in the United States.

OCEAN FREIGHT RATE DISPARITIES

The hearings earlier this year also dealt with the subject of ocean freight rate disparities. At present, shipping conference tariffs frequently set forth a rate two or three times as high for carrying a commodity from a point in the United States to a foreign destination, as to carry the identically described commodity between the same two points in the opposite direction. The Export Expansion Act had a title in it which would have eliminated these disparities and would have substantially simplified tariffs. However, testimony at the hearings from the steamship industry indicated that the provisions as drafted would not be practical. However, that does not end the matter. I am still concerned about the possible impact of disparities in freight rates on our exports.

The bill I am introducing today is a substantial revision of the earlier title and would promote uniformity in tariff commodity descriptions. I believe this is a necessary first step to analyzing what disparities exist and to dealing with them.

GREATER RECOGNITION OF FOREIGN TRADE IMPACT OF FEDERAL DECISIONMAKING

It has frequently been stated that our Nation has given relatively less priority and emphasis to its international economic policies than have the other industrialized nations. That observation has been repeatedly echoed by public officials, study commissions and others concerned with our foreign trade problems. The reasons why such a difference in attitude and emphasis might exist are clear. Foreign trade has historically constituted a far smaller part of our total gross national product than it has for other nations. For example, combined imports and exports have constituted less than 9 percent of our GNP in recent years. Comparable figures for other countries are Germany 38 percent, United Kingdom 38 percent, and Japan 22 percent. It is thus understandable that these nations might give greater emphasis to their foreign economic policy interests in decisionmaking than has the United States.

Further, even in our international relations, economic and trade considerations have frequently been subordinated to our global military and political interests—a situation not shared by our industrialized trading partners.

Despite the fact that our historic lack of emphasis on international economic policy as a factor in decisionmaking is logically explicable, I believe it is a luxury we can no longer afford. I believe that we must give more careful consideration to our international economic interests, balance of payments, and balance of trade when we are making Government policy. One of the bills I am introducing today would require just that. This bill requires all Federal agencies to issue a foreign trade impact statement whenever they propose to take action significantly affecting our international economic relations, balance of payments, or balance of trade. In drafting the statement, the agencies are required to consult with other agencies within the Government and to take into consideration the impact of the proposed action on the following: Balance of payments; balance of trade; international economic relations; domestic employment; and alternatives to the proposed action.

The bill is frankly modeled on the National Environmental Policy Act of 1969—Public Law 91–190. I believe that the requirement in that legislation for an environmental impact statement as part of Government decisionmaking affecting the environment has heightened consciousness of the environmental results of Government actions. Similarly, I think that requiring Government officials to prepare foreign trade impact statements on actions significantly affecting foreign trade will increase the recognition that such issues receive and lead to greater emphasis on solving our foreign trade problems.

I ask unanimous consent that the bill to amend the Export Trade Act (S. 4120) be jointly referred to the Committees on Commerce and Judiciary.

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

By Mr. HUMPHREY:

S. 4121. A bill to alleviate the financial crisis confronting the public schools of the Nation by providing grants and loan guarantees for the construction of elementary and secondary schools, by providing increased financial resources for elementary and secondary education and by promoting the equitable distribution of such resources within the States through the establishment of a National Educational Trust Fund, and to establish a Department of Education. Referred to the Committee on Labor and Public Welfare.

NATIONAL EDUCATION INVESTMENT ACT

Mr. HUMPHREY. Mr. President, I am today introducing legislation which carries through several major proposals I have made over the past months to address the financial crisis confronting the schools in our Nation and to guarantee to every American child the right to an equal opportunity to obtain a quality education.

My bill, S. 4121, the National Education Investment Act, in concert with other major educational assistance legislation currently before the Senate Committee on Labor and Public Welfare, and which I have jointly sponsored, would enable the Federal Government to take the long-overdue initiative in achieving these goals. It is my strong hope and expectation that action on this vitally important legislation will be undertaken without delay at the outset of the next Congress.

My bill would meet the critical problem of inadequate, obsolescent, and rundown school facilities in depressed areas by providing for Federal grants for the modernization and construction of elementary and secondary schools. It would address the nationwide condition of overcrowded classrooms and the high rate of voter turn-downs of bond referendums for financing new and expanded public education facilities, by encouraging private sector investment in this vitally important area through Federal loan guarantees and interest subsidies provided through a trust fund established in the U.S. Treasury.

And it would end the inherent disparity and injustice of making the quality of a child's education dependent on the wealth of the school district he happens to live in, by establishing a National Educational Trust Fund with a total authorization level of $15 billion. Payments from the National Educational Trust Fund by the Secretary of the Treasury to State and local governments would be tied to the reduction and elimination of the property tax for the purpose of financing elementary and secondary education, and to the improvement and overall balancing among school districts of per pupil expenditures.

Finally, my bill would firmly establish the priority that education needs must have in our national policies, by providing for the establishment of a Department of Education. This further strengthening and consolidation of Federal resources and programs for educational assistance, beyond affirmative measures taken in the enactment of the Education Amendments of 1972, is of the greatest importance.

The denial of opportunity to any American to obtain the best possible education works a profound injustice, which must be confronted decisively in the next Congress.

By Mr. STEVENSON:

S. 4124. A bill to amend section 109 of title 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II. Referred to the Committee on Veterans' Affairs.

Mr. STEVENSON. Mr. President, during World War II, the armed forces of Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland, Rumania, and Yugoslavia fought valiantly

on the allied side. After the war, there was a change of government in each of those countries, a change which deprived the Eastern European people of the freedom for which they had fought. Consequently Eastern Europeans, by the hundreds of thousands, emigrated to the United States in search of the kind of life they could no longer lead in their own countries.

A great many of them are now American citizens who have enriched our Nation through hard work. The bill I introduce today recognizes the important contribution these brave Americans made to the Allied war effort by providing that they will be eligible for Veterans' Administration medical and hospital benefits on exactly the same basis as war veterans of the U.S. Armed Forces. The bill is limited to persons who have been American citizens for at least 10 years and who participated in armed conflict with an enemy of the United States during World War II while serving in the armed forces of the countries enumerated above. American citizens who fought in Gen. Joseph Haller's Army during World War I are covered on the same terms.

Under existing law, the U.S. Government pays for medical and hospital benefits given to persons who served in the Armed Forces of the Phillippines during World War II, even if such persons are not American citizens. We can do no less for Eastern European veterans who are American citizens. There is no reason to treat these first-class Americans as second-class citizens. At the modest cost of approximately $12 million annually, we can do justice to these veterans by providing them with the VA medical and hospital benefits they have earned.

I ask unanimous consent that the text of the bill, which is identical to a bill introduced in the House by Congressman ANNUNZIO, be printed at this point in the RECORD.

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

S. 4124

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 109 of title 38, United States Code, is amended by adding at the end thereof the following:

"(c) (1) ANY PERSON WHO—

"(A) SERVED—

"(i) during World War I as a member of the military organization commonly known as General Joseph Haller's army; or

"(ii) during World War II as a member of any armed force of the government of Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, or Yugoslavia, and participated while so serving in armed conflict with an enemy of the United States; and

"(B) has been a citizen of the United States for at least ten years

shall, by virtue of such service, be entitled to hospital and domiciliary care and medical services within the United States under chapter 17 of this title to the same extent as if such service had been performed in the Armed Forces of the United States unless such person is entitled to, or would, upon application therefor, be entitled to, payment for equivalent care and services under a program established by the foreign government concerned for persons who served in its armed forces in World War I or in World War II.

"(2) For the purpose of this subsection, World War I shall be deemed to have begun on July 28, 1914, and World War II shall be deemed to have begun on September 1, 1939."

FEDERAL AVIATION ACT—AMENDMENT

AMENDMENT NO. 1758

(Ordered to be printed and referred to the Committee on Commerce.)

Mr. STEVENS. Mr. President, the amendment I submit today would broaden the public interest standard of the Federal Aviation Act of 1958. It would require the CAB to determine whether or not competing modes of transportation are available to communities for which the CAB authorizes airline service. If communities are isolated from railroad or highway transportation systems, then their dependency on air service is much more acute than if those other modes of transportation were available. The purpose of this amendment is to require the CAB to accommodate this dependency on air service by providing a sufficient amount of competition within the air mode.

This amendment extends the scope of S. 3838, which I introduced on July 24 last and amended on July 31. S. 3838 will require subsidization of airlines to points receiving neither competing highway nor rail service. This amendment will add a new provision to section 102. Section 102 details the considerations of the CAB in determining whether certification should be granted, altered, amended, modified or suspended under section 401 of the Federal Aviation Act of 1958. This amendment will make the same criteria applicable to certification that the other provisions of S. 3838 would do to subsidization. This is my intent as author of the bill and amendments.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 1436

At the request of Mr. STEVENS, the Senator from Massachusetts (Mr. BROOKE) was added as a cosponsor of amendment No. 1436 intended to be proposed to the bill (S. 3771) to provide compensation to certain commercial fishing vessel owners.

(This marks the end of the routine morning business transacted today.)

RECESS UNTIL 4 P.M.

Mr. MANSFIELD. Mr. President, if there be no further business to come before the Senate at this time, I ask unanimous consent that the Senate stand in recess until the hour of 4 p.m.

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

Thereupon, at 2:29 p.m. the Senate took a recess until 4 p.m., whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. FANNIN).

TO RENAME THE MINEOLA DAM AND LAKE AS THE "CARL L. ESTES DAM AND LAKE"

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 16804.

The PRESIDING OFFICER laid before the Senate H.R. 16804, which was read as follows:

H.R. 16804, an act to rename the Mineola Dam and Lake as the "Carl L. Estes Dam and Lake."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the bill was considered, read the third time, and passed.

DESIGNATING THE OAKLEY RESERVOIR ON THE SANGAMON RIVER AT DECATUR, ILL., AS THE WILLIAM L. SPRINGER LAKE

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 17038.

The Presiding Officer laid before the Senate H.R. 17038, which was read as follows:

H.R. 17038, an act designating the Oakley Reservoir on the Sangamon River at Decatur, Ill., as the William L. Springer Lake.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time and that the Senate proceed its immediate consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the bill was considered, read the third time, and passed.

TO NAME A BRIDGE ACROSS A PORTION OF OAKLAND HARBOR, CALIF., THE "GEORGE P. MILLER-LELAND W. SWEENEY BRIDGE"

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 13158.

The PRESIDING OFFICER laid before the Senate H.R. 13158 which was read as follows:

H.R. 13158, an act to name a bridge across a portion of Oakland Harbor, Calif., the "George P. Miller-Leland W. Sweeney Bridge."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there

objection to the request of the Senator from West Virginia?

There being no objection, the bill was considered, read the third time, and passed.

MAJOR MARITIME AGREEMENT BETWEEN SOVIET UNION AND UNITED STATES

Mr. BEALL. Mr. President, in spite of what Members of the Senate might have been led to believe in this morning's newspaper, the United States and the Soviet Union have, in fact, concluded a major maritime agreement. This pact, which was signed by the Secretary of Commerce, Mr. Peterson, and Mr. T. B. Gouzhenko, Minister of Merchant Marine of the Soviet Union, establishes the ground rules for maritime activities between our two nations.

Culminating over a year of intensive negotiations, this agreement should significantly expand and improve maritime relations between the United States and Russia.

Mr. President, this maritime agreement has two salient objectives:

First, to open 40 commercial ports in both nations to the flag vessels of the other nation. I am pleased to note, for instance, that the great port city of Baltimore, Md., is among those covered by this agreement. Soviet-flag vessels may enter these ports on 4 days' notice, and the same is true of U.S. vessels entering Soviet ports.

This constitutes a significant relaxation of existing rules and regulations and should help to expedite trade and commerce.

I might add that this agreement does not alter our present policy with regard to vessels which have the intention of, or will stop or have stopped in Cuban, North Vietnamese, or North Korean ports.

Second, the maritime agreement will insure that U.S.-flag vessels and Soviet flag vessels will have the opportunity to participate, equally, and substantially, in carrying ocean-borne cargoes between the two Nations. The flag vessels of each Nation will carry on less than one-third of all cargoes moving by sea, directly between them as well as those transshipped to third countries.

I would point out that this agreement applies retroactively to July 1, 1972, thus covering the United States-Soviet grain transaction.

Mr. President, this agreement marks another significant milestone in President Nixon's efforts to improve and expand the scope of United States-Soviet cooperation. The increased contacts brought about by greater commercial exchanges should serve further to reduce tensions and will most certainly be of great significance in expanding maritime industry and our merchant fleet. Undoubtedly, I believe, it will also improve chances for lasting peace.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of the agreement, plus the accompanying fact sheet.

There being no objection, the text of the agreement and the fact sheet were ordered to be printed in the RECORD, as follows:

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS REGARDING CERTAIN MARITIME MATTERS

The Government of the United States of America and the Government of the Union of Soviet Socialist Republics;

Being desirous of improving maritime relations between the United States and the Soviet Union, particularly through arrangements regarding port access and cargo carriage by sea; and

Acting in accordance with Article Seven of the Basic Principles of Relations Between the United States of America and the Union of Soviet Socialist Republics, signed in Moscow on May 29, 1972,

Have agreed as follows:

ARTICLE 1

For purposes of this Agreement:

a. "Vessel" means a vessel sailing under the flag of a Party, registered in the territory of that Party, or which is an unregistered vessel belonging to the Government of such Party, and which is used for:

(i) Commercial maritime shipping, or

(ii) Merchant marine training purposes, or

(iii) Hydrographic, oceanographic, meteorological, or terrestrial magnetic field research for civil application.

b. "Vessel" does not include:

(i) Warships as defined in the 1958 Geneva Convention on the High Seas;

(ii) Vessels carrying out any form of state function except for those mentioned under paragraph a of this Article.

ARTICLE 2

This Agreement does not apply to or affect the rights of fishing vessels, fishery research vessels, or fishery support vessels. This Agreement does not affect existing arrangements with respect to such vessels.

ARTICLE 3

The ports on the attached list of ports of each Party (Annexes I and II, which are a part of this Agreement) are open to access by all vessels of the other Party.

ARTICLE 4

Entry of all vessels of one Party into such ports of the other Party shall be permitted subject to four days' advance notice of the planned entry to the appropriate authority.

ARTICLE 5

Entry of all vessels referred to in subparagraphs a(ii) and a(iii) of Article 1 into the ports referred to in Article 3 will be to replenish ships' stores or fresh water, obtain bunkers, provide rest for or make changes in the personnel of such vessels, and obtain minor repairs and other services normally provided in such ports, all in accordance with applicable rules and regulations.

ARTICLE 6

Each Party undertakes to ensure that tonnage duties upon vessels of the other Party will not exceed the charges imposed in like situations with respect to vessels of any other country.

ARTICLE 7

While recognizing the policy of each Party concerning participation of third flags in its trade, each Party also recognizes the interest of the other in carrying a substantial part of its foreign trade in vessels of its own registry, and thus both Parties intend that their national flag vessels will each carry equal and substantial shares of the trade between the two nations in accordance with Annex III which is a part of this Agreement.

ARTICLE 8

Each Party agrees that, where it controls the selection of the carrier of its export and import cargoes, it will provide to vessels under the flag of the other Party partcipation equal to that of vessels under its own flag in accordance with the agreement in Annex III.

ARTICLE 9

The Parties shall enter into consultations within fourteen days from the date a request for consultation is received from either Party regarding any matter involving the application, interpretation, implementation, amendment, or renewal of this Agreement.

ARTICLE 10

This Agreement shall enter into force on January 1, 1973; provided that this date may be accelerated by mutual agreement of the Parties. The Agreement will remain in force for the period ending December 31, 1975, provided that the Agreement may be terminated by either Party. The termination shall be effective ninety days after the date on which written notice of termination has been received.

In witness whereof, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

Done at Washington this day of 1972, in duplicate in the English and Russian languages, both equally authentic.

For the Government of the United States of America: Peter G. Peterson, Secretary of Commerce.

For the Government of the Union of Soviet Socialist Republics: Timofey B. Guzhenko, Minister of Merchant Marine.

ANNEX I—PORTS OF THE UNITED STATES OF AMERICA OPEN TO CALLS UPON NOTICE

1. Skagway, Alaska.
2. Seattle, Washington.
3. Longview, Washington.
4. Corpus Christi, Texas.
5. Port Arthur, Texas.
6. Bellingham, Washington.
7. Everett, Washington.
8. Olympia, Washington.
9. Tacoma, Washington.
10. Coos Bay (including North Bend), Oregon.
11. Portland (including Vancouver, Washington), Oregon.
12. Astoria, Oregon.
13. Sacramento, California.
14. San Francisco (including Alameda, Oakland, Berkeley, Richmond), California.
15. Long Beach, California.
16. Los Angeles (including San Pedro, Wilmington, Terminal Island), California.
17. Eureka, California.
18. Honolulu, Hawaii.
19. Galveston/Texas City, Texas.
20. Burnside, Louisiana.
21. New Orleans, Louisiana.
22. Baton Rouge, Louisiana.
23. Mobile, Alabama.
24. Tampa, Florida.
25. Houston, Texas.
26. Beaumont, Texas.
27. Brownsville, Texas.
28. Ponce, Puerto Rico.
29. New York (New York and New Jersey parts of the Port of New York Authority), New York.
30. Philadelphia, Pennsylvania (including Camden, New Jersey).
31. Baltimore, Maryland.
32. Savannah, Georgia.
33. Erie, Pennsylvania.
34. Duluth, Minnesota/Superior, Wisconsin.
35. Chicago, Illinois.
36. Milwaukee, Wisconsin.
37. Kenosha, Wisconsin.
38. Cleveland, Ohio.
39. Toledo, Ohio.
40. Bay City, Michigan.

ANNEX II—PORTS OF THE UNION OF SOVIET SOCIALIST REPUBLICS OPEN TO CALLS UPON NOTICE

1. Murmansk.
2. Onega.

3. Arkhangel'sk.
4. Mezen'.
5. Nar'yan-Mar.
6. Igarka.
7. Leningrad.
8. Vyborg.
9. Pyarnu.
10. Riga.
11. Ventspils.
12. Klaipeda.
13. Tallinn.
14. Vysotsk.
15. Reni.
16. Izmail.
17. Kiliya.
18. Belgorod-Dnestrovskiy.
19. Il'ichevsk.
20. Odessa.
21. Kherson.
22. Novorossiysk.
23. Tuapse.
24. Poti.
25. Batumi.
26. Sochi.
27. Sukhumi.
28. Yalta.
29. Zhdanov.
30. Berdyansk.
31. Nakhodka.
32. Aleksandrovsk-Sakhalinskiy.
33. Makarevskiy Roadstead (Roadstead Doue).
34. Oktyabr'skiy.
35. Shakhtersk.
36. Uglegorsk.
37. Kholmsk.
38. Nevel'sk.
39. Makarov Roadstead.
40. Poronaysk.

ANNEX III—SUPPLEMENTAL AGREEMENT ON NATIONAL FLAG CARGO CARRIAGE

Whereas, each Party recognizes the policy of the other concerning the participation of third flags in its trade, each Party also recognizes the interest of the other in carrying a substantial part of its foreign trade in vessels of its own registry and thus both Parties intend that their national flag vessels will each carry equal and substantial shares of the trade between the two nations in accordance with this Annex, and

Whereas, each Party has agreed that, where it controls the selection of the carrier for its export and import cargoes, it will provide to vessels under the flag of the other Party participation equal to that of vessels under its own flag, it is agreed as follows:

1. Definitions

For the purpose of this Annex and the Agreement of which this Annex is a part:

a. "Substantial share of the trade between the two nations" means not less than one-third of bilateral cargoes.

b. "Bilateral cargo" means any cargo, the shipment of which originates in the territory of one Party and moves in whole or in part by sea to a destination in the territory of the other Party, whether by direct movement or by transshipment through third countries.

c. "Controlled cargo" means any bilateral cargo with respect to which a public authority or public entity of either Party or their agents has the power of designating the carrier or the flag of carriage at any time prior to such designation, and includes:

(i) on the United States side all bilateral cargo which a public authority or public entity of the United States has or could have the power at any time to designate the flag of carriage pursuant to cargo preference legislation, and

(ii) on the Soviet side all bilateral cargo imported into or exported from the territory of the USSR where a commercial body or other authority or entity of the USSR has or could have the power at any time to designate the carrier.

d. "Accountable liner share" means the U.S. dollar freight value of liner carryings of controlled cargo by vessels under the flag of each Party, computed for accounting purposes using the conference rates in effect at the time of carriage or, in the absence of such rates, using other rates to be agreed between the two Parties.

e. "Accountable charter share" means the U.S. dollar freight value of carryings under contracts or arrangements covering the carriage of controlled cargo by vessel under the flag of each Party, which are not in liner service, computed for accounting purposes at rates to be agreed between the Parties. Accountable charter share will not include movements of any bulk cargoes in shipload lots of 8,000 long tons or more from the Union of Soviet Socialist Republics to the United States that are carried by the national flag vessels of either Party provided the conditions stated in subparagraph b of paragraph 3 of this Annex have been complied with.

f. "Accounting period" means a calendar year or any portion of an incomplete calendar year during which this Agreement is in effect.

2. General Operating Rules

a. Each Party undertakes to ensure that its controlled cargo is directed in a manner which

(i) provides to vessels under the flag of the other Party an accountable liner share and an accountable charter share equal in each category to those of vessels under its flag, and which continually maintains parity during each accounting period, and

(ii) is consistent with the intention of the Parties that their national flag vessels will each carry not less than one-third of bilateral cargoes.

b. To the extent that bilateral cargo that is not controlled cargo is carried in a manner which does not maintain parity between national flag vessels, computed in accordance with the principles specified in subparagraphs d and e of paragraph 1 of this Annex, the excess of such carriage will be added to the accountable liner share or accountable charter share, as the case may be, of the overcarrier and will be offset to the extent possible by an entitlement of a compensating share of controlled cargo in the appropriate category to the undercarrier.

c. Whenever vessels under the flag of one Party are not available to carry controlled cargo offered for carriage between ports served by such vessels with reasonable notice and upon reasonable terms and conditions of carriage, the offering Party shall be free to direct such cargo to its national flag or to third flag vessels. Cargo so directed to the offering Party's national flag vessels will not be included in its accountable liner share or accountable charter share for purposes of subparagraph a(i) of paragraph 2 of this Annex, if the designated representative of the other Party certifies that its national flag vessels were in fact unavailable at the time of the offer.

d. Cargo not carried in the vessels of a Party because of nonavailability of a vessel shall nonetheless be included in bilateral cargo for purposes of subparagraph a(ii) of paragraph 2 of this Annex, and controlled cargo shall continue to be directed to meet the undertakings of said subparagraph. To the extent that deficiencies in meeting the undertakings in such subparagraph exist at the end of an accounting period because of unavailability of vessels of a Party which the representative of that Party has certified were unavailable as provided above in subparagraph c of paragraph 2, the other Party shall not be required to make up such deficiency in the following accounting period.

e. To the extent consistent with the foregoing provisions of this paragraph 2, each Party is free to utilize the services of third flag shipping for the carriage of controlled cargo.

3. Special bulk cargo rules

a. When controlled bulk cargo is carried from the United States to the Union of Soviet Socialist Republics by U.S.-flag vessels, such cargo shall be carried at a mutually acceptable rate, provided that this shall not prevent the offering and fixing of a lower rate if such lower rate is accepted by a U.S.-flag carrier at the time of offering.

b. It is recognized that movements of any bulk cargoes in shipload lots of 8,000 long tons or more from the Union of Soviet Socialist Republics to the United States shall be carried at the then current market rates. In furtherance of this objective, an equivalent quantity of such controlled cargoes as are offered to Soviet-flag vessels will be offered to U.S.-flag vessels at the current charter market rate and with reasonable notice. Any offerings of such cargoes that are not accepted by U.S.-flag vessels may be carried by Soviet-flag vessels or other vessels.

4. Implementation

a. Each Party shall designate a representative for implementation of the principles and rules of this Annex, the representative of the United States being the Maritime Administration, Department of Commerce, and the representative of the Union of Soviet Socialist Republics being the Ministry of Merchant Marine. Each Party shall authorize its representative to take action under its laws and procedures, and in consultation with the designated representative of the other Party, to implement this Annex as well as to remedy any departures from the agreed operating rules.

b. The Parties further agreed that the designated representatives shall:

(i) meet annually for a comprehensive review of the movement of bilateral cargo and for such other purposes related to the Agreement as may be desirable;

(ii) engage in such consultations, exchange such information and take such action as may be necessary to insure effective operation of this Annex and the Agreement of which this Annex is a part;

(iii) make mutually satisfactory arrangements or adjustments, including adjustments between accounting shares and accounting periods, to carry out at all times the objectives of this Annex and the Agreement of which this Annex is a part. Any departures from such objectives shall be accommodated on a calendar quarterly basis to the extent possible and in no event shall departures be permitted to continue beyond the first three months of the next accounting period; and

(iv) resolve any other problems in the implementation of this Annex and the Agreement of which this Annex is a part.

5. Commercial arrangements

a. The Parties recognize that, pursuant to their respective laws or policies, carriers under their flags may enter into commercial arrangements for the service and stabilization of the trade between them which shall not unduly prejudice the rights of third-flag carriers to compete for the carriage of controlled cargo between the territories of the Parties.

b. Such commercial arrangements shall not relieve the Parties of their obligations under this Annex and the Agreement of which this Annex is a part.

THE WHITE HOUSE FACT SHEET

A major maritime agreement with the Soviet Union was signed today by U.S. Secretary of Commerce Peter G. Peterson and the Minister of Merchant Marine of the Union of Soviet Socialist Republics T. B. Gouzhenko. This Agreement represents another necessary link in the establishment of an expanding commercial relationship with the Soviet Union.

The negotiations which culminated in this Agreement were initiated in the latter part

of 1971, and have been the subject of a series of meetings in Washington and Moscow throughout 1972.

By providing a broad framework and a clear set of ground rules for maritime activities between the two countries, this Agreement is an important step toward normalizing and expanding maritime relationships between the United States and the Soviet Union.

OBJECTIVES

The Agreement has two basic objectives; first, to open the channels of maritime commerce between the two nations by opening major U.S. and Soviet commercial ports to calls by specified kinds of U.S. flag and Soviet-flag vessels; and, secondly, to afford to US-flag vessels and Soviet-flag vessels the opportunity to participate equally and substantially in the carriage of all cargoes moving by sea between the two nations.

SALIENT POINTS OF THE AGREEMENT

Port access

The Agreement provides access to specified Soviet and United States ports to flag vessels of both countries engaged in commercial maritime shipping and merchant marine training activities. Under the Agreement, 40 ports in each nation are open to access by vessels of the other nation upon four days' advance notice to the appropriate authorities. The selection of the ports was based on commercial considerations, reasonable reciprocity and protection of national security interests. The U.S. ports open to access by Soviet vessels are:

Astoria, Oregon.
Baltimore, Maryland.
Baton Rouge, Louisiana.
Bay City, Michigan.
Beaumont, Texas.
Bellingham, Washington.
Brownsville, Texas.
Burnside, Louisiana.
Chicago, Illinois.
Cleveland, Ohio.
Coos Bay (including North Bend), Oregon.
Corpus Christi, Texas.
Duluth, Minnesota/Superior, Wisconsin.
Erie, Pennsylvania.
Eureka, California.
Everett, Washington.
Galveston/Texas City, Texas.
Honolulu, Hawaii.
Houston, Texas.
Kenosha, Wisconsin.
Long Beach, California.
Longview, Washington.
Los Angeles (including San Pedro, Wilmington, Terminal Island), California.
Milwaukee, Wisconsin.
Mobile, Alabama.
New Orleans, Louisiana.
New York (New York and New Jersey parts of the Port of New York Authority), New York.
Olympia, Washington.
Philadelphia, Pennsylvania (including Camden, New Jersey).
Ponce, Puerto Rico.
Port Arthur, Texas.
Portland (including Vancouver, Washington), Oregon.
Sacramento, California.
San Francisco (including Alameda, Oakland, Berkeley, Richmond), California.
Savannah, Georgia.
Seattle, Washington.
Skagway, Alaska.
Tacoma, Washington.
Tampa, Florida.
Toledo, Ohio.

While the four-day notice requirement is more than the normal 24-hour notice period applicable to commercial vessels, it is substantially less restrictive than the 14-day advance request requirement now applied by the United States to Soviet vessels and the 30-day advance request required by the U.S.S.R. for U.S. vessels. Entry of vessels to ports not specified in the Agreement will continue to be permitted in accordance with existing rules and regulations, i.e., the 14- and 30-day prior request provisions will still apply. Requests for entry by Soviet vessels to U.S. ports not specified in the Agreement must be made of the Department of State, Washington, D.C., and must be accompanied by an itinerary complete with ports of call and dates. Maritime training vessels and hydrographic and other research vessels may enter the ports only for purposes of resupply, rest, crew changes, minor repairs and other services normally provided in such ports.

The Agreement does not involve any concessions in the policy of the United States with respect to ships which have called on Cuban, North Vietnam, or North Korean ports. Soviet vessels which have called or will call on Cuba, North Vietnam, or North Korea will not be permitted to bunker in U.S. ports and Soviet vessels which have called on Cuba or North Vietnam will not be permitted to load or unload in U.S. ports government-financed cargoes such as grains sold on Commodity Credit Corporation credit terms.

In addition, the Agreement contemplates the access of initially 81 U.S. and 50 Soviet vessels engaged in hydrographic, oceanographic, meteorological, or terrestrial magnetic field research of a civilian nature. The Agreement does not include vessels engaged in fishing or related activities since these matters are covered by separate agreements; nor does it include warships or vessels carrying out state functions other than those mentioned above. It is not intended to cover any liquefied natural gas trade which may develop between the nations.

TONNAGE DUTIES

Under the Agreement, neither nation shall charge vessels of the other tonnage duties which exceed duties charged to vessels of other nations in like situation.

EQUAL AND SUBSTANTIAL SHARING

The Agreement sets forth the intention of both governments that the national-flag vessels of each country will each carry equal and substantial shares of the ocean-borne commerce between the two nations. At the same time the Agreement recognizes the policy of both the United States and the Soviet Union with respect to participation in its trade by third-flag vessels.

The intention that a substantial share of the trade between the two nations will be carried by each national flag merchant marine is defined as meaning that the national-flag vessels of each nation will have the opportunity to carry not less than one-third of all cargoes moving in whole or in part by sea between the two nations, whether by direct movement or by transshipment through third countries. In the case of grain shipments, the one-third requirement is to be applied retroactively to all shipments since July 1, 1972.

Equal share of the trade between the two nations is measured on the basis of U. S. dollar freight values of cargo carryings by the national-flag vessels of each party during each calendar year accounting period. Special accounting procedures are established to determine on a uniform basis the U. S. dollar freight value of cargo carryings and to protect against the possibility of disparities caused by the undervaluing of freight rates to increase the volume of cargo carried. These procedures are also designed to permit continuous monitoring so as to maintain parity of carriage throughout the accounting period. Cargoes carried in liner vessels and bulk cargoes carried in non-liner service are accounted for separately under the Agreement due to the difference in the methods of establishing freight rates.

The opportunity for carriage of equal and substantial shares of the trade between the two nations by national-flag ships is to be assured by the routing of controlled cargoes; i.e., cargoes with respect to which entities of either government have the power to designate the carriage. On the U. S. side, this includes only those cargoes which are subject to U. S. government control under our cargo preference laws. On the Soviet side, all exports and imports for which entities of the U.S.S.R. have or could have the power at any time to designate the carrier are included.

Recognition has been given to the practical commercial consideration that vessels of either nation may not be available to carry the amount of cargo to which they are entitled under the principles of the Agreement. Under such circumstances, a limited variance from the equal and substantial sharing rules is provided. Such variance is permitted where the cargo was offered on reasonable terms and conditions and where the unavailability of national-flag carriers is certified by a representative of the U.S. Maritime Administration or U.S.S.R. Ministry of Merchant Marine, as the case may be. Even though unavailability has been certified by the appropriate representative, there is still an obligation to continue to offer controlled cargo to restore the one-third share if possible within the same calendar year.

Freight rates

The matter of freight rates to be paid to U.S. vessels is an important provision of the Agreement. With respect to liner service, U.S.-flag carriers should face no significant problems because U.S. vessels can participate in this trade under the conference-rate system with the assistance of the U.S. operating subsidy program. Rates for shipment of bulk cargo, such as grain, however, present a different situation. Bulk cargo is shipped in world trade under charter rates which are set in competition with ships of nations with far lower costs than American ships. The United States has never before had a subsidy system which permits its vessels to compete in the bulk grain trade, although such a subsidy system was legislatively authorized in 1970. In lieu of a subsidy system for bulk cargo, there were regulations which required shipments of grain to the Soviet Union to move 50% in U.S.-flag vessels. This, however, never resulted in significant carriage for U.S. vessels. Freight rates are a substantial part of the cost of grain and without subsidy the rates charged by U.S.-flag carriers increased the cost of grain beyond the level buyers were willing to pay.

Under the Agreement, the two governments have worked out rate provisions for two categories of bulk cargo to be carried by U.S. vessels.

For nonagricultural bulk cargoes, the agreement in essence provides that American vessels shall be paid in each year the average of the freight rate for that category of cargo on the route in question over the prior three calendar years.

The other and far more important category of charter rates is for agricultural commodities and products. With respect to these cargoes the Soviet Union will offer to United States vessels the *higher of*:

1. a rate computed on the 3-year average formula described above for the years 1969, 1970, and 1971. This rate for the route most expected to be used for the current grain sales is $8.05 per ton for wheat and other heavy grains, or

2. 110 per cent of the current market rates for the shipment involved.

In addition to these provisions, for agricultural cargo the Soviet Union has also agreed to terms relating to unloading ships in the Soviet Union which are more favorable to United States vessels than would otherwise apply in this trade. Our maritime experts estimate these special terms represent a reduction from typical rates of at least $1.75 per ton.

These special provisions for rates on agricultural cargo apply through June 30, 1973,

by which time the parties will negotiate future rates. This will permit review of the actual workings of this rate system near the close of the current unusual grain shipment season.

TERM OF AGREEMENT

The Agreement remains in force through 1975, subject to earlier termination by either party on 90 days' notice.

U.S. SUBSIDY

Although not part of the agreement, a necessary part of achieving its objectives is that the United States pay a subsidy to its own vessels in the carriage of agricultural cargo. This is not a financial advantage to the Soviet Union since it could carry all this cargo in its own vessels or third-flag vessels at lower costs than it will pay United States vessels. The combination of higher than market charter rates, and favorable terms for unloading, afforded US-flag vessels reduces the subsidy costs.

The subsidy system, to be published shortly, is authorized under the Merchant Marine Act of 1970. Because the ships which will be involved in this trade, unlike US-flag vessels carrying freight in the liner trade, have not received United States construction subsidies, the subsidy to be provided will take into account the amount by which U.S. construction costs exceed foreign construction costs. In order to keep the subsidy at a minimum, it has basically been designed to create no more than a break even situation at $8.05 for most ships which will be likely to participate. The estimated subsidy paid to vessels carrying agricultural cargo under the Agreement will be in the range of $8.00 to $10.00 a ton, if market rates stay in the range of $9.00 to $11.00 a ton, which compares to the current subsidy of about $19.00 per ton on PL–480 grain shipments.

Among provisions limiting the subsidy paid for movements under the Agreement will be the following:

1. Where market rates exceed the $8.05 all of the excess paid by the Soviet Union over market (i.e. 10% premium) is used to reduce the subsidy;

2. When the market rate is $9.00 or more, a substantial part of the amout over $9.00 will be used to reduce the sudsidy;

3. Each subsidy contract will have a renegotiation clause to ensure that no excess profits are made.

The exact amount of subsidy which will be involved with respect to carrying the American share of the grain cargo is difficult to predict with precision because it depends on factors such as (1) the volume of the Soviet grain trade actually carried by U.S. ships (which will be reduced to the extent that more attractive carriage is available (such as PL–480 or oil); (2) the level of market rates, since the U.S. subsidy paid will be substantially reduced as market rates go up.

PUBLIC AVAILABILITY OF THE AGREEMENT

A copy of the Agreement, Annexes, and the exchange of letters with respect to the bulk commodity rates is publicly available.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

SUPPLEMENTAL APPROPRIATIONS BILL, 1973—CONFERENCE REPORT

Mr. McCLELLAN. Mr. President, I submit a report of the committee of conference on H.R. 17034, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. FANNIN). The report will be stated by title.

The assistant legislative desk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17034) making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of today.)

Mr. McCLELLAN. Mr. President, the conference with the managers on the part of the House of Representatives on this bill was concluded Friday evening. The bill, as it passed the Senate, contained appropriations in the amount of $5,266,690,610. This represents a considerable increase over the bill as it passed the House of Representatives. However, subsequent to consideration of the bill in the House Committee, budget estimates in a substantial amount were presented to the Senate by the President for consideration in the bill.

For example, the Senate committee considered in excess of $1,300,000,000 for higher education and other Labor-HEW items which had not been considered by the House. The Senate committee also considered $175 million for the Maritime Administration upon receipt of a supplemental budget estimate to the Senate from the President, and in addition, the Senate committee considered in excess of $53 million for Senate construction items.

The bill which was agreed to in conference Friday evening makes appropriations in the amount of $4,933,415,610. I am pleased to report that it is under the budget estimate submitted for consideration in the amount of $83,125,000.

The conference report has been printed and is available to all Members. Attached to it is a statement on the part of the managers of the two Houses which explains the final action which was agreed to on each amendment.

I would be pleased to answer any questions which any Senator might have, and the various subcommittee chairmen of the Committee on Appropriations, I trust, will be available to go into detail with regard to any item.

Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. YOUNG. Mr. President, this was one of the hardest fought conferences I have ever been on, especially for the size of the bill. One of the reasons why there was such a heated controversy between the two Houses is because the Senate inserted quite a few items that did not have a budget estimate. However, since we ended up $83,125,000 under the budget estimate, I think the conference did quite well.

I know that some Members of the Senate will be disappointed that all that they wanted was not approved by the House. However, in most cases, they were unbudgeted items.

Mr. JAVITS. Mr. President, I have a question of the subcommittee chairman in charge of HEW. I notice that he is not on the floor. I would hope very much, as he is not on the floor, that perhaps the chairman of the committee can answer the question, as I believe the staff is aware of the situation.

Mr. President, I know that the original act passed here provided for $840 million for the major economic opportunity programs. This was compromised at $790,-200,000 a figure somewhere between the House and Senate figures. The Senate amount—the amount of some $80 million which was a figure which was in excess of the appropriation in the House—was specified to provide an additional fund for areas of special concern—Puerto Rico, where a deficiency was created by the Economic Opportunity Amendments of 1972 enacted last month: emergency food and medical; legal services; community economic development; and comprehensive health services.

These are five categories that were supposed to have a share in that $800 million. The five categories are cut to two in the manager's report—Puerto Rico and the nutrition component of emergency food and medical.

Mr. President, inquiry has now developed that it might just happen that if the agency does whatever is appropriate in respect of Puerto Rico and emergency food, there might be still some residual of this $30 million in funds, and in any event that it may be necessary in the event that a case can be made out—and I believe that it can be made out very strongly—for another supplemental which could come up in January. I would like to ask the manager of the bill these two questions:

First, to the extent that Puerto Rico and the emergency food are satisfied from the $790,200,000 which is provided by the conference report—and funds are still available—would the priorities with respect to community economic development and the other items in the Senate report apply so that they would have, in effect, a reversionary interest if anything remains.

Mr. McCLELLAN. My understanding is that they would. I regret that the manager of the bill, the chairman of the Subcommittee on Labor-HEW, is not presently on the floor to give the Senator a fuller explanation; but my understanding is that if anything is left out of the $30 million we provided for the two specified items, that it would be available for either of the others.

Mr. JAVITS. Mr. President, in the absence of the manager, or the chairman of the HEW Subcommittee involved, may we just consider the statement of the manager of the bill on this subject?

Mr. McCLELLAN. I hope that is correct.

Mr. JAVITS. I thank my colleague. The other question is this: To the extent that these programs not mentioned in the manager's report cannot be satisfied from the funds of the bill—and it is my view and the view of the other Senators that they cannot—does the chairman agree on the basis of the case that we made that we would have a right to seek—that does not mean we necessarily claim it, but that we have a right to seek it—to have these additional items considered in the supplemental early next year?

Mr. McCLELLAN. I am sure the Senator has that right. So would the committee that has jurisdiction have that right. And if the matter was presented to the Appropriations Committee by budget or by the request of some Senator, I am confident that the committee would consider it.

Mr. JAVITS. The only point is that we would not be preempted by the fact that the conference report having named the two items, we would then be faced with the answer that our case has been determined unfavorably "with prejudice."

Mr. McCLELLAN. The Senator would not be preempted from asking for appropriations at any time. He would have a stronger case, of course, if we had a budget request; but I do not think anything prevents us from asking for appropriations at any time. Certainly it is not the language here, nor is it intended to preempt further consideration of any request that might be received.

Mr. JAVITS. I thank the chairman. That is very helpful.

Mr. DOMINICK. Mr. President, would the chairman yield for a question?

Mr. McCLELLAN. I yield.

Mr. COTTON. Would the Senator be willing, without losing the floor, to withhold just one moment while I mention the items that have just been discussed?

Mr. DOMINICK. I would be happy to.

Mr. COTTON. May I say to the distinguished Senator from New York there was another item in the supplemental bill which had no relation whatsoever to this. There was a good deal of discussion about whether the funds available would last beyond the first day of February. And before the Senate conferees relinquish that item, the distinguished chairman of the Appropriations Committee of the House gave his word that if it became necessary to supplement those funds, he would see to it that we had a special supplemental not later than the first of February or middle of February next year. That may have some possible bearing on this.

Mr. JAVITS. What was that item?

Mr. COTTON. That item is the payment which is due to certain air carriers and which must be paid. It is a fixed obligation, but it had not yet arisen and had not been completely authorized, for some other reason. The House was desirous of withholding it at that time. I merely mention that as an indication. It is quite likely that there will be a supplemental bill next year because of this and other factors not related to HEW.

Mr. JAVITS. I thank my colleague.

Mr. COTTON. I thank the Senator from Colorado.

Mr. DOMINICK. Mr. President, if I may have the attention of the Senator from Arkansas for just a moment, the other day the Senator from Hawaii (Mr. FONG), on behalf of himself, the Senator from Massachuetts (Mr. KENNEDY) and me introduced an amendment which would have provided for four aircraft, ski-type, C–130 for the National Science Foundation. At that time, because of the pressure of time we did not force the amendment to a vote, but we urged the conferees to get the four aircraft if they could. The National Science Foundation, the Bureau of the Budget and everyone else have recommended five.

Is it my understanding that the conference came up with only three?

Mr. McCLELLAN. The Senator is correct.

Mr. DOMINICK. I would certainly respect the wishes of the conferees, and I am not going to fight it. Three is always better than two. But early next year at the earliest opportunity I hope that on behalf of the National Science Foundation we can get the necessary funding for two additional aircraft.

This is Operation Deep Freeze, and unless they have a replacement for the planes which now have 11,000 hours on them we will find our operation in Antarctica, which is very important to this country and to the world at large, jeopardized.

Mr. McCLELLAN. Mr. President, we can agree that would probably be adequate in the meantime. I do not know of anyone who was against the fourth or the fifth plane but there was some indication that this would be adequate to replace what they recently lost and give them one on top of that at this time.

Mr. DOMINICK. I understand. The problem is that if five could be ordered at a crack, they probably could be obtained cheaper than if it were done one at a time.

I thank the Senator.

Mr. JAVITS. Mr. President, if the Senator will indulge me, I have two other questions.

First, I gather there was excluded the so-called social services ceiling and the hold harmless offered by the Senator from Alaska (Mr. STEVENS).

Mr. McCLELLAN. That item was eliminated in conference.

Mr. JAVITS. I realize that. Would the Senator give us some reason? Was there an effort to deal substantively with the matter, or did they not feel it should be included?

Mr. McCLELLAN. The feeling was that this should be corrected by substantive legislation and not in an appropriation bill.

Mr. JAVITS. I did not hear the Senator.

Mr. McCLELLAN. The general consensus was that it should not be included in an appropriation bill. The managers on the part of the House and the Senate recognize and realize that certain States will suffer because of the ceiling which is imposed in the revenue sharing legislation. However, the proper place to correct such inequities is in substantive legislation rather than in an appropriation bill. That was the general feeling.

Mr. JAVITS. The other point I would like to make is that we had quite a discussion here on the item for a special action office for drug abuse prevention, and the Senate took a figure of $35 million, accepting an amendment which I offered for $5 million additional. The House had $20 million and the appropriation is $25 million.

Again, I repeat the points that were made when the Senate committee took the $5 million. The urgency of cleaning up the methadone waiting list is a matter of tremendous importance to every metropolitan city. Its sequel is in crime and violence of the worst kind. I would like to suggest again we may have to come back in January with adequate proof showing that by not providing the necessary money to clean up the waiting list we are ourselves being responsible for allowing people on the streets who are likely to be very serious criminals. This is almost unforgivable. I realize the problem with the other body.

Mr. McCLELLAN. We did have a problem on this and we were somewhat fortunate to get the increase of $5 million on this particular item. It was not just regularly agreed to; there was argument and discussion about it. Some of the conferees told me they could not see going any farther and they felt it should not go anywhere. Apparently, when witnesses appeared before the House Committee on Appropriations, they were not able to give a satisfactory explanation of what would be done with all this money.

Mr. JAVITS. We gave it on the floor of the Senate.

Mr. McCLELLAN. I understand, but the Senator knows how they feel about these things.

Mr. JAVITS. I know how the chairman feels and I have never stopped paying tribute to the fact that he, for the first time, introduced a program for that purpose in legislation some years ago. I would like to state this, without in any way impugning any fault to the conferees.

It seems to us we have a very strong case that must be made before the House and Senate Appropriations Committees in January, and we have to tell the local people in the various cities suffering from the most barbarous crimes because of these narcotics addicts loose on the streets that they better call their Senators and Congressmen and let them know how they feel about this. If I have ever seen anything pennywise and pound foolish, this is it.

Again, I have been in these conferences, even as a member of the Committee on Appropriations, and I know how tough they are, but I assure the chairman we will not take this lying down.

Mr. McCLELLAN. I yield.

Mr. PASTORE. Mr. President, I would

like to impose on this discussion at 4:30 p.m. on a Saturday afternoon on October 14. I assure the Senator from New York we fought hard as we could on many of these items, but as the Senator knows, there is a feeling in the House that unless they initiate something you have to engage in a tug of war to get anything done. We came out all over with an excellent compromise. I do not think the conferees of the Senate did anything to apologize for.

Mr. JAVITS. As I said originally, no one tries harder than the Senator from Arkansas (Mr. McCLELLAN). He is a strong ally.

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

Mr. McCLELLAN. I yield.

Mr. COTTON. I would like to add that the House conferees led by one of their members particularly called attention to all the various appropriations dealing with drug traffic. For example, in the regular HEW bill there is $96 million plus under mental health and there is $60 million more in this supplemental bill. They added up all these sums and found that Congress has appropriated over a billion and a half dollars since 1969 for drug abuse prevention activities, including $594.2 million in the regular bills for 1973. Their chief objection was that the record had not shown, despite the untreated patients admittedly at large, how they were going to spend the money. Some of us did not take much stock in that argument. I mention this so that when the case is presented again, that even though the need was thoroughly shown, the exact method of using the money should be shown more clearly. Then we will be in a much stronger position.

Mr. JAVITS. I thank my colleague. It is not too long before January, and, unhappily for us, this will still be with us.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from Florida (Mr. CHILES), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from North Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Virginia (Mr. SPONG), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

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

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from New Hampshire (Mr. McINTYRE), and the Senator from Rhode Island (Mr. PELL) would each vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senators from Nebraska (Mr. CURTIS and Mr. HRUSKA), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. JORDAN), the Senator from Kansas (Mr. PEARSON), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Kentucky (Mr. COOK) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

I also announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

If present and voting, the Senator from Illinois (Mr. PERCY), the Senator from Oregon (Mr. HATFIELD), the Senator from Nebraska (Mr. CURTIS), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 58, nays 0, as follows:

[No. 565 Leg.]

YEAS—58

Aiken	Fulbright	Packwood
Allen	Gambrell	Pastore
Anderson	Gravel	Proxmire
Beall	Gurney	Randolph
Bennett	Hansen	Ribicoff
Bentsen	Hart	Roth
Boggs	Hartke	Saxbe
Buckley	Hughes	Schweiker
Burdick	Humphrey	Scott
Byrd, Harry F., Jr.	Inouye	Smith
	Javits	Stafford
Byrd, Robert C.	Jordan, N.C.	Stennis
Cannon	Long	Stevens
Case	Magnuson	Stevenson
Cooper	Mansfield	Symington
Cotton	Mathias	Tunney
Dole	McClellan	Weicker
Dominick	Miller	Williams
Ervin	Moss	Young
Fannin	Nelson	

NAYS—0

NOT VOTING—42

Allott	Edwards	Metcalf
Baker	Fong	Mondale
Bayh	Goldwater	Montoya
Bellmon	Griffin	Mundt
Bible	Harris	Muskie
Brock	Hatfield	Pearson
Brooke	Hollings	Pell
Chiles	Hruska	Percy
Church	Jackson	Sparkman
Cook	Jordan, Idaho	Spong
Cranston	Kennedy	Taft
Curtis	McGee	Talmadge
Eagleton	McGovern	Thurmond
Eastland	McIntyre	Tower

So the report was agreed to.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 10 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

"ALASKA NATIVE FUND

"Any of the funds heretofore or hereafter advanced under authority of the Second Supplemental Appropriations Act, 1972 (Public Law 92-306), or the Act of August 10, 1972 (Public Law 92-369), to a Regional Corporation organized pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (Public Law 92-203), may be used by such Regional Corporation to loan to, and such Regional Corporation may also guarantee loans by third parties to the Alaska Federation of Natives and/or Alaska Federation of Natives, Inc., in such amounts and upon such terms and conditions as may be determined by such Regional Corporation, and in recognition of the services of said organizations in advancing land claims settlement legislation."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 18 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

"HIGHER EDUCATION

"For carrying out, to the extent not otherwise provided, title I, parts A, section 420, B, and E of title IV, and section 1202, of the Higher Education Act, as amended, section 506(b) of the Education Amendments of 1972, the Emergency Insured Student Loan Act of 1969, as amended, and sections 400, 404, and 421 of the General Education Provisions Act, section 207 of the National Defense Education Act, section 22 of the Act of June 29, 1935, as amended (7 U.S.C. 329), and S.J. Resolution 265, $577,500,000, of which $25,000,000 shall be for Veterans Cost of Instruction payments to institutions of higher education, and $215,000,000 to remain available until expended shall be for subsidies on guaranteed student loans: *Provided*, That the funds to carry out S.J. Resolution 265 shall be available only upon enactments of authorizing legislation."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 23 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

"NATIONAL INSTITUTE OF EDUCATION

"For carrying out section 405 of the General Education Provisions Act, and for the necessary expenses of the National Institute of Education, including rental of conference rooms in the District of Columbia; and not to exceed $500 for official reception and representation expenses; $92,082,000: Provided, That funds included in the regular fiscal year 1973 appropriation for "Educational renewal" and "Salaries and expenses, Office of Education" for dissemination activities, except general program dissemination, and the District of Columbia schools project shall be transferred to the National Institute of Education."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 24 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert: "$898,648,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 61 to the aforesaid bill, and concur therein with an amendment, as fol-

lows: In lieu of the matter proposed by said amendment, insert:

"ACQUISITION OF PROPERTY AS AN ADDITION TO THE CAPITOL GROUNDS

"To enable the Architect of the Capitol to acquire on behalf of the United States, as an addition to the United States Capitol Grounds, by purchase, condemnation, transfer, or otherwise, all publicly or privately owned property contained in square 764 in the District of Columbia, and all alleys or parts of alleys contained within the curblines surrounding such square, as such square appears on the records in the office of the surveyor of the District of Columbia as of the date of the approval of this Act: *Provided*, That any proceeding for condemnation brought under this paragraph shall be conducted in accordance with the Act of December 23, 1963 (16 D.C. Code, secs. 1351–1368): *Provided further*, That for the purposes of this paragraph, square 764 shall be deemed to extend to the outer face of the curbs surrounding such square: *Provided further*, That, Notwithstanding any other provision of law, any real property owned by the United States and any public alleys or parts of alleys and streets contained within the curblines surrounding such square shall, upon request of the Architect of the Capitol, be transferred to the jurisdiction and control of the Architect of the Capitol without reimbursement or transfer of funds, and any alleys or parts of alleys or streets contained within the curblines of said square shall be closed and vacated by the Commissioner of the District of Columbia, appointed pursuant to part III of Reorganization Plan numbered 3 of 1967, in accordance with any request therefor made by the Architect of the Capitol: *Provided further*, That, upon acquisition of such real property pursuant to this paragraph, the Architect of the Capitol is authorized to use such property as a green park area, pending its development for permanent use as the site of the John W. McCormack Residential Page School, subject to the approval of the Senate Office Building Commission and the House Office Building Commission; *Provided further*, That the jurisdiction of the Capitol Police shall extend over any real property acquired under this paragraph and such property shall become a part of the United States Capitol Grounds and be subject to the provisions of sections 193a–193m, 212a, and 212b of title 40, United States Code: *Provided further*, That the Architect of the Capitol, under the direction of the Senate Office Building Commission and the House Office Building Commission, is authorized and directed to enter into such contracts, incur such obligations, and make such expenditures, including expenditures for personal and other services, as may be necessary to carry out the provisions of this paragraph; $1,450,000, to remain available until expended."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 70 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert: "$3,500,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 78 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the language proposed by the amendment, insert: ": *Provided*, That section 102 of the Treasury, Postal Service, and General Government Appropriation Act, 1973, is amended by striking out 'March 31, 1973' and inserting in lieu thereof 'May 15, 1973'."

Mr. McCLELLAN. Mr. President, I move that the Senate concur in the amendments of the House of Representatives to amendments of the Senate numbered 10, 18, 23, 24, 61, 70, and 78.

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

The motion was agreed to.

Mr. McCLELLAN. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a tabulation reflecting the totals by chapter of the bill, the budget estimates, the House and Senate amounts, and the final amounts agreed to in conference.

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

THE SUPPLEMENTAL 1973 (H.R. 17034)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—SUMMARY

Chapter No.	Department or activity	Budget estimate	Version of bill: House	Version of bill: Senate	Conference agreement
I	Agriculture	$16,500,000	$16,500,000	$18,338,000	$17,200,000
II	HUD-Space-Science-Veterans	[1] 250,000,000	276,320,000	263,160,000	269,740,000
III	Interior and Related Agencies	9,937,000	2,825,000	11,149,000	9,149,000
IV	Labor and Health, Education, and Welfare	4,284,612,000	3,072,275,000	4,386,654,000	4,190,982,000
V	Legislative	84,838,885	28,769,100	82,484,885	82,484,885
	New budget (obligational) authority	(72,136,875)	(16,037,000)	(69,782,785)	(69,782,785)
	Fiscal year 1973	(12,702,100)	(12,702,100)	(12,702,100)	(12,702,100)
	Fiscal year 1972	(1,160,000)	(143,000)	(1,303,000)	(1,303,000)
	By transfer				
VI	Public Works-AEC	2,285,000	1,435,000	6,060,000	3,415,000
VII	State, Justice, Commerce, and Judiciary	187,264,000	11,082,000	198,582,000	189,782,000
VIII	Transportation:				
	New budget (obligational) authority	49,361,000	44,200,000	117,950,000	54,350,000
	Increase in limitation on obligations	(35,000,000)	(10,000,000)	(10,000,000)	(10,000,000)
IX	Treasury, Postal Service, and General Government	76,999,000	56,899,000	65,569,000	61,069,000
X	Claims and judgments	54,743,725	54,743,725	54,743,725	54,743,725
	Grand total:				
	New budget (obligational) authority	5,016,540,610	3,565,048,825	5,204,690,610	4,933,415,610
	Fiscal year 1973	(5,003,838,510)	(3,552,346,725)	(5,191,988,510)	(4,920,713,510)
	Fiscal year 1972	(12,702,100)	(12,702,100)	(12,702,100)	(12,702,100)
	By transfer	(1,160,000)	(143,000)	(1,303,000)	(1,303,000)
	Increase in limitation on obligations	(35,000,000)	(10,000,000)	(10,000,000)	(10,000,000)

[1] Excludes $32,900,000 heretofore submitted for the Department of Defense.

AMENDMENT OF TARIFF SCHEDULES REGARDING UPHOLSTERY

Mr. MANSFIELD. Mr. President, I move that the Senate turn to the consideration of Calendar No. 1169, H.R. 640, so that it may become the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 640) 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.

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

The motion was agreed to, and the Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment on page 2, after line 8, to insert a new section, as follows:

SEC. 3. Section 203(e)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new sentence: "Effective with respect to compensation for weeks of unemployment beginning before July 1, 1973, and beginning after the date of the enactment of this sentence (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a State 'off' indicator ending any extended benefit period shall be made under this subsection as if paragraph (1) did not contain subparagraph (A) thereof; except that the provisions of this sentence shall not operate to prevent

an 'off' indicator (as determined without regard to this sentence) from taking effect for any week if, for the third preceding week, the rate of insured unemployment under the State law is less than 5 per centum."

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

Mr. MANSFIELD. Mr. President, if the distinguished Senator from Vermont will yield to me——

Mr. AIKEN. I simply want to offer an amendment.

I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the bill, insert a new section:

"SEC. —. That (a) item 903.90 of the Tariff Schedules of the United States is amended by striking out '9/5/72' and inserting in lieu thereof '9/5/75'.

"(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after September 5, 1972."

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

Mr. AIKEN. I yield.

Mr. MANSFIELD. I would like first to yield to the Senator from New Jersey (Mr. WILLIAMS), and then to suggest the absence of a quorum pending the arrival of the staff of the manager of the bill.

I yield to the Senator from New Jersey.

AMENDMENT OF SECURITIES EXCHANGE ACT OF 1934

Mr. WILLIAMS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3876.

The PRESIDING OFFICER (Mr. FANNIN) laid before the Senate the amendments of the House of Representatives to the bill (S. 3876) to amend the Securities Exchange Act of 1934 to provide for the regulation of clearing agencies and transfer agents, to create a National Commission on Uniform Securities Laws, and for other purposes, which were to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Securities Processing Act".

SEC. 2. Section 2 of the Securities Exchange Act of 1934 (15 U.S.C. 78b) is amended by striking the word "and" immediately before the phrase "to impose requirements necessary to make such regulations and control reasonably complete and effective," and by adding the following immediately after that phrase: "and to provide for the development of an integrated national system for the prompt and accurate processing and settlement of securities transactions,".

SEC. 3. Section 15(c)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)(3)) is amended to read as follows:

"(3) No broker or dealer shall make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate in the public interest or for the protection of investors—

"(A) to regulate the time and method of making settlements, payments, and deliveries and of closing accounts; and

"(B) to provide safeguards with respect to the financial responsibility and related practices of brokers and dealers including, but not limited to, the acceptance of custody and use of customers' securities, and the carrying and use of customers' deposits or credit balances. Such rules and regulations shall require the maintenance of reserves with respect to customers' deposits or credit balances, as determined by such rules and regulations.

Nothing in subparagraph (A) of this paragraph shall be construed (i) to affect the authority of the Board of Governors of the Federal Reserve System, pursuant to section 7 of this title, to prescribe rules and regulations for the purpose of preventing the excessive use of credit for the purchase or carrying of securities, or (ii) to authorize the Commission to prescribe such rules or regulations for such purposes."

SEC. 4. Section 15A(k)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3(k)(2)) is amended by inserting after clause (D) the following:

"(E) the time and method of making settlements, payments, and deliveries and of closing accounts.".

SEC. 5. Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end thereof the following new paragraphs:

"(22)(A) The term 'clearing agency' means any person who acts as an intermediary in making payments or deliveries (or both) in connection with transactions in securities, or who provides facilities, (i) to reduce the number of settlements of securities transactions, or (ii) for the allocation of securities settlement responsibilities.

"(B) The term 'securities depository' means any person who acts as a custodian of securities in connection with a system which permits securities so held to be transferred, loaned, or pledged without physical delivery of securities certificates, or which otherwise permits or facilitates the settlement of securities transactions or the hypothecation or lending of securities without physical delivery of securities certificates.

"(C) The terms 'clearing agency' and 'securities depository shall not include (i) Federal Reserve Banks, Federal Home Loan Banks, Federal Land Banks, or any person controlled or supervised by and acting as an instrumentality of the Government of the United States pursuant to authority granted by the Congress of the United States, and (ii) banks, brokers, building and loan, savings and loan, and homestead associations and cooperative banks by reason of lending, fiduciary, correspondent, or safekeeping functions commonly performed by them on the date of enactment of this paragraph.

"(D) The terms 'clearing agency' and 'securities depository' shall not include (i) life insurance companies, or their registered separate accounts, by reason of functions commonly performed by such entities in connection with variable annuity contracts issued by insurance companies; or, (ii) registered open end investment companies or unit investment trusts by reason of functions commonly performed by such entities in connection with shares in registered open end investment companies or unit investment trusts.

"(23) The term 'participant', when used with respect to a clearing agency or securities depository, means any person who uses a clearing agency or securities depository for the purpose of settling or comparing transactions in securities or making or receiving payment for delivery, lending, or hypothecation of securities; but does not include a person whose only use of a clearing agency or securities depository is through another person.

"(24) The term 'transfer agent' means any person who engages, on behalf of an issuer, or on behalf of itself as an issuer, of securities registered under section 12 of this title or of securities which would be required to be so registered except for the exemption from registration provided by sections 12(g)(2)(B) or 12(g)(2)(G) of this title, in: (A) countersigning such securities upon issuance; (B) monitoring the issuance of such securities with a view to preventing unauthorized issuance, a function commonly performed by a person called a registrar; (C) registering the transfer of such securities; or (D) exchanging or converting such securities. The term 'transfer agent' shall not include any person who performs such functions solely with respect to variable annuity contracts issued by insurance companies.

"(25) The term 'appropriate regulatory agency', when used with respect to a clearing agency, securities depository or transfer agent required to be registered under this title means—

"(A) the Comptroller of the Currency, in the case of a national bank or a bank operating under the Code of Law for the District of Columbia, or a subsidiary of any such bank;

"(B) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System or a subsidiary thereof;

"(C) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System) or a subsidiary thereof; and

"(D) the Commission, in the case of all other transfer agents, clearing agencies, and securities depositories."

SEC. 6. The Securities Exchange Act of 1934 is amended by inserting after section 17 (15 U.S.C. 78q) the following new section:

"PROCESSING OF SECURITIES TRANSACTIONS

"SEC. 17A. (a)(1) Except as otherwise provided in this subsection, it shall be unlawful for any person, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the function of a clearing agency, securities depository or transfer agent with respect to any security unless such person is registered under this section. The Commission, by rules and regulations or by order, upon its own motion, or upon application, may conditionally or unconditionally exempt any person, security, transaction, clearing agency, securities depository, transfer agent, or any class or classes of persons, securities, transactions, clearing agencies, securities depositories or transfer agents from any provision or provisions of this section or of any rule or regulation prescribed under this section if the Commission specifically finds that the application of such provision or provisions to such person, security, transaction, clearing agency, securities depository, transfer agent, or class or classes of persons, securities, transactions, clearing agencies, securities depositories or transfer agents is not practical or not necessary or appropriate in the public interest or for the prompt and accurate processing and settlement of securities transactions.

"(2) The Commission shall include in its annual reports to Congress required by section 23(b) of this title information concerning the number of requesets for exemptions received, the number granted, and the basis or bases upon which the exemptions were granted.

"(b) Any transfer agent may be registered for the purposes of this section by filing with the Commission a registration statement which shall state the address of its principal office or offices for transfer agent activities,

the identity of the issuers and issues of securities for which it is then acting as transfer agent, and such other information in such detail as the Commission may by rule require as necessary or appropriate in the public interest or for the protection of investors.

"(c) Any person may register with the Commission as a clearing agency or a securities depository under the terms and conditions hereinafter provided in this section by filing with the Commission a registration statement in such form as the Commission may prescribe setting forth the following information and accompanied by the following documents:

"(1) Copies of its constitution, articles of incorporation, bylaws, or rules or instruments corresponding to the foregoing, and its stated policies and practices relating to its organization, participation, rules of procedure, financial condition, methods of safekeeping, transferring, hypothecating, lending and accounting for funds and securities, hereinafter collectively referred to in this section as the 'rules of the clearing agency or securities depository.'

"(2) Such other information as the Commission may, by rule, require.

"(d) An applicant shall not be registered as a clearing agency or a securities depository unless the Commission finds that—

"(1) such clearing agency or securities depository is organized so as to facilitate the prompt and orderly settlement of securities transactions, to safeguard funds and securities held for the accounts of participants, and to comply with the provisions of this title and the rules and regulations thereunder, and to carry out the purposes of this section;

"(2) the rules of the clearing agency or securities depository provide that (A) all registered brokers or dealers, (B) other registered clearing agencies or securities depositories, (C) registered investment companies, (D) banks (as defined in section 2(a)(5) of the Investment Company Act of 1940), and (E) such other persons or classes of persons as the Commission may from time to time designate by rule as necessary in the public interest, are eligible to become participants in such clearing agency or securities depository, subject only to such other rules of the clearing agency or securities depository as are expressly permitted under this paragraph. The rules of the clearing agency or securities depository may restrict or condition participation on the geographical location of participants or upon deposit with the clearing agency or securities depository of an amount which bears a reasonable relationship to the value of positions maintained and transactions processed by the participant, and may deny participation to persons who have been expelled or suspended by a registered clearing agency or securities depository during the period of such expulsion or suspension. With respect to persons not included in clauses (A) through (D) above, the rules of the clearing agency or securities depository may also restrict or condition participation on the basis of the ability of the participants to meet reasonable requirements as to financial condition or operations capability and may provide for the exclusion of persons not included in clauses (A) through (D) who have been convicted, within ten years preceding the filing of the application for participation, of any felony or misdemeanor which the clearing agency or securities depository finds—

"(i) involves the purchase or sale of any security,

"(ii) involves embezzlement, fraudulent conversion, or misappropriation of funds or securities, or

"(iii) involves the violation of section 1341, 1342, or 1343 of title 18, United States Code;

"(3) the rules of the clearing agency or securities depository assure a fair representation of its shareholders (or members) and participants in the adoption of rules of the clearing agency or securities depository and any amendment thereto, the selection of its officers and directors, and in all other phases of the administration of its affairs;

"(4) the rules of the clearing agency or securities depository provide for the equitable allocation of dues, fees, and other charges among its participants;

"(5) the rules of the clearing agency or securities depository do not impose any schedule of prices, or fix minimum rates or charges, for services rendered by its participants;

"(6) the rules of the clearing agency or securities depository are designed to promote the prompt and orderly settlement of securities transactions, to provide safeguards for securities and funds which are in its custody, to foster cooperation and coordination with national securities exchanges, national securities associations, other clearing agencies or securities depositories, and with other members of the financal community, and to protect investors and the public interest; and do not have the effect of unfairly discriminating in the admission of participants or among participants in the use of such clearing agency or security depository;

"(7) the rules of the clearing agency or securities depository provide that its participants and officers, directors, employees, and agents of participants shall be appropriately disciplined for any violation of its rules by expulsion, suspension, fine, or censure, or in the case of an officer, director, or employee of a participant, by being suspended or barred from being associated with participants; and

"(8) the rules of the clearing agency or securities depository provide a fair and orderly procedure with respect to the disciplining of participants and officers, directors, employees, and agents of participants and the denial of participation to any person seeking participation therein. In any proceeding to determine whether a participant or officer, director, employee, or agent of a participant should be disciplined, such rules shall require that specific charges of any rule violation be brought; that such participant or officer, director, employee, or agent of such participant shall be notified of and be given an opportunity to defend against such charges; that a record shall be kept; and that the determination shall include—

"(A) a statement setting forth any act or practice in which such participant or officer, director, employee, or agent of such participant may be found to have engaged, or which such participant or officer, director, employee or agent of a participant may be found to have omitted;

"(B) a statement setting forth the specific rule or rules of the clearing agency or securities depository which any such act or practice, or omission to act, is deemed to violate; and

"(C) a statement setting forth the penalty imposed.

In any proceeding to determine whether a person shall be denied participation, such rules shall provide that the prospective participant shall be notified of, and be given an opportunity to be heard upon, the specific grounds for denial which are under consideration; that a record shall be kept and that the determination shall set forth the specific grounds on which the denial is based. Notwithstanding any other provision of this section, the rules of the clearing agency or securities depository may provide for the temporary suspension of a participant and the closing of its accounts pending determination on the merits of any disciplinary proceeding if, in the opinion of the clearing agency or securities depository, such suspension and closing of accounts are necessary for the protection of investors, or participants of the clearing agency or securities depository, or to facilitate the orderly and continuous performance of the clearing agency's or securities depository's services. The rules shall afford the participant an expedited hearing on the merits in the case of any temporary suspension.

"(e) Within thirty days of the filing of an application for registration pursuant to subsection (b) or (c) the Commission shall:

"(1) by order grant such registration if the Commission finds that the requirements of this section are satisfied, or

"(2) institute appropriate administrative action to determine whether the application should be denied. If, after appropriate notice and opportunity for hearing, it appears to the Commission that any requirement of this section is not satisfied, or, in the case of an applicant who is a transfer agent, that the applicant does not have procedures or the means to be able to comply with the provisions of this section and the rules and regulations promulgated under those provisions, the Commission shall by order deny such registration.

"(f) A clearing agency, securities depository, or transfer agent, registered under this section may, upon such terms and conditions as the Commission may deem necessary in the public interest or for the protection of investors, withdraw from registration by filing a written notice of withdrawal with the Commission. If the Commission finds that any such registrant or such other person for whom an application of registration is pending is no longer in existence or has ceased to do business in the capacity specified in the registration statement, the Commission shall by order cancel or deny the registration.

"(g) No clearing agency, securities depository, or transfer agent registered under this section shall make use of the mails or of any means or instrumentality of interstate commerce, directly or indirectly, to engage in any activity as clearing agency, securities depository, or transfer agent with respect to any security in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(h) If any registered clearing agency or securities depository takes any disciplinary action against any participant therein, or any officer, director, employee, or agent of such a participant, or denies admission to any person seeking participation therein, such action shall be subject to review by the Commission, on its own motion, or upon application by any person aggrieved thereby filed within thirty days after such action has been taken or within such longer period as the Commission may determine. Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of such action, unless the Commission otherwise orders, after notice and opportunity for hearing on the question of a stay (which hearing may consist solely of affidavits and oral arguments).

"(i)(1) If, in a proceeding to review disciplinary action taken by a registered clearing agency or a securities depository against a participant or an officer, director, employee, or agent, of a participant the Commission, after notice and opportunity for hearing and upon consideration of the record before the clearing agency or securities depository and such other evidence as it may deem relevant—

"(A) finds that such person has engaged in such acts or practices, or has omitted such acts, as the clearing agency or securities depository has found him to have engaged in or to have omitted, and

"(B) determines that such acts or practices, or omission to act, are in violation of such rules of the clearing agency or securities depository as have been designated in the determination of the clearing agency or securities depository,

it shall by order dismiss the proceedings, unless it appears to the Commission that

such action should be modified in accordance with paragraph (2) of this subsection. If it appears to the Commission that the evidence does not warrant the finding required in clause (A), or if the Commission determines that such acts or practices as are found to have been engaged in are not prohibited by the designated rule or rules of the clearing agency or securities depository or that such act as is found to have been omitted is not required by such designated rule or rules, the Commission shall by order set aside the action of the clearing agency or securities depository.

"(2) With respect to any penalty imposed by a clearing agency or a securities depository upon a participant or an officer, director, employee, or agent of a participant the Commission may, having due regard to the public interest, affirm, increase, or decrease the penalty.

"(j) If, in any proceeding to review the denial of participation in a registered clearing agency or a securities depository, the Commission, after appropriate notice and opportunity for hearing and upon consideration of the record before the clearing agency or securities depository and such other evidence as it may deem relevant, determines that the specific grounds on which such denial or bar is based exist in fact and are valid under this section, it shall by order dismiss the proceeding; otherwise, the Commission shall by order set aside the action of the clearing agency or securities depository and require it to admit the applicant to participation therein.

"(k)(1) Each registered clearing agency or securities depository shall file with the Commission, in accordance with such rules as the Commission may prescribe, copies of any such rules as the Commission may prescribe, copies of any changes in, additions to, or amendments to the rules of the clearing agency or securities depository, and each registered clearing agency, securities depository and transfer agent shall file with the Commission, in accordance with such rules as the Commission may prescribe, such other information and documents as the Commission may require to keep current or to supplement the registration statement and documents filed pursuant to subsection (b) or (c).

"(2) The Commission shall publish notice of changes in, additions to, or amendments to the rules of any clearing agency or securities depository, and such changes, additions, or amendments shall take effect sixty days after publication of such notice by the Commission, unless the Commission disapproves such change, addition, or amendment as inconsistent with the purposes of this section or otherwise inconsistent with the public interest.

"(l) The appropriate regulatory agency may, after appropriate notice and opportunity for hearing, by order, censure, bar, suspend for a period not exceeding twelve months, or place limitations upon any transfer agent, or any officer, director, or employee of any such transfer agent, or revoke the registration of any transfer agent, if the appropriate regulatory agency finds that such censure, barring, suspension, placing of limitations, or revocation is in the public interest or necessary for the protection of investors and that such transfer agent or any officer, director, or employee thereof has willfully violated or is unable to comply with any provision of this section or any rule or regulation promulgated thereunder.

"(m) The appropriate regulatory agency is authorized, if such action appears to it to be necessary or appropriate in the public interest or for the protection of investors or to carry out the purposes of this section—

"(1) after appropriate notice and opportunity for hearing, by order suspend for a period not exceeding twelve months or revoke the registration of a registered clearing agency or a securities depository or impose limitations with respect to such clearing agency or securities depository, if the appropriate regulatory agency finds that such clearing agency or securities depository has violated any provision of this title, or any rule or regulation thereunder, or has failed to enforce compliance with its own rules, or has engaged in any other activity tending to defeat the purposes of this section;

"(2) after appropriate notice and opportunity for hearing, by order suspend for a period not exceeding twelve months or expel from a registered clearing agency or securities depository any participant therein, or suspend for a period not exceeding twelve months or bar any officer, director, employee, or agent of the participant, if the appropriate regulatory agency finds that such person has violated any provision of this title or any rule or regulation thereunder or any rule of the clearing agency or securities depository; and

"(3) after appropriate notice and opportunity for hearing, by order remove from office any officer or director of a registered clearing agency or a securities depository who, the appropriate regulatory agency finds, has willfully failed to enforce the rules of the clearing agency or securities depository, or has willfully abused his authority.

"(n) If a proceeding under subsection (m)(1) of this section results in the suspension or revocation of the registration of a clearing agency or a securities depository, the Commission shall, upon notice to such clearing agency or securities depository, apply to any court of competent jurisdiction specified in section 21(e) or 27 of this title for the appointment of a trustee. In such event, the court may, to the extent it deems necessary or appropriate, take exclusive jurisdiction of the clearing agency or securities depository involved, and the books, records, and assets thereof, wherever located; and the court shall appoint the Commission or a person designated by the Commission as the trustee with the power to take possession and to continue to operate or to terminate the facilities of such clearing agency or securities depository in an orderly manner, for the protection of participants and public investors, subject to such terms and conditions as the court may prescribe.

"(o) Each registered clearing agency, securities depository, and transfer agent shall make, keep, and preserve for such periods such accounts, correspondence, memorandums, papers, books, and other records, and make such reports, as the Commission by its rule and regulations may prescribe as necessary or appropriate in the public interest, or to facilitate cooperation among clearing agencies and securities depositories and the prompt and orderly settlement of securities transactions, to safeguard funds and securities held for the accounts of participants, or for the protection of investors. Such accounts, correspondence, memorandums, papers, books, and other records shall be subject at any time to such reasonable periodic, special, or other examinations by examiners or other representatives of the appropriate regulatory agency as the appropriate regulatory agency may deem necessary or appropriate in the public interest or for the protection of investors. Appropriate regulatory agencies other than the Commission shall make a full and detailed report of all examinations conducted by them of a registered clearing agency, securities depository, or transfer agent and shall immediately furnish to the Commission a copy of the portion of any such report which is relevant to functions regulated under this section.

"(p) The appropriate regulatory agencies shall consult and cooperate with each other as may be appropriate, toward the end that their mutual regulatory needs and responsibilities be fulfilled to the maximum extent practicable.

"(q)(1) In the case of any disagreement between the Commission and any other appropriate regulatory agency concerning any rule of the Commission with respect to any clearing agency, securities depository, or transfer agent, the determination of the Commission shall be definitive.

"(2) In the case of a clearing agency, securities depository, or transfer agent for which the Commission is not the appropriate regulatory agency, the Commission shall rely on the appropriate regulatory agency for the conduct of routine or periodic inspections or examinations under this section, except that, notwithstanding any provision of this section, the Commission shall have authority to make special or other examinations and to require reports of such clearing agencies, securities depositories, or transfer agents in those situations where the Commission determines that such action would be appropriate.

"(r) Compliance with the requirements of this section may be enforced under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) by the appropriate regulatory agencies other than the Commission. For the purpose of the exercise by the appropriate regulatory agency of its powers under section 8 of the Federal Deposit Insurance Act, a violation of any requirement imposed under this section is a violation of the requirements imposed under the Federal Deposit Insurance Act and shall constitute adequate basis for the issuance of orders under section 8(b) and 8(c) of that Act. In addition to its power under section 8 of the Federal Deposit Insurance Act, each of such appropriate regulatory agencies may, for the purpose of enforcing compliance with this section (or any rule thereunder), exercise any other authority conferred on it by law.

"(s) The provisions of this section 17A or of any rule or regulation thereunder shall not apply to any person acting as transfer agent with respect to securities transactions which occur without the jurisdiction of the United States, unless such person acts in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate to prevent the evasion of this title."

SEC. 7. Section 24 of the Securities Exchange Act of 1934 (15 U.S.C. 78x) is amended to read as follows:

"INFORMATION FILED WITH THE COMMISSION

"SEC. 24. (a) Any person filing information contained in a registration statement, document, report, contract, correspondence or other paper filed with the Commission pursuant to this title may make written objection to the public disclosure of such information stating the grounds for such objection. The Commission is authorized to hear objections in any such case where it deems it advisable. The Commission shall grant confidential treatment to such information for which application has been made if it finds (1) that disclosure is not in the public interest, and (2) that disclosure would (A) jeopardize the safety of funds or securities, (B) require the revealing of trade secrets or processes, or (C) impair the value of a contract.

"(b) The Commission is authorized to treat such information as confidential pending the findings required by subsection (a), but if the Commission does not make such a finding within thirty days from the date the information is received by the Commission, then the information shall cease to be afforded confidential treatment.

"(c) Nothing in this section shall prohibit the Commission from disclosing any information in any administrative or judicial proceeding.

"(d) Nothing in this section shall authorize the Commission to withhold information from the duly authorized committees of the Congress.

"(e) It shall be unlawful for any member, officer, or employee of the Commission to dis-

close to any person other than a member, officer, or employee of the Commission, or to use for personal benefit, any information contained in any registration statement, document, report, contract, correspondence, or other paper filed with the Commission which is not made available to the public pursuant to subsection (a) of this section: *Provided*, That the Commission may make available to an appropriate regulatory agency any information requested by such agency for the purpose of enabling it to perform its duties under this title."

SEC. 8. Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 781) is amended by inserting after subsection (i) the following new subsection:

"(j) It shall be unlawful for an issuer, any class of whose securities is registered under this section or which would be required to be so registered except for the exemption from registration provided by paragraph (2)(B) or (2)(G) of subsection (g), by the use of any means or instrumentality of interstate commerce, or of the mails, to issue, either originally or upon transfer, such securities whose form or format contravenes such rules and regulations as the Commission may prescribe as necessary for the prompt and accurate processing of transactions in securities."

SEC. 9. Section 19 of the Securities Exchange Act of 1934 (15 U.S.C. 78s) is amended by inserting after subsection (e) the following new subsections:

"(f) The Commission shall, on or before December 31, 1976, take such steps as are within its power to bring about elimination of the stock certificate as a means of settlement among brokers or dealers in transactions consummated on national securities exchanges or by means of the mails or other means or instrumentalities of interstate commerce. On or before December 31 of each year, commencing in 1972 and ending in 1976, the Commission shall report to the Congress (1) the steps it has taken and progress it has made toward elimination of the stock certificate as a means of settlement, and (2) its recommendations, if any, for further legislation to eliminate the stock certificate.

"(g) The Commission is authorized and directed to make a study and investigation of the practice of registration of securities other than in the name of the beneficial owner and to determine (1) whether such registration is consistent with the policies and purposes of this title, with particular reference to section 14, and (2) if consistent, whether steps can be taken to facilitate communications between corporations and their shareholders while at the same time retaining the benefits of such registration. The Commission shall report to the Congress its preliminary findings within six months after the date of enactment of this subsection, and its final results and recommendations within one year of such date."

SEC. 10. Section 28 of the Securities Exchange Act of 1934 (15 U.S.C. 78bb) is amended by inserting after subsection (b) the following new subsection:

"(c) No State or political subdivision thereof shall impose any tax on any change in beneficial or record ownership of securities effected through the facilities of a registered clearing agency or securities depository or any nominee thereof or custodian therefor or upon the delivery or transfer of securities to or through or receipt from such agency or depository or any nominee thereof or custodian therefor, unless such transfer or delivery or receipt would otherwise be taxable by such State or political subdivision if the facilities of such registered clearing agency or securities depository or any nominee thereof or custodian therefor were not physically located in the taxing State or political subdivision. No State or political subdivision thereof shall impose any tax on securities which are deposited in or retained by a registered clearing agency or securities depository or any nominee thereof or custodian therefor, unless such securities would otherwise be taxable by such State or political subdivision in the facilities of such registered clearing agency or securities depository or any nominee thereof or custodian therefor were not physically located in the taxing State or political subdivision."

SEC. 11. Section 6(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(c)) is amended by inserting before the period at the end thereof the following: ", except that no registered national securities exchange shall by constitution, bylaw, rule, or otherwise prohibit any of its members from participating in any clearing agency or securities depository registered under this title".

SEC. 12. Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) is amended by adding at the end thereof the following new subsection:

"(o) No registered national securities association shall by constitution, bylaw, rule or otherwise prohibit any of its members from participating in any clearing agency or securities depository registered under this title."

SEC. 13. This Act shall become effective on the date of its enactment, except that section 17A(a)(1) of the Securities Exchange Act of 1934 (as added by this Act) shall become effective on July 1, 1973.

And amend the title so as to read: "An Act to amend the Securities Exchange Act of 1934 to provide for the regulation of securities depositories, clearing agencies, and transfer agents, and for other purposes."

Mr. WILLIAMS. Mr. President, I move that the Senate disagree to the amendments of the House of Representatives and request a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

Mr. JAVITS. Mr. President, what is this all about? Again we are proceeding by number. Could the clerk be instructed to state the bill by title?

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3876) to amend the Securities and Exchange Act of 1934 to provide for the regulation of clearing agencies and transfer agents, to create a National Commission on Uniform Security Laws, and for other purposes.

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

The motion was agreed to; and the Presiding Officer appointed Mr. WILLIAMS, Mr. PROXMIRE, Mr. MONDALE, Mr. BENNETT, and Mr. TOWER conferees on the part of the Senate.

AMENDMENT OF TARIFF SCHEDULES REGARDING UPHOLSTERY

The Senate continued with the consideration of the bill (H.R. 640) 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.

Mr. JAVITS. Mr. President, I ask unanimous consent that Eugene Mittleman of my staff be permitted to be present in the Chamber during the consideration of this measure.

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

Mr. MANSFIELD. Mr. President, may I suggest that the distinguished Senator from Vermont explain his amendment now, while the manager of the bill is awaiting the arrival of staff members?

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, is there a limitation on time?

The PRESIDING OFFICER. There is a limitation on time.

Mr. LONG. I yield to the Senator from Vermont.

Mr. AIKEN. Mr. President, this amendment suspends the duty on istle fiber for another 3 years. This duty has been suspended for the last 15 years. I note that in a letter to the chairman of the Committee on Finance, the Commerce Department recommends that the suspension be made permanent, that it be taken off the dutiable list, since none of it is produced in the United States. There is no known domestic production of istle in the United States. Virtually all of it is imported from Mexico. The total value of the imports is about $3 million a year. The Commerce Department, the Treasury Department, and the State Department have reported favorably on this matter.

A bill has been approved by the Ways and Means Committee in the House, and it might be acted upon late today, but it probably will not get here in time to be acted upon by the Senate. That is why I am offering this as an amendment to the bill now before the Senate.

I know of no opposition to the amendment. In fact, everybody is in favor of it, but they have not gotten around to doing anything about it until now.

Mr. MANSFIELD. Mr. President, a time limitation was agreed to on this bill about a week ago. I ask unanimous consent that the order be vitiated.

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

Mr. PROXMIRE. Mr. President, will the Senator from Vermont yield?

Mr. AIKEN. I yield.

Mr. PROXMIRE. Is this the so-called istle amendment?

Mr. AIKEN. Istle fiber. The amendment has been approved unanimously by the House committee.

The PRESIDING OFFICER. The Chair advises the Senator that the committee amendment must be disposed of first.

Mr. MANSFIELD. Will the Chair repeat its statement?

The PRESIDING OFFICER. There is a committee amendment which must be disposed of before this amendment is in order.

Mr. LONG. Mr. President, I ask unanimous consent that the amendment might be considered and that we vote on the committee amendment subsequently.

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

Mr. AIKEN. There is no revenue loss in this amendment, because there has been no revenue from this since 1957.

Mr. PROXMIRE. Does the Senator say

that this amendment has the approval of the Treasury Department?

Mr. AIKEN. Yes, and the Customs Bureau. The Treasury Department has approved it, as have the Commerce Department and the State Department. I understand that the Commerce Department recommended in a letter to the chairman, the Senator from Lousiana, that this exemption be made permanent. Inasmuch as the House bill, which may or may not be passed some time before tomorrow morning, calls for a further 3-year suspension, I am offering this amendment so as to insure action by this Congress.

Mr. PROXMIRE. This proposal has been considered and approved by the Ways and Means Committee and the Finance Committee?

Mr. AIKEN. It has been unanimously approved by the House committee, I understand, and it is pending action by the House. Conceivably, there could be action on it before tomorrow morning, but that is taking a rather long chance.

Mr. LONG. It is my understanding that there are a number of bills on the House side that will not be considered; so that, while they have met with a favorable reaction in the House Ways and Means Committee, because of the situation that developed in the House, apparently it is the judgment of the chairman of that committee that he is not going to make the effort to move those bills in the House. So if this matter is to be acted on in this Congress, it would have to be acted in this fashion, I assume.

Mr. PROXMIRE. I thank the chairman. Does the chairman support this amendment?

Mr. LONG. I have no objection to it. The Senator from Vermont has been buttonholing me on the floor for the past month, saying that something must be done about this matter. I am aware of no objection to it.

Mr. PROXMIRE. I have no objection.

Mr. AIKEN. The General Counsel of the Treasury Department said there would be no additional administrative costs under the proposal and no loss of revenue.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

The amendment was agreed to.

IMMIGRATION AND NATIONALITY ACT

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 8273.

The PRESIDING OFFICER laid before the Senate H.R. 8273, to amend section 301 of the Immigration and Nationality Act, which was read twice by its title.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the bill.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the bill.

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

AMENDMENT OF TARIFF SCHEDULES REGARDING UPHOLSTERY

The Senate continued with the consideration of the bill (H.R. 640) 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.

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 2, line 9, strike all up to and including page 3, line 2 and insert in lieu thereof the following:

SEC. 3. Section 203(e) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new sentence: "Effective with respect to compensation for weeks of unemployment beginning before July 1, 1973, and beginning after the date of the enactment of this sentence (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a State "on" or "off" indicator beginning or ending any extended benefit period shall be made under this subsection as if paragraph (1) did not contain subparagraph (A) thereof, and as if paragraph (1) of section 203(b) did not contain subparagraph (B) thereof."

to permit the importation of upholstery regulators, upholsterer's regulating

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMINICK. If the committee amendment is adopted, is it then open to amendment?

The PRESIDING OFFICER. It is not.

Mr. DOMINICK. This is what I wondered about, because there are other amendments around, and I do not want the committee amendment adopted and then to be foreclosed from offering an amendment.

Mr. LONG. The Senator is not foreclosed. We have not acted on the committee amendments to the House-passed bill yet, and I was withholding that until our staff expert on trade arrives in the Chamber. He has been helping us with other measures. Meanwhile, it only takes unanimous consent, and I do not see any reason why anyone would object. We can go ahead and consider the amendment of the Senator from Washington.

Mr. DOMINICK. Mr. President, I ask unanimous consent that if we adopt the committee amendment, the bill as then amended will be open to amendment.

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

Mr. MAGNUSON. Mr. President, this is an amendment on behalf of myself, Senator RIBICOFF, Senator JAVITS, Senator HART, and several other Senators that we adopted last night and attached to the debt limit bill. That measure is in conference today, and I understand from the chairman of the Senate committee that they have not yet reached any agreement on the debt limit bill, let alone the amendments that we put in the bill, which is the unemployment amendment. This is the same language. Because we are faced with this situation, we are putting it on this bill, which will go to the House, and we hope they will accept it.

Mr. LONG. May I say to the Senator that there is a very distinct possibility that Congress will adjourn without an agreement on the debt limit bill. It is entirely possible that that matter will be left for the President to decide, as to what he wants to do about it, perhaps after the election. If that situation should materialize, then if the Senator needs action on this measure, the debt limit bill would not be an appropriate vehicle to bring about consideration of the amendment.

Furthermore, I am on notice that the House conferees may very well insist that it not be on the debt limit bill, that they are not going to take it in disagreement on that bill, but that they would be willing to consider it on some other revenue bill, such as this one, or a tax bill.

Mr. MAGNUSON. I want to have all entries in this race that I can get, because the technicalities of running Congress might be very vivid to some of us, but a fellow walking the streets, unemployed, does not understand the rule of germaneness. He is out of work, and he will go on welfare when he exhausts his unemployment benefits; and he is not going to understand anything about the technicalities of the rule of germaneness or conference committees. He knows only one thing. That is why we want to put it on every bill that comes over here that would go to the House, so that it will have some chance, because the House Ways and Means Committee has passed the bill and they favor it and there should be some way we can figure it out. The Senator from Louisiana, has been most helpful in trying to achieve this.

Mr. RIBICOFF. May I say that the distinguished chairman has been most sympathetic to this problem. It was brought up by me in the committee and had the active support of the chairman and I want to express my appreciation to him for his understanding of the problem that we in Connecticut, your State and mine, face.

Mr. MAGNUSON. I do, too. The whole committee passed on this same amendment and there was a strong majority for it.

Mr. JAVITS. Mr. President, the text of the amendment contained in the bill is not quite what the committee reported. The Senator from Washington has substituted in his amendment what is the last text which the Finance Committee dealt with, as I understand it.

Mr. MAGNUSON. That is right. I am informed that is correct.

Mr. JAVITS. Therefore, it should be understood, because there is a little confusion about the committee amendment. The committee amendment, notwithstanding its adoption, is open to amendment, as the Senator's amendment is a substitute for what is now written in the bill as the committee amendment.

Mr. MAGNUSON. That is correct.

Mr. JAVITS. I hope the Chair will make that clear. I want to join my colleagues in thanking the distinguished Senator from Louisiana (Mr. LONG). We

have deep problems here. This is not personal. But it is a problem deep and profound in our communities.

Mr. LONG. Mr. President, I am hopeful now that we can persuade the House to work this matter out, as the House in its conscience can do, and I am satisfied that they will do something to work this out. I would hope that they will agree to the amendment, but I fear it is not going anywhere on the debt limit bill, so we will have to put it on some other bill.

Mr. MAGNUSON. We all appreciate the wise advice of the Senator from Louisiana.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington (Mr. MAGNUSON).

The amendment was agreed to.

AMENDMENT NO. 1602

Mr. RIBICOFF. Mr. President, I call up my amendment No. 1602 and ask that it be stated.

The PRESIDING OFFICER (Mr. STEVENSON). The amendment will be stated.

The legislative clerk read as follows:

At the end of the bill, insert the following:

SEC. 4. The Tariff Schedules of the United States item 680.50 is amended by inserting after "pillow blocks", "except ball or roller bearing pillow blocks" and that the superior heading to this item be amended by inserting after "pillow blocks", "except ball or roller bearing pillow blocks":

SEC. 5. The superior heading to the Tariff Schedules of the United States items 680.33, 680.34, 680.35, and 680.36 is amended by inserting "and including such bearings whether or not assembled into pillow block, flange, take-up, cartridge, and hanger mounts or holders; all the foregoing" before "and parts thereof:"

SEC. 6. The Tariff Schedules of the United States items 680.35 and 680.36 respectively is redesignated items 680.37 and 680.38 and inserting after item 680.34 the following new items:

" 680.35	Bearings assembled into pillow block, flange, take-up, cartridge, and hanger mounts or holders, and parts thereof	9.5¢ ad val.	45% ad val.
680.38	If Canadian article and original motor vehicle equipment (see headnote 2, part 6B, schedule 6)	Free	

SEC. 7. The amendments made by sections 4, 5, and 6 of this Act shall apply as if made by the Tariff Schedules Technical Amendments Act of 1965; except that such amendments shall not apply with respect to any article entered, or withdrawn from warehouse, for consumption, on or before the sixtieth day after the date of the enactment of this Act.

Mr. RIBICOFF. Mr. President, this amendment simply clarifies a tariff schedule which was inadvertently left indefinite. In no way does it result in any modification of present duty rates. A similar amendment has passed the House and all the appropriate executive departments have indicated they have no objection to the change. This was discussed with Mr. Woodward and he understands it. It is exactly the same as the ones that passed the House. I hope that the chairman will be able to accept it.

Mr. LONG. Mr. President, I leave it to the Senate. I know of no objection to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 1602) of the Senator from Connecticut.

Mr. PROXMIRE. Mr. President, does this provision have any effect on tariff revenues?

Mr. RIBICOFF. Not a single penny. It does not change any rates whatever. It would allow a proper inventory to be taken as to how bearings are to be allocated in the different countries.

Mr. PROXMIRE. This has been approved by the Ways and Means Committee?

Mr. RIBICOFF. Yes. It has already passed the House.

Mr. PROXMIRE. I thank the Senator from Connecticut.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut (Mr. RIBICOFF), No. 1602.

The amendment was agreed to.

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At end of bill, insert the following new subsection:

"SEC. 3 (a) the superior heading to items 687.50, 687.51, 687.60, and 687.61 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended to read as follows:

"Electronic tubes (except X-ray tubes); photocells; semiconductors, including transistors and integrated circuits, and related electronic crystal components; mounted piezoelectric crystals; all the foregoing and parts thereof:".

(b) Part 5 of schedule 6 of the Tariff Schedules of the United States is amended by inserting immediately after item 687.51 the following new item.

" 687.55	Parts of semiconductors, in part of ceramics	15% ad val.	60% ad val. ."

(c) The amendments made by subsections (a) and (b) shall apply with respect to articles entered, or withdrawn from warehouse, on or after the date of the enactment of this Act.

Mr. DOMINICK. Mr. President, I wish to explain the amendment because it is somewhat complicated. This is an amendment which would have the effect of raising the tariff on imported ceramics from 7 cents up to 15 cents. That is what it amounts to. It would have the effect, if it is adopted, and I hope that it will be, of raising the cost of imported ceramic chips by about one and a half cents.

If I may, I should like the attention of my colleagues to explain why this seems advisable.

Mr. President, at the present time, in the ceramic business in the United States, there are companies, not only in my State but also in California, Indiana, New Jersey, Ohio, Pennsylvania, South Carolina, and Tennessee. In the past, before the Kennedy round, the import duty on imported ceramic chips was approximately 25 cents. After the Kennedy round it was reduced to 15 cents, which is what we are trying to put it back to. But in the process of trying to get more imported ceramics into the country, exporters were able to persuade the Customs Bureau, by adding glaze and one little gold dot on it, so that they changed the classification of exactly the same item, thereby putting it in a different classification, which lowered the duty to 6 cents—percent.

In 1970, domestic plants shipped about 500 million pieces of ceramic parts—and these are used for things called integrated circuits; namely, for putting electrical circuits on, valued at approximately $28 million. The average unit value of the parts is small, ranging from about 5.5 cents each.

In 1970, imports accounted for 7 percent of domestic production or a total value that is based, I might say, on a previous tariff basis. So that the industry itself, in this particular branch, is directly affected by the ability of the exporters, largely from Japan, to persuade the Customs Bureau, without any hearings, to change the classification and reduce the amount of the tariff from the amount set by the Kennedy round, to about 6 percent—15 percent to 6 percent, or over 50 percent.

As I said, they did this by adding on a small glaze and one spot which, frankly, made no difference in the value of what the ceramic chip was supposed to be for; nevertheless, as I said, they did persuade them.

This is a reduction, so far as the imported articles are concerned, equal to 21 percent of the value of the packaging material. Meanwhile, as I said, we had had a reduction in the Kennedy round, which is what I am trying to get back to; and if this amendment is adopted it would put it back to the 50 cents. When this would be applied to the free on board origin value of 3½ cents for the ceramic packaging material, the increase in duty—I made a mistake before—in the amount of three-tenths of 1 cent, which is pretty small, so that the land cost, of course, of the foreign product would then be about 4.1 cents each.

Leaving the foreign product, which is mostly Japanese, still with a significant competitive advantage of nearly 1 and a half cents over the domestic products, even with this amendment. There is not much basis for regarding this moderate increase in duty as imposing any hardship on U.S. producers of semiconductor products over producers who would import ceramic products, who pioneered in this technological development.

So as I said, at best or at most, my amendment would restore less than half of the tariff protection which the domestic producers of ceramic packages enjoyed in 1968, but lost subsequent thereto as a result of the action of the Bureau of Customs' ruling.

I have to say in all justification that I do not believe that the Finance Committee, as such, considered this in any depth. A bill for the same purpose was put in the House. Chairman MILLS asked that the form of it be revised. A new bill was put in, but there was no further action in

the House, because all the bills had left the House.

So at this point the amendment I am introducing is in the form which the chairman of the Ways and Means Committee had requested be inserted before. The Treasury Department has felt that this would have something to do with the GATT agreement. It does not. I want to assure my colleagues of that.

It simply overrules what we consider to be an extremely arbitrary and unnecessary ruling by the Bureau of Customs. It still leaves foreign products at a cost which is less than that offered by the domestic producers, so I would ask the chairman whether he would be able to accept this amendment and take it on to conference, to determine whether or not he could help me along this line.

Mr. JAVITS. Would the Senator answer a question?

Mr. DOMINICK. I would be happy to try to.

Mr. JAVITS. As I understand, the Senator is not changing the rate of duty. He is changing a finding by the customs authorities as to what classification this comes under. Is that correct?

Mr. DOMINICK. That is the net effect, although the amendment itself, as written, simply says a 15-percent ad valorem tax.

Mr. JAVITS. But it redefines the item.

Mr. DOMINICK. That is right.

Mr. JAVITS. Do we have any comment from the Treasury, in lieu of a hearing, which has obviously not been held, as to what that means to the GATT Agreements and the Kennedy round in our relations with Japan, which is a big trader with the United States? I have seen very little items cause big trouble far beyond the value of the items themselves.

It seems to me in this kind of a last gasp of Congress, we had better know very clearly about this one before we act. I am very solicitous about trade matters, as the Senator knows.

Mr. DOMINICK. Yes, I would say to the Senator that we have a letter from the General Counsel of the Treasury to the chairman, in which they say that the domestc producers of semiconductors have failed to present any decisive evidence resulting in damage from imports. Since they are going from a net of 27 cents down to 6 cents, we can see this is going to be pretty dramatic.

They also say, and they have said, that this would require compensation to GATT. This is simply not a fact. They are confusing what we are doing here with what they thought we were going to do, which is to put it back to where it was originally.

We are not doing that. We are leaving it in the area where it was after GATT and the Kennedy round had placed it at 15 cents.

Mr. JAVITS. Is this quite accurate, in view of the fact that the Senator is redefining the item? It is not really putting it back to GATT. He is redefining the item, which under the GATT agreement was at a lower rate, rather than the 15-cent rate, in order to bring it within the 15-cent rate.

Mr. DOMINICK. That is also accurate; but what we are doing, if this were adopted, is overruling what the Customs Bureau has done in determining what the classification was and the classification of what the item was was changed arbitrarily, simply because they added a glass frit and a gold dot to it.

Mr. JAVITS. With all due respect to my colleague, I think it is hardly within the spirit of the amendments that the chairman thought could be put on this tariff bill vehicle at this time.

The Senator differs with the Customs people. He differs with the diplomatic judgment or the legal judgment on the implications to the GATT agreements. Neither committee had a hearing on it.

It seems to me that it hardly qualifies as one of those things which is pretty unanimous, as the chairman said he can take whatever, generally speaking, is unanimous on the bill.

I would love to oblige my colleague, but it seems to me that we are venturing very much in a highly controverted area, without even the Government department concerned in agreement.

I would hope very much that the Senator does not feel he wants to press this amendment now, because as I say, the spirit of the chairman's offer to the Senate was that he would take things that were generally agreed to.

Personally, I do not see how I can possibly agree to this one.

Mr. PROXMIRE. Would the Senator yield?

Mr. DOMINICK. I would be happy to.

Mr. PROXMIRE. I find myself in sympathy with the Senator from New York. This is a policy which, it is true, involves a small amount for each item, but the total effect would be very considerable. As I understand, the percentage of increase in duty would be—did the Senator say 21 percent?

Mr. DOMINICK. It would go from 6 to 15, where it was, until the classification was changed by the Bureau of Customs.

Mr. PROXMIRE. I did not mean to ask the question that way. Would the change in duty change the price of the imported item by about 20 percent?

Mr. DOMINICK. No. It would change it by one-third of 1 percent per unit.

Mr. PROXMIRE. I did not say how much per unit. The unit cost is very low. One-third of 1 percent could be a considerable percentage change. This is a very big industry, the ceramic industry, and it could have a decisive effect.

Mr. DOMINICK. I am looking for that exact figure, because I remember something about a percentage. If the Senator will give me just a minute, I will find it for him.

I do not have it now.

What I am saying is that in following the Kennedy round agreements, it was reduced from 25 to 15 cents and then in 1970 the Customs Bureau changed the classification without any change in the economic desirability of the product and dropped it down, by so doing, from 15 to 6.

This could raise it up so that the cost, although it would be 4.1 cents, instead of 3.5, is still going to be below the 5.5 of the domestic manufacturers.

Mr. PROXMIRE. But as I understand, this is opposed, as the Senator from New York brought out, by the customs people and by the Treasury Department.

Mr. DOMINICK. I am sure it is opposed by the customs people, because they are the ones that made that idiotic classification to start with.

Mr. PROXMIRE. They are backed up by the Treasury Department.

Mr. DOMINICK. The Treasury Department is also confused with GATT, as I have tried to explain, but nobody has gotten into it deep enough to look into it.

The Treasury Department said they object to it. I agree, there is no doubt they said they object to it.

All I am saying is that we do not have to be bound by that.

We are trying to do something for our own people in our own country, trying to do it on a reasonable basis, where we still leave the imported article cheaper than our own and not run our people out of business.

Mr. PROXMIRE. Has the Ways and Means Committee and the Finance Committee acted on this amendment?

Mr. DOMINICK. No, they have not. They sent the bills over before there was a chance to get any action on this amendment; but the chairman did not like the form of the original amendment and asked that it be redrafted.

I will not commit him in any way, but the indications were that under the new form they did not think it was harmful.

Mr. PROXMIRE. Have hearings been held?

Mr. DOMINICK. No.

Mr. PROXMIRE. Mr. President, I must say I have great respect for the Senator from Colorado. I think his explanation is very clear. I understand the amendment. I must oppose it. I wholeheartedly agree with the Senator from New York. It could be a change in our customs system. It could have an adverse effect on our relationship with Japan. It is opposed by our experts in the administration. They may be wrong and the Senator from Colorado may be right, but there are no hearings to determine that. We have no recommendation from any legislative committee; we have the word of the Senator from Colorado, which is a word we have to respect. He has excellent judgment in this area and he is a very intelligent Senator. But I must oppose the amendment.

Mr. DOMINICK. I can understand their looking at this amendment with some concern. Some think that I am trying to put something over, but I am not. The Committee on Finance has been very busy, and they have not had a chance to hold hearings on this. The Ways and Means Committee went through their bills and sent them over here before they did anything over there.

What I am saying is here we are trying to do something for 10 domestic manufacturers. That is all we have in the country doing anything with ceramics. All of a sudden everybody gets excited over what we are going to do with Japan. I do not understand why we worry about them when we have our 10 manufacurers here to worry about, and the work they do, and the people they employ.

So I hope the chairman will at least take this to conference to see how the other side feels about it.

Mr. JAVITS. Mr. President, with all due respect to the Senator from Colorado he makes it very difficult. He tells us that some feel he is trying to put something over. I reject that. I have the highest respect for the Senator from Colorado and for his character. I know he believes sincerely every word he utters. That is why we have yea and nay votes and that is why some vote for a proposal and some vote against the proposal. Any time a Member opposes something, if we were to put it on a personal level we could hardly ever do business; it would make it difficult and embarrassing.

I respectfully submit that it is very hard to argue the whole tariff question, which involves domestic manufacturers, their products, our position in international trade, GATT, classifications, and 1,000 other things.

We will have quite a session on that subject next year, but I think at this particular time, when the ground rules which I think were fairly laid down by the Senator from Louisiana were the only things he could see taking were those generally agreed on, I could not agree.

If the Senator presses us we will have to use whatever machinery there is to bring about a decision by the Senate. No one wants to prejudice his case, least of all the Senator from Wisconsin or me. I hope very much the Senator understands that and that we love him dearly. There is nothing personal about it, but in all conscience we cannot move in this area under these circumstances. At some time a session has to end and another session begin. If we end on December 31 and begin a new session the next day, it would clean the calendar of all legislation, including this matter. We are dealing with the facts of life. I hope the Senator will not press us. But I could not sit here and honestly let this amendment pass and be placed on this bill.

Mr. DOMINICK. Mr. President, I appreciate the sentiments of the Senator from New York. I understand his concern. I know the great job he has done and I know of his interest in international trade. I might say I have a good deal of interest myself. But I really cannot understand what the concern is in this particular instance. Here we are dealing with something that is relatively simple—it is a relatively simple-type amendment. It is not going to cost the Treasury anything. It will make money for the Treasury; it will not cost jobs. It will make sure we continue to have jobs in these industries. It is not going to materially hurt Japanese industry, which was growing rapidly at the 25-percent rate.

All I am asking is to bring it up to the level that was set by the GATT Treaty under the Kennedy round.

For the life of me I do not understand the opposition. I would, however, accept the position of the Senator from New York, and under those circumstances if we can be relatively sure that we will get a good hearing on this in the coming year I am happy to withdraw it but I need assurance along these lines so that we can move on it early next year.

Mr. LONG. Mr. President, I would be happy to look into this matter next year and seek the cooperation of the Senator. I believe that it would be best to withhold at this time and I would be happy to help him get the matter considered.

Mr. DOMINICK. I thank the Senator from Louisiana. He worked with us very well and I know his staff did not feel there was anything wrong with this. I think the bugaboo was created by the Treasury Department. As far as I am concerned I hope they get a new lawyer. I thank the Senator.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. STEVENSON). The Chair, on behalf of the Vice President, appoints the Senator from Minnesota (Mr. HUMPHREY) as an adviser to the 17th General Conference of the United Nations Educational, Scientific and Cultural Organization—UNESCO—Paris, France, October 17–November 18, 1972, in lieu of the Senator from Louisiana (Mrs. EDWARDS).

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 2318) to amend the Longshoremen's and Harbor Workers' Compensation Act, and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

AMENDMENT OF TARIFF SCHEDULES REGARDING UPHOLSTERY

The Senate continued with the consideration of the bill (H.R. 640) 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.

Mr. WILLIAMS. Mr. President, I have an amendment at the desk, No. 1628, and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

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

The amendment, ordered to be printed in the RECORD, is as follows:

On page —, line —, insert the following:

That (a) item 168.15 of the Tariff Schedules of the United States is amended by striking out "94¢ per gal." in rate column numbered 1 and inserting in lieu thereof "Free".

(b) The rate of duty in rate column numbered 1 of item 168.15 of the Tariff Schedules of the United States (as amended by subsection (a)) shall be treated as not having the status of a statutory provision enacted by the Congress, but as having been proclaimed by the President as being required or appropriate to carry out foreign trade agreements to which the United States is a party.

(c) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after January 1, 1972.

Mr. WILLIAMS. Mr. President, this amendment could be described very simply. It is not an amendment of great significance. It deals with a product called bitters. This amendment would remove the duty on bitters not fit for use as beverages.

Mr. President, the reason is that there is no competition basically for this product. The revenue loss in minimal. While the revenue loss is minimal, it is a charge that is of considerable significance to the angostura bitters people. It has been discussed with the committee and I urge that the amendment be accepted.

Mr. JAVITS. Mr. President, applying the same rules to this as we are applying generally, what does the Treasury say?

Mr. WILLIAMS. The Tariff Commission says that the loss of money is minimal. It is not a matter of any great loss of revenue. The duty is 94 cents a gallon. The imports over the past 5 years have been varying around 100,000 gallons a year. The revenue would also be in the neighborhood of $100,000.

Mr. JAVITS. I do not think that worries me. What is the trade effect? Does the Treasury approve this amendment?

Mr. WILLIAMS. The statement from the Tariff Commission is:

The degree of comparability among various brands of bitters is difficult to judge, but public preference in the United States almost exclusively favors Angostura bitters, a small amount of which is considered by many to be an essential ingredient in a number of traditional mixed drinks.

Inquiries made of known U.S. producers in the past indicate U.S. production to be minor. The duty is not an important trade factor because of the specialty character of bitters and the fact that they are used in extremely small amounts in relation to other ingredients.

This is from the U.S. Tariff Commission.

Mr. JAVITS. Mr. President, I would like to ask the Senator, within the general spirit of these trade matters—these can be two-edged swords and can favor special interests, and I have not the remotest notion what it does—would the Senator at least withhold his amendment until the trade expert, who is not available now, can be here, so we can get some of the implications of it?

Mr. WILLIAMS. This represents the only interest here. This is not choosing between interests. There is basically one importer affected.

Mr. JAVITS. Why does this importer seek this trade concession? Just to save $100,000?

Mr. WILLIAMS. They think it is significant to them. I am not going to describe any great hardship on the company, but it is described as an important factor in their economic life.

Mr. JAVITS. Does this have any relation whatever to the trade policy of the United States, and if so, what, and has anybody passed on that?

Mr. WILLIAMS. The Tariff Commission says it is de minimis, de minimis—unimportant from any standpoint.

Mr. JAVITS. That is as to money. What about the important question of trade policy?

Mr. WILLIAMS. I do not think they view lowering the trade barrier on this item as having a great effect. I gather they did not generalize on whether this would put the pressure on having other barriers lowered. They did not generalize. They said in this case it is of very small importance.

Mr. JAVITS. Is there domestic competition?

Mr. WILLIAMS. The Tariff Commission says their investigation tells them "No."

Mr. JAVITS. Senator WILLIAMS, it is very difficult for me, and I have been put in a difficult position. It was understood the only matters which would be considered would be those which are generally agreed on. No Senator wishes to be unkind or ungracious to a brother. I am the ranking Republican member of this committee. I would be the last one to want to do that. Yet it seems difficult for us to venture blindly in a matter of trade without some concept of what we are doing except the general statement of the Commission that, well, it is not going to cost us much money in that period.

Could not the Senator, in all fairness, just withhold that for a month or two, until the committee can take a look at it?

Mr. WILLIAMS. As I understand it, the committee staff members have thoroughly examined this.

Mr. LONG. Mr. President, if the Senator will yield, we have an unfortunate situation at the moment. We have one of the chiefs of our Finance Committee staff who is well versed in trade, but who, unfortunately, had to have an operation for a ruptured disc in his back. He is in severe pain and confined to his home. We have a very able man in this Capitol Building, whom we are trying to find, who is undoubtedly familiar with this matter, but he is not immediately available to us.

I would hope the Senator would withhold his amendment until we perhaps could obtain some advice that would support his case. Under the circumstances, it would be best if the Senator from New Jersey would withhold his amendment until we can obtain information that perhaps would support his case.

Mr. WILLIAMS. May I ask a key question? This is about 90 percent of the whole bitters business in the country. It is composed of Angostura bitters. What other question is there? Ninety-four percent of the business with bitters happens to be by Angostura Wuppermann Corp.

Mr. LONG. I am sure the Senator would want to know what the Treasury's point of view is. The Senator has stated the view of the Tariff Commission. We would like to obtain, if we can, the view of the Treasury.

Mr. WILLIAMS. The Tariff Commission says $100,000 is involved. That is the amount of money that would be lost.

Mr. JAVITS. Why should the United States give up $100,000? To increase their profits?

Mr. WILLIAMS. Or lower prices to consumers.

Mr. JAVITS. Will they?

Mr. WILLIAMS. I always thought that if we took a duty off to give the consumer a break, that was a part of our policy. Perhaps I am wrong.

Mr. JAVITS. Does the Senator represent to us that this action will result in a price reduction of Angostura bitters?

Mr. WILLIAMS. I cannot say, but I would say they would be in a better position to reduce their prices than if they are paying this $100,000 tariff.

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

Mr. WILLIAMS. I yield.

Mr. PROXMIRE. I would agree that inflation has plagued all of us, but of all the consumers in this country for whom I have a concern, the least would be the people who consume Angostura bitters. Where do you put Angostura bitters? You do not put them inside milk. You do not put them on a cereal. You do not put them on bread or in staples. You use them when you drink booze. If you want to drink booze, that is great, but I do not see why the Treasury should lose $100,000 so people can use those bitters more cheaper for that purpose.

Mr. WILLIAMS. I happen to serve on the committee which deals with alcoholism, and I am not advocating booze drinking, but I will mention that bitters are also useful in other recipes that have nothing to do with alcohol.

Mr. PROXMIRE. That may well be. My experience is rather limited in this field. The only time I remember that bitters are used is when one puts it in an Old Fashioned, for example.

Mr. WILLIAMS. I am sure the Senator will find, on more careful examination that bitters are used in other recipes that have nothing to do with booze. I am glad the Senator mentioned booze. It happens to be a name of fame from the State of New Jersey, as a matter of fact.

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

Mr. LONG. Mr. President, may I suggest that the Senator from New Jersey withhold his amendment at this time?

The PRESIDING OFFICER. The Senator from New York has suggested the absence of a quorum. Does the Senator from New York withdraw that request?

Mr. JAVITS. I withdraw it.

Mr. LONG. Mr. President, may I ask that the Senator from New Jersey withhold his amendment? I am not going to support it at the present time, but perhaps if he withheld it, we might be able to get some information available, which I could have made available to him.

Mr. WILLIAMS. If I knew what the information was, I could help in finding that information.

Mr. LONG. The best information would be if the Senator could tell me where Robert Best is at the present time, but, for lack of that, I would like to suggest that we move on to something on which we have good information.

Mr. WILLIAMS. Fair enough.

Mr. LONG. For example, we would like to go back to discussing this other tax measure.

So, Mr. President, I ask unanimous consent that the amendment be temporarily laid aside so we may return to the tax bill.

Mr. WILLIAMS. Whatever is necessary. I ask to withhold that amendment at this time.

Mr. HARTKE. Mr. President, may I take up a noncontroversial item? It will not take very much time.

Mr. LONG. Is the Senator sure it is noncontroversial?

Mr. HARTKE. Yes.

Mr. LONG. Then, Mr. President, I ask unanimous consent that we may return to the tariff bill so that the Senator from Indiana may offer an amendment.

Mr. HARTKE. Mr. President, I send an amendment to the desk and ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 2, at the end of line 3, insert the following new sections:

SEC. 2. Section 5205(h) of the Internal Revenue Code of 1954 (relating to form of stamps for containers of distilled spirits) is amended by striking out "or other form of stamp" and inserting in lieu thereof "other form of stamp, or other device".

SEC. 3. Section 6801(b) of the Internal Revenue Code of 1954 (relating to authority for establishment, alteration, and distribution of stamps) is amended by striking out the period at the end thereof and inserting in lieu thereof "; except that stamps required by or prescribed pursuant to the provisions of section 5205 or section 5235 may be prepared and distributed by persons authorized by the Secretary or his delegate, under such controls for the protection of the revenue as shall be deemed necessary."

Mr. HARTKE. Mr. President, this amendment deals, again, with distilled spirits.

In support of the amendment, I ask unanimous consent to put in the RECORD at this time a letter from the Secretary of the Treasury with which they sent a draft bill to accomplish the very purpose this amendment would accomplish, that is, to provide that the tax on distilled spirits would not necessarily require the affixing of a paper tax stamp. Because of technological improvements, which consist largely of metal and aluminum stampings, there exists an improved method of placing the stamp on distilled spirits.

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

THE SECRETARY OF THE TREASURY,
Washington, D.C. July 13, 1972.

HON. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill which would amend the Internal Revenue Code of 1954 to permit the authorization of means other than stamps to evidence tax payment of containers of distilled spirits.

Under existing law, the evidence of tax payment required to be placed on containers of distilled spirts is restricted to a stamp. Technological advances in the closure industry indicate that other methods of evidencing tax payment may prove satisfactory in the future. The proposed amendments to existing statutes will provide the necessary flexibility to accommodate such other methods.

A detailed analysis and comparative print are also enclosed for your consideration.

It will be appreciated if you would lay the proposed legislation before the Senate. A sim-

ilar proposal has been transmitted to the House of Representatives.

Sincerely,

GEORGE P. SHULTZ.

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

Mr. HARTKE. I yield.

Mr. PROXMIRE. It was my understanding that this bill would be more or less reserved for tariff amendments. I would take that to be a tax matter, suitable for inclusion on a tax bill later.

Mr. LONG. I was under the impression that the Senator wanted to offer a straight tariff amendment.

Mr. HARTKE. I will be glad to withdraw the amendment, if that is the case.

Mr. President, I withdraw the amendment.

Mr. LONG. Then, Mr. President, I ask unanimous consent that the tariff bill be temporarily laid aside, and that the Senate proceed to the consideration of H.R. 7577.

AMENDMENT OF THE INTERNAL REVENUE CODE OF 1954

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

The legislative clerk read as follows:

A bill (H.R. 7577) to amend section 3306 of the Internal Revenue Code of 1954.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance with amendments.

Mr. LONG. Mr. President, this bill is a noncontroversial measure that was passed, so far as I know unanimously, by the House of Representatives on November 17, 1971.

It would provide that the exclusion from the definition of the term "employment" under the Federal Unemployment Tax Act of services of insurance agents and solicitors who are compensated on a commission basis will be applied on a calendar quarter rather than an annual basis or individual pay period basis.

The committee found no reason to object to the House-passed bill, or any part of it. The committee did choose to recommend amendments to the measure. The first amendment relates to withholding for purposes of income taxes imposed by certain cities on the compensation of Federal employees. Present law provides that where the State laws require the withholding by the employer of a tax from the compensation of employees, the Federal Government, when certain conditions are met is, upon request, to enter into an agreement to withhold the State tax from compensation paid Federal employees who are employed in the State. This provision amends the statute to provide also for the withholding of city taxes by the Federal Government under certain conditions with respect to its employees who are employed in a city with such a tax if the city has a population of 60,000 or more.

This was a problem that was raised by the Senator from Ohio (Mr. TAFT) in connection with other legislation, and as the manager of the bill, at that time I assured him we would seek to see that the Senate had a chance to consider it and act on it on some appropriate measure, and the committee is now seeking to fulfill the commitment I made on that occasion.

The second amendment, Mr. President, relates to a general tax problem involving the tax on automobiles in the State of West Virginia. That matter has been dealt with by the Senate on another bill, but I see no harm in including it in this one, just as we have already passed the unemployment insurance bill on more than one matter, so that it might have a better chance to be considered on whatever measure might be agreed to by the House conferees.

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

Mr. LONG. I yield to the distinguished Senator from Utah.

Mr. BENNETT. Mr. President, if this is a bill on which a number of amendments can be offered, I would like to send an amendment to the desk and ask for its immediate consideration.

Mr. LONG. First, Mr. President, I ask unanimous consent that the committee amendments I have described be agreed to en bloc, and that the bill as thus amended be considered as original text for the purpose of further amendment.

Mr. PROXMIRE. Mr. President, before we agree to those amendments, could I ask the chairman of the committee, have the amendments been approved by the Treasury Department?

Mr. LONG. Yes.

Mr. PROXMIRE. What is their effect on revenue?

Mr. LONG. It is very slight. The only effect would be with regard—in just a moment, I think I can give both citations. Let me read from the committee report:

The committee estimates that the provision of the bill dealing with the Federal unemployment tax in case of insurance agents remunerated solely by commissions will have an inconsequential effect on Federal unemployment tax revenue. The provision of the bill dealing with the withholding of city income tax on Federal employees will have no effect on the revenues. The provision of the bill dealing with the deductibility of a portion of a State tax on motor vehicles where the general sales tax rate is less is estimated to result in a decrease in 1972 Federal individual income tax liability of about $1.5 million.

Of course, that has been agreed to on a previous bill that we have passed, that involves people who buy automobiles in the State of West Virginia and in the State of Vermont, where those taxpayers are subject to discrimination against them for the reason that the State tax on their automobiles exceeds the general sales tax in those States, and they, at this moment, are being discriminated against.

The bill in that respect would simply say that they can receive the same consideration that all other taxpayers receive where the tax on automobiles in the State does not exceed the general sales tax in the State.

Mr. PROXMIRE. The reason I raise this point is to save the Senate's time and, since the chairman is so busy right now, to save some of his time. I have decided I am going to object, and fight and oppose as long as I can, any amendments called up on the floor that have not had hearings, and we have not had a report, where we can determine there is going to be a revenue loss

In this case, we have passed this before already. It does cost $1.5 million, but under the circumstances I would not oppose that, because it has been acted on in an orderly way.

But on the new amendments, I am serving notice that from now on, as long as I can be here, I am going to object to every proposal that will cost the Treasury money as long as it has not been considered in an orderly way.

Mr. LONG. I hope the Senator will let Senators explain their proposals and, if he is convinced beyond any doubt that it is a good proposal he would give it the same consideration as other measures. If he has any doubts about it, he would be acting properly in objecting.

Mr. PROXMIRE. I must say that the Senator was very hopeful in providing 13 amendments with an analysis of what they would do. I have had a chance to go over them, have discussed them with some research people, and am opposing each of those amendments that would cost the Treasury money. There are one or two that do not, to which I have no objection.

Mr. BENNETT. Mr. President, will the Chair have my amendment reported?

The PRESIDING OFFICER. First, is there objection to the request of the Senator from Louisiana that the committee amendments be agreed to en bloc, and that the bill as thus amended be considered as original text for the purpose of further amendment?

Without objection, the committee amendments are agreed to and the bill as thus amended will be treated as original text.

The amendments I agree to en bloc are as follows:

SEC. 2. Section 5517 of title 5 of the United States Code is amended—

(1) by inserting "or city" after "State" each place it appears in subsections (a) and (b), and

(2) by inserting before the period at the end of subsection (c) the following: ", and 'city' means only a city which is incorporated under the law of a State and which had a population (according to the last decennial census before the request under subsection (a)) of sixty thousand or more individuals".

(b) The heading for such section 5517 is amended to read as follows:

"§ 5517. Withholding State and city income taxes."

(c) The analysis for subchapter II of chapter 55 of title 5 of the United States Code is amended by striking out the item relating to section 5517 and inserting in lieu thereof the following:

"5517. Withholding State and city income taxes."

(d) The amendments made by this section shall apply only in respect of agreements entered into after the date of the enactment of this Act.

SEC. 3. (a) Section 164(b)(2) of the Internal Revenue Code of 1954 (relating to general sales taxes) is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR MOTOR VEHICLES.—In the case of motor vehicles, if the rate of tax exceeds the general rate, such excess

shall be disregarded and the general rate shall be treated as the rate of tax."

(b) The amendment made by subsection (a) shall apply to taxable years ending on or after January 1, 1971.

The PRESIDING OFFICER. The amendment of the Senator from Utah will be stated.

The legislative clerk proceeded to read the amendment.

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

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

Mr. BENNETT's amendment (No. 1620) is as follows:

At the end of the bill add a new section:

SEC. —. Section 6601 of the Internal Revenue Code of 1954 shall not apply to a taxpayer who was required to deduct and withhold tax under chapter 24 of such Code for the period beginning July 1, 1966, and ending June 30, 1968, and who was a chief officer (other than a layman) of an organization described in section 501(c)(3) during that period. The preceding sentence shall be effective with respect to interest attributable to taxes required to be deducted and withheld under chapter 24 of such Code for the period beginning July 1, 1966, and ending June 30, 1968, if the Commissioner of Internal Revenue or his agent has determined not later than August 16, 1972, that the failure to deposit such taxes was due to reasonable cause and not due to willful neglect, in accordance with sections 6651(a) and 6656(a) of such Code.

Mr. BENNETT. Mr. President, I am submitting this amendment at the request of the two Senators from Michigan. The story behind the amendment is very simple.

In 1966 the archdiocese of the city of Detroit sponsored an OEO program, and apparently the heads of that religious organization did not realize that they were in fact the employers of the men who worked in this program, and they did not withhold taxes against their wages, as required by law.

This resulted, when the Department discovered it, in a substantial tax bill that was presented to the archdiocese—something over $100,000—and they have paid it. But because they did not discover it for 2 years, they developed an interest obligation.

The purpose of this amendment is to free the archdiocese from the responsibility of paying the interest on the tax that accrued before they realized what they had gotten themselves into. The amount involved is $50,000, and at the request of the Senator from Michigan I am offering this amendment, which would in effect relieve the archidiocese of the interest due under this responsibility; and I ask the chairman if he will accept the amendment.

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

Mr. LONG. Is it the archbishop or the cardinal who finds himself in this position?

Mr. HART. I am sure it is not an assistant pastor. It is probably the cardinal.

I would hope very much that the equities of this plea persuade the Senator from Wisconsin to give it a good look.

Mr. PROXMIRE. I have had this matter explained. I understand that this would be a one-time loss only, not annual; No. 2, that it involves approximately $50,000; No. 3, that it affects OEO workers and was not an error on their part, but it is something that does provide for equity. Under the circumstances, I have no objection.

Mr. HART. I am very grateful. May I say that $300,000 is the principal sum.

Mr. BENNETT. I did not have that figure before me.

Mr. President, I ask for a vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

TOXIC SUBSTANCES CONTROL ACT OF 1972

Mr. MOSS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1478.

The PRESIDING OFFICER (Mr. STEVENSON) laid before the Senate the amendments of the House of Representatives to the bill (S. 1478) to regulate interstate commerce by requiring premarket testing of new chemical substances and to provide for screening of the results of such testing prior to commercial production, to require testing of certain existing chemical substances, to authorize the regulation of the use and distribution of chemical substances, and for other purposes, which were to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Toxic Substances Control Act of 1972".

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DECLARATION OF POLICY

SEC. 2 (a) The Congress finds that—

(1) man and the environment are being exposed to a large number of chemical substances each year;

(2) among the many chemical substances constantly being developed and produced are some which may pose an unreasonable risk to health or the environment; and

(3) the effective regulation of interstate commerce in such chemical substances necessitates the regulation of transactions in such chemical substances in intrastate commerce as well.

(b) It is the policy of the United States that—

(1) hazardous and potentially hazardous chemical substances should be adequately tested with respect to their safety to health and the environment and that such testing should be the responsibility of those who manufacture, import, or process such chemicals;

(2) adequate authority should exist to regulate the distribution and use of chemical substances found to pose an unreasonable risk to health or the environment, and to take action with respect to chemical substances which are imminent hazards;

(3) authority over chemical substances should be exercised in such a manner as not to unduly impede technological innovation while fulfilling the primary purpose of this Act to assure that such innovation and commerce in such chemical substances do not pose an unreasonable risk to health or the environment; and

(4) as set forth herein, citizens should be encouraged to participate in carrying out the purposes of this Act.

DEFINITIONS

SEC. 3. As used in this Act the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "chemical substance" means any organic or inorganic substance of a particular molecular identity, or any uncombined chemical radical or element;

(3) "environment" includes water, air, land, all living things therein, and the interrelationships which exist among these;

(4) "byproduct" means a chemical substance produced as a result of the manufacture, processing, use, or disposal of some other chemical substance;

(5) "importer" means any person who (A) imports a chemical substance for sale or distribution in commerce for commercial purpose, or (B) reimports a chemical substance, which was manufactured or processed in whole or in part in the United States for sale or distribution in commerce for commercial purpose;

(6) "manufacturer" means any person who manufactures a chemical substance;

(7) "processor" means any person engaged in the preparation of a chemical substance for distribution or use either in the form in which it is received or as part of another product, as defined by rule by the Administrator;

(8) "manufacture" means to produce or manufacture;

(9) "test protocol" means—

(A) a test designed to determine the effect of a chemical substance (or class of chemical substances) on health or the environment, including a test designed to determine the effect of the manufacture, processing, distribution, use, or disposal of such substance (or class of substance) on health or the environment,

(B) the procedures to be used in making such test, and

(C) the results to be achieved from such test which the Administrator determines are necessary to show that such chemical substance (or class of substances) does not pose an unreasonable risk to health or the environment;

(10) "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, or the Trust Territories of the Pacific Islands;

(11) "to distribute in commerce" and

"distribution in commerce" means to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce;

(12) "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation between a place in a State and any place outside thereof; and

(13) "United States" when used in the geographic sense, means all of the States (as defined in paragraph (10)).

TEST PROTOCOLS

SEC. 4. (a) If the Administrator finds that testing of a chemical substance (or class of chemical substances) in accordance with a test protocol for such substance (or class of substances) is necessary to protect against unreasonable risk to health or the environment, he may, by rule, (1) prescribe a test protocol for such substance or class of substances, and (2) require, in accordance with subsection (d), that one or more persons perform the test called for in such protocol.

(b) In making the finding required under subsection (a), the Administrator shall consider all relevant factors, including—

(1) the effects of the chemical substance on health and the magnitude of human exposure;

(2) the effects of the chemical substance on the environment and the magnitude of environmental exposure;

(3) any benefit of the chemical substance and the availability of less hazardous substances for any use of such substance;

(4) the extent to which the test protocol is reasonably predictive of the potential adverse effects of the chemical substance on health or the environment; and

(5) any data concerning the safety of the chemical substance which may affect the requirements of the test protocol.

(c) Such test protocols may include tests for carcinogenesis, teratogenesis, mutagenesis, persistence, the cumulative and synergistic properties of the substance (or class of substances) and epidemiological studies of the effect of such substance (or class, of substances).

(d) A rule under this section may require that any person who is a manufacturer, processor, or importer of the chemical substance (or class of substances) perform the test called for in the test protocol. In the case of a test protocol for a chemical substance (or class of substances) for which there is more than one manufacturer, processor or importer, the Administrator may, in appropriate cases, permit the manufacturer, importers or processors who are required to perform the tests called for in a test protocol to designate one or more of their number, or, to designate a qualified independent third party, to perform the required tests and permit the sharing of costs of such tests. If the manufacturers, importers or processors required to perform the tests are not able to agree upon a designee within a reasonable time, or if the agreed-upon designee is not acceptable to the Administrator, the Administrator may designate one or more of such manufacturers, processors or importers, or may designate a qualified independent third party, to perform the required test, and may require such manufacturers, processors or importers to contribute to the costs of such tests.

(e) After allowing a reasonable time for completion of the required tests, the Administrator may direct any manufacturer, processor, or importer who is required to perform the tests called for in a test protocol under this section to transmit to the Administrator the test data developed pursuant to such test protocol.

(f) Subject to section 15 (relating to the confidentiality of certain information), upon receipt of test data under subsection (e) the Administrator shall promptly publish in the Federal Register, notice which identifies the chemical substance for which test data have been received; lists the uses or intended uses of such substance (or class of substances); and, describes the nature of the tests performed and the data which were developed. Such data shall be made available, consistent with the terms of section 15, for examination by interested persons. Notice under this subsection shall identify the chemical substance by generic class unless the Administrator determines that more specific identification is required in the public interest.

(g) Any rule under this section and any amendment or revocation of such a rule shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Administrator shall give interested persons an opportunity for the oral presentation of data, views or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

LIMITED PREMARKER SCREENING OF SUBSTANTIALLY DANGEROUS CHEMICAL SUBSTANCES

SEC. 5. (a) Within eighteen months after the date of enactment of this Act, and from time to time thereafter, the Administrator shall, by rule, identify and publish in the Federal Register a list of chemical substances (or classes of chemical substances) which the Administrator finds are likely to pose substantial danger to health or environment. For the purposes of this section, "substantial danger to health or environment" means an unreasonable risk of death, severe personal injury or illness, or severe harm to the environment.

(b) In making the finding required under subsection (a), the Administrator shall consider all relevant factors including—

(1) the effects of the substance on health and the magnitude of human exposure;

(2) the effects of the substance on the environment and the magnitude of environment exposure; and

(3) any benefit of the chemical substance and the availability of less hazardous substances for any use of such substance.

(c) A chemical substance listed under subsection (a) which was manufactured and distributed in commerce for commercial purpose prior to its listing (or the listing of a class of substances of which it is a member) may not be manufactured or distributed in commerce for a new use unless at least ninety days prior to such manufacture or distribution, the person intending to manufacture or distribute the chemical substance for such new use submits to the Administrator test data which show that the intended new use of the chemical substance would not pose an unreasonable risk to health or the environment.

(d) A chemical substance listed under subsection (a) which was not produced or distributed in commerce for commercial purpose prior to its listing (or the listing of a class of substances of which it is a member) may not be manufactured or distributed in commerce unless at least ninety days prior to such manufacture or distribution, the person intending to manufacture or distribute such substance, submits to the Administrator test data which show that the manufacture, distribution, use, and disposal of the chemical substance would not pose an unreasonable risk to health or the environment.

(e) If a test protocol has been prescribed under section 4 for a chemical substance (or class of substances) which is listed pursuant to subsection (a) of this section and such protocol is applicable to the intended use of the chemical substance, test data satisfying such protocol may be submitted in satisfaction of the requirements of subsections (c) and (d) of this section. If no test protocol applies to the intended use of the chemical substance listed under subsection (a) of this section, the person intending to manufacture or distribute the chemical substance may, in satisfaction of the requirements of subsections (c) and (d) of this section, submit such test data as he believes are sufficient to make the showings required under those subsections. If no test protocol prescribed under section 4 is applicable to an intended use of such substance, the person intending to produce or distribute such chemical substance or member of a listed class of substances may petition the Administrator to develop and issue a test protocol for such substance (or class of substances) or for the intended use of such substance. The Administrator shall either grant or deny any such petition within sixty days of its receipt. If the petition is granted, the Administrator shall diligently proceed to develop a test protocol for such substance (or class of substances). If the petition is denied, the Administrator shall publish in the Federal Register the reasons for such denial.

(f) The Administrator may exempt any person from the requirements of subsections (c) and (d) of this section where he determines that the submission of test data by such person would be duplicative of data previously submitted in accordance with these subsections.

(g) The Administrator may for good cause shown extend the ninety-day period under subsection (c) or (d) of this section for an additional period not to exceed ninety days. Subject to section 15 of this Act, notice of such extension and the reasons therefor shall be published in the Federal Register and shall constitute a final agency action subject to judicial review.

(h) Subject to section 15 (relating to the confidentiality of certain information), upon receipt of test data under subsection (c) or (d) the Administrator shall promptly publish in the Federal Register, notice which identifies the chemical substance for which test data have been received; lists the uses or intended uses of such substance (or class of substances); and, describes the nature of the tests performed and the data which were developed. Such data shall be made available, consistent with the terms of section 15, for examination by interested persons. Notice under this subsection shall identify the chemical substance by generic class unless the Administrator determines that more specific identification is required in the public interest.

(i) If on the basis of available data or the absence of acceptable data under subsections (c) and (d), the Administrator proposes a rule to regulate such chemical substance under section 6 of this Act within the ninety-day period specified in subsections (c) and (d) or within the period as extended in accordance with subsection (g), such proposed rule may take immediate effect pending completion of the administrative proceeding required under section 6 of this Act. After such rule is proposed and takes effect, the Administrator may refer the rule to a committee formed under section 10(c) of this Act. The Administrator shall refer such rule to such committee if requested by any interested person.

(j) Rules under this section which identify chemical substances as likely to pose substantial danger to health or the environment or any amendment or revocation of such rules shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

(k) The Administrator may, upon application, exempt any person from the foregoing requirements of this section, for the

purpose of permitting such person to manufacture and distribute in commerce a listed chemical substance for test marketing purposes; upon a showing by such person that the manufacture and distribution of such substance for those purposes would not pose an unreasonable risk to health or the environment; and under such restrictions as the Administrator considers appropriate.

REGULATIONS APPLICABLE TO A HAZARDOUS CHEMICAL SUBSTANCE OR CLASS OF SUBSTANCES

SEC. 6. (a) Upon a finding that a rule under this section is necessary to protect against unreasonable risk to health or the environment the Administrator may prescribe rules—

(1) prohibiting the manufacture or distribution in commerce of a chemical substance (or class of substances) or limiting the amount of such chemical substance (or class of substances) which may be manufactured or distributed in commerce;

(2) prohibiting the manufacture or distribution in commerce of a chemical substance (or class of substances) for a particular use or uses or limiting the amount of such chemical substance (or class of substances) which may be manufactured or distributed in commerce for such use or uses; and

(3) requiring that a chemical substance (or member of a class of substances) or article containing such substance be marked with or accompanied by clear and adequate warnings and instructions with respect to its use or disposal in such form and bearing such content as the Administrator determines to be appropriate.

(b)(1) Rules under this section may be limited in application to specified geographic areas.

(2)(A) Rules under subsection (a)(1) of of this section which limit the amount of a chemical substance or class of substances) which may be manufactured, imported, or distributed in commerce, and rules under subsection (a)(2) which limit the quantity which may be manufactured, imported, or distributed for a particular use or uses, shall include provision for assigning production, importation, or distribution quotas to persons who wish to manufacture, import, or distribute the chemical substance (or classes of substances). The permissible quota for each such person shall be determined in accordance with criteria prescribed under subparagraph (B).

(B) The Administrator shall by rule prescribe criteria which shall take into account all relevant factors, including—

(i) effects on competition,

(ii) the market shares, productive capacity, and product and raw material inventories of persons applying for quotas,

(iii) emergency conditions, such as fires or strikes, and

(iv) effects on technological innovation. The last sentence of section 24(c) shall not apply to rules under this subparagraph (B).

(c) In issuing such rules under subsection (a) the Administrator shall consider all relevant factors including—

(1) the effects of the substance on health and the magnitude of human exposure;

(2) the effects of the substance on the environment and the magnitude of environmental exposure; and

(3) the benefits of the substance for various uses and the availability of less hazardous substances.

(d) The Administrator shall specify in any rule under subsection (a) the date on which it shall take effect, which shall be as soon as feasible. Where the Administrator determines that the manufacture, processing, distribution, use, or disposal of a chemical substance will result in serious damage to human health or the environment prior to the completion of a rulemaking proceeding under subsection (a) and where the Administrator determines that such action is necessary in the public interest, he may declare proposed rules under subsection (a) immediately effective pending completion of the rulemaking proceeding.

(e) If the Administrator has good cause to believe that a particular manufacturer or processor is manufacturing or processing a chemical substance in a manner which permits or causes the adulteration of a chemical substance and if the Administrator determines that, as a result of such adulteration, the chemical substance poses an unreasonable threat to health or the environment—

(1) the Administrator may require such manufacturer or processor to submit a description of the relevant quality control procedures followed in the manufacturing or processing of such chemical substance; and

(2) if he thereafter determines that such quality control procedures are inadequate to prevent the adulteration of the chemical substance, the Administrator may, after notice and opportunity for hearing pursuant to section 554 of title 5, United States Code, order the manufacturer to revise such quality control procedures to the extent necessary to remedy such inadequacy.

For the purposes of this subsection, a chemical substance shall be deemed to be adulterated if it bears or contains any added substance or contaminant which itself, or in combination with the chemical substance, presents an unreasonable risk to health or the environment.

(f)(1) Rules under subsection (a) shall be promulgated pursuant to section 553 of title 5 of the United States Code; except that in promulgating any such rule, (A) the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions; (B) a transcript shall be kept of any oral presentation; and (C) during any such oral presentation the Administrator shall include an opportunity for cross-examination as provided in paragraph (2).

(2)(A) Except as provided in paragraph (B), during any such oral presentation, the Administrator shall include an opportunity for cross-examination to such extent and in such manner as the Administrator considers necessary and appropriate in view of the nature of the issue or issues involved and the number of the participants and the nature of their interests.

(B) If only a single interested person participates in a proceeding to promulgate a rule under subsection (a), or if the Administrator determines that all participants are members of a single class sharing an identity of interest, the Administrator shall afford such single interested person or representative of such class (as designed by the participants of such class) an opportunity to conduct cross-examination to the same extent that cross-examination is permitted under section 556 of title 5, United States Code.

IMMINENT HAZARDS

SEC. 7. (a) The Administrator may file an action in United States district court—

(1) against an imminently hazardous chemical substance and any article containing such substance for seizure of such substance or article under subsection (b)(2) of this section, or

(2) against any person who is a manufacturer, processor, distributor, or retailer of such chemical substance or article.

Such an action may be filed notwithstanding the existence of a rule under sections 4, 5, or 6 of this Act, and notwithstanding the pendency of any administrative or judicial proceeding under any provision of this Act. As used in this section, the term "imminently hazardous chemical substance" means a chemical substance which presents imminent and unreasonable risk to health or the environment. The risk to health or the environment shall be considered imminent if it is shown that the manufacture, processing, distribution, use, or disposal of a chemical substance will result in an unreasonable risk to health or the environment prior to the completion of an administrative proceeding under this Act.

(b)(1) The district court in which such action is filed shall have jurisdiction to grant such temporary or permanent relief as may be necessary to protect health or the environment from the unreasonable risk associated with the chemical substance or article containing such substance. Such relief may include (in the case of an action under subsection (a)(2)) a mandatory order requiring (A) notification of such risk to those purchasers of such chemical substance or an article containing such chemical substance which are known to the defendant; (B) public notice; (C) recall; and (D) the replacement or repurchase of such chemical substance or article containing such substance.

(2) In the case of an action under subsection (a)(1), the chemical substance or article containing such substance may be proceeded against by process of libel for the seizure and condemnation of such substance or such article in any United States district court within the jurisdiction of which such substance or article is found. Proceedings in cases instituted against a chemical substance or article containing such substance under the authority of this section shall conform as nearly as possible to proceedings in rem in admiralty.

(c) Where appropriate, concurrently with the filing of an action under this section or as soon thereafter as may be practicable, the Administrator shall initiate a rulemaking proceeding under section 6 of this Act.

(d)(1) An action under subsection (a)(2) of this section may be brought in the United States district court for the District of Columbia or in any judicial district in which any of the defendants is found, is an inhabitant or transacts business; and process in such an action may be served on a defendant in any other district in which such defendant resides or may be found. Subpenas requiring attendance of witnesses in such an action may run into any other district. In determining the judicial district in which an action may be brought under this section in instances in which such action may be brought in more than one judicial district, the Administrator shall take into account the convenience of the parties.

(2) Whenever proceedings under this section involving identical chemical substances or articles containing such substances are pending in courts in two or more judicial districts, they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest, upon notice to all parties in interest.

(e) Notwithstanding any other provision of law, in any action under this section, the Administrator may direct attorneys employed by him to appear and represent him.

REPORTS

SEC. 8. (a) The Administrator may by rule require any manufacturer or importers of any chemical substance and, where appropriate, any processor of any chemical substance to submit reports to him annually, and at such more frequent time as he may reasonably require, containing any or all of the following—

(1) the names of any or all chemical substances manufactured, imported, or processed by the manufacturer, importer, or processor thereof;

(2) the chemical identity and molecular structure of such substances insofar as is known to such manufacturer, importer, or processor, or insofar as such are reasonably ascertainable;

(3) the categories of use of each such substance, insofar as they are known to such manufacturer, importer, or processor, or insofar as such are reasonably ascertainable;

(4) reasonable estimates of the amount of each substance manufactured, imported, or processed for each such category of use; and

(5) a description of the byproducts, if any, resulting from the manufacture, processing, or disposal of each such substance, insofar as they are known to such manufacturer, importer, or processor, or insofar as such are reasonably ascertainable.

The Administrator may, by rule, exempt manufacturers, importers, or processors from all or part of the requirements of this section if he finds that such reports are not necessary to carry out the purposes of this Act.

(b) Whenever the Administrator determines that such action would be necessary to allow him to carry out his responsibilities and authorities under this Act, he may by publishing a notice in the Federal Register invite and afford all interested persons an opportunity to provide in writing information respecting the health or environmental effects of a chemical substance.

EXEMPTIONS AND RELATIONSHIP TO OTHER LAWS

SEC. 9. (a) This Act shall not apply to—

(1) tobacco and tobacco products, or

(2) foods, drugs, devices, or cosmetics (as such terms as defined in sections 201 (f), (g), (h), and (i) of the Federal Food, Drug, and Cosmetic Act). The term "food" as used in this paragraph includes poultry and poultry products (as defined in section 4(e) and (f) of the Poultry Products Inspection Act), meat and meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act).

(b) The Administrator shall have no authority under this Act to take action to prevent or reduce an unreasonable risk to health or the environment associated with a particular chemical substance (or class of substances) or article containing such substance if such risk to health or the environment could be prevented or reduced to a sufficient extent by actions taken under any other Federal law, including the Federal Insecticide, Fungicide, and Rodenticide Act; the Atomic Energy Act of 1954; the Clean Air Act; the Federal Water Pollution Control Act; the Federal Hazardous Substances Act; and the Occupational Safety and Health Act of 1970.

(c) If it appears to the Administrator that any chemical substance may pose an unreasonable risk to health or the environment which could be prevented or reduced to a sufficient extent by actions taken under other Federal laws, he shall transmit any data received from manufacturers, importers, or processors, or data otherwise in his possession which is relevant to such risk to the Federal executive department or agency, independent regulatory agency or other authority of the Federal Government with authority to take legal action.

(d) In administering the provisions of this Act, the Administrator shall consult and coordinate with the Secretary of Health, Education, and Welfare and the heads of any other appropriate Federal executive department or agency, independent regulatory agency or other authority of the Federal Government. The Administrator shall report annually to the Congress on actions taken to coordinate with such other Federal agencies and actions taken to coordinate the authority under this Act with the authority granted under other Acts referred to in subsection (b) of this section.

CHEMICAL SUBSTANCES BOARD

SEC. 10. (a) There shall be established in the Environmental Protection Agency a Chemical Substances Board (hereinafter referred to in this section as the "Board") consisting of twelve scientifically qualified members. The Administrator shall appoint eleven members of the Board from a list of individuals recommended to him by the National Academy of Sciences, and the Secretary of Health, Education, and Welfare shall appoint one member of the Board from whatever source he desires. Such Board shall include qualified scientists not more than one-third of which represent the chemical industry. None of the members of such Board, other than chemical industry representatives, shall have any significant economic interest in the chemical industry. Members of the Board shall serve one term of four years, except that one-half of the members initially appointed shall serve one term of two years. Thereafter, one-half of the members of the Board shall be appointed every two years. Members of the Board shall not be reappointed for consecutive terms. One of the members shall be designated by the Administrator to serve as Chairman of the Board.

(b) The National Academy of Sciences, in consultation with the Board, shall maintain a list of qualified scientists, to assist in carrying out the provisions of this section. Such scientists may also be utilized as consultants to the Chemical Substances Board.

(c) Except when acting under section 5 (1) or the last sentence of 6(d) of this Act, before proposing any rules under section 4, 5, or 6 of this Act, the Administrator shall refer his proposed action and the available evidence to a committee selected by the Administrator from members of the Board and the list of consultants to the Board, except that the Secretary of Health, Education, and Welfare may appoint one member of such committee from whatever source he desires. Concurrently with such referral, the Administrator shall publish in the Federal Register a notice of the referral identifying the proposed action. Such committee shall include qualified scientists not more than one-third of which represent the chemical industry. None of the members of such committee shall have a significant economic interest in the manufacturing, processing, distribution, or sale of any chemical substance which may, directly or indirectly, be affected by the proposed action. The committee shall conduct an independent scientific review of the proposed action and shall report its views and reasons therefor in writing to the Administrator, within a reasonable time, not to exceed forty-five days as specified by the Administrator. Such time may be extended an additional forty-five days if the Administrator determines the extension necessary and such committee has made a good faith effort to report its views and reasons therefor within the initial forty-five-day period. All such views shall be given due consideration by the Administrator. If the committee fails to report within the specified time, the Administrator may proceed to take action under this Act. Subject to section 15 of this Act, all proceedings and deliberations of such committees and their reports and reasons therefor shall be available for public examination. The report of the committee and any dissenting views shall be considered as part of the record in any proceeding taken with respect to the Administrator's action.

(d) The Administrator may also request the Board to convene a committee to consider other actions proposed to be taken under this Act. In such case all provisions of this section shall apply.

(e) The Administrator is authorized to reimburse the National Academy of Sciences for expenses incurred in carrying out this section.

(f) Members of the Board or committees who are not regular full-time employees of the United States shall, while serving on business of the Board or committee, be entitled to compensation at rates fixed by the Administrator, but not exceeding the daily rate applicable at the time of such service to grade GS–18 of the classified civil service, including traveltime; and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

RESEARCH

SEC. 11. The Administrator is authorized to conduct such research and monitoring as is necessary to carry out his functions under this Act. To the extent practicable, such research and monitoring shall not duplicate the efforts of other Federal agencies. In order to carry out the provisions of this section, the Administrator is authorized: (1) to make contracts and grants for such research and monitoring; and (2) to plan and design such research laboratories as may be necessary to carry out the purposes of this Act.

ADMINISTRATIVE INSPECTIONS AND WARRANTS

SEC. 12. (a) (1) For the purpose of inspecting, copying, and verifying the correctness of records, reports, or other documents required to be kept or made under this Act or for the purpose of otherwise facilitating the carrying out of his functions under this Act, the Administrator is authorized, in accordance with this section, to enter any factory, warehouse, or other premises in which chemical substances are manufactured, processed, stored, held or maintained, including retail establishments, and to conduct administrative inspections thereof.

(2) Such entries and inspections shall be carried out through officers or employees (hereinafter referred to as "inspectors") designated by the Administrator. Any such inspector, upon stating his purpose and presenting to the owner, operator, or agent in charge of such premises (A) appropriate credentials and (B) his administrative inspection warrant or a written notice of his other inspection authority, shall have the right to enter such premises and conduct such inspection at reasonable times.

(3) Except when the owner, operator, or agent in charge of such premises so consents in writing, no inspection authorized by this section shall extend to—

(A) financial data;

(B) sales data other than shipments data;

(C) pricing data;

(D) personnel data;

(E) research data (other than data required by this Act); or

(F) process technology other than that related to chemical composition or the industrial use of a chemical substance.

(b) A warrant under this section shall not be required for entries and administrative inspections (including seizures of chemical substances or products containing chemical substances manufactured in violation of rules issued under this Act)—

(1) conducted with the consent of the owner, operator, or agent in charge of such premises; or

(2) in any situation where a warrant is not constitutionally required.

(c) Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any judge of the United States or of a State court of record, or any United States magistrate, may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this title, and seizures of property appropriate to such inspections. For the purposes of this subsection the term "probable cause" means a valid public interest in the effective enforcement of this Act or rules thereunder sufficient to justify administrative inspections of the area, premises, building, or contents thereof,

in the circumstances specified in the application for the warrant.

(2) A warrant shall issue only upon an affidavit of an officer or employee having knowledge of the facts alleged, sworn to before the judge or magistrate, and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, or building, to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the items or types of property to be seized, if any. The warrant shall be directed to a person authorized under subsection (a) (2) of this section to execute it. The warrant shall state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, or building, identified for the purpose specified, and, where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge or magistrate to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date, unless, upon a showing by the United States of a need therefor, the judge or magistrate allows additional time in the warrant. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(4) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

EXPORTS

SEC. 13. (a) This Act shall not apply to any chemical substance or article containing such substance if (1) it can be shown that such substance or article is manufactured, processed, sold, or held for sale for export from the United States (or that such chemical substance was imported for export), unless such chemical substance or article is, in fact, manufactured, processed, or distributed in commerce for use in the United States, and (2) such chemical substance or article containing such substance when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such chemical substance or article is intended for export, except that (1) any manufacturer, processor, or exporter of such chemical substance shall be subject to the reporting requirements of section 8 of this Act; and (2) no chemical substance or article containing such substance may be exported if the Administrator by rule finds that the chemical substance or article as exported and used will, directly or indirectly, pose an unreasonable risk to health within the United States or the environment of the United States.

(b) If submittal of test data is required for a chemical substance under section 4 or 5 of this Act, or rules applicable to such substance or article containing such substance have been prescribed or proposed under section 5 or 6 of this Act, the Administrator, subject to section 15 of this Act, shall furnish to the governments of the foreign nations to which such chemical substance is exported, or is intended to be exported, notice of the availability of the data submitted to the Administrator under section 4 or 5 concerning such chemical substance, and notice of any rule applicable to such substance or article containing such substance which has been prescribed or proposed by the Administrator under section 5 or 6 of this Act.

IMPORTS

SEC. 14. (a) The Secretary of the Treasury shall refuse entry into the United States of any chemical substance or article containing such substance offered for entry if it fails to conform with rules promulgated under this Act. If a chemical substance or article is refused entry, the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the disposal or storage of any substance or article refused delivery which has not been exported by the consignee within three months from the date of receipt of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe, except that the Secretary of the Treasury may deliver to the consignee such substance or article pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such substance or article, together with the duty thereon, and on refusal to return such substance or article for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, such consignee shall forfeit the full amount of such bond. All charges for storage, cartage, and labor on substances or articles which are refused admission or delivery under this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

(d) The Secretary of the Treasury, in consultation with the Administrator, shall issue regulations for the enforcement of subsection (c) of this section.

CONFIDENTIALITY

SEC. 15. All information reported to or otherwise obtained by the Administrator or his representative under this Act, which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be considered confidential and shall not be disclosed, except that such information may be disclosed to other officers or employees concerned with carrying out this Act including the Chemical Substances Board and committees formed under section 10, or when relevant in any proceeding under this Act, except that disclosure in such a proceeding shall preserve the confidentiality to the extent possible without impairing the proceeding. All information reported to or otherwise obtained by the Administrator or his representative including information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be made available upon request of the duly authorized committees of the Congress.

PROHIBITED ACTS

SEC. 16. It shall be unlawful for any person to—

(1) fail or refuse to comply with section 4, 5, 6 or 8 of this Act or any rule prescribed under those sections, or with any restriction under section 5(k) of this Act;

(2) fail or refuse to permit access to or copying of records, or fail or refuse to permit entry or inspection or take any other action as required under section 12 of this Act; or

(3) fail or refuse to comply with instructions with respect to the use or disposal of a chemical substance where such instructions are required by rule prescribed under section 6 of this Act and where such failure or refusal to comply results in or is likely to result in death, severe personal injury or illness, or severe harm to the environment.

PENALTIES

SEC. 17. (a) Any person who knowingly violates section 16 of this Act shall be subject to a civil penalty not to exceed $25,000 for each day of violation. For the purposes of this subsection, the term "knowingly" means (1) the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care.

(b) Any person who willfully violates section 16 of this Act shall, in addition to or in lieu of a civil penalty imposed under subsection (a), on conviction, be fined not more than $25,000 for each day of violation or imprisoned for not more than one year, or both.

INJUNCTIVE ENFORCEMENT AND SEIZURE

SEC. 18. (a) Upon application by the Attorney General, the district courts of the United States shall have jurisdiction to restrain any violation of section 16 or to compel the taking of any action required by this Act or rule issued thereunder. Such actions may be brought by the Attorney General, on the request of the Administrator, in any United States district court of proper venue. In any action under this section, process may be served on a defendant in any other district in which the defendant resides or may be found, and subpenas for witnesses may run into any other district.

(b) Any chemical substance or article containing such substance which was manufactured or distributed in commerce in violation of an applicable rule prescribed under section 6, or in violation of section 5 of this Act, shall be liable to be proceeded against, by process of libel for the seizure and condemnation of such substance or such article in any United States district court within the jurisdiction of which such substance or article is found. Proceedings in cases instituted against a chemical substance or article containing such substance under the authority of this section shall conform as nearly as possible to proceedings in rem in admiralty. Actions under this subsection may be brought by the Attorney General on the request of the Administrator.

CITIZEN CIVIL ACTION

SEC. 19. (a) Except as provided in subsection (b) of this section, any interested and adversely affected person may commence a civil action for injunctive relief on his own behalf—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any rule promulgated under section 4, 5, or 6 of this Act, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator. Any action brought against the Administrator under this paragraph shall be brought in the District Court of the District of Columbia. The district courts shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) No civil action may be commenced—

(1) under subsection (a) (1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Administrator, and (ii) to any alleged violator of the rule, or

(B) if the Administrator or Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the rule, but if such action is commenced after giving of notice any such person giving such notice may intervene as a matter of right in such action.

(2) under subsection (a) (2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator.

Notice under this subsection shall be given in such manner as the Administrator shall prescribe by rule.

(c) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award fees for expert witnesses to the prevailing party, whenever the court determines such an award is appropriate.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any rule or order or to seek any other relief.

(f) For purposes of this section, the term "person" means an individual, corporation, partnership, or association, and (subject to subsection (a)(1)(B)) any State, municipality, or political subdivision of a State.

(g) When any actions brought under subsection (a)(1) of this section involving the same defendant and the same issues of violations are pending in two or more jurisdictions, such pending proceedings, upon application of the defendant reasonably made to the court of one such jurisdiction, may, if the court in its discretion so decides, be consolidated for trial by order of such court, and tried in (1) any district selected by the defendant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the defendant may apply to the court of one such jurisdiction, and such court (after giving all parties reasonable notice and opportunity to be heard) may by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the applicant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

ENVIRONMENTAL PREDICTION AND ASSESSMENT

SEC. 20. The Administrator shall, in cooperation with the Council on Environmental Quality and other Federal agencies, develop the necessary personnel and information resources to assess the evironmental consequences of the introduction of new chemical substances into the environment.

COOPERATION OF FEDERAL AGENCIES

SEC. 21. Upon request by the Administrator, each Federal agency is authorized—

(a) to make its services, personnel, and facilities available with or without reimbursement to the Administrator to assist him in the performance of his functions; and

(b) to furnish to the Administrator such information, data, estimates, and statistics, and to allow the Administrator access to all information in its possession as the Administrator may reasonably determine to be necessary for the performance of his functions as provided by this Act.

HEALTH AND ENVIRONMENTAL DATA

SEC. 22. The Council on Environmental Quality, in consultation with the Administrator, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the heads of other appropriate Federal, State, and local departments or agencies, the scientific community, and the chemical industry, shall coordinate a study of the feasibility of establishing (1) a standard classification system for chemical compounds and related substances, and (2) a standard means for storing and for obtaining rapid access to information respecting such materials.

STATE REGULATIONS

SEC. 23. (a) Nothing in this Act shall affect the authority of any State or local government to regulate any chemical substance, or to establish and enforce standards for test protocols for chemical substances to protect health or the environment, except that—

(1) if the Administrator prescribes a rule under section 6 of this Act applicable to a chemical substance (or class of chemical substances), a State or local government may not establish or continue to enforce any restriction of its own applicable to such substance or class for purposes similar to such rule after the effective date of such rule, other than a total ban on use or distribution; and

(2) if the Administrator prescribes a rule under section 4 of this Act applicable to a chemical substance (or class of chemical substances), a State or local government may not after the effective date of such rule establish or continue to enforce any standards for test protocols applicable to such substance or class for purposes similar to those of a rule under section 4.

(b) The Administrator may by rule, upon the petition of any State or local government or at his own initiative, exempt State and local governments from the prohibitions of subsection (a) of this section with respect to a chemical substance if such exemption will not, through difficulties in marketing, distribution, or other factors, result in placing an unreasonable burden upon commerce.

JUDICIAL REVIEW

SEC. 24. (a) Not later than sixty days following promulgation of a rule under sections 4, 5, and 6 of this Act, any person adversely affected by such rule, or any interested person, may file a petition with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides or has his principal place of business for judicial review of such rule. Copies of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or other officer designated by him for that purpose and to the Attorney General. The Administrator shall transmit to the Attorney General, who shall file in the court, the record of the proceedings on which the Administrator based his rule as provided in section 2112 of title 28, United States Code, and shall include the transcript of any oral presentation of data, views, or arguments required under sections 4, 5, and 6.

(b) If the petitioner applies to the court for leave to adduce additional data, views, or arguments and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there are reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceeding before the Administrator, the court may order the Administrator to provide additional opportunity for oral presentation of data, views, or arguments and for written submissions. The Commission may modify its findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file such modified or new findings, and its recommendation, if any, for the modification or setting aside of its original rule, with the return of such additional data, views or arguments.

(c) Upon the filing of the petition under subsection (a) of this section, the court shall have jurisdiction to review rules promulgated by the Administrator under sections 4, 5, and 6 in accordance with chapter 7 of title 5 of the United States Code and to grant appropriate relief, including interim relief, as provided in such chapter. Rules promulgated by the Administrator under sections 4, 5, and 6 of this Act shall not be affirmed unless the findings required to be made under those sections are supported by substantial evidence on the record taken as a whole.

(d) The judgment of the court affirming or setting aside, in whole or in part, any rule promulgated by the Administrator which is reviewed in accordance with the terms of this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certified, as provided in section 1254 of title 28 of the United States Code.

(e) The remedies provided in this section shall be in addition to and not in lieu of any other remedies provided by law.

NATIONAL SECURITY WAIVER

SEC. 25. The Administrator may waive compliance with any provision of this Act upon request of the Secretary of Defense and upon a determination by the Administrator that the requested waiver is in the interest of national security. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this Act. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national security purposes unless, upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national security.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 26. (a) There is hereby authorized to be appropriated such sums as may be necessary, but not to exceed $8,000,000, $11,000,000, and $10,000,000 for the fiscal years ending on June 30, 1973, June 30, 1974, and June 30, 1975, respectively, for the purposes and administration of this Act. No part of the funds so authorized to be appropriated shall be used to plan, design, or construct any research laboratories.

(b) To help defray the expenses of implementing the provisions of this Act, the Administrator may, by rule, require the payment of a reasonable fee from any person required to submit test data under sections 4 and 5 of this Act. Such rules shall not provide for any fee in excess of $2,500. In setting the amount of such a fee, the Administrator shall take into account the ability to pay of the person required to submit the data and the cost to the Administrator of reviewing such data. Such rules may provide for the sharing of the expense of such a fee in any case in which the expenses of testing are shared under section 4(d).

And amend the title so as to read: "A bill to regulate commerce to protect health and the environment against toxic chemical substances."

Mr. MOSS. Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the

Senate to S. 1478, with amendments which I now send to the desk.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk proceeded to read the amendments.

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

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

The amendments are as follows:

On page 13, immediately following subsection (k), insert the following new subsection:

"(1) The Administrator may, by rule, prescribe procedures for the purpose of ensuring that manufacturers, processors, or importers of chemical substances which were not produced or distributed in commerce for commercial purpose prior to the date of enactment of this Act, furnish notice, a description of such chemical substance, and technical data relating to the environmental or public health effects of the substance to the Administrator before its distribution in commerce."

On page 22, line 19, strike "or".

On page 23, line 4, strike the period and insert in lieu thereof "; or".

On page 23, between lines 4 and 5, insert the following:

"(3) pesticides as defined in the Federal Insecticide, Fungicide, and Rodenticide Act and chemical substances used in such pesticides, except that if a chemical substance which constitutes such pesticide or such ingredient is used for any purpose other than such pesticide, this Act shall apply to such use."

On page 23, line 5, strike "The", and insert in lieu thereof "Except for sections 4, 5, or 8, the".

On page 23, line 10. immediately following "extent" insert "in a reasonable time and in a reasonable manner".

Mr. MOSS. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

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

Mr. MOSS. Mr. President, yesterday the House passed S. 1478, the Toxic Substances Control Act of 1972. The Senate acted on S. 1478 on May 30 of this year.

While the House bill contains many desirable features, there are two features of the bill which I feel the Senate should not agree to. As the Congress will adjourn either today or early next week at the latest, there is no time for a conference to determine and decide the issues. Consequently, the motion I have made is designed to reconcile the differences between the House and Senate versions. If Congress does not adjourn until early next week, the House will have an opportunity to consider the compromises which are embodied in the amendment I propose.

The first change in the House bill suggested by the amendment would treat the problem of to what extent EPA will have knowledge of new chemical substances prior to their introduction into the marketplace.

Under the Senate bill, EPA would receive premarked notification of new chemical substances at least 90 days prior to commercial production. The House version, on the other hand, provides for a similar procedure with respect to new chemical substances which are likely to pose substantial danger to the health of the environment, but provides no such procedure for new chemical substances for which dangers are unknown. The compromise suggested by the amendment would require premarket screening for those substances required to be screened by the House bill but would additionally authorize prescreening of other new substances as well.

After receiving notice from the manufacturer prior to distribution in commerce, EPA could prevent unreasonable environmental or public health threats prior to marketing by invoking the procedures of section 6 of the House bill which authorizes EPA to prescribe rules to protect against unreasonable risks to health or the environment. Thus, if the data that a manufacturer, processor, or importer furnishes prior to marketing shows that unreasonable threats may exist, or if the information is insufficient to make a judgment that it is safe, EPA would be expected to take appropriate regulatory action under section 6.

The other problem with the House bill concerns the relationship of this legislation to other environmental and public health statutes. The Senate bill provided that pesticides; foods, drugs, cosmetics, and devices subject to the Federal Food, Drug, and Cosmetic Act; and material subject to the Atomic Energy Act would not be regulated by this legislation. Tobacco and tobacco products and the extraction of minerals would likewise be excluded as would the regulation of hazards which are covered by the Occupational Safety and Health Act. The House bill exempts foods, drugs, devices, and cosmetics subject to the Food, Drug, and Cosmetic Act and tobacco products in a manner similar to that adopted by the Senate bill. However, the House bill imposes significant restrictions beyond those imposed by the Senate bill on the authority which the EPA might have with respect to other chemical substances.

The House version prohibits the Administrator from exercising his authority under this act if any risk to health or the environment could "be prevented or reduced to a sufficient extent by actions taken under any other Federal law."

The compromise suggested by the amendment would preserve the inapplicability of this act to tobacco; foods, drugs, devices, or cosmetics subject to the Food, Drug, and Cosmetic Act; and pesticides as regulated by the Federal Insecticide, Fungicide, and Rodenticide Act.

With respect to chemical substances which might fall within the scope of other environmental or public health law, the amendment requires that the Administrator shall not regulate risks arising from those chemicals if such risks could be "prevented or reduced to a sufficient extent in a reasonable time and in a reasonable manner." It is feared that if this provision of the House bill remains intact without the amending language, if any other law could reduce risks to a sufficient extent in any manner and after any amount of time had elapsed EPA could not act under this authority. Take the example of a consumer product which presents environmental risks because of the presence of a toxic constituent that might be controlled by sewage treatment. Even though the construction of those treatment facilities would be extremely expensive and would take a great deal of time to construct, the Administrator would have no authority under this act to prevent the presence of that toxic constituent in the consumer product. The amending language is intended to solve this problem by allowing EPA to act under this authority if the same result could not be obtained under other authority in a reasonable manner. What is intended is that the act could be used whenever the problem could be more effectively dealt with under this law rather than other authority. Since the only "reasonable" disposition of the problem involved would be that which controls it most effectively in terms of cost, time, and other relevant factors, EPA would be able to choose among its various authorities to determine the most effective way to proceed.

The amendment also authorizes EPA to gather information with respect to risks that might be controlled under other statutes. This provision will enable EPA to use this authority to gather data which will be useful in assessing risks that can be controlled by other statutes.

While there are other less acute problems with the House bill, in my view the amendments represent a reasonable compromise between the two versions. Should the amendments be accepted, I feel that the final product will be very similar to that which would emerge from conference and will provide an extremely workable framework for the control of toxic substances.

Mr. President, I emphasize that it was just last night that the House passed the bill and sent it here, thus it is necessary to use this means to see if we can compromise the differences to get what the Senate considers a reasonable bill. If the matter is sent to the House, they still have time to accept this amendment. Quite clearly there would be no time to convene a conference.

The ranking Republican member of the committee indicated, in conversations that I had with him before, that he had some reservations on this matter, and I will therefore be happy to yield to him if he cares to state any position at this time.

QUORUM CALL

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

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

HOUSE JOINT RESOLUTION 733—GRANTING CONSENT OF CONGRESS TO CERTAIN BOUNDARY AGREEMENTS BETWEEN THE STATES OF MARYLAND AND VIRGINIA

Mr. MATHIAS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 733.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 733) granting the consent of Congress to certain boundary agreements between the States of Maryland and Virginia.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered and agreed to.

The preamble was agreed to.

QUORUM CALL

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

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

TOXIC SUBSTANCES CONTROL ACT OF 1972

Mr. COTTON. Mr. President, I had hoped that we would have more Members in the Chamber, which was the purpose of my calling a quorum. It was not a delaying tactic. I think that the Senate, or at least such Members as are present, should have clearly in mind the situation that has arisen.

Both the House and Senate passed so-called toxic substances bills.

The Senate bill is much more far-reaching than the House bill.

As a matter of fact, it should be borne in mind that we already have several laws enacted affecting this subject—and very laudable legislation—most of which has come from the Commerce Committee with support of the entire committee. For example, we have the Federal Food, Drug, and Cosmetic Act; the Poultry Products Inspection Act; the Federal Meat Inspection Act; the Egg Products Inspection Act; the Federal Insecticide, Fungicide, and Rodenticide Act; the Atomic Energy Act; the Clean Air Act; the Federal Water Pollution Control Act; the Federal Hazardous Substances Act; and the Occupational Safety and Health Act.

Now, the Federal Hazardous Substances Act might sound synonymous with the bill now under consideration. Actually, that act has to do with consumers and with substances that would be injurious to human beings. But, the point is that all of these acts are illustrative of the volume of laws we now have on the books.

Although this Toxic Substances Control Act was reported by the committee without dissenting votes, as I recall, the distinguished Senator from Tennessee (Mr. BAKER), did have some reservations and wrote supplemental views.

Under this bill as passed by the Senate, the Administrator of the Environmental Protection Agency was not only empowered, but required to take action against any substance which he considered posed a threat to health or the environment. And, it carried a fine of $25,000, I believe, for a knowing violation.

It made him practically a "czar" over future chemical substances.

For example, we all know about detergents. We know what is being done to reduce phosphates in detergents by industry itself.

But, so far as I have been able to ascertain, the Senate-passed bill would have reached even new substances that might come into being some time in the future. And, it puts in the hands of one man the power to regulate all such presently unknown substances.

We all realize the need of protecting the environment. It has become, in one sense, to a certain extent a phobia, because almost everything we do can be considered to have some effect upon the environment, however small or remote that may be.

However, there also must be some advantage to be derived from the large sums of money spent in scientific research by private chemical industries to develop new chemicals for some beneficial purpose. I do not say that such chemicals cannot carry side effects that should be guarded against, but neither should we unduly impede such research.

The House-passed bill, on the other hand, does not go as far. It did not, if my memory serves me correctly, propose regulation of future chemical substances that have not yet come into being, that are not even presently contemplated, and which could be regulated by one man who would be the "czar" of the enforcement of this act.

The House has taken an alleged position on this bill, which I do not advocate. It has taken such a position in several instances. And, without criticizing the other body, which cannot be permitted under our rules, I think the House has had a tendency to be arbitrary. Its position on this bill is—and I have been informed directly by those on the committee and I understand my colleague was so informed by the chairman of the House committee—the House bill or nothing. It will not accept the far-reaching provisions of the Senate-passed bill.

I can quite understand why my friend, the distinguished Senator from Utah (Mr. Moss), does not propose to disagree with the House, ask for a conference, and appoint conferees, even though we may still have until Monday or Tuesday to deal with that situation.

Instead, he wishes to offer certain amendments to S. 1478, as passed by the House. We can discuss these amendments which seem to me to be somewhat insignificant. For example, one would make it permissive for the Administrator of the Environmental Protection Agency to regulate any new chemical substances, with the only recourse being lengthy litigation in the courts. But, it does not require him to so regulate, but he may do it.

Mr. President, frankly, I do not think that this is the way to handle highly technical legislation such as this bill. All through the past months the Commerce Committee, on which I am proud to serve, has been grinding out legislation to protect the health and safety of human beings. They are good bills and it is a proud record.

I unhesitatingly praise the distinguished chairman of our committee, the Senator from Washington, the distinguished Senator from Utah (Mr. Moss) and all other committee members for these constructive legislative efforts. But, if the House has one version of this extremely technical bill; the Senate, another, and we are in the closing hours when we are legislating under the gun, then it is my opinion that nothing is to be gained by legislating on the floor—adding amendments to the bill and sending it back to the House.

If we want to put them to the test and find out if the House is willing to meet us halfway, we could disagree and ask for a conference. If they turn us down that is proof enough of who is to blame for the failure to legislate.

But, what we are talking about with this amendment are chemical substances that, as far as we know, no one has dreamed up yet. It is a substance that may be invented or devised at some future point in time. Yet, this amendment seeks to include it and confer on the Administrator of the Environmental Protection Agency this arbitrary regulatory power over something that has not even happened. Quite frankly, I doubt very much if between now and next spring some chemical company is going to come forth with something that is going to destroy our environment and make it hazardous to live on this earth.

I feel very strongly about trying to legislate at this point in time between the diametrically different views of the House and the Senate. It is an exercise in futility at the very best; and, at the worst, it is a very dangerous practice.

Therefore, Mr. President, the Senator from New Hampshire very strongly opposes this method of adopting at the last minute new amendments to House-passed bills, and sending them back to the House, when I doubt it would do any good. I doubt that they would be accepted. But, even if they were accepted, in my opinion it is not the careful and judicious way to legislate.

Mr. President, may I inquire what the parliamentary situation is? Some amendment has been offered. Is that correct?

Mr. MOSS. I made a motion to concur with amendments and that is the pending question.

Mr. COTTON. Would it be in order for me, with this amendment pending, to make a motion that the Senate disagree with the House and appoint conferees? Or, must that motion wait until the amendment is disposed of?

The PRESIDING OFFICER. The motion to concur takes precedence over a motion to disagree and ask for a conference.

Mr. COTTON. I do not think it was a question of a motion to concur.

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

Mr. COTTON. Certainly.

Mr. MOSS. My motion was that we concur with the amendment of the House to the Senate bill with amendments. It is a motion to concur with amendments, and that takes precedence.

Mr. COTTON. And, that takes precedence. Very well, I will withhold such a motion, of course, under that ruling. But, I feel I must oppose the adoption of the amendments and this procedure for legislating. If the motion to concur does not prevail, then I serve notice that I will move that we disagree with the House, ask for a conference, and name conferees. I might have something more to say later about the merits of this matter, but I thank the distinguished Senator from Utah (Mr. Moss) for permitting me to make this statement.

Mr. MOSS. Mr. President, I understand the feeling of the Senator from New Hampshire on being presented on what even now we think is the last day of the session, with a House bill and being deprived of the opportunity to appoint conferees and go to a conference. But it is a factual situation that exists. When I called up the House message I pointed out that the Senate acted on this bill on May 30 of this year and it was not until today that the House bill came over and the House has made extensive amendments. We are faced with a situation in which we must do the best we can.

If we appoint conferees and send it to the House, there would be a question of how we could meet and we all know of the problems that prevail in a conference. So in an attempt to salvage at least the best part of this bill it was thought desirable that we propose the amendment now before us, hoping that a halfway position between the House bill and the Senate bill could be agreed to. In effect, we are sending them a compromise that might be expected from a conference if a conference were held.

I recognize there is no assurance that the House will accept that. They can sit on it and let it die and we are helpless to do anything about it, just as we could let it die here. But there is a possibility that the House may take our amendment.

As the Senator from New Hampshire pointed out, this bill deals with substances that are hazardous to public health or the environment and, therefore, we are talking about a very important area. As our senior Republican colleague on the committee pointed out, this was reported by the committee without dissent. There were additional views and explanation. One of the Senators wished to make additional views but he did not vote "No." So it came out by unanimous vote. We think it is a very good bill and we hope we can salvage the best features of the bill the committee reported. We are proud of the work done, as the Senator from New Hampshire said.

Therefore, I hope very much the amendment will be adopted by this body and that we will then send the bill to the House with the amendment. If they concur it could go to the President. If they do not concur there is nothing we can do to compel them.

Therefore, I submit the amendment and ask that it be voted on by this body.

Mr. COTTON. Mr. President, I will not take more than a minute.

First, I ask unanimous consent to have printed in the RECORD at this point the supplemental views of Mr. BAKER, in which some of us concur.

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

SUPPLEMENTAL VIEWS OF MR. BAKER

While I support the purposes of this legislation and voted to report the measure to the Senate, I think that it is desirable to point out an inherent danger made possible by the pre-market screening provisions of section 104: that in our zeal to protect the populace from "unreasonable" health or environmental hazards we will also "protect" it from the benefit of many new chemical products and stifle development, particularly on the part of small chemical companies, of new products which may pose no such hazards.

It seems to me that proponents of consumer legislation have an unrealistic attitude toward industry in general. Examples of cases in which industry seems to disregard the public interest in order to increase profits are devoured by consumer groups and the press. We often fail to recognize, however, the simple fact that American industry is dependent on the people of this country for its success. While the public has a right from a moral standpoint, to expect fair and honest treatment from manufacturers, manufacturers have a material interest in such a fair and honest attitude toward the consumer. A company's reputation rests in large part on the quality of its products and it is to the company's interest to see that its products are carefully developed and tested before they are introduced in the marketplace.

Such an attitude toward industry can result in legislation which takes on punitive overtones and which seems to be based on the assumption that industry will try to get away with as much as possible, regardless of what the effects on the public might be, and that it is the responsibility of the Federal Government to shelter and protect the public against these outrageous attempts.

I feel that this attitude is unrealistic, unreasonable and unnecessarily restrictive of American industry, and I am concerned that traces of this attitude are evident in the premarket screening requirements of Section 104 of this bill. I have not been convinced that pre-market screening of new chemical substances is necessary to protect the public health and safety. If this provision were to be deleted, as suggested by the Administrator of the Environmental Protection Agency, we would still be left with very strong testing and reporting requirements for industry and the Administrator would still have authority to restrict the use or distribution of chemicals and to condemn chemicals where imminent hazards exist.

While I hope that my fears will prove unfounded, I fear that we are imposing burdens on the chemical industry, and especially on small companies, which will be so heavy as to discourage research and development of new products and stifle the further growth of an industry which has made great contributions to progress in all aspects of our daily lives.

HOWARD H. BAKER, Jr.

Mr. COTTON. Mr. President, I do not know what Members of the House have indicated to my friend from Utah, but as far as this Senator is concerned, he has the adamant statement that the House will not accept anything that goes farther and grants more power than the House bill confers.

It has always been my understanding that the way to win friends and influence people is to try to reason with them. It seems to me that the suggestion of the Senator from Utah (Mr. Moss) is that the Senate take the same kind of adamant position the House is taking, and I know I find their position irritating. The House says, "Do not bother with it; do not fool with it; you take our bill or nothing."

Well, instead of saying, "We cannot take your bill; we ask for a conference; we name conferees; can we sit down and reason together?"—as our dear friend, former President Johnson, used to say so many times—the Senate will be saying, in defiance to the House, "We are sending the bill back to you with two amendments, now you take it or leave it."

The question is, when we get through with it, who is to blame? On whose back does the monkey rest?

What we should do, in the prescribed parliamentary way, is simply but courteously, say to the House, "We cannot agree. We ask for a conference. We name conferees and ask you to confer with us." Then, if they refuse to deal with us, and if—and it is a big "if"—between now and next May or June some laboratory produces some horrible chemical substance that is a menace to the environment, we are not to blame for it. The House stopped the legislation by not going to conference.

But, if we adopt the same tactics, and instead of saying, "We would like to sit down and talk with you," we amend the bill and send it back saying, "You take this or leave it," I think that is the surest way to get nowhere.

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

Mr. COTTON. I yield.

Mr. MOSS. By sending this amendment back to the House, I do not think we are giving them any ultimatum and saying, "You now have to take this." They can always ask for a conference on that side, if they want to. What we have here is a reasonable compromise. It goes halfway. We have given a good bit to them, but we have restated some points that seem to be of great importance to us that we want to keep in the legislation. So it is a compromise. Perhaps the House will be adamant, as some think it will be, but at least we will have tried to do everything we can to get legislation this year.

Mr. COTTON. There are two answers to what the Senator has said. The first answer is that I cannot associate myself with the idea that this is halfway ground. It still confers upon one person, the Administrator of the Environmental Protection Agency, the arbitrary power

to deal with any future chemical substance that might be brought forth. It simply says he is not compelled to, but he may. To my mind, that is not a halfway ground.

In the second place, if there is neither haste nor the possibility of adjourning in the wee hours tonight, but rather going over to next Monday or Tuesday at the latest, then all we are doing is delaying consideration of the bill by sending it back to the House with amendments for it to look at and see if it will accept them or ask for a conference.

The fastest, safest, most sensible and reasonable way, in my opinion is to respectfully disagree with the House, appoint our conferees, and let them sit down and decide.

I do not regard these two amendments of the Senator as anywhere near a halfway ground. And, I doubt that the House will either.

Mr. MOSS. May I just take 30 seconds to say that the chemical substances we are talking about are those for which little or no information exists with respect to damage to the health or environment, and the procedures that the EPA must follow under the act prevent arbitrary actions.

Mr. President, I yield the floor and ask for a vote.

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

The PRESIDING OFFICER. Is there a sufficient second? There is not.

The yeas and nays were not ordered.

Mr. COTTON. Mr. President, I suggest the absence of a quorum. I would like to save this legislation.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. COTTON. 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. COTTON. Mr. President, I again ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to concur in the House amendment with a Senate amendment. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from Florida (Mr. CHILES), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. SPARKMAN), the Senator from Virginia (Mr. SPONG), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

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

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Rhode Island (Mr. PELL) would each vote "yea."

Mr. COTTON. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senators from Nebraska (Mr. CURTIS and Mr. HRUSKA), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. JORDAN), the Senator from Kansas (Mr. PEARSON), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

Then Senator from Kentucky (Mr. COOK) is absent on official business.

The Senator from Kentucky (Mr. MUNDT) is absent because of illness.

I also announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from Maryland (Mr. MATHIAS), the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. SAXBE), and the Senator from Pennsylvania (Mr. SCOTT) are necessarily absent.

If present and voting, the Senator from Texas (Mr. TOWER) and the Senator from Nebraska (Mr. CURTIS) would vote "nay."

The result was announced—yeas 29, nays 22, as follows:

[No. 566 Leg.]

YEAS—29

Anderson	Hart	Nelson
Bentsen	Hartke	Proxmire
Boggs	Inouye	Randolph
Burdick	Javits	Roth
Byrd, Robert C.	Jordan, N.C.	Schweiker
Cannon	Long	Stevenson
Case	Magnuson	Symington
Ervin	Mansfield	Tunney
Gambrell	Miller	Williams
Gravel	Moss	

NAYS—22

Aiken	Cotton	Packwood
Allen	Dole	Smith
Beall	Dominick	Stafford
Bennett	Fannin	Stennis
Buckley	Fulbright	Stevens
Byrd, Harry F., Jr.	Gurney	Weicker
Cooper	Hansen	Young
	McClellan	

NOT VOTING—49

Allott	Brooke	Eagleton
Baker	Chiles	Eastland
Bayh	Church	Edwards
Bellmon	Cook	Fong
Bible	Cranston	Goldwater
Brock	Curtis	Griffin
Harris	McGovern	Ribicoff
Hatfield	Metcalf	Saxbe
Hollings	McIntyre	Scott
Hruska	Mondale	Sparkman
Hughes	Montoya	Spong
Humphrey	Mundt	Taft
Jackson	Muskie	Talmadge
Jordan, Idaho	Pastore	Thurmond
Kennedy	Pearson	Tower
Mathias	Pell	
McGee	Percy	

So Mr. Moss' motion was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed without amendment, the following bills of the Senate:

S. 655. An act for the relief of certain postal employees at the Elmhurst, Illinois, Post Office;

S. 909. An act for the relief of John C. Rogers;

S. 2147. An act for the relief of Marie M. Ridgely;

S. 2270. An act for the relief of Magnus David Forrester;

S. 2275. An act for the relief of Wolfgang Kutter;

S. 2469. An act for the relief of Kenneth J. Wolff;

S. 2714. An act for the relief of Master Sergeant William C. Harpold, United States Marine Corps (retired);

S. 2753. An act for the relief of John C. Mayoros;

S. 2822. An act for the relief of Alberto Rodriguez;

S. 3055. An act for the relief of Maurice Marchbanks;

S. 3257. An act for the relief of Gary Wentworth, of Staples, Minnesota;

S. 3326. An act for the relief of the Appalachian Regional Hospitals, Inc.;

S. 3583. An act for the relief of Gerald Vincent Bull; and

S. 4059. An act 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.

The message also announced that the House had passed the bill (S. 3483) for the relief of Cass County, N. Dak., with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 1467) to amend the Internal Revenue Code of 1954 with respect to personal exemptions in the case of American Samoans; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MILLS of Arkansas, Mr. ULLMAN, Mr. BURKE of Massachusetts, Mr. BYRNES of Wisconsin, and Mr. BETTS were appointed managers on the part of the House at the conference.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8395) to amend the Vocational Rehabilitation Act to extend and revise the authorization of grants to States for vocational rehabilitation services, to authorize grants to States for rehabilitational services to those with severe disabilities, and for other purposes.

The message further announced that

the House had agreed to the amendments of the Senate to the bill (H.R. 11032) to enable the blind and the otherwise physically disabled to participate fully in the social and economic life of the District of Columbia.

The message also announced that the House insisted on its disagreement to the amendment of the Senate to the bill (H.R. 11773) to amend section 389 of the Revised Statutes of the United States relating to the District of Columbia to exclude the personnel records, home addresses, and telephone numbers of the officers and members of the Metropolitan Police Department of the District of Columbia from the records open to public inspection.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15657) to strengthen and improve the Older Americans Act of 1965, and for other purposes.

The message also announced that the House had agreed to the amendment of the Senate to the joint resolution (H.J. Res. 1301) to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages under the National Housing Act.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills and joint resolutions:

S. 3337. An act to amend the Small Business Investment Act of 1958, and for other purposes;

S. 3507. An act to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes;

J. Res. 204. Joint resolution to authorize the preparation of a history of public works in the United States; and

J. Res. 236. Joint resolution to authorize and request the President to proclaim the week beginning October 15, 1972, as "National Drug Abuse Prevention Week."

The enrolled bills and joint resolutions were subsequently signed by the Acting President pro tempore (Mr. ROBERT C. BYRD).

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination which was reported earlier today.

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

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

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The assistant legislative clerk read the nomination of Sidney P. Marland, Jr., of New York, to be Assistant Secretary for Education in the Department of Health, Education, and Welfare.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I think this is an excellent choice to the position to which he has been assigned. I am delighted that he has received the unanimous approval of the Senate.

Mr. JAVITS. Mr. President, I thank the distinguished majority leader.

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

The PRESIDING OFFICER. Without objection, the President will be notified forthwith.

LEGISLATIVE SESSION

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

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

AUTHORIZATION TO CARRY OUT JELLYFISH CONTROL PROGRAMS

Mr. STEVENS. Mr. President, I ask the Chair to lay before the Senate a message from the House on H.R. 16074.

The PRESIDING OFFICER (Mr. HART) laid before the Senate a message from the House of Representatives on H.R. 16074, which was read twice by its title.

Mr. STEVENS. I ask unanimous consent for the immediate consideration of the bill.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 16074) was ordered to a third reading, was read the third time, and passed.

AMENDMENT OF THE INTERNAL REVENUE CODE OF 1954

The Senate resumed the consideration of the bill (H.R. 7577) to amend section 3306 of the Internal Revenue Code of 1954.

Mr. HARTKE. Mr. President, I have an amendment at the desk which I ask to have reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

On page 2, at the end of line 3, insert the following new Sections:

SEC. 2. Section 5205(h) of the Internal Revenue Code of 1954 (relating to form of stamps for containers of distilled spirits) is amended by striking out "or other form of stamp" and inserting in lieu thereof "other form of stamp, or other device".

SEC. 3. Section 6801(b) of the Internal Revenue Code of 1954 (relating to authority for establishment, alteration, and distribution of stamps) is amended by striking out the period at the end thereof and inserting in lieu thereof "; except that stamps required by or prescribed pursuant to the provisions of section 5205 or section 5235 may be prepared and distributed by persons authorized by the Secretary or his delegate, under such controls for the protection of the revenue as shall be deemed necessary."

Mr. HARTKE. Mr. President, under the existing law containers of distilled spirits——

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate? Will the Senator please suspend?

The PRESIDING OFFICER. There will be order in the Senate.

The Senator from Indiana may proceed.

Mr. HARTKE. Mr. President, under existing law, containers of distilled spirits must have affixed thereto a stamp, commonly known as a "strip stamp," as evidence of tax payment. The Hartke amendment would change section 5205 (h) of chapter 51 of the Internal Revenue Code of 1954—relating to the form of the stamp required to indicate payment of tax—to authorize the Secretary of the Treasury or his delegate to prescribe a "device" other than a stamp for use on containers of distilled spirits as evidence of tax payment.

The second proposed change would amend section 6801(b) of chapter 69 of the code to permit the Secretary of the Treasury to authorize persons outside the Treasury Department to prepare and distribute the stamps "or other devices" required or prescribed for use on containers of distilled spirits. Section 6801 (b) of the code currently restricts the preparation and distribution of stamps to the Secretary or his delegate.

Technological advances in the closure industry indicate that materials or methods other than strip stamps for evidencing tax payment of containers of distilled spirits may prove satisfactory in the future. If so, the addition of the words "or other devices," to section 5205 (h) will allow the Treasury Department to recognize such a development and to authorize other forms of evidence of tax payment.

In order to take advantage of possible future developments in the closure industry, it is necessary to amend section 6801(b) relating to the preparation and distribution of stamps. The present requirement that the Secretary or his delegate prepare and distribute stamps is entirely satisfactory as long as paper stamps are used, since the Bureau of Engraving and Printing is geared to the printing of paper. However, the restriction does, in effect, exclude consideration of most other methods and materials because the Government generally is not equipped to process other materials.

The proposed Hartke amendment to section 6801(b) would provide the authority needed by the Secretary to allow private firms or individuals to prepare and distribute any new devices that might be approved for use as evidence of payment of tax on containers of distilled spirits.

The stamps used on bottles of distilled spirits to evidence tax payment are representative in the aggregate of large

amounts of taxes. Preparation and distribution of the stamps, or any other device that might be used to indicate payment of tax, could not be released from the control of the Secretary of the Treasury without abandoning the protection to the revenue achieved by the current statute. Therefore, the proposed amendment to section 6801(b) provides that the Secretary shall prescribe the controls believed essential to the protection of the revenue when authorizing persons other than the Treasury Department to prepare and distribute the stamps or devices required for evidence of payment of tax on containers of distilled spirits.

Mr. President, the Hartke amendment has the full approval of the U.S. Treasury. In a July 13, 1972, letter to President Nixon, George Shultz, Secretary of the Treasury, proposes the changes that would be made by the Hartke amendment. Mr. President, I ask unanimous consent that the text of Secretary Shultz' letter be included at this point.

Mr. President, the Hartke amendment has already received favorable action by the House Ways and Means Committee and is sure to receive favorable consideration in conference.

Mr. President, the Hartke amendment is really very simple. It would permit new methods of affixing a tax stamp to be used on an experimental basis. The Secretary of the Treasury has sent a draft of the amendment to Congress. I ask unanimous consent that the letter from the Secretary of the Treasury endorsing this amendment be printed in the RECORD at this point.

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

THE SECRETARY OF THE TREASURY,
Washington, D.C., July 13, 1972.

HON. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill which would amend the Internal Revenue Code of 1954 to permit the authorizing of means other than stamps to evidence tax payment of containers of distilled spirits.

Under existing law, the evidence of tax payment required to be placed on containers of distilled spirits is restricted to a stamp. Technological advances in the closure industry indicate that other methods of evidencing tax payment may prove satisfactory in the future. The proposed amendments to existing statutes will provide the necessary flexibility to accommodate such other methods.

A detailed analysis and comparative print are also enclosed for your consideration.

It will be appreciated if you would lay the proposed legislation before the Senate. A similar proposal has been transmitted to the House of Representatives.

Sincerely,

GEORGE P. SHULTZ.

Mr. HARTKE. Mr. President, the House is ready to proceed with a similar amendment. There is no revenue loss whatever.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HARTKE. Mr. President, I would like to proceed at this time with a series of amendments. There are seven amendments. These seven are a part of the amendments included in the Finance Committee summary which have heretofore been discussed by the chairman of the committee, the Senator from Louisiana (Mr. LONG). Mr. President, in the absence of the Senator from Louisiana, who is busily engaged in the conference on H.R. 1 and also the conference on the debt limit, he has requested that I proceed to manage these bills.

I have also discussed these amendments with the distinguished Senator from Wisconsin (Mr. PROXMIRE). Certain amendments which are in this list have now been deleted and will not be brought up. I would like it understood that certain amendments were omitted because there is no clear understanding that the Senator from Wisconsin could agree that they could be taken up at this time.

I do not want to leave any implication that there is any impropriety about the omitted amendments. It is simply for the purpose of expediting the action of the Senate that we not proceed with the omitted amendments at this time. If at a later time they can be cleared to the satisfaction of the Senator from Wisconsin and other Senators, they will be taken up.

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

Mr. HARTKE. I yield.

Mr. PROXMIRE. Mr. President, I very much appreciate the accommodation of the acting chairman of the Finance Committee and manager of the bill.

I would like to explain, as the Senator from Indiana has said, that the reason I am opposed to these amendments is not because they have no merit. They may have a good deal of merit. In every case they have had no reports and no hearings. There is a substantial revenue loss in every case, and special interests would gain a great amount by their adoption. And that kind of legislation must have more careful scrutiny than we have had in this case.

Mr. President, for example, there is a provision that the aircraft manufacturers would be able to get a special carryback advantage in handling their products that other corporations would not get. It would cost the Treasury $145 million.

We have a special proposal for light-duty trusts, and charitable trusts. There is a bank bond income provision that would cost the Treasury $70 million. There is a capital gains throwback program that is very small in its impact. It would have an effect obviously on people with very large incomes.

While this may be equitable and possible, this is exactly the kind of legislation that ought to receive careful scrutiny in the regular order of business and should not come up in one of the last days of the session without an opportunity to go into them, and without an opportunity to get a report on them or have hearings in the regular process.

For that reason, Mr. President, I have objected to these various measures. Others of the 13 so-called amendments that the Senator from Louisiana referred to earlier today either have an insignificant affect or would actually improve the 1969 act, as I understand it, or would actually in the case of two of these amendments increase the revenue for the Treasury. It would be in the interest of the taxpayers rather than penalize the taxpayers.

Mr. HARTKE. Mr. President, I want to say to the Senator from Wisconsin that those amendments to which he objected are not going to be brought up.

Mr. PROXMIRE. The Senator is correct.

Mr. HARTKE. And for that reason, they will not be considered.

Mr. President, at this time I would like to call up the first amendment at the desk and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to state the amendment.

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

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

The amendment is as follows:

At the end of the act insert:

SEC. . Section 411 (c) of the Tax Reform Act of 1969 (Pub. Law 91–172) is amended by adding at the end thereof: "Notwithstanding the preceding sentence, the amendments made by this section shall not apply to indebtedness incurred before January 1, 1980, where the issuing corporation owned on January 29, 1969, at least 80 percent of the total combined voting power of all classes of stock entitled to vote of the acquired corporation, and if (under the rules contained in section 279 (c) of the Internal Revenue Code of 1954) the ratio of debt to equity of the issuing corporation does not exceed 4 to 1, and the projected earnings exceed the annual interest to be paid or incurred by at least 2 to 1."

Mr. HARTKE. Mr. President, this deals with a deduction of interest on the acquisition of indebtedness in certain cases.

This committee amendment deals with the deduction of interest on certain debt issued in connection with corporate acquisitions. The Tax Reform Act of 1969 enacted a provision which, in general, disallows a deduction for interest on debt obligations which a corporation issues in order to acquire another corporation. However, if the acquiring corporation had effective control of the acquired corporation—50 percent or more of the stock—on October 9, 1969, it may deduct the interest on debt issued subsequent to that date to acquire control of that corporation for tax purposes—80 percent of the stock of the corporation. Any interest paid on debt issued to acquire stock of the corporation above this amount is not deductible by the taxpayer. This provision was adopted in the 1969 act in order to deny a taxpayer a deduction for interest on debt issued simply to acquire stock of another corporation beyond the amount necessary for control; that is, in excess of 80 percent. However, in those cases where a corporation already had control of a corporation on January 29, 1969, debt issued to acquire the remaining shares was not issued in order to acquire the corporation. For this reason, the committee amendment provides that in certain cases where corporations had control of another corporation on January 29, 1969, the interest on debt obliga-

tions issued before 1980 to obtain additional stock in the corporation may be deducted.

This provision is estimated by your committee to result in an annual revenue loss of about $500,000. The Treasury Department agrees with this statement.

It is estimated by the committee that there will be annual loss of revenue of half a million dollars under this amendment. As far as I have been able to determine, no interest is given any special consideration under this amendment. And if anything, it eliminates a former inequity in the law.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

Mr. HARTKE. Mr. President, I call up the second amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to state the amendment.

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

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

The amendment is as follows:

At the end of the act insert:

SEC. —. (a) Section 367(b) of the Internal Revenue Code of 1954 (relating to application of recognition of gain in certain exchanges involving foreign corporations) is amended to read as follows:

"(b) Application of Subsection (a)(2).—Subsection (a)(2) shall apply in the case of—

"(1) a mere change in form in which there is an exchange by a foreign corporation of—

"(A) stock in one foreign corporation for

"(B) stock in another foreign corporation

if the corporations referred to in subparagraphs (A) and (B) differ only in their form of organization, and if the ownership of the corporation referred to in subparagraph (A) immediately before such exchange is identical to the ownership of the corporation referred to in subparagraph (B) immediately after such exchange, and

"(2) an exchange incident to a complete liquidation of a foreign corporation into a second foreign corporation which is wholly owned by a United States corporation where both foreign corporations are incorporated under the laws of the same foreign country."

(b) The amendments made by this section shall apply to exchanges made after December 31, 1967; except that section 367(b)(2) of such Code shall also apply with respect to any exchange made after December 31, 1962.

Mr. HARTKE. Mr. President, this amendment deals with the elimination of advance approval for certain liquidations of second-tier foreign subsidiaries. The committee estimates that this amendment will result in a onetime revenue loss of less than $1 million.

The committee amendment relates to the elimination of the advanced approval requirement for certain liquidations of second-tier foreign subsidiaries. Present law provides that, where a foreign corporation is involved in an exchange which otherwise would be a tax-free transaction, tax-free treatment is not available unless prior to the transaction the Internal Revenue Service has made a determination to the effect that the transaction is not being made to avoid Federal income taxes. Under current practice, the determination is made by the issuance of a ruling. Present law provides that the required determination may be obtained after—as well as before—the transaction in the case of a transaction which involves only a change in the form of organization of a second or lower tier foreign subsidiary when there is no change in ownership. The committee amendment provides a second situation under which the required determination may be obtained after—as well as before—the transaction. Under the committee amendment a taxpayer may also obtain a determination after the transaction in the case where an exchange is incident to a complete liquidation of a second-tier foreign corporation into the first-tier foreign corporation, which is wholly owned by a U.S. corporation, if both foreign corporations are incorporated under the laws of the same country.

The committee estimates that this amendment will result in a one-time revenue loss of less than $1 million. The Treasury Department agrees with this statement.

Mr. President, I am also told that this amendment provides no special benefit to which any individual or corporation would be entitled and that it would eliminate the present inequity in the law.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

Mr. HARTKE. Mr. President, I send a third amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be reported.

The legislative clerk proceeded to state the amendment.

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

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

The amendment is as follows:

At the end of the act insert:

SEC. —. (a) Subsection (a) of section 7275 of the Internal Revenue Code of 1954 (relating to the requirements of showing total cost on airline tickets) is amended to read as follows:

"(a) Tickets.—In the case of transportation by air all of which is taxable transportation (as defined in section 4262) or would be taxable transportation if section 4262 did not include subsection (b) thereof, the ticket for such transportation shall show the total of (1) the amount paid for such transportation and (2) the taxes imposed by section 4261 (a), (b), and (c)."

(b)(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to transportation beginning on or after the thirtieth day after the date of the enactment of this Act.

(2) The removal of the requirements with respect to segments of transportation which were contained in section 7275(a) of the Internal Revenue Code of 1954 (as in effect for any period before the amendment made by subsection (a)) shall apply to transportation beginning after June 30, 1970.

Mr. HARTKE. Mr. President, this amendment eliminates the requirement of showing the total cost of airline tickets. It is an amendment which the present Presiding Officer, the Senator from Michigan (Mr. HART), and I are familiar with, because it was included as part of the Commerce Committee recommendations. This has no revenue effect whatsoever. However, it does provide for the elimination of certain clerical activities with regard to airline tickets.

The committee amendment removes the requirement that the airline ticket show in the case of each segment of a trip the total amount—including the tax—paid with respect to the segment. However, the amendment continues the rule of existing law which requires the ticket to show the total amount—including the tax—paid by the passenger. This means that on a ticket showing separate segments of a trip there needs to be shown only the basic fare for each segment. However, all tickets must continue to show the total amount paid—including the tax—by the purchaser. As under present law, the tax may be shown separately on the ticket.

This amendment has no revenue effect. The Treasury Department agrees with this statement.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

Mr. HARTKE. Mr. President, I call up the next amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

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

The amendment, ordered to be printed in the RECORD, is as follows:

At the end of the Act insert:

SEC. —. (a) Section 931 of the Internal Revenue Code of 1954 (relating to income from sources within a possession of the United States) is amended—

(1) by striking out in subsection (a) "citizens of the United States or domestic corporations" and inserting in lieu thereof "a citizen of the United States, and in the case of a domestic corporation which elects the application of this section"; and

(2) by adding at the end thereof the following:

"(j) Election.—The election provided in subsection (a) shall be made at such time and in such manner as the Secretary or his delegate may by regulation prescribe. Such an election shall remain in effect until the expiration of the 9th taxable year following the taxable year for which (1) such election was first effective and for which (2) such taxpayer satisfied the conditions of paragraphs (1) and (2) of subsection (a). Such an election may be revoked prior to such time with the consent of the Secretary or his delegate."

(b) Section 1504(b)(4) of such Code (relating to definition of includible corporation) is amended to read as follows:

"(4) Corporations with respect to which an election under section 931 (relating to income from sources within possessions of the United States) is in effect for the taxable year."

(c) Section 246(a) of such Code (relating to deduction not allowed for dividends from certain corporations) is amended to read as follows:

"(a) Deduction not allowed for Dividends from Certain Corporations.—The deductions allowed by sections 243, 244, and 245 shall not apply to any dividend—

"(1) from a corporation organized under the China Trade Act, 1922 (see section 941);

"(2) from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations); or

"(3) out of earnings and profits of a corporation for taxable years beginning after December 31, 1972, attributable to amounts excluded from the gross income of such corporation under section 931."

(d) (1) The amendments made by subsections (a) and (b) shall apply with respect to taxable years beginning after December 31, 1972. Such amendments shall, at the election of the taxpayer made under this paragraph within one year after the date of the enactment of this Act, also apply to all taxable years beginning before December 31, 1972, to which the Internal Revenue Code of 1954 applies.

(2) The amendment made by subsection (c) shall apply with respect to dividends made after December 31, 1972, except that section 246(a) of such Code, as it existed on the day before the date of enactment of this Act, shall apply with respect to dividends made before January 1, 1974, by a corporation to which section 931 of such Code applies during the last taxable year of the corporation ending before January 1, 1973.

(e) No interest shall be allowed or paid on any overpayment of tax resulting from the application of the amendment made by this section for any period prior to the expiration of the 180th day following the date of the enactment of this Act.

Mr. HARTKE. Mr. President, this amendment deals with the exclusion in present law for income derived by domestic corporations from other than U.S. sources where most of their income is from sources within U.S. possessions. Under present law, a corporation entitled to the benefits of this exclusion may not file a consolidated return with other corporations. Because of this latter provision, the Internal Revenue Service has held that a corporation automatically is disqualified from filing a consolidated return with other corporations if it meets the two gross income tests of the present statute for this possessions-exclusion treatment, even where this results in no reduction in the tax liability for the corporation. The Tax Court, on the other hand, has held that a consolidated return may be filed in such a case because the corporation derived no "benefit" from the possessions-exclusion treatment. The bill resolves this conflict by making the possessions-exclusion treatment elective. However, the bill also provides that once a corporation elects the benefits of the possessions-exclusion treatment it may not file a consolidated return until 10 years after it so elects under this provision.

The bill also eliminates an unintended benefit in existing law by providing that the dividends received deduction is not to be available with respect to dividends received from a corporation which excluded this income from its tax base in a prior year when it was eligible for the possessions-exclusion treatment even though it is not eligible for this treatment in the year the dividend is paid.

This provision is estimated to increase revenues, probably by less than $100,000 a year. The Treasury agrees with this statement.

There is no special benefit given to any corporation or individual other than to correct inequities of the law.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HARTKE. Mr. President, I call up the next amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

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

The amendment, ordered to be printed in the RECORD, is as follows:

At the end of the Act insert:

SEC. —. (a) Section 1247 (a) (1) of the Internal Revenue Code of 1954 (relating to election by foreign investment company to distribute income currently) is amended to read as follows:

"(1) In general.—If a foreign investment company which is in existence on December 31, 1962, and which is described in section 1246(b)(1) elects (in the manner provided in regulations prescribed by the Secretary or his delegate) on or before December 31, 1973, with respect to each taxable year beginning after such election to—

"(A) distribute to its shareholders 90 percent or more of what its taxable income would be if it were a domestic corporation;

"(B) designate in a written notice mailed to its shareholders at any time before the expiration of 45 days after the close of its taxable year the pro rata amount of the excess (determined as if such corporation were a domestic corporation) of the net long-term capital gain over the net short-term capital loss of the taxable year; and the portion thereof which is being distributed; and

"(C) provide such information as the Secretary or his delegate deems necessary to carry out the purposes of this section,

then section 1246 shall not apply with respect to any qualified shareholder's ratable share of the earnings and profits of such foreign investment company accumulated during any taxable year to which such election applies."

(b) The amendment made by this section shall apply to taxable years ending after the date of enactment of this Act.

Mr. HARTKE. Mr. President, this amendment deals with the election by foreign investment companies to distribute income currently. Present law provides that foreign investment companies registered with the Securities and Exchange Commission which made an election before 1963 to distribute income currently are treated similar to a domestic mutual fund if they first, distribute 90 percent of their taxable income, second, allocate to their shareholders on a pro rata basis, the excess of net long-term capital gain over net short-term capital loss; and third, satisfy certain reporting requirements. The committee amendment would give foreign investment companies that were eligible to make the election in 1962 but were unable to do so, the opportunity to make the election on or before December 31, 1973. If a foreign investment company avails itself of the opportunity to make the election, the rules treating it similarly to a domestic mutual fund would apply to taxable years beginning after the date of the election.

The committee estimates that enactment of this amendment will result in a revenue gain of about $300,000 annually for the next few years. In the longer run, however, it is expected that there will be a slight revenue loss. The Treasury Department agrees with this statement.

As far as my information is concerned, there is no business to any corporation or individual, and it is only to correct inequities in the law.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, will the Senator yield to me briefly?

Mr. HARTKE. I yield.

The PRESIDING OFFICER. The Senator from Montana is recognized.

LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT AMENDMENTS OF 1972

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2318.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2318) to amend the Longshoremen's and Harbor Workers' Compensation Act, and for other purposes, which was to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Longshoremen's and Harbor Workers' Compensation Act Amendments of 1972".

COVERAGE

SEC. 2. (a) Section 2(3) of the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1424, 33 U.S.C. 902) is amended to read as follows:

"(3) The term 'employee' means any person engaged in maritime employment, including any longshoreman or other person engaged in longshoring operations, and any harborworker including a ship repairman, shipbuilder, and shipbreaker, but such term does not include a master or member of a crew of any vessel, or any person engaged by the master to load or unload or repair any small vessel under eighteen tons net."

(b) Section 2(4) of such Act is amended by striking out "(including any dry dock)" and inserting in lieu thereof "(including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel)".

(c) Section 3(a) of such Act is amended by striking out "(including any dry dock) and if recovery for the disability or death through workmen's compensation proceedings may not validly be provided by State law", and inserting in lieu thereof "(including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel)".

STUDENT BENEFITS

SEC. 3. (a) Section 2 of the Longshoremen's and Harbor Workers' Compensation Act is amended by redesignating paragraph (19) as

paragraph (20) and adding a new paragraph (19) as follows:

"(19) The term 'student' means a person regularly pursuing a full-time course of study or training at an institution which is—

"(A) a school or college or university operated or directly supported by the United States, or by any State or local government or political subdivision thereof,

"(B) a school or college or university which has been accredited by a State or by a State recognized or nationally recognized accrediting agency or body,

"(C) a school or college or university not so accredited but whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited, or

"(D) an additional type of educational or training institution as defined by the Secretary,

but not after he reaches the age of twenty-three or has completed four years of education beyond the high school level, except that, where his twenty-third birthday occurs during a semester or other enrollment period, he shall continue to be considered a student until the end of such semester or other enrollment period. A child shall not be deemed to have ceased to be a student during any interim between school years if the interim does not exceed five months and if he shows to the satisfaction of the Secretary that he has a bona fide intention of continuing to pursue a full-time course of education or training during the semester or other enrollment period immediately following the interim or during periods of reasonable duration during which, in the judgment of the Secretary, he is prevented by factors beyond his control from pursuing his education. A child shall not be deemed to be a student under this Act during a period of service in the Armed Forces of the United States."

(b) The last sentence of section 2(14) of such Act is amended to read as follows: "'Child', 'grandchild', 'brother', and 'sister' include only a person who is under eighteen years of age, or who, though eighteen years of age or over, is (1) wholly dependent upon the employee and incapable of self-support by reason of mental or physical disability, or (2) a student as defined in paragraph (19) of this section."

TIME FOR COMMENCEMENT OF COMPENSATION

SEC. 4. Section 6(a) of the Longshoremen's and Harbor Workers' Compensation Act is amended by striking out "more than twenty-eight days" and inserting in lieu thereof "more than fourteen days".

MAXIMUM AND MINIMUM LIMITS OF DISABILITY COMPENSATION AND ALLOWANCE

SEC. 5. (a) Section 6 of the Longshoremen's and Harbor Workers' Compensation Act is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b)(1) Except as provided in subsection (c), compensation for disability shall not exceed the following percentages of the applicable national average weekly wage as determined by the Secretary under paragraph (3):

"(A) 125 per centum or $167, whichever is greater, during the period ending September 30, 1973.

"(B) 150 per centum during the period beginning October 1, 1973, and ending September 30, 1974.

"(C) 175 per centum during the period beginning October 1, 1974, and ending September 30, 1975.

"(D) 200 per centum beginning October 1, 1975.

"(2) Compensation for total disability shall not be less than 50 per centum of the applicable national average weekly wage determined by the Secretary under paragraph (3), except that if the employee's average weekly wages as computed under section 10 are less than 50 per centum of such national average weekly wage, he shall receive his average weekly wages as compensation for total disability.

"(3) As soon as practicable after June 30 of each year, and in any event prior to October 1 of such year, the Secretary shall determine the national average weekly wage for the three consecutive calendar quarters ending June 30. Such determination shall be the applicable national average weekly wage for the period beginning with October 1 of that year and ending with September 30 of the next year. The initial determination under this paragraph shall be made as soon as practicable after the enactment of this subsection.

"(c) The maximum rate of compensation for a nonappropriated fund instrumentality employee shall be equal to 66⅔ per centum of the maximum rate of basic pay established for a Federal employee in grade GS–12 by section 5332 of title 5, United States Code, and the minimum rate of compensation for such an employee shall be equal to 66⅔ per centum of the minimum rate of basic pay established for a Federal employee in grade GS–2 by such section.

"(d) Determinations under this subsection with respect to a period shall apply to employees or survivors currently receiving compensation for permanent total disability or death benefits during such period, as well as those newly awarded compensation during such period."

(b) Section 2 of such Act as amended by this Act is further amended by redesignating paragraph (20) thereof as paragraph (21) and by inserting immediately after paragraph (19) the following:

"(20) The term 'national average weekly wage' means the national average weekly earnings of production or nonsupervisory workers on private nonagricultural payrolls."

(c) Section 8(d) of such Act is amended to read as follows:

"(d)(1) If an employee who is receiving compensation for permanent partial disability pursuant to section 8(c)(1)–(20) dies from causes other than the injury, the total amount of the award unpaid at the time of death shall be payable to or for the benefit of his survivors, as follows:

"(A) if the employee is survived only by a widow or widower, such unpaid amount of the award shall be payable to such widow or widower,

"(B) if the employee is survived only by a child or children, such unpaid amount of the award shall be paid to such child or children in equal shares,

"(C) if the employee is survived by a widow or widower and a child or children, such unpaid amount of the award shall be payable to such survivors in equal shares,

"(D) if there be no widow or widower and no surviving child or children, such unpaid amount of the award shall be paid to the survivors specified in section 9(d) (other than a wife, husband, or child); and the amount to be paid each such survivor shall be determined by multiplying such unpaid amount of the award by the appropriate percentage specified in section 9(d), but if the aggregate amount to which all such survivors are entitled, as so determined, is less than such unpaid amount of the award, the excess amount shall be divided among such survivors pro rata according to the amount otherwise payable to each under this subparagraph.

"(2) Notwithstanding any other limitation in section 9, the total amount of any award for permanent partial disability pursuant to section 8(c)(1)–(20) unpaid at time of death shall be payable in full in the appropriate distribution.

"(3) If an employee who was receiving compensation for permanent partial disability pursuant to section 8(c)(21) dies from causes other than the injury, his survivors shall receive death benefits as provided in section 9(b)–(g), except that the percentage figures therein shall be applied to the weekly compensation payable to the employee at the time of his death multiplied by 1.5, rather than to his average weekly wages.

"(4) An award for disability may be made after the death of the injured employee. Except where compensation is payable under section 8(c)(21), if there be no survivors as prescribed in this section, then the compensation payable under this subsection shall be paid to the special fund established under section 44(a) of this Act."

(d) The first phrase of section 9 of such Act, preceding the first colon, is amended to read as follows:

"If the injury causes death, or if the employee who sustains permanent total disability due to the injury thereafter dies from causes other than the injury, the compensation shall be known as a death benefit and shall be payable in the amount and to or for the benefit of the persons following:"

(e) Section 14 of such Act is amended by striking out subsection (m).

MEDICAL SERVICES

SEC. 6. (a) Section 7 of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

MEDICAL SERVICES AND SUPPLIES

"SEC. 7. (a) The employer shall furnish such medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus, for such period as the nature of the injury or the process of recovery may require.

"(b) The employee shall have the right to choose an attending physician authorized by the Secretary to provide medical care under this Act as hereinafter provided. If, due to the nature of the injury, the employee is unable to select his physician and the nature of the injury requires immediate medical treatment and care, the employer shall select a physician for him. The Secretary shall actively supervise the medical care rendered to injured employees, shall require periodic reports as to the medical care being rendered to injured employees, shall have authority to determine the necessity, character, and sufficiency of any medical aid furnished or to be furnished, and may, on his own initiative or at the request of the employer, order a change of physicians or hospitals when in his judgment such change is desirable or necessary in the interest of the employee. Change of physicians at the request of employees shall be permitted in accordance with regulations of the Secretary.

"(c) The Secretary may designate the physicians who are authorized to render medical care under the Act. The names of physicians so designated in the community shall be made available to employees through posting or in such other form as the Secretary may prescribe.

"(d) An employee shall not be entitled to recover any amount expended by him for medical or other treatment or services unless he shall have requested the employer to furnish such treatment or services, or to authorize provision of medical or surgical services by the physician selected by the employee, and the employer shall have refused or neglected to do so, or unless the nature of the injury required such treatment and services and the employer or his superintendent or foreman having knowledge of such injury shall have neglected to provide or authorize the same; nor shall any claim for medical or surgical treatment be valid and enforceable, as against such employer, unless within ten days following the first treatment the physician giving such treatment furnish to the employer and the Secretary a report of such injury and treatment, on a form prescribed by the Secretary.

The Secretary may, however, excuse the failure to furnish such report within ten days when he finds it to be in the interest of justice to do so, and he may, upon application by a party in interest, make an award for the reasonable value of such medical or surgical treatment so obtained by the employee. If at any time the employee unreasonably refuses to submit to medical or surgical treatment, or to an examination by a physician selected by the employer, the Secretary may, by order, suspend the payment of further compensation during such time as such refusal continues, and no compensation shall be paid at any time during the period of such suspension, unless the circumstances justified the refusal.

"(e) In the event that medical questions are raised in any case, the Secretary shall have the power to cause the employee to be examined by a physician employed or selected by the Secretary and to obtain from such physician a report containing his estimate of the employee's physical impairment and such other information as may be appropriate. Any party who is dissatisfied with such report may request a review or reexamination of the employee by one or more different physicians employed or selected by the Secretary. The Secretary shall order such review or reexamination unless he finds that it is clearly unwarranted. Such review or reexamination shall be completed within two weeks from the date ordered unless the Secretary finds that because of extraordinary circumstances a longer period is required. The Secretary shall have the power in his discretion to charge the cost of examination or review under this subsection to the employer, if he is a self-insurer, or to the insurance company which is carrying the risk, in appropriate cases, or to the special fund in section 44.

"(f) An employee shall submit to a physical examination under subsection (e) at such place as the Secretary may require. The place, or places, shall be designated by the Secretary and shall be reasonably convenient for the employee. No physician selected by the employer, carrier, or employee shall be present at or participate in any manner in such examination, nor shall conclusions of such physicians as to the nature or extent of impairment or the cause of impairment be available to the examining physician unless otherwise ordered, for good cause, by the Secretary. Such employer or carrier shall, upon request, be entitled to have the employee examined immediately thereafter and upon the same premises by a qualified physician or physicians in the presence of such physician as the employee may select, if any. Proceedings shall be suspended and no compensation shall be payable for any period during which the employee may refuse to submit to examination.

"(g) All fees and other charges for medical examinations, treatment, or service shall be limited to such charges as prevail in the community for such treatment, and shall be subject to regulation by the Secretary. The Secretary shall issue regulations limiting the nature and extent of medical expenses chargeable against the employer without authorization by the employer or the Secretary.

"(h) The liability of an employer for medical treatment as herein provided shall not be affected by the fact that his employee was injured through the fault or negligence of a third party not in the same employ, or that suit has been brought against such third party. The employer shall, however, have a cause of action against such third party to recover any amounts paid by him for such medical treatment in like manner as provided in section 33(b) of this Act.

"(i) Unless the parties to the claim agree, the Secretary shall not employ or select any physician for the purpose of making examinations or reviews under subsection (e) of this section who, during such employment, or during the period of two years prior to such employment, has been employed by, or accepted or participated in any fee relating to a workmen's compensation claim from any insurance carrier or any self-insurer."

DISFIGUREMENT

SEC. 7. Section 8(c)(20) of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"(20) Disfigurement: Proper and equitable compensation not to exceed $3,500 shall be awarded for serious disfigurement of the face, head, or neck or of other normally exposed areas likely to handicap the employee in securing or maintaining employment."

SPECIAL FUND

SEC. 8. (a) Section 44(a) of the Longshoremen's and Harbor Workers' Compensation Act is amended by adding a period after the word "fund" in the first sentence thereof and deleting the remainder of the sentence.

(b) Section 44 of such Act is further amended by redesignating subsections (d), (e), (f), and (g) as (f), (g), (h), and (i), respectively and by striking out subsection (c) and inserting in lieu thereof the following:

"(c) Payments into such fund shall be made as follows:

"(1) Whenever the Secretary determines that there is no person entitled under this Act to compensation for the death of an employee which would otherwise be compensable under this Act, the appropriate employer shall pay $5,000 as compensation for the death of such an employee.

"(2) At the beginning of each calendar year the Secretary shall estimate the probable expenses of the fund during that calendar year and each carrier or self-insurer shall make payments into the fund on a prorated assessment by the Secretary in the proportion that the total compensation and medical payments made on risks covered by this Act by each carrier and self-insurer bears to the total of such payments made by all carriers and self-insurers under the Act in the prior calendar year in accordance with a formula and schedule to be determined from time to time by the Secretary to maintain adequate reserves in the fund.

"(3) All amounts collected as fines and penalties under the provisions of this Act shall be paid into such fund.

"(d)(1) For the purpose of making rules, regulations, and determinations under this section under and for providing enforcement thereof, the Secretary may investigate and gather appropriate data from each carrier and self-insurer. For that purpose, the Secretary may enter and inspect such places and records (and make such transcriptions thereof), question such employees, and investigate such facts, conditions, practices, or matters as he may deem necessary or appropriate.

"(2) Each carrier and self-insurer shall make, keep, and preserve such records, and make such reports and provide such additional information, as prescribed by regulation or order of the Secretary, as the Secretary deems necessary or appropriate to carry out his responsibilities under this section.

"(3) For the purpose of any hearing or investigation related to determinations or the enforcement of the provisions of this section, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (U.S.C., title 15, secs. 49 and 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary of Labor.

"(e) There is hereby authorized to be appropriated to the Secretary the sum of $2,000,000 which the Secretary shall immediately deposit into the fund. Upon deposit in the fund such moneys shall be treated as the property of such fund. This sum, without additional payments for interest, shall be repaid from the money or property belonging to the fund on a schedule of repayment set by the Secretary: *Provided*, That full repayment must be made no later than five years from the date of deposit into the fund. Each such repayment, as made, shall be covered into the Treasury of the United States as miscellaneous receipts."

(d) Section 44 of such Act is further amended by adding the following new subsections (j) and (k):

"(j) The proceeds of this fund shall be available for payments:

"(1) Pursuant to section 10 and 11 with respect to initial and subsequent annual adjustments in compensation for total permanent disability or death which occurred prior to the effective date of this subsection.

"(2) Under section 8(f) and (g), under section 18(b), and under section 39(c).

"(3) To repay the sums deposited in the fund pursuant to subsection (d).

"(4) To defray the expense of making examinations as provided in section 7.

"(k) At the close of each fiscal year the Secretary shall submit to the Congress a complete audit of the fund."

INJURY FOLLOWING PREVIOUS IMPAIRMENT

SEC. 9. (a) Section 8(f)(1) of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows: "(1) In any case in which an employee having an existing permanent partial disability suffers injury, the employer shall provide compensation for such disability as is found to be attributable to that injury based upon the average weekly wages of the employee at the time of the injury. If following an injury falling within the provisions of section 8(c)(1)–(20), the employee is totally and permanently disabled, and the disability is found not to be due solely to that injury, the employer shall provide compensation for the applicable prescribed period of weeks provided for in that section for the subsequent injury, or for one hundred and four weeks, whichever is the greater. In all other cases of total permanent disability or of death, found not to be due solely to that injury, of an employee having an existing permanent partial disability, the employer shall provide in addition to compensation under paragraphs (b) and (e) of this section, compensation payments or death benefits for one hundred and four weeks only. If following an injury falling within the provisions of 8(c)(1)–(20), the employee has a permanent partial disability and the disability is found not to be due solely to that injury, and such disability is materially and substantially greater than that which would have resulted from the subsequent injury alone, the employer shall provide compensation for the applicable period of weeks provided for in that section for the subsequent injury, or for one hundred and four weeks, whichever is the greater.

"In all other cases in which the employee has a permanent partial disability, found not to be due solely to that injury, and such disability is materially and substantially greater than that which would have resulted from the subsequent injury alone, the employer shall provide in addition to compensation under paragraphs (b) and (e) of this section, compensation for one hundred and four weeks only.

(2) After cessation of the payments for the period of weeks provided for herein, the employee or his survivor entitled to benefits shall be paid the remainder of the compensation that would be due out of the special fund established in section 44."

(b) Section 8(f) of such Act is further amended by striking out paragraph (2).

DEATH BENEFITS

SEC. 10. (a) Section 9(a) of the Act is amended by striking out "$400" and inserting in lieu thereof "$1,000".

(b) Sections 9 (b) and (c) of such Act are amended by striking "35" and "15" wherever they appear, and substituting "50" and "16⅔" respectively.

(c) The first sentence of section 9(d) of such Act is amended to read as follows: "If there be no surviving wife or husband or child, or if the amount payable to a surviving wife or husband and to children shall be less in the aggregate than 66⅔ per centum of the average wages of the deceased; then for the support of grandchildren or brothers and sisters, if dependent upon the deceased at the time of the injury, and any other persons who satisfy the definition of the term 'dependent' in section 152 of title 26 of the United States Code, but are not otherwise eligible under this section, 20 per centum of such wages for the support of each such person during such dependency and for the support of each parent, or grandparent, of the deceased if dependent upon him at the time of the injury, 25 per centum of such wages during such dependency."

(d) Section 9(e) of such Act is amended to read as follows:

"(e) In computing death benefits the average weekly wages of the deceased shall be considered to have been not less than the applicable national average weekly wage as prescribed in section 6(b) but the total weekly benefits shall not exceed the average weekly wages of the deceased."

DETERMINATION OF PAY

SEC. 11. Section 10 of the Act is amended by adding the following new subsections:

"(f) Effective October 1 of each year, the compensation or death benefits payable for permanent total disability or death arising out of injuries sustained after the date of enactment of this subsection shall be increased by a percentage equal to the percentage (if any) by which the applicable national weekly wage for the period beginning on such October 1, as determined under section 6(b), exceeds the applicable national average weekly wage, as so determined, for the period beginning with the preceding October 1.

"(g) The weekly compensation after adjustment under subsection (f) shall be fixed at the nearest dollar. No adjustment of less than $1 shall be made, but in no event shall compensation or death benefits be reduced.

"(h)(1) Not later than ninety days after the date of enactment of this subsection, the compensation to which an employee or his survivor is entitled due to total permanent disability or death which commenced or occurred prior to enactment of this subsection shall be adjusted. The amount of such adjustment shall be determined in accordance with regulations of the Secretary by designating as the employee's average weekly wage the applicable national average weekly wage determined under section 6(b) and (A) computing the compensation to which such employee or survivor would be entitled if the disabling injury or death had occurred on the day following such enactment date and (B) subtracting therefrom the compensation to which such employee or survivor was entitled on such enactment date; except that no such employee or survivor shall receive total compensation amounting to less than that to which he was entitled on such enactment date. Notwithstanding the foregoing sentence, where such an employee or his survivor was awarded compensation as the result of death or permanent total disability at less than the maximum rate that was provided in this Act at the time of the injury which resulted in the death or disability, then his average weekly wage shall be determined by increasing his average weekly wage at the time of such injury by the percentage which the applicable national average weekly wage has increased between the year in which the injury occurred and the first day of the first month following the enactment of this section. Where such injury occurred prior to 1947, the Secretary shall determine, on the basis of such economic data as he deems relevant, the amount by which the employee's average weekly wage shall be increased for the pre-1947 period.

"(2) Fifty per centum of any additional compensation or death benefit paid as a result of the adjustment required by paragraphs (1) and (3) of this subsection shall be paid out of the special fund established under section 44 of this Act, and 50 per centum shall be paid from appropriations.

"(3) For the purposes of subsections (f) and (g) an injury which resulted in permanent total disability or death which occurred prior to the date of enactment of this subsection shall be considered to have occurred on the day following such enactment date."

TIME FOR NOTICE AND CLAIMS

SEC. 12. (a) Section 12(a) of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"SEC. 12. (a) Notice of an injury or death in respect of which compensation is payable under this Act shall be given within thirty days after the date of such injury or death, or thirty days after the employee or beneficiary is aware or in the exercise of reasonable diligence should have been aware of a relationship between the injury or death and the employment. Such notice shall be given (1) to the deputy commissioner in the compensation district in which the injury occurred, and (2) to the employer."

(b) Section 13(a) of such Act is amended to read as follows:

"SEC. 13. (a) Except as otherwise provided in this section, the right to compensation for disability or death under this Act shall be barred unless a claim therefor is filed within one year after the injury or death. If payment of compensation has been made without an award on account of such injury or death, a claim may be filed within one year after the date of the last payment. Such claim shall be filed with the deputy commissioner in the compensation district in which such injury or death occurred. The time for filing a claim shall not begin to run until the employee or beneficiary is aware, or by the exercise of reasonable diligence should have been aware, of the relationship between the injury or death and the employment."

FEES FOR SERVICES

SEC. 13. Section 28 of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"FEES FOR SERVICES

"SEC. 28. (a) If the employer or carrier declines to pay any compensation on or before the thirtieth day after receiving written notice of a claim for compensation having been filed from the deputy commissioner, on the ground that there is no liability for compensation within the provisions of this Act, and the person seeking benefits shall thereafter have utilized the services of an attorney at law in the successful prosecution of his claim, there shall be awarded, in addition to the award of compensation, in a compensation order, a reasonable attorney's fee against the employer or carrier in an amount approved by the deputy commissioner, Board, or court, as the case may be, which shall be paid directly by the employer or carrier to the attorney for the claimant in a lump sum after the compensation order becomes final.

"(b) If the employer or carrier pays or tenders payment of compensation without an award pursuant to section 14 (a) and (b) of this Act, and thereafter a controversy develops over the amount of additional compensation, if any, to which the employee may be entitled, the deputy commissioner or Board shall set the matter for an informal conference and following such conference the deputy commissioner or Board shall recommend in writing a disposition of the controversy. If the employer or carrier refuse to accept such written recommendation, within fourteen days after its receipt by them, they shall pay or tender to the employee in writing the additional compensation, if any, to which they believe the employee is entitled. If the employee refuses to accept such payment or tender of compensation, and thereafter utilizes the services of an attorney at law, and if the compensation thereafter awarded is greater than the amount paid or tendered by the employer or carrier, a reasonable attorney's fee based solely upon the difference between the amount awarded and the amount tendered or paid shall be awarded in addition to the amount of compensation. The foregoing sentence shall not apply if the controversy relates to degree or length of disability, and if the employer or carrier offers to submit the case for evaluation by physicians employed or selected by the Secretary, as authorized in section 7(e) and offers to tender an amount of compensation based upon the degree or length of disability found by the independent medical report at such time as an evaluation of disability can be made. If the claimant is successful in review proceedings before the Board or court in any such case an award may be made in favor of the claimant and against the employer or carrier for a reasonable attorney's fee for claimant's counsel in accord with the above provisions. In all other cases any claim for legal services shall not be assessed against the employer or carrier.

"(c) In all cases fees for attorneys representing the claimant shall be approved in the manner herein provided. If any proceedings are had before the Board or any court for review of any action, award, order, or decision, the Board or court may approve an attorney's fee for the work done before it by the attorney for the claimant. An approved attorney's fee, in cases in which the obligation to pay the fee is upon the claimant, may be made a lien upon the compensation due under an award; and the deputy commissioner, Board, or court shall fix in the award approving the fee, such lien and manner of payment.

"(d) In cases where an attorney's fee is awarded against an employer or carrier there may be further assesed against such employer or carrier as costs, fees and mileage for necessary witnesses attending the hearing at the instance of claimant. Both the necessity for the witness and the reasonableness of the fees of expert witnesses must be approved by the hearing officer, the Board, or the court, as the case may be. The amounts awarded against an employer or carrier as attorney's fees, costs, and mileage for witnesses shall not in any respect affect or diminish the compensation payable under this Act.

"(e) Any person who receives any fees, other consideration, or any gratuity on account of services rendered as a representative of a claimant, unless such consideration or gratuity is approved by the deputy commissioner, Board, or court, or who makes it a business to solicit employment for a lawyer, or for himself in respect of any claim or award for compensation, shall upon conviction thereof, for each offense be punished by a fine of not more than $1,000 or by imprisonment for not more than one year, or by both such fine and imprisonment."

HEARING PROCEDURE

SEC. 14. Section 19(d) of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"(d) Notwithstanding any other provisions of this Act, any hearing held under this Act shall be conducted in accordance with the provisions of section 554 of title 5 of the United States Code. Any such hearing shall be conducted by a hearing examiner qualified under section 3105 of that title. All

powers, duties, and responsibilities vested by this Act, on the date of enactment of the Longshoremen's and Harbor Workers' Compensation Act Amendments of 1972, in the deputy commissioners with respect to such hearings shall be vested in such hearing examiners."

REVIEW BOARD

SEC. 15. (a) Section 21(b) of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"(b)(1) There is hereby established a Benefits Review Board which shall be composed of three members appointed by the Secretary from among individuals who are especially qualified to serve on such Board. The Secretary shall designate one of the members of the Board to serve as chairman."

"(2) For the purpose of carrying out its functions under this Act, two members of the Board shall constitute a quorum and official action can be taken only on the affirmative vote of at least two members.

"(3) The Board shall be authorized to hear and determine appeals raising a substantial question of law or fact taken by any party in interest from decisions with respect to claims of employees under this Act and the extensions thereof. The Board's orders shall be based upon the hearing record. The findings of fact in the decision under review by the Board shall be conclusive if supported by substantial evidence in the record considered as a whole. The payment of the amounts required by an award shall not be stayed pending final decision in any such proceeding unless ordered by the Board. No stay shall be issued unless irreparable injury would otherwise ensue to the employer or carrier.

"(4) The Board may, on its own motion or at the request of the Secretary, remand a case to the hearing examiner for further appropriate action. The consent of the parties in interest shall not be a prerequisite to a remand by the Board.

"(c) Any person adversely affected or aggrieved by a final order of the Board may obtain a review of that order in the United States court of appeals for the circuit in which the injury occurred, by filing in such court within sixty days following the issuance of such Board order a written petition praying that the order be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court, to the Board, and to the other parties, and thereupon the Board shall file in the court the record in the proceedings as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and shall have the power to give a decree affirming, modifying, or setting aside, in whole or in part, the order of the Board and enforcing same to the extent that such order is affirmed or modified. The orders, writs, and processes of the court in such proceedings may run, be served, and be returnable anywhere in the United States. The payment of the amounts required by an award shall not be stayed pending final decision in any such proceeding unless ordered by the court. No stay shall be issued unless irreparable injury would otherwise ensue to the employer or carrier. The order of the court allowing any stay shall contain a specific finding, based upon evidence submitted to the court and identified by reference thereto, that irreparable damage would result to the employer, and specifying the nature of the damage."

(b) Redesignate subsections (c) and (d) of such section as (d) and (e), respectively.

(c) Section 2 of such Act as amended by this Act is further amended by redesignating paragraph 21 as paragraph 22 and inserting after paragraph 20 the following new paragraph:

"(21) The term 'Board' shall mean the Benefits Review Board."

(d) Section 14(f) of such Act is amended by striking everything after the words "section 21" and adding in lieu thereof the following: "and an order staying payment has been issued by the Board or court."

(e) Sections 23 and 27 of such Act are each amended by adding "or Board" after every reference to "deputy commissioner".

(f) Section 33(b) of such Act is amended by adding the term "or Board" after the term "deputy commissioner".

(g) Section 33(e)(1)(A) of such Act is amended by adding the words "or Board" after the term "deputy commissioner".

(h) Section 33(g) of such Act is amended to read as follows:

"(g) If compromise with such third person is made by the person entitled to compensation or such representative of an amount less than the compensation to which such person or representative would be entitled to under this Act, the employer shall be liable for compensation as determined in subdivision (f) only if the written approval of such compromise is obtained from the employer and its insurance carrier by the person entitled to compensation or such representative at the time of or prior to such compromise on a form provided by the Secretary and filed in the office of the deputy commissioner having jurisdiction of such injury or death within thirty days after such compromise is made."

(i) Section 35 of such Act is amended by adding the words "the Board, or" after the words "deputy commissioner".

(j) Section 40(f) of such Act is amended by adding the words "or Board member" after the words "deputy commissioner," whenever they occur.

APPEARANCE FOR SECRETARY OF LABOR

SEC. 16. Section 21a of the Act is amended to read as follows:

"SEC. 21a. Attorneys appointed by the Secretary shall represent the Secretary, the deputy commissioner, or the Board in any court proceedings under section 21 or other provisions of this Act except for proceedings in the Supreme Court of the United States."

CLAIMANT ASSISTANCE

SEC. 17. (a) Section 39(c) of the Longshoremen's and Harbor Workers' Compensation Act is amended by redesignating subsection (c) as paragraph (2) of such subsection and by insertng after subsection (b) thereof the following paragraph:

"(c)(1) The Secretary shall, upon request, provide persons covered by this Act with information and assistance relating to the Act's coverage and compensation and the procedures for obtaining such compensation including assistance in processing a claim. The Secretary may, upon request, provide persons covered by this Act with legal assistance in processing a claim. The Secretary shall also provide employees receiving compensation information on medical, manpower, and vocational rehabilitation services and assist such employees in obtaining the best such services available."

THIRD-PARTY LIABILITY

SEC. 18. (a) Section 5 of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"EXCLUSIVENESS OF REMEDY AND THIRD-PARTY LIABILITY

"SEC. 5. (a) The liability of an employer prescribed in section 4 shall be exclusive and in place of all other liability of such employer to the employee, his legal representative, husband or wife, parents, dependents, next of kin, and anyone otherwise entitled to recover damages from such employer at law or in admiralty on account of such injury or death, except that if an employer fails to secure payment of compensation as required by this Act, an injured employee, or his legal representative in case death results from the injury, may elect to claim compensation under the Act, or to maintain an action at law or in admiralty for damages on account of such injury or death. In such action, the defendant may not plead as a defense that the injury was caused by the negligence of a fellow servant, or that the employee assumed the risk of his employment, or that the injury was due to the contributory negligence of the employee.

"(b) In the event of injury to a person covered under this Act caused by the negligence of a vessel, then such person, or anyone otherwise entitled to recover damages by reason thereof, may bring an action against such vessel as a third party in accordance with the provisions of section 33 of this Act, and the employer shall not be liable to the vessel for such damages directly or indirectly and any agreements or warranties to the contrary shall be void. If such person was employed by the vessel to provide stevedoring services, no such action shall be permitted if the injury was caused by the negligence of persons engaged in providing stevedoring services to the vessel. If such person was employed by the vessel to provide ship building or repair services, no such action shall be permitted if the injury was caused by the negligence of persons engaged in providing ship building or repair services to the vessel. The liability of the vessel under this subsection shall not be based upon the warranty of seaworthiness or a breach thereof at the time the injury occurred. The remedy provided in this subsection shall be exclusive of all other remedies against the vessel except remedies available under this Act."

(b) Section 2 of such Act as amended by this Act is further amended by redesignating paragraph 22 as paragraph 23 and inserting after paragraph 21 the following new paragraph:

"(22) The term 'vessel' means any vessel upon which or in connection with which any person entitled to benefits under this Act suffers injury or death arising out of or in the course of his employment, and said vessel's owner, owner pro hac vice, agent, operator, charter or bare boat charterer, master, officer, or crew member."

PROHIBITION AGAINST CERTAIN DISCRIMINATION AGAINST EMPLOYEES

SEC. 19. The Longshoremen's and Harbor Workers' Compensation Act is further amended by redesignating sections 49, 50, and 51 as sections 50, 51, and 52, respectively, and by inserting immediately after section 48 the following new section:

"DISCRIMINATION AGAINST EMPLOYEES WHO BRING PROCEEDINGS

"SEC. 49. It shall be unlawful for any employer or his duly authorized agent to discharge or in any other manner discriminate against an employee as to his employment because such employee has claimed or attempted to claim compensation from such employer, or because he has testified or is about to testify in a proceeding under this Act. Any employer who violates this section shall be liable to a penalty of not less than $100 or more than $1,000, as may be determined by the deputy commissioner. All such penalties shall be paid to the deputy commissioner for deposit in the special fund as described in section 44, and if not paid may be recovered in a civil action brought in the appropriate United States district court. Any employee so discriminated against shall be restored to his employment and shall be compensated by his employer for any loss of wages arising out of such discrimination: *Provided*, That if such employee shall cease to be qualified to perform the duties of his employment, he shall not be entitled to such restoration and compensation. The employer alone and not his carrier shall be liable for such penalties and payments. Any provision in an insurance policy undertaking to relieve the employer from the liability for such penalties and payments shall be void."

MISCELLANEOUS PROVISIONS

SEC. 20. (a) Section 8(i) of the Longshoremen's and Harbor Worker's Compensation Act is amended to read as follows:

"(i)(A) Whenever the deputy commissioner determines that it is for the best interests of an injured employee entitled to compensation, he may approve agreed settlements of the interested parties, discharging the liability of the employer for such compensation, nothwithstanding the provisions of section 15(b) and section 16 of this Act: *Provided*, That if the employee should die from causes other than the injury after the deputy commissioner has approved an agreed settlement as provided for herein, the sum so approved shall be payable, in the manner prescribed in this subsection, to and for the benefit of the persons enumerated in subsection (d) of this section.

"(B) Whenever the Secretary determines that it is for the best interests of the injured employee entitled to medical benefits, he may approve agreed settlements of the interested parties, discharging the liability of the employer for such medical benefits, notwithstanding the provisions of section 16 of this Act: *Provided*, That if the employee should die from causes other than the injury after the Secretary has approved an agreed settlement as provided for herein, the sum so approved shall be payable, in the manner prescribed in this subdivision, to and for the benefit of the persons enumerated in subdivision (d) of this section."

(b) Section 17 of such Act is amended by inserting "(a)" immediately after the section designation and by adding at the end thereof the following new subsection:

"(b) Where a trust fund which complies with section 302(c) of the Labor-Management Relations Act of 1947 (29 U.S.C. 186 (c)) established pursuant to a collective-bargaining agreement in effect between an employer and an employee entitled to compensation under this Act has paid disability benefits to an employee which the employee is legally obligated to repay by reason of his entitlement to compensation under this Act, the Secretary may authorize a lien on such compensation in favor of the trust fund for the amount of such payments."

(c)(1) Section 2 of the Longshoremen's and Harbor Workers' Compensation Act as amended by this Act is further amended by striking out subsections (16) and (17) and inserting in lieu thereof the following new subsection (16) and by redesignating subsections 2 (18), (19), (20), (21), (22), and (23) as 2 (17), (18), (19), (20), (21), and (22), respectively.

"(16) The terms 'widow or widower' includes only the decedent's wife or husband living with or dependent for support upon him or her at the time of his or her death; or living apart for justifiable cause or by reason of his or her desertion at such time."

(2) Section 9 of the Longshoremen's and Harbor Workers' Compensation Act, as amended by this Act, is further amended by striking the phrase "surviving wife or dependent husband" each time it appears and inserting in lieu thereof the phrase "widow or widower".

(3) The amendments made by this subsection shall apply only with respect to deaths or injuries occurring after the enactment of this Act.

TECHNICAL AMENDMENT

SEC. 21. Section 3(a)(1) of the Longshoremen's and Harbor Workers' Compensation Act is amended by striking out the word "nor" and inserting in lieu thereof the word "or".

EFFECTIVE DATE

SEC. 22. The amendments made by this Act shall become effective thirty days after the date of enactment of this Act.

S. 2318. THE LONGSHOREMEN'S AND HARBOR WORKERS ACT OF 1972

Mr. WILLIAMS. Mr. President, the Senate is about to conclude action on S. 2318 the bill that I introduced last year to amend the Longshoremen and Harbor Workers Compensation Act.

This bill is endorsed by the AFL–CIO, the International Longshoremen's Association—whose 115,000 membership is covered by the act—the International Longshoremen and Warehousemen's Union—whose 20,000 members are also covered by the act—and by the overwhelming number of employers, port associations and others in the maritime industry. The bill had the strong endorsement of the administration and is consistent with the recently issued bipartisan recommendations of the Commission on State Workmen's Compensation programs.

On the Senate side, the committee, the Subcommittee on Labor with Senator EAGLETON chairing the hearings conducted 5 days of hearings. Every interested party was afforded an ample opportunity to present their testimony. Subsequent to the hearings in an unprecedented fashion, representatives from organized labor, from management, from the administration sat down together and hammered out the provisions of a decent, fair, and important Workmen's Compensation Act.

The full Senate has not been required to expend a great deal of time on this measure. Indeed, except for the members of the committee and those other Members of States with ports in them there is very little direct impact to their citizenry of these amendments. However, a great deal of time and energy has been extended in trying to come to grips with the modern and realistic thinking about the benefits and compensation to be awarded injured workers. This legislation represents the first serious step toward reform of our society's workmen's compensation laws in the past 50 years.

The present Longshoremen Act, passed by Congress in 1927, generally provides a Federal compensation program for injuries or death arising from employment on the navigable waters of the United States. Because this legislation was the only Federal control over private employment in workmen compensation matters.

The statute over the years has been extended to cover employees of the District of Columbia and other areas of Federal interest.

More than 200,000 longshoremen and ship repairmen are covered by the statute. In addition another 300,000 employees of private employers within the District of Columbia are protected by the law as well as an additional 200,000 workers in defense bases, in nonappropriated fund agencies such as post exchanges, and in work on the Outer Continental Shelf.

This act is intended to provide benefits to workers who suffer injuries on the job in the areas of employment which I have stated above. Last year there were more than 109,000 injuries in this statute; 240 workers covered by the act were killed. The vast proportion of these injuries relate to longshore workers—68,000—or injuries suffered by District of Columbia workers—27,000.

The tragedy of this act's administration lies in the fact that Congress has not been able to amend it in 12 years. This means that the benefits under this act have not been increased in 12 years. The cost to the injured worker of inadequate benefits has become a serious matter. For example the Longshoremen Act states that a totally disabled worker is entitled to receive two-thirds of his average weekly wage at the time of his injuries. However since 1961 there has been a limitation of $70 a week as the maximum payment for such permanent disability. The $70-a-week maximum results in injured longshoremen receiving less than 30 percent of their average weekly wage and District of Columbia workers receive less than 50 percent of their average weekly wage. And it must be remembered that these are benefits which are to be paid to workers with families who are injured in the service of their employers.

I have taken some time in explaining the background of this legislation in order to make clear the scope and significance of the amendments which are about to be enacted.

The National Commission on Workmen's Compensation laws which we created in passing the Occupation Health and Safety Act of 1970 has submitted a comprehensive report and recommendation of the need to upgrade workmen's compensation standards nationwide including if necessary the imposition of Federal standards.

In the limited but significant area covered by this Longshoremen Act we have attempted to provide a model of benefits and administration which we believe is in agreement with the aims of the National Commission.

I shall in the near future be giving careful consideration to a measure which will implement or improve upon the National Commission's recommendations and I certainly expect to use the improvements in this bill as a model.

The bill S. 2318 will make significant improvements in the Longshoremen Act in four principal areas: improved benefits, extended coverage, improved administration and a resolution of a long standing dispute of third party actions.

EXTENSION OF COVERAGE TO SHORESIDE AREAS

The present act, insofar as longshoremen and shipbuilders and repairmen are concerned, covers only injuries which occur upon the navigable waters of the United States. Thus, coverage of the present act stops at the water's edge; injuries occurring on land are covered by State workmen's compensation laws. The result is a disparity in benefits payable for death or disability for the same type of injury depending on which side of the water's edge and in which the accident occurs.

To make matters worse, most State workmen's compensation laws provide benefits which are inadequate; even the better State laws generally come nowhere close to meeting the National Commission on State Workmen's Compensation

Laws recommended standard of a maximum limit on benefits of not less than 200 percent of statewide average weekly wages. The following are the maximum limits on the compensation payable for permanent total disability in some maritime States:

California	$70.00
Florida	56.00
Hawaii	112.50
Louisiana	49.00
Maryland	85.68
Massachusetts[1]	77.00
New Jersey	101.00
New York	80.00
Oregon	62.50
Pennsylvania	60.00
Texas	49.00

[1] Plus $6 for each dependent.

Also, under the laws of some States due to exemptions based upon the number of employees hired some workers might be uncovered in the event they are unfortunate victim of an injury.

Compensation payable to a longshoreman or a ship repairman or builder should not depend on the fortuitous circumstances of whether the injury occurred on land or over water. Accordingly, the bill amends the act to provide coverage of longshoremen, harbor workers, ship repairmen, shipbuilders, shipbreakers, and other employees engaged in maritime employment—excluding masters and members of the crew of a vessel—if the injury occurred either upon the navigable waters of the United States or any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other area adjoining such navigable waters customarily used by an employer in loading, unloading, repairing, or building a vessel.

It is our intent to permit a uniform compensation system to apply to employees who would otherwise be covered by this act for part of their activity. To take a typical example, cargo, whether in break bulk or containerized form, is typically unloaded from the ship and immediately transported to a storage or holding area on the pier, wharf, or terminal adjoining navigable waters. The employees who perform this work would be covered under the bill for injuries sustained by them over the navigable waters or on the adjoining land area. We did not intend to cover employees who are not engaged in loading, unloading, repairing, or building a vessel, just because they are injured in an area adjoining navigable waters used for such activity. Thus, employees whose responsibility is only to pick up stored cargo for further transshipment would not be covered, nor would purely clerical employees whose jobs do not require them to participate in the loading or unloading of cargo. However, checkers, for example, who are directly involved in the loading or unloading functions are covered by the new amendment. Likewise there is no intention of extending coverage under the act to individuals who are not employed by a person who is an employer, this is, a person at least some of whose employees are engaged, in whole or in part in some form of maritime employment. Thus, an individual employed by a person none of whose employees work, in whole or in part, on navigable waters, is not covered even if injured on a pier adjoining navigable waters.

IMPROVEMENT OF THE BENEFIT STRUCTURE

MAXIMUM AND MINIMUM BENEFIT AMOUNTS

The basic requirement of the act is for the injured worker to receive 66⅔ percent of his average weekly wage. Historically, this two-thirds requirement has been subject to an arbitrary limitation in order to protect against a high compensation payment for injuries to highly paid workers.

The bill amends the act to provide that the maximum compensation for disability shall not exceed 200 percent of the national average weekly wage to be determined annually by the Secretary of Labor. The expectation is that a 200 percent maximum will enable approximately 90 percent of the work force covered by this act to receive two-thirds of their average weekly wage. In order to ease the adjustment of these benefits which at a minimum will result in doubling the compensation payment for most covered workers, the bill provides a phase-in in four steps as follows: 125 percent or $167 whichever is greater during the period ending September 30, 1973; 150 percent during the period beginning October 1, 1973 and ending September 30, 1974; 175 percent during the period beginning October 1, 1974 and ending September 30, 1975; and 200 percent beginning October 1, 1975. These maximums meet the recommended standards of the National Commission on State Workmen's Compensation Laws.

To the extent that employees receiving compensation for total permanent disability or survivors receiving death benefits receive less than the compensation they would receive if there were no phase-in, their compensation is to be increased as the ceiling moves to 200 percent.

The bill also requires an annual redetermination by the Secretary which will allow any increase in the national average weekly wage to be reflected by an appropriate increase in compensation payable under the act. A similar provision for upgrading benefits in future years for cases of permanent total disability or death benefits is contained in the bill. These employees will receive annual increases based on percentage increases in the national average weekly wage.

There is a requirement for a minimum payment of 50 percent of the national average weekly wage or the employee's full average weekly wage, whichever is less. The present minimum payment of $18 is unconscionable.

A separate computation of the maximum and minimum for nonappropriated fund employees is keyed to the GS schedule since such employees are closely related to the Federal employee program.

This bill also adds a very unique provision to assist those injured workers or the survivors who have been receiving compensation or benefits for total disability or death at levels ranging from less than $25 a week to the $70 a week maximum. The historical nature of workmen's compensation laws has left the injured worker with no provision for improvement of benefits even though we are all cognizant of living in a society where inflation and other factors have contributed to the increased cost of living on what is now an annual basis. The concept of increasing the benefits to the injured workers who will be receiving benefits after the effective day of this act is, of course, in line with our longstanding Federal policy for social security disability.

That particular provision, however, did not reach the several thousand cases who have been suffering these low maximums during the 45-year history of this act. Since many of the workers or survivors receiving these benefits were in the employ of companies no longer in business it was decided that the most appropriate way of taking care of the past benefit deficiencies for this group was to split the cost of upgrading these workers between the entire industry covered by this bill and the Federal Government. This will be done by a special assessment into the second injury fund and an appropriation from the Treasury. The cost to the United States is expected to be $2 million per year.

Another feature of the new benefit structure will be a provision whereby survivors of injured workers will continue to receive a portion of benefits in situations where a worker who is entitled to benefits for permanent total or permanent partial disability dies from causes other than the injury. Specific provision is made for protecting immediate survivors and making sure that scheduled awards are still paid in full. A further provision is made for payment of benefits due in scheduled award cases into the special fund under section 44 of the act when there are no survivors.

The benefit structure for survivors is altered to provide additional benefits for widows and children, and to expand the class of dependents entitled to receive benefits for survivors. The act is amended to increase funeral benefits from the present $400 to a more realistic amount of $1,000. The present act provides that a surviving wife or husband receives 35 percent of the award, and children receive 15 percent. The amended act will provide a 50-percent award to surviving wives or husbands and 16⅔ percent to the children, subject to a maximum of 66⅔ percent of the average weekly wages.

A special definition of dependency is also provided in order to take care of dependents as defined in the Internal Revenue Code who would otherwise not be eligible under this section. Their benefits are 20 percent of the award.

A minimum death benefit tied to the applicable national average weekly wage but not to exceed the employee's average weekly wage is also provided.

The present law contains a maximum limitation of $24,000 exclusive of medical payments in cases of temporary total and permanent partial disability. S. 2318, following the recommendation of the National Commission amends section 14 of the act to eliminate any maximum on these types of compensation payments. This change will avoid any injustice to

injured workers who would reach this maximum payment but still be suffering from disability.

The bill amends section 8(f) of the act in order to limit the burden on employers in so-called second-injury cases. Many employers have an inaccurate impression regarding the liabilities for workmen's compensation when they employ handicapped workers. It is unfortunately a widespread belief that an employer is subjected to burdensome compensation costs where a handicapped worker receives an injury at the new place of employment. The provision in the bill makes clear that the employer's responsibility for the subsequent or second injury is limited to the scheduled award for the second injury of 104 weeks, whichever is greater. The remaining obligation to pay that employee where he is totally or partially disabled will fall upon the special funds existing under section 44 of the act. This method of spreading the risk among all employers is intended by the committee to encourage the employment of handicapped workers. It is strongly recommended by the National Commission.

SPECIAL FUND

An important feature of the bill is improvement of the financing of the second-injury fund. There will be a payment to the second-injury fund in death cases of $5,000, rather than $1,000, and in schedule award or permanent partial cases where there are no survivors, the award is paid into the fund.

The unique feature of the special fund will be an annual assessment of carriers to make certain the fund is maintained at a level judged to be adequate.

STUDENT BENEFITS

The bill extends to age 23 years the limit to which surviving dependent children, of fatally injured workers, seeking a higher education may continue to receive compensation payments.

The present law limits these benefits to children up to an age of 18 years. Today children are constantly urged to continue their education as long as possible, and, with the increasing number of children continuing their education into college, the 18 years of age limit is unnecessarily restrictive. This proposal would not establish any new concept related to workmen's compensation programs. It would, if enacted, simply bring the protection of the act into line with the other jurisdictions which have similar provisions in their programs—that is Hawaii, Kansas, Puerto Rico, Vermont, West Virginia, and Washington.

LEGAL FEES

S. 2318 amends section 28 of the act to authorize assessment of legal fees against employers in cases where the existence or extent of liability is controverted and the claimant succeeds in establishing liability or obtaining increased compensation in formal proceedings or appeals. Attorneys fees may only be awarded against the employer where the claimant succeeds, and the fees awarded are to be based on the amount by which the compensation payable is increased as a result of litigation. Attorneys fees may not be assessed against employers—or carriers—in other cases.

In all cases, the amount of attorneys fees payable to the claimants lawyer—either by the employer or the claimant—is subject to approval by the deputy commissioner, administrative law judge, board or court, as the case may be.

ADMINISTRATIVE CHANGES

S. 2318 amends the act to make clear that all hearings under this act are to be conducted in conformity with the Administrative Procedure Act by administrative law judges qualified under the act. It was our belief that the administration of the Longshoremen's and Harbor Workers' Compensation Act has suffered by virtue of the failure to keep separate the functions of administering the program and sitting in judgment on the hearings. Moreover, with the new responsibilities that will devolve upon the Secretary with the passage of this bill it will be extremely important to have full time able administrators who will not also have to wear the dual hat of being hearing officers for purposes of the disputes brought under this statute.

ASSISTANCE TO CLAIMANTS

The act is also amended to substantially increase the Secretary's responsibility for administering this program so far as providing services to employees. The bill will require the Secretary upon the request to provide assistance to persons covered under this act to understand the benefits and other matters relating to the operations of the statute and also to provide assistance in processing a claim. This assistance is to be all inclusive and enable the employee to receive the maximum benefits due without having to rely on outside assistance other than that provided by the Secretary. The bill also makes legal assistance in processing the claim for benefits under this act available in needy cases upon request subject to the Secretary's discretion. I would hope the Secretary will construe this provision as liberally as possible so as to provide any worker in need of legal assistance such counsel, especially where the employee is either indigent or of minimal means. It would also be appropriate for the Secretary to provide legal assistance in similar types of death cases as well as to provide as much assistance in other cases of hardship or unusual types of proceedings or different cases.

S. 2318 also requires the Department of Labor to take a more active role in assuring that injured employees receive, proper medical treatment and rehabilitation services. It is the Department's responsibility to take affirmative action in this area by actively supervising the medical care given to injured employees. This does not mean that the Department may tell doctors what to do, but it does mean that the Department should require periodic medical reports and take the initiative in contacting injured employees, especially in cases of serious injury to see that the employee is receiving proper care and that rehabilitation services are being provided, where required.

THIRD PARTY ACTIONS

One of the most controversial and difficult issues in this bill concerns the liability of vessels, as third parties, to pay damages to longshoremen who are injured while engaged in stevedoring operations. One proposal, originally advanced by the industry was that vessels should be treated as joint employers of longshoremen or other persons covered under this act working on board such vessels. This would result in restricting the vessel's liability in all cases to the compensation and other benefits payable under the act. This view was not accepted. We believed that where a longshoreman or other worker covered under this act is injured through the fault of the vessel, the vessel should be liable for damages as a third party, just as land-based third parties in nonmaritime pursuits are liable for damages when, through their fault, a worker is injured.

There is a present interpretation of the law that a vessel should be liable without regard to its fault for injuries sustained by employees covered under this act while working on board the vessel. Vessels have been held to what amounts to such absolute liability by decisions of the Supreme Court, commencing with *Seas Shipping* v. *Sieracki*, 328 U.S. 25 (1946) which held that the traditional seamen's remedy based on the breach of the vessel's absolute, nondelegable duty to provide a seaworthy vessel was also available to longshoremen and others who performed work on the vessel which by tradition has been performed by seamen. Under the Sieracki case, vessels are liable, as third parties, for injuries suffered by longshoremen as a result of unseaworthy conditions even though the unseaworthiness was caused, created, or brought into play by the stevedore—or an employee of the stevedore—rather than the vessel or any member of its crew. For example, under present law, if a member of a longshore gang spills grease on the deck of a vessel and a longshoreman slips and falls on the grease a few moments later, the vessel is liable to pay damages for the resulting injuries, even though no member of the crew was responsible for creating the unseaworthy condition or was even aware of it. Furthermore, in the example given above, under the Supreme Court's decision in *Ryan Stevedoring Co.* v. *Pan Atlantic S.S. Corp.*, 350 U.S. 124 (1956), the vessel may recover the damages for which it is liable to the injured longshoreman from the stevedore which employed the longshoreman on the theory that the stevedore has breached an express or implied warranty of workmanlike performance to the vessel. The end result is that, despite the provision in the act which limits an employer's liability to the compensaton and medical benefits provided in the act, a stevedore-employer is indirectly liable for damages to an injured longshoreman who utilizes the technique of suing the vessel under the unseaworthiness doctrine.

Given the improvement in compensation benefits which this bill would provide, it was our view that it would be fairer to all concerned and fully consistent with the objective of protecting the health and safety of employees who work on board vessels for the liability of vessels as third parties to be predicated on negligence, rather than the no-fault concept of seaworthiness. This would place vessels in the same position, inso-

far as third party liability is concerned, as land-based third parties in nonmaritime pursuits.

The purpose of the amendments is to place an employee injured aboard a vessel in the same position he would be if he were injured in nonmaritime employment ashore, insofar as bringing a third party damage action is concerned, and not to endow him with any special maritime theory of liability or cause of action under whatever judicial nomenclature it may be called, such as unseaworthiness, nondelegatable duty, or the like.

Permitting actions against the vessel based on negligence will meet the objective of encouraging safety because the vessel will still be required to exercise the same care as a land-based person in providing a safe place to work. Thus, nothing in this bill is intended to derogate from the vessel's responsibility to take appropriate corrective action where it knows or should have known about a dangerous condition.

So, for example, where a longshoreman slips on an oil spill on a vessel's deck and is injured, the proposed amendments to section 5 would still permit an action against the vessel for negligence. To recover he must establish that: first, the vessel put the foreign substance on the deck, or knew that it was there, and willfully or negligently failed to remove it; or second, the foreign substance had been on the deck for such a period of time that it should have been discovered and removed by the vessel in the exercise of reasonable care by the vessel under the circumstances. The vessel will not be chargeable with negligence of the stevedore or employees of the stevedore.

Under this standard, as adopted in the bill, there will, of course, be disputes as to whether the vessel was negligent in a particular case. Such issues can only be resolved through the application of accepted principles of tort law and the ordinary process of litigation—just as they are in cases involving alleged negligence by land-based third parties. We intend that on the one hand an employee injured on board a vessel shall be in no less favorable position vis a vis his rights against the vessel as a third party than is an employee who is injured on land, and on the other hand, that the vessel shall not be liable as a third party unless it is proven to have acted or have failed to act in a negligent manner such as would render a land-based third party in nonmaritime pursuits liable under similar circumstances.

The doctrine of the Ryan case, which permits the vessel to recover the damages for which it is liable to an injured worker where it can show that the stevedore breaches an express or implied warranty of workmanlike performance is no longer appropriate if the vessel's liability is no longer to be absolute, as it essentially is under the sea worthiness doctrine. Since the vessel's liability is to be based on its own negligence, and the vessel will no longer be liable under the seaworthiness doctrine for injuries which are really the fault of the stevedore, there is no longer any necessity for permitting the vessel to recover the damages for which it is liable to the injured worker from the stevedore or other employer of the worker.

Furthermore, unless such hold-harmless, indemnity or contribution agreements are prohibited as a matter of public policy, vessels by their superior economic strength could circumvent and nullify the provisions of section 5 of the act by requiring indemnification from a covered employer for employee injuries.

Accordingly, the bill expressly prohibits such recovery, whether based on an implied or express warranty. It is intended to prohibit such recovery under any theory including, without limitation, theories based on contract or tort. Under the amendments the vessel may not by contractual agreement or otherwise require the employer to indemnify it, in whole or in part, for such damages.

The committee recognized the need for special provisions to deal with a case where a longshoreman or ship builder or repairman is employed directly by the vessel. In such case, notwithstanding the fact that the vessel is the employer, the Supreme Court, in *Reed* v. *S.S. Yaka,* 373 U.S. 371 (1967), held that the unseaworthiness remedy is available to the injured employee. The rights of an injured longshoreman or ship builder or repairman should not depend on whether he was employed directly by the vessel or by an independent contractor. Accordingly, the bill provides in the case of a longshoreman who is employed directly by the vessel there will be no action for damages if the injury was caused by the negligence of persons engaged in performing longshoring services. Similar provisions are applicable to ship building or repair employees employed directly by the vessel. The same principles should apply in determining liability of the vessel which employs its own longshoremen or ship builders or repairmen as apply when an independent contractor employs such persons.

It is not intended that the negligence remedy authorized in the bill shall be applied differently in different ports depending on the law of the State in which the port may be located. Legal questions which may arise in actions brought under these provisions of the law should be determined as a matter of Federal law. In that connection, it is intended that the admiralty concept of comparative negligence, rather than the common law rule as to contributory negligence, shall apply in cases where the injured employee's own negligence may have contributed to causing the injury. Also, the admiralty rule which precludes the defense of assumption of risk in an action by an injured employee shall also be applicable.

SAFETY

Finally, I wish to emphasize that nothing in this bill is intended to relieve any vessels or any other persons from their obligations and duties under the Occupational Safety and Health Act of 1970. Progress may have been made in reducing injuries in the longshore industry, but longshoring remains one of the most hazardous types of occupations. I expect to see further progress in reducing injuries. If injuries are not reduced we may have to reexamine the whole third party suit question if it appears that the changes made in present law by this bill have affected progress in improving occupational health and safety.

I ask unanimous consent that the following telegrams of endorsement be printed in the RECORD.

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

NEW YORK, N.Y.

Hon. CARL ALBERT,
Speaker of the House,
Washington, D.C.:

The Executive Council of the International Longshoremen's Association, AFL–CIO, its highest governing body voted unanimously to support the Daniels Bill, H.R. 12006 which will substantially improve the benefits provided longshoremen under the Longshoremen and Harbor Workers' Compensation Act. The Daniels Bill has the full support of President Thomas W. Gleason and the following members of the executive council voted in favor of its passage:

President Thomas W. Gleason, New York, N.Y.
Executive Vice President, John Bowers, New York, N.Y.
Secretary-Treasurer Harry R. Hasselgreen, New York, N.Y.
General Organizer Fred R. Field, Jr., New York, N.Y.
Vice President David D. Alson, Norfolk, Va.
Vice President James T. Moock, Philadelphia, Pa.
Vice President Ralph A. Massey, Texas.
Vice President George W. Dixon, Mobile, Ala.
Vice President Alfred Chittenden, New Orleans, La.
Vice President Paul F. Koehne, Houston, Tex.
Vice President Thomas J. Burke, Savannah, Ga.
Vice President William P. Lynch, New York, N.Y.
Vice President Clarence Henry, New Orleans, La.
Vice President E. L. Slaughter, Duluth, Minn.
Vice President David M. Connors, Buffalo, N.Y.
Vice President W. H. Hopkins, Houston, Tex.
Vice President William Haile, Baltimore, Md.
Vice President Anthony Scotto, New York, N.Y.
Vice President Juan Perez Roa, San Juan, Puerto Rico.
Vice President, William Murphy, New Jersey.
Vice President George Barone, Miami, Fla.
Vice President Harrison Tyler, Chicago, Ill.
Vice President Edward Dalton, Boston, Mass.
Vice President Thomas O'Callaghan, New York, N.Y.
Vice President Chauncey Baker, Cleveland, Ohio.
Vice President Landon Williams, Florida.
President Emeritus William V. Bradley, New York, N.Y.

OCTOBER 10, 1972.

Hon. CARL ALBERT,
Rayburn House Office Building,
Washington, D.C.:

As reflected in the hearing record, our organizations (The Seafarers International Union and the AFL–CIO Maritime Trades Department) called for passage of H.R. 12006 to amend the Longshoremen's and Harbor Workers Compensation Act. We strongly support the position of the International Longshoremen's Association, AFL–CIO in favor of this bill. We urge you to move for its immediate and favorable consideration.

PAUL HALL,
President, Seafarers International Union.

Mr. JAVITS. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

Mr. JAVITS. Mr. President, is any further motion necessary to adopt the measure?

The PRESIDING OFFICER. That clears it.

Mr. JAVITS. Mr. President, I would like to state for the Senator from New Jersey (Mr. WILLIAMS) and myself that this is one of the most extraordinarily gifted solutions to a very difficult problem involving the whole Longshoreman's Workman's Compensation Act, which covers not only longshoremen, but also all private employees in the District of Columbia, as I have seen in my years as a lawyer and a Senator. The result is heavily attributable to the ingenuity of these men, Mr. Gerald Feder, who is the counsel to the Subcommittee on Labor and Mr. Eugene Mittelman, who is the counsel to the Committee on Labor and Welfare. Donald Elisburg, associate counsel to the Subcommittee on Labor also deserves recognition for his efforts on this bill.

The record should show the tremendous benefit these men have conferred on thousands of workers, as their efforts resulted in agreement between employers and employees, something no one thought would happen, relating to workmen's compensation and a difficult problem of third-party suits.

I think it will be of great benefit for thousands of workers.

AMENDMENT OF SECTION 3306, INTERNAL REVENUE CODE OF 1954

The Senate continued with the consideration of the bill (H.R. 7577) to amend section 3306 of the Internal Revenue Code of 1954.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HARTKE. Mr. President, I call up the next amendment to be at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

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

The amendment, ordered to be printed in the RECORD, is as follows:

At the end of the act insert:

SEC. —. (a) Section 311(d)(2)(A) of the Internal Revenue Code of 1954 is amended by inserting after the word "owns" and before the words "at least 10 percent" the following: "(directly or constructively under the rules of section 318(a) which shall apply in determining ownership of stock for purposes of this subparagraph to the same extent and in the same manner as such rules apply for purposes of section 302(b)(3), determined without the application of section 302(c)(2)(A)(ii))".

(b) Section 318(b) of the Internal Revenue Code of 1954 is amended by redesignating paragraphs (4), (5), (6), (7), and (8) as paragraphs (5), (6), (7), (8), and (9), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) section 311 (d)(2)(A) (relating to taxability of corporations on distributions of appreciated property in redemptions of stock);".

(c) The amendment made by subsections (a) and (b) shall apply with respect to distributions made after the date of enactment of this Act.

Mr. HARTKE. Mr. President, this deals with the use of appreciated property by corporations to redeem their own stock.

The amendment makes a technical change in the rules determining whether a shareholder owns at least 10 percent in value of the stock of a corporation which makes a distribution of appreciated property in complete redemption of all the shareholder's stock. Present law provides, in general, that a corporation will recognize gain where it distributes appreciated property in redemption of its stock. An exception to this rule is provided if a stockholder owning at least 10 percent in value of a corporation's shares completely terminates his interest in the corporation. For purposes of determining whether a redemption of a shareholder's stock is in complete termination of his interest, the constructive stock ownership rules of section 318 of the code apply, but these constructive ownership rules do not apply in determining whether the shareholder meets the 10-percent ownership test. The committee amendment makes a technical change to apply the constructive ownership rules also for purposes of the 10-percent ownership test.

The provision of the bill which makes a technical change in the provision dealing with the use of appreciated property by a corporation to redeem its stock is estimated to have no revenue effect. The Treasury Department agrees with this statement.

Mr. President, the provisions of the amendment make a technical change in the bill. It has no benefit for any individual corporation, other than to correct inequities in the law.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, will the Senator yield to me briefly?

Mr. HARTKE. I yield.

PROGRAM

Mr. MANSFIELD. Mr. President, about 15 minutes ago I was informed that there is a possibility that the conference reports on H.R. 1 and the debt limit stand a reasonable chance of being agreed to tonight. I cannot guarantee it, but I make the statement at this time only to ask the Senate to be able to furnish a quorum if such an event occurs, and I would hope that attachés on both sides would contact all Senators so that if this does come to pass we would be prepared to have a quorum.

Also, the continuing resolution, I understand, will be considered in the House this evening and sent over here.

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

Mr. MANSFIELD. I yield.

Mr. JAVITS. Might it be possible to help us all with planes, and so forth, to set some time? If it cannot be done by such-and-such an hour, we might as well disband instead of staying all night, twiddling our thumbs. Could we do that?

Mr. MANSFIELD. I would be glad to talk it over with the Senator. I just make the statement on what the situation is as I understand it.

Mr. JAVITS. I thank the Senator.

AMENDMENT OF SECTION 3306, INTERNAL REVENUE CODE OF 1954

The Senate continued with the consideration of the bill (H.R. 7577) to amend Section 3306 of the Internal Revenue Code of 1954.

Mr. HARTKE. Mr. President, I call up another amendment to the bill.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

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

The amendment, ordered to be printed in the RECORD, is as follows:

At the end of the Act insert:

SEC. . (a) The last sentence of section 2104 (c) of the Internal Revenue Code of 1954 (relating to treatment of certain debt obligations for estate tax purposes) is amended by inserting "or section 861 (a)(1)(G)" after "by reason of section 861 (a)(1)(B)".

(b) The amendment made by subsection (a) shall be effective with respect to estates of decedents dying on or after April 1, 1971.

Mr. HARTKE. Mr. President, this amendment relates to estate taxation of debt, held by foreign persons where the interest equalization tax applies. Present law contains a procedure which enables domestic corporations and partnerships to obtain foreign funds for use of their foreign affiliates in a manner which complies with the restrictions on foreign investment imposed by the Office of Foreign Direct Investment in the Commerce Department. Under the procedure, the domestic company or partnership elects to treat such an issue of debt as subject under present law, the flat 30 percent—or a lower rate imposed by treaty—U.S. tax, generally imposed on interest and certain other payments by U.S. persons to foreign persons, does not apply to interest payments on debt where the election referred to above has been made and certain other conditions have been satisfied. This committee amendment provides that in the case of debt where this election has been made, the value of the debt is not to be included in the U.S. estate tax base of the nonresident alien holder of the debt.

The committee estimates that this bill will involve a revenue gain or loss of less than $100,000 annually. The Treasury Department agrees with this statement.

THE PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HARTKE. Mr. President, this concludes the series of amendments I have. I express appreciation to the Senator from Wisconsin for his cooperation in this matter. Without his cooperation we would have been involved here for several hours.

None of the amendments adopted in this series were sponsored by the Senator from Indiana; I was only trying to expedite the work of the committee. Most of them are technical in nature. We have relied on the staff and the advice of the Treasury.

RELIEF OF CASS COUNTY, N. DAK.

Mr. BURDICK. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3483.

The Presiding Officer laid before the Senate the amendment of the House of Representatives to the bill (S. 3483) for the relief of Cass County, N. Dak., which was, on page 1, line 6, strike out all after "by" down through and including "across" in line 8, and insert "Cass County, North Dakota, in reconstructing that portion of the Wild Rice Bridge which was designated as Federal-aid secondary Route 639, as of September 28, 1971, and which bridge crosses".

Mr. BURDICK. Mr. President, I move that the Senate concur in the amendment of the House.

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

The motion was agreed to.

AMENDMENT OF SECTION 3306, INTERNAL REVENUE CODE OF 1954

The Senate continued with the consideration of the bill (H.R. 7577) to amend section 3306 of the Internal Revenue Code of 1954.

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

Mr. HARTKE. I yield.

Mr. JAVITS. Mr. President, I have an amendment I wish to bring up. I send to the desk an amendment on behalf of myself and the Senator from Connecticut (Mr. RIBICOFF), the Senator from Washington (Mr. MAGNUSON), the Senator from New Jersey (Mr. CASE), and myself.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

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

The amendment, ordered to be printed in the RECORD, is as follows:

At the end of the bill, insert the following:

Section 203(e) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new sentence: "Effective with respect to compensation for weeks of unemployment beginning before July 1, 1973, and beginning after the date of the enactment of this sentence (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a State "on" or "off" indicator beginning or ending any extended benefit period shall be made under this subsection as if paragraph (1) did not contain subparagraph (A) thereof, and as if paragraph (1) of section 203(b) did not contain subparagraph (B) thereof."

Mr. JAVITS. Mr. President, I wish to read into the RECORD the names of the Senators who join me in the amendment. They are Senators BROOKE, CRANSTON, HUMPHREY, KENNEDY, MUSKIE, PELL, STEVENS, SCHWEIKER, RIBICOFF, CASE, and WILLIAMS.

This is the same amendment the chairman of the committee, the Senator from Louisiana (Mr. LONG) suggested we put on H.R. 640 and this bill. The Senator from Washington (Mr. MAGNUSON) gave me the honor to present it. I hope the manager accepts it.

Mr. HARTKE. Mr. President, this is an amendment passed several times by the Senate. It is pending at the present time on the debt limit bill which is hopelessly deadlocked at this moment. Whether it can be resolved no one can say.

I have discussed this with the chairman of the committee and he has indicated he has previously agreed with the sponsor of the measure to accept the amendment. On that basis I accept the amendment.

Mr. PROXMIRE. If I understand correctly, No. 1, there is no revenue loss; No. 2, it is something that broadens the nonprofit——

Mr. JAVITS. No; this is not mine; this is the same unemployment compensation measure we passed.

Mr. PROXMIRE. This is the Magnuson measure?

Mr. JAVITS. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HARTKE. Perhaps with the sponsorship on the other side of the aisle, it may increase the possibility of its ultimately being enacted into law.

Mr. BEALL. Mr. President, I have an amendment at the desk which I call up.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

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

The amendment is as follows:

At the end of the bill add the following new section:

SEC. ——. (a) Section 341(f)(1) of the Internal Revenue Code of 1954 (relating to certain sales of stock of consenting corporations) is amended by striking out "of a domestic corporation".

(b) Section 341(f)(4)(A) of such Code (relating to definition of subsection (f) asset) is amended by striking out "and unrealized receivables or fees (as defined in subsection (b)(4))" and inserting in lieu thereof "unrealized receivables or fees (as defined in subsection (b)(4)), and stock gain on the sale of which under subsection (a)(1) would (without regard to this subsection) be considered as gain from the sale of property which is not a capital asset".

(c) Section 341(f)(5) of such Code (relating to 5-year limitation) is amended to read as follows:

"(5) LIMITATIONS AS TO CERTAIN SHAREHOLDERS.—Paragraph (1) shall not apply to the sale of stock of a corporation by a shareholder if—

"(A) this section does not apply to such sale—

"(i) by reason of the application of the limitation contained in subsection (d)(1), or

"(ii) because such stock in the hands of the seller was property described in section 1221(1); or

"(B) during the 5-year period ending on the date of such sale, such shareholder (or any related person within the meaning of subsection (e)(8)(A)), in a sale to which paragraph (1) applied, sold any stock of another consenting corporation within any 6-month period beginning on the date on which a consent was filed under paragraph (1) by such other corporation."

(d) Section 341(f)(6) of such Code (relating to special rule for stock ownership in other corporations) is amended to read as follows:

"(6) SPECIAL RULE FOR STOCK OWNERSHIP IN OTHER CORPORATIONS.—If a corporation (hereinafter in this paragraph referred to as 'owning corporation') owns 5 percent or more in value of the outstanding stock of another corporation, whether domestic or foreign, on the date of any sale of stock of the owning corporation during a 6-month period with respect to which a consent under paragraph (1) was filed by the owning corporation, such consent shall not be valid with respect to such sale unless such other corporation has (within the 6-month period ending on the date of such sale) filed a valid consent under paragraph (1) with respect to sales of its stock. For purposes of its application to such other corporation, paragraph (1) shall be treated as referring to foreign as well as domestic corporations. For purposes of applying paragraph (4) to such other corporation, a sale of stock of the owning corporation to which paragraph (1) applies shall be treated as a sale of stock of such other corporation that is referred to in paragraph (1) whether such other corporation is domestic or foreign. In the case of a chain of corporations connected by the 5-percent ownership requirements of this paragraph, rules similar to the rules of the two preceding sentences shall be applied."

(e) The amendments made by subsections (a), (b), and (d) shall apply with respect to transactions after the date of the enactment of this Act in taxable years ending after such date. The amendment made by subsection (c) shall apply with respect to transactions after August 22, 1964, in taxable years ending after such date.

Mr. BEALL. Mr. President, this amendment bore the number 1569, originally proposed to H.R. 3786, which is the carillon bill, but this is a more appropriate vehicle for this amendment, and therefore it has been changed to be attached to this bill.

This is an amendment which amends section 341 of the Internal Revenue Code which deals with the so-called collapsible corporation problem.

Section 341 of the Internal Revenue Code was enacted in response to a situation wherein taxpayers attempted to channel regular income through the corporate form and convert it into long-term capital gains. Section 341 responded to this practice by closing this "loophole" and its effect is to tax stockhold-

ers of collapsible corporations at ordinary rates rather than capital gains from a transfer of assets purchased or manufactured by a collapsible corporation but subsequently disposed of before the corporation becomes responsible for the tax liability on the gain therefrom.

Thus, when Section 341 of the code applies, the gain resulting from the sale of stock of a "collapsible corporation" is treated as ordinary income. One of the exceptions under present law is set forth in Section 341(f). If the shareholders of a corporation wish to avail themselves of this exception, then the corporation "consents" to the recognition of gain by it on every future disposition of "subsection (f) assets"—in general, all assets other than certain capital assets—owned by it on the date of sale of stock.

After such an election has been made, the collapsible provision will not apply to the sale of stock during the 6-month period for which the consent is effective. However, present law provides that a shareholder who sells stock of a consenting corporation during the 6-month period which the consent is effective is barred for a period of 5 years from getting the benefit of a consent filed by any other corporation. This bar also operates against persons related to the selling shareholder.

Under section 341(D)(1) the collapsible provision does not apply to any shareholder who owns less than 5 percent in value of the outstanding stock of a collapsible corporation. For this reason, small shareholders get no benefit out of a 341(F) consent and have no interest in whether or not such a consent has been made by the corporation. Nevertheless, the present statute contains no exception for small shareholders so that if a small shareholder happens to sell stock during a period while a consent is effective, he will be prevented from getting any benefit from section 341(F) for 5 years.

This result under the statute as now effective is inappropriate. This view is shared by both Dr. Woodworth of the Joint Committee on Internal Revenue Taxation and also by the Treasury Department.

The Treasury Department, however, urged another amendment to correct another defect in the section involving the treatment of foreign corporations. It has been suggested that a foreign corporation, which may conduct all of its business and hold all of its assets outside the United States, may be authorized to file a consent and thereby secure for its selling U.S. shareholders capital gain treatment, even though the foreign corporation, by reason of the nature and location of its business and properties, will not be taxable by the United States on future dispositions of "subsection (F) assets."

My amendment would remedy both of these defects. It would eliminate the inequity in the first place, and it would close the loopholes that have been pointed out by the Treasury Department in the second place.

I may point out that the Treasury approves of this amendment. I have discussed the amendment with the chairman of the committee and, on advice of his counsel, he also indicated approval earlier in the evening, although I did not discuss it with the chairman of the committee. I think his counsel will advise him that this discussion took place.

We have just consulted the Treasury within the last half-hour. No one knows of any revenue loss under this provision. As a matter of fact, they think, in closing this loophole—although no one is taking advantage of the loophole, there is a possibility they can take advantage of it and there may be a considerable revenue loss—we may be protecting the Government from future revenue loss.

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

Mr. BEALL. I yield.

Mr. PROXMIRE. Whenever we deal with collapsible corporations, as the Senator explained very well, it is a loophole in and of itself. A taxpayer creates a collapsible corporation so that he can report his earned income as a capital gain, so he reduces the effective ordinary rates to the lower capital gain rate.

As the Senator says, this amendment does not widen the loophole. In fact, I think the provision, as he explained it, is excellent. It provides a protection we do not have at the present time. It is one the Treasury has sought.

In view of the fact that this amendment in no way loses revenue, in view of the fact that it does not widen any loophole we have now, although it does not close the major loophole, I have no objection to it. I think the Senator from Maryland has offered a good amendment.

Mr. BEALL. I thank the Senator.

Mr. HARTKE. Mr. President, I have been advised that this measure has been previously acted on by the Senate as an amendment to another bill.

Mr. BEALL. That is my understanding.

Mr. HARTKE. The Senator from Wisconsin has accurately stated that it does not close loopholes, but it does accomplish what the Secretary of the Treasury has asked for. I have no further comment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

At the end of the bill, add the following new section:

"SEC. 2. (a) Section 5041(a) of the Internal Revenue Code, as amended, is amended by striking out in the last sentence '0.277' and inserting in lieu thereof '0.392.'

"(b) The amendment made by subsection (a) of this section shall be effective on and after September 1, 1973."

Mr. TUNNEY. Mr. President, this amendment would amend the Internal Revenue Code to provide for an increase in the amount of carbon dioxide that may be contained in still wines.

The effect of this amendment is set forth in a letter to the chairman of the House Ways and Means Committee from the Treasury Department which I shall ask to have printed in the RECORD.

The letter recites also that the Treasury Department has no objection to the enactment of this amendment and that the Office of Management and Budget has advised Treasury that it has no objection.

Mr. President, this amendment is offered for the purpose of improving the quality of certain wines of low alcohol content by permitting an increase in the amount of carbon dioxide, a natural ingredient contained in wine. The effect of this increase is favorable for consumers because it improves the taste of wine, while also retarding deterioration. Carbon dioxide is a natural ingredient in wine which helps preserve flavor and color by displacing some of the oxygen which reacts with natural bacteria in wine.

Unless the natural carbon dioxide is allowed to be retained, some kind of artificial preservative would be required in those categories of wines with less than 10 percent alcohol content.

I might point out that I have discussed this proposal with academic experts in the field of viticulture—that is, the science of producing wine—at the University of California and they have assured me that the effect of this amendment is highly desirable from the consumer's point of view.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Frederic W. Hickman, Deputy Assistant Secretary of the Treasury, to the Chairman of the House Ways and Means Committee, Mr. WILBUR D. MILLS.

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

DEPARTMENT OF THE TREASURY,
Washington, D.C., April 17, 1972.

Hon. WILBUR D. MILLS,
Chairman, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department on H.R. 9716, entitled "A BILL to amend section 5041(a) of the Internal Revenue Code, as amended, to provide for an increase in the amount of carbon dioxide that may be contained in still wines."

Currently, wines are divided into two categories for tax purposes: still wines, and champagne and other sparkling wines. The rates on still wines are: 17 cents a gallon if containing not more than 14 percent of alcohol by volume; 67 cents a gallon if containing more than 14 percent and not more than 21 percent of alcohol by volume; and $2.25 a gallon if containing more than 21 percent and not more than 24 percent of alcohol by volume. Champagnes and other sparkling wines are taxed at $3.40 a gallon if naturally carbonated and $2.40 per gallon if artificially carbonated.

Prior to the Excise Tax Technical Changes Act of 1958, the law and regulations regarding still wines provided no tolerance as to carbon dioxide content. This resulted in compliance and administrative difficulties because a certain amount of carbonation is a normal consequence of the fermentation process by which wine is produced. Furthermore, the addition to, or retention in, still wine of small quantities of carbon dioxide improves its character and flavor.

The aforementioned 1958 legislation provided that still wines could contain not more than 0.256 gram of carbon dioxide per hun-

dred milliliters of wine. The tolerance level for carbon dioxide was accepted with the understanding that it did not include effervescent wine. (House Report No. 481, 85th Cong., 1st. Sess., p. 111.) As a matter of fact, the 0.256 gram level definitely achieved this objective because the first 0.196 gram of carbon dioxide dissolves in the wine without a pressure increase and is quite slowly released when the wine is poured.

The permissible carbon dioxide content of still wine was increased to 0.277 gram per hundred milliliters of wine by the Excise Tax Reduction Act of 1965. The change was supported by the argument "that the present definition is too restrictive to serve adequately the purpose intended." (Sen. Report No. 324, 89th Cong., 1st. Sess., p. 52.) What the statement meant was that the degree of carbonation then permitted was so low that there were technical difficulties in determining when the limit was reached.

H.R. 9716 would further increase the amount of carbon dioxide permitted in still wine to 0.392 gram per hundred milliliters of wine.

The professed objective of the proposed increase is to improve the shelf life of wines of low alcoholic content, say below 10 percent of alcohol by volume. Still wines today generally do not contain less than 11–12 percent of alcohol by volume, but certain producers are working to expand the market for wines by producing wines with less than 10 percent of alcohol by volume. However, as the alcoholic content of a wine decreases, it tends to deteriorate more quickly because there is less alcohol to act as a preservative. If low alcohol content still wines were produced with a greater volume of carbon dioxide than now permitted, this would help preserve the color and flavor by displacing some of the oxygen which reacts with the bacteria in the product. Certain chemical additives provide an alternative to increased carbon dioxide for stabilizing wine.

Wine containing carbon dioxide at a level of 0.392 gram per hundred milliliters would have some appearance of effervescence, i.e., there would be a very modest amount of bubbles released during the period the product was in the consumer's glass. But the effervescence would in no manner be comparable to that of champagne or similar wines which customarily have a carbon dioxide content of 0.980—1.176 grams per hundred milliliters. Consequently, we do not feel that wines carbonated to the 0.392 gram level would be purchased in lieu of champagne, or sparkling wines with a similar level of carbonation. In addition, it should be noted that labeling and packaging of still wine to misrepresent it as an effervescent wine is prohibited by regulations (27 CFR Part 4) implementing the Federal Alcohol Administration Act and by section 5662 of the Internal Revenue Code.

There is a small amount of carbonated and sparkling wine marketed which has a level of carbonation not greatly in excess of the 0.392 gram level. e.g., some imported hard ciders, which could be affected by liberalizing the carbon dioxide content of still wine. It might be possible for producers to reformulate some of these products to come within the 0.392 gram limit, or some consumers thereof might transfer their purchases to still wines produced in accordance with the liberalized carbon dioxide levels proposed by H.R. 9716. These moderately carbonated wines enjoy an extremely limited market, however, and the revenue from them is not significant.

Since practically all the revenue from carbonated and sparkling wines comes from champagne and wines with a similar high level of carbonation and we do not believe champagne sales would be affected by the proposed liberalization of the carbon dioxide content of still wines, the revenue effect of H.R. 9716 should be minimal.

In view of the above considerations, the Treasury Department has no objection to the enactment of H.R. 9716.

The Office of Management and Budget has advised the Treasury Department that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely yours,

FREDERIC W. HICKMAN,
Deputy Assistant Secretary.

Mr. TUNNEY. Mr. President, I understand that the Senator from New York (Mr. JAVITS) has in his State a wine industry that would also like to try this slight increase in carbon dioxide in its wine.

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

Mr. TUNNEY. I yield.

Mr. JAVITS. Mr. President, I have been informed that the winemakers in what we call the Finger Lakes region of New York have a similar interest to that of the winemakers in California.

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

Mr. TUNNEY. I yield.

Mr. PROXMIRE. Earlier today I stated I would oppose all these amendments. I have had an opportunity to discuss this amendment in some detail, and I understand there is no significant revenue loss involved in this amendment.

Mr. TUNNEY. That is correct.

Mr. PROXMIRE. And that it is a provision that might well be in the interest of the consumer as well as the interest of the industry.

Mr. TUNNEY. That is correct. It is in the interest of the industry because it would prevent the deterioration of wine, and also the wine that is going to be affected is wine that has less than 10 percent alcohol.

So I think it is probably desirable from the point of view of the country that people drink wine with an alcoholic content of less than 10 percent.

Mr. PROXMIRE. As I understand, there is no opposition on the part of the Treasury?

Mr. TUNNEY. No opposition on the part of the Treasury or OMB.

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

Mr. TUNNEY. I yield.

Mr. HARTKE. Would this addition to the wine move it into a different classification, as to possibly being sparkling wine?

Mr. TUNNEY. No, it would not. As the Senator knows, if you have a higher alcoholic content, you have to pay more excise tax.

Mr. HARTKE. That is right.

Mr. TUNNEY. This wine will have less of an alcoholic content. Also, if you have champagnes, highly carbonated wines, you pay a substantially greater excise tax. This still wine, assuming this amendment is agreed to, will still have less than one-third of the carbonation that champagne would have, and in the Treasury Department letter they make it clear that they do not think it would have any impact at all on the sale of champagne, and therefore it would have a minimal effect on revenues from excise taxes, because it would not be competing with champagne.

This still wine pays 14 cents a gallon, whereas with champagnes it is from $2.40 a gallon to $3.40 a gallon, as excise tax. It would not compete with champagne; so therefore, although the still wines pay less of an excise tax, it would have very litle impact on revenue.

Mr. HARTKE. In other words, there is just a little bit of carbonation, is that right?

Mr. TUNNEY. A little bit of extra carbon dioxide to replace the oxygen, to preserve the wine a little bit longer and add to the quality of taste.

Mr. HARTKE. So it does not, then, create a competitive situation with champagne?

Mr. TUNNEY. No, it does not.

Mr. HARTKE. Therefore, it would not have any effect on revenues?

Mr. TUNNEY. That is correct, according to the Treasury Department letter.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

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

The Javits amendment is as follows:

At the end of the bill add a new section:

(a) IN GENERAL.—Section 1039 of the Internal Revenue Code of 1954 (relating to certain sales of low-income housing projects) is amended by—

(1) Changing subsection (b)(1)(A) to read as follows:

"(A) with respect to which a mortgage is insured under section 221(d)(3) or section 236 of the National Housing Act or with respect to which a mortgage is insured or housing is financed or assisted by direct loan or tax abatement under similar provisions of State or local laws," and

(2) strike the period at the end of subsection (b)(2) and add the following language: "or, in the case of a sale or disposition of a qualified housing project with respect to which a mortgage is insured or housing is financed or assisted by direct loan or tax abatement under State or local laws referred to in subsection (1)(A), which is approved by the appropriate State or local agency administering such laws pursuant to regulations or procedures which the Secretary of Housing and Urban Development has certified are in accord with the standards applied by him in approving the sale or disposition of a "qualified housing project" under section 221(d)(3) or 236 of the National Housing Act."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to dispositions made after the date of enactment of this Act.

Mr. JAVITS. Mr. President, this is a question of assimilating, for tax purposes, the sale with nonrecognition of gain of a qualified housing project to the extent that the proceeds are invested in another qualified housing project, without a tax applying.

Right now, the law provides that such treatment is extended to projects which are insured under section 221(d)(3) or

section 236 of the National Housing Act. This is thus an inducement for private people to get out of the ownership of such a project or out of the ownership of a group of properties and sell them to another cooperative or another qualified owner for such a project, limited only to federally sponsored housing projects.

There are a number of States, about 19 States—I will submit a list for the record—where similar housing projects come under State law also, with limited return, limited rate of occupancy charges, et cetera. Those States are Alaska, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Vermont, and West Virginia.

The amendment simply provides that the same treatment may be afforded if the Secretary of HUD certifies that the ownership will be the same kind of ownership as under projects under section 221(d)(3) or section 236 of the National Housing Act.

If the clerk will return the bill, I will read the pertinent portions.

The PRESIDING OFFICER. The Chair is advised that the bill has been sent to the Secretary's office.

Mr. JAVITS. All right. We will do it later.

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

Mr. JAVITS. I yield.

Mr. PROXMIRE. Does the Senator, in saying "the same kind," mean nonprofit?

Mr. JAVITS. That is correct.

I have letters from the Treasury Department and the Secretary of Housing and Urban Development commenting on this legislation. I ask unanimous consent that my letters to the Treasury Department and HUD, together with their replies, be printed in the RECORD.

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

NOVEMBER 19, 1971.

Hon. GEORGE W. ROMNEY,
Secretary, Department of Housing and Urban Development, Washington, D.C.

DEAR MR. SECRETARY: The Tax Reform Act of 1969 as enacted into law contained a provision allowing for nonrecognition of gain to the initial investor in a housing project insured under Section 221(d)(3) of Section 236 where the properties are sold to the occupants or a tax-exempt organization managing the property, but only to the extent that the investor reinvests the sale proceeds in other similar housing.

At the time this legislation was considered in the Senate I offered an amendment to extend this favorable tax treatment to projects which are insured under state or local programs which have been certified by the Secretary of Housing and Urban Development to be in accord with the standards used in approving the sale or disposition of a qualified housing project under federal programs. Unfortunately this amendment was deleted in the Conference Committee and did not become law.

I am planning to submit the amendment again on the pending tax legislation since many states, like New York State, now have responsible state programs for low and moderate income housing. I believe it is essential to extend Section 1039 to these state-assisted programs so that it can work more effectively.

I would appreciate your comments as to the merits of my amendment and any other suggestions you might have on the matter.

With warm regards,

Sincerely,

JACOB K. JAVITS.

THE SECRETARY OF HOUSING,
AND URBAN DEVELOPMENT,
Washington, D.C., December 9, 1971.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR JACK: This letter is in response to your letter of inquiry of November 19, 1971, regarding a proposed amendment to Section 1039 of the Internal Revenue Code. I appreciate your desire to obtain our opinion prior to the introduction of such a measure.

At the present time the Department "certifies" state and local programs for the purpose of qualifying them to receive interest subsidy payments under Section 236(b) of the National Housing Act. Our certification for that purpose does not include any review of the standards used in approving the sale or disposition of a qualified housing project. Perhaps the legislation should call for a separate certification by the Department to the Internal Revenue Service of the fact that the standards used by the state and local program in question for such purposes are in accord with the standards used under Federal programs.

I certainly agree that the extension of Section 1039 to the state and local programs, where they qualify, would be in our interests in assisting the growth of those programs. I would also like to suggest that you consider a further extension of Section 1039 to include non-profit sponsors.

I appreciate your inquiry.

Sincerely,

/s/ George
GEORGE ROMNEY.

NOVEMBER 22, 1971.

Mr. JOHN B. CHAPOTON,
Tax Legislative Counsel Department of the Treasury, Washington, D.C.

DEAR MR. CHAPOTON: The Tax Reform Act of 1969 which is now Section 1039 in the Internal Revenue Code which allows for nonrecognition of gain to the initial investor in a housing project insured under Section 221(d)(3) or Section 236 of the National Housing Act where the properties are sold to the occupants or a tax-exempt organization managing the property, but only to the extent that the investor reinvests the sale proceeds in other similar housing.

At the time this legislation was considered in the Senate I offered an amendment to extend this favorable tax treatment to projects which are insured under state or local programs which have been certified by the Secretary of Housing and Urban Development to be in accord with the standards used in approving the sale or disposition of a qualified housing project under federal programs. Unfortunately this amendment did not become law.

I am planning to submit the amendment again this year to an appropriate tax bill since many states, like New York State, now have responsible state programs for low and moderate income housing. I believe it is essential to extend Section 1039 to these state-assisted programs so that it can work more effectively.

I would appreciate your comments as to the merits of my amendment and any other suggestions you might have on the matter. I am enclosing a copy of the amendment language for your review.

With best wishes,

Sincerely,

JACOB K. JAVITS.

OFFICE OF THE SECRETARY,
OF THE TREASURY,
Washington, D.C., December 10, 1971.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: This is in response to your letter of November 22, 1971, in respect to a proposed amendment to section 1039 of the Internal Revenue Code of 1954.

Section 1039 generally provides for nonrecognition of the gain realized on the sale of a "qualified housing project" to the extent the proceeds are reinvested in another qualified housing project. Under section 1039 (b) a "qualified housing project" is a project with respect to which the owner is limited as to the rate of return and limited to rate of occupancy charges; and with respect to which a mortgage is insured under section 221(d)(3) or section 236 of the National Housing Act. Thus, section 1039 is presently limited to Federally-sponsored housing projects.

Your amendment would extend section 1039 to apply to state or local housing projects which have been certified, under standards approved by the Secretary of Housing and Urban Development, as being comparable to qualified housing projects under Federal programs. A similar amendment to the Tax Reform Act was introduced in 1969, but did not become law.

I agree that there is no meaningful distinction between housing projects sponsored under Federal programs and similar housing projects sponsored under state and local programs. In either case, the statute is primarily concerned that the project have a limited rate of return and that rental or occupancy charges also be limited. Where a state or local program meets these conditions, and where the program has been certified in accordance with standards approved by the Secretary of Housing and Urban Development as being consistent with the standards applied under the Federal programs, I can see no objection to extending the benefits of section 1039.

Section (b) of the proposed amendment would make these changes apply to "taxable years" beginning after December 31, 1971. Since section 1039 itself applies to "dispositions" of qualified housing projects after the effective date, you may wish to revise section (b) of your amendment to apply to dispositions after the date of enactment of the amendment.

Sincerely,

JOHN E. CHAPOTON,
Tax Legislative Counsel.

Mr. JAVITS. The tax legislative counsel of the Office of the Secretary of the Treasury, in replying, said:

I agree that there is no meaningful distinction between housing projects sponsored under Federal programs and similar housing projects sponsored under State and local programs.

In the letter received from George Romney, the Secretary of Housing and Urban Development, he stated:

I certainly agree that the extension of section 1039 to the State and local programs, where they qualify, would be in our interests in assisting the growth of those programs.

The pertinent provision of the bill is as follows:

Which is approved by the appropriate State or local agency administering such laws pursuant to regulations or procedures which the Secretary of Housing and Urban Development has certified are in accord with the standards applied by him in approving the sale or disposition of a "qualified housing project" under section 221(d)(3) or 236 of the National Housing Act.

Mr. President, I am very mindful of the ground rules the Senator has laid down, and I would like to explain why I believe this amendment qualifies.

The staff of the committee apparently felt that, it being a technical thing we were trying to do here, it was not the sort of thing that was susceptible to hearings, so we were advised to bring it on an appropriate tax bill, at a time when there was a catchall bill like this one.

I might point out also that this particular provision was attached to the Tax Reform Act at the time that it was passed. For whatever reason, it was dropped in conference, and there it has been in limbo since.

I would hope very much, as we are advised by the Treasury Department that there is no appreciable revenue loss, and that this is being used as a totally new effort to get housing in this kind of field, or at least to broaden the utilization of the channel, that it could be taken to conference. Obviously, if the House objects again, it will be dropped, but at least we will have this chance.

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

Mr. JAVITS. I yield.

Mr. PROXMIRE. As I understand what it would do, it would simply broaden the sponsorship for housing projects which Congress has been so anxious to get moving. It would increase private ownership of housing and would do so without providing for any further exemptions or loopholes in the tax law?

Mr. JAVITS. It simply assimilates State projects under the same definition.

Mr. PROXMIRE. The reason I raise the point is that I think recently much of the public and the press have become more aware of scandals in public housing. Last night, for example, one of the broadcasters had a special program on the enormous bonanza people have been making on these housing programs. I happen to be the chairman of the Subcommittee on Housing and Urban Development, and I hope next year we can go into this matter and get at it. Certainly one thing we have to be very careful about is that we not provide any more loopholes or giveaways, so that, in providing housing for those who desperately need it, we are enriching a few big investors.

The amendment of the Senator from New York, as I understand it, would provide for more nonprofit funding, and therefore do exactly what we want to do to provide more private homeownership, and do so in a way that is equitable and fair, and does not open up any loopholes. Is that correct?

Mr. JAVITS. What it really means is that one nonprofit will be passed on to another nonprofit. It is really a way of going beyond the initial investor. It has been kicking around for some time, and this is more or less our last chance. If the House will take it, I think something good can happen.

Mr. HARTKE. Mr. President, let me say to Senator from New York, that as I understand section 221(d) projects, they receive special tax consideration at the present time?

Mr. JAVITS. Right.

Mr. HARTKE. That deals with special depreciation allowances and with the question of disposition, and they receive special treatment. The special tax treatment has been a foundation upon which the Federal Government has hoped to build the opportunities for low-cost housing.

As I understand the amendment of the Senator from New York, he wants to extend this special tax treatment to a project if it is built and arranged for and financed under State law, as contrasted to being done under Federal law.

Mr. JAVITS. A State law which is comparable with the Federal law.

Mr. HARTKE. Under such circumstances, does the State facility, the State sponsored facility, have to be approved by the Department of HUD?

Mr. JAVITS. In effect, because he must approve the rules which the State authorities make, and they must be the same rules that he is applying to Federal projects.

Mr. HARTKE. What I am asking is whether or not, before this special tax consideration would apply, HUD would have to give its approval to the project?

Mr. JAVITS. It would not have to give its approval to the individual project, but it would have to give its approval to the rules under which the State authority which would give its approval is operating.

Mr. HARTKE. Would that include the establishment of building standards and the availability of space arrangements?

Mr. JAVITS. Whatever standards he is applying to 221(d)3 and 236 projects, he will apply to these.

Mr. HARTKE. Would it also apply to any subdivision of the State, such as a municipality? Take a city, for example, which is operating under the jurisdiction of a State government—would the same principles apply?

Mr. JAVITS. Provided that it, too, is enforcing rules which are the same as or substantially the same as those the Secretary of Housing and Urban Development is enforcing.

I should like to read it again to the Senator:

. . . which is approved by the appropriate State or local agency administering such laws pursuant to regulations or procedures which the Secretary of Housing and Urban Development has certified are in accord with the standards applied by him in approving the sale or disposition of a qualified housing project under section 221(d)3 or section 236.

Mr. HARTKE. As I understand the existing programs, 221(d) projects could be built by either a nonprofit corporation or a corporation for profit, with a limitation upon return.

Mr. JAVITS. A limited dividend.

Mr. HARTKE. Is that true?

Mr. JAVITS. Yes.

Mr. HARTKE. The same qualifications would still apply?

Mr. JAVITS. Completely.

Mr. HARTKE. Let me ask a question with regard to these projects. What would be the effect of the property tax upon these properties? At the present time, as I understand, these properties, under Federal law, are subject to all the same application of property tax as any other property which is similarly situated, whether it be a nonprofit corporation or privately owned.

Mr. JAVITS. Under the Mitchell-Armour law in my State, the same is true, except for this point, and the Senator should keep this in mind: Often they are especially set up under tax abatement agreements with local authorities, but that is true with Federal projects, too; they are often set up under special tax abatement agreements. But in those cases, it takes two to agree. It is nothing mandated by law. Does the Senator see my point?

Mr. HARTKE. I understand what the Senator is saying, but I am not clear in the interpretation of what he is saying. What the Senator is saying is that a local organization can enter into an agreement with a State or municipality to have either a reduction or complete abatement of the property taxes?

Mr. JAVITS. For a given period.

Mr. HARTKE. But this is only being done on a voluntary basis.

Mr. JAVITS. I agree.

Mr. HARTKE. Upon the initiative of local organizations. The present situation with regard to 221(d), as I understand it, and one of the inhibitory factors, is that under the wage-price controls there is no opportunity for increasing the rents, and at the same time property taxes have been increased rather substantially in most jurisdictions, to the extent that most 221(d) projects are unoccupied throughout the country at the present time.

Mr. JAVITS. This is a big problem of conforming the law or bringing the law abreast of new situations; but this amendment in no way makes or breaks that problem.

Mr. HARTKE. I am willing to accept the amendment, on the basis of the statements of the Senator from New York; but I am not very enthusiastic about the present tax consideration of 221(d) on the Federal level, let alone extending it to the State and local level. But until such time as there is a complete review, I see no objection to applying it to the other jurisdictions which comply with Federal law.

I wish the Senator from Wisconsin would give this matter a complete review, because in some cases I think it has been abused and in other cases it is not being used properly.

Mr. JAVITS. As Everett Dirksen used to say, the hide will go with the hare.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the following bills in which it requests the concurrence of the Senate:

H.R. 7625. An act to revise the pay structure of the police forces of the Washington National Airport and Dulles International Airport, and for other purposes;

H.R. 9604. An act to prohibit the unlawful use of a rented motor vehicle;

H.R. 10751. An act to establish the Pennsylvania Avenue Development Corporation, to provide for the preparation and carrying out of a development plan for certain areas between the White House and the Capitol, to further the purposes for which the Pennsylvania Avenue National Historic Site was designated, and for other purposes;

H.R. 13895. An act to amend title 5, United States Code, to revise the pay structure for nonsupervisory positions of deputy United States marshal, and for other purposes;

H.R. 14171. An act to incorporate in the District of Columbia the American Ex-Prisoners of War;

H.R. 14934. An act to amend title 5, United States Code, to make levels III and IV of the Executive Schedule applicable to certain positions within the Department of Justice, and for other purposes;

H.R. 15188. An act to incorporate in the District of Columbia Pop Warner Little Scholars, Inc.; and

H.R. 15453. An act to incorporate in the District of Columbia the National Inconvenienced Sportsmen's Association.

The message also announced that the House had passed without amendment the following bills:

S. 3545. An act to amend section 7 of the Fishermen's Protective Act of 1967; and

S. 4022. An act to provide for acquisition by the Washington Metropolitan Area Transit Authority of the mass transit bus systems engaged in scheduled regular route operations in the National Capital area, and for other purposes.

The message further announced that the House had agreed to the amendments of the Senate to the amendment of the House to the bill (S. 27) to establish the Glen Canyon National Recreation Area in the States of Arizona and Utah.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H.R. 13396) to authorize an increase in land acquisition funds for the Delaware Water Gap National Recreation Area, and for other purposes.

The message further announced that the House had passed the bill (S. 3671) to amend the Administrative Conference Act with amendments in which it requests the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills and joint resolutions:

S. 216. An act to permit suits to adjudicate certain real property quit title actions;

S. 1852. An act to establish the Gateway National Recreation Area in the States of New York and New Jersey, and for other purposes;

S. 1928. An act 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;

S. 2411. An act to establish the Cumberland Island National Seashore in the State of Georgia, and for other purposes;

S. 2454. An act to amend the Youth Conservation Corps Act of 1970 (Public Law 91–378, 84 Stat. 794) to expand the Youth Conservation Corps pilot program and for other purposes;

S. 2741. An act to amend the act of September 7, 1957, authorizing aircraft loan guarantees, in order to expand the program pursuant to such act;

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

S. 4018. An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes;

H.R. 14542. An act to amend the act of September 26, 1966, Public Law 89–606, to extend for four 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.

H.R. 15280. An act to amend the act of August 16, 1971, which established the National Advisory Committee on Oceans and Atmosphere, to increase the appropriation authorization thereunder.

H.R. 16444. An act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes.

H.R. 16987. An act to amend the act to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce.

S.J. Res. 199. Joint resolution to recognize Thomas Jefferson University, Philadelphia, Pa., the first university in the United States to bear the full name of the third President of the United States.

S.J. Res. 251. Joint resolution to designate the week which begins on first Sunday in March 1973 as "National Beta Club Week".

The enrolled bills and joint resolutions were subsequently signed by the Acting President pro tempore (Mr. ROBERT C. BYRD).

HOUSE BILL REFERRED

The bill (H.R. 16598) to amend the Disaster Relief Act of 1970 to provide that community disaster grants be based upon loss of budgeted revenue, was read twice by its title and referred to the Committee on Public Works.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, October 14, 1972, he presented to the President of the United States the following enrolled bills:

S. 1973. An act to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes;

S. 2674. An act to remove a cloud on the title to certain lands located in the State of New Mexico; and

S. 3755. An act to amend the Airport and Airway Development Act of 1970, as amended, to increase the United States share of allowable project costs under such act; to amend the Federal Aviation Act of 1958, as amended, to prohibit certain State taxation of persons in air commerce, and for other purposes.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. HART). The Chair, on behalf of the Vice President, pursuant to Public Law 84–689, appoints the Senator from North Carolina (Mr. JORDAN) as alternate delegate to the North Atlantic Assembly, to be held in Bonn, Germany, November 18–24, 1972.

ADDITIONAL STATEMENTS

SENATOR LEN JORDAN HAS BEEN FAITHFUL TO EVERY TRUST

Mr. RANDOLPH. Mr. President, it is with satisfaction that I join Senators in expressing tribute to one of our number who will retire from the Senate at the end of the 92d Congress.

It has been a personal satisfaction for me to have served with LEN B. JORDAN of Idaho. For several years he was a member of the Committee on Public Works and there brought his considerable talents to bear on the development of legislation and projects for the benefit of millions of Americans.

As a member of the Committee on Interior and Insular Affairs, Senator JORDAN has been deeply involved in our country's fuel and energy needs. I share his concerns in these areas, and we have been able to work together for a solution to these problems.

In all of his labors in the Senate, Senator JORDAN exhibited all of the finest qualities that are expected of a legislator whose thoughts are ever on the people he serves. He is a man of high purpose, but he also exhibited great patience as he went about his duties with little regard for public fanfare.

The character of LEN JORDAN as a human being is best reflected, I believe, in his faithful participation in the Senate Prayer Breakfast group each week. He is a man of strong will, but he also is gentle of heart, a man who drew much of his strength from a firmly held religious conviction. It was fitting that LEN JORDAN presented the program for the last meeting of the Senate Prayer Breakfast before his retirement.

Mrs. Randolph joins me in wishing to LEN and Grace Jordan continued years that are productive and fruitful, for he is a man of such energy and dedication that total retirement will be impossible.

There is a little poem which reads:

Faithfully faithful to every trust,
Honestly honest in every deed,
Righteously righteous and justly just:
This is the whole of the good man's creed.

Mr. President, these words characterize our friend, LEN JORDAN.

TRIBUTE TO SENATOR JORDAN OF NORTH CAROLINA

Mr. HOLLINGS. Mr. President, last night the Capitol Hill colleagues, staff, and friends of Senator B. EVERETT JORDAN gathered at a reception in his honor. There was a sincere outpouring of warmth and dedication for this kind and gentle and yet so effective public servant from the great State of North Carolina. In fact, there was real love and esteem for him.

I have seen EVERETT JORDAN at work on behalf of the constituents of his State and his Nation. I can testify—as can all Senators—to the dedication and commitment of the man as he went about his work. He labored long and hard, with diligence and with a quiet persuasiveness that enabled him to be a distinguished legislator. Senator JORDAN always puts first things first—and at the top of his

list was a deeply held commitment to the concept of America and the well-being of its citizens.

On innumerable occasions, it has been my privilege to consult with my friend, EVERETT JORDAN. On issues of common interest to our neighboring States—such as agriculture and industry—I always found him keenly aware of the problems and helpful in suggesting ways to meet our common challenges. I have seen him at work in committee, putting his obvious talents to work on a wide variety of issues. No one can ignore the positive record of accomplishment that Senator JORDAN has compiled in his years in this Chamber.

Mr. President, we will miss the presence of Senator EVERETT JORDAN. But we are grateful for the time he served here and the record he has made. And we join today in wishing him well in the years ahead, in the hopes that we may continue to draw upon his ability and experience in years to come.

SENATOR B. EVERETT JORDAN

Mr. YOUNG. Mr. President, we all feel bad that a great legislator, one of the best liked Members of the U.S. Senate, and one of its best storytellers—Senator EVERETT JORDAN—will be leaving us.

EVERETT JORDAN has been a very effective Senator, especially in the field of agriculture. While agriculture in North Carolina is considerably different than in my home State of North Dakota, I have found EVERETT JORDAN to always be sympathetic, understanding, and helpful to our agriculture. He spent many long hours as a key member of the Senate Agriculture Committee helping farmers and their friends in the Senate.

As chairman of one of the most important subcommittees of the Senate Agriculture Committee he played a key role in shaping important farm legislation. On many occasions he went out of his way to be considerate and helpful to me when he thought I had a good case. This is typical of EVERETT JORDAN in his dealings with every Member of the Senate.

His leaving the Senate will be a great loss to this body and I—like every other Senator—will miss this friendly, kindly, and very decent person. Our best wishes will always be with Katherine and EVERETT JORDAN.

RETIREMENT OF SENATOR B. EVERETT JORDAN OF NORTH CAROLINA

Mrs. SMITH. Mr. President, there is a real personal sadness for me in the impending departure of Senator B. EVERETT JORDAN from the Senate. He has been a great Senator. But even more important than that—he is a wonderful human being.

I have never known a kinder, more considerate person than EVERETT JORDAN. Every Member of the Senate will attest to this. We have had real and personal reasons to know. For he has been the chairman of the Rules and Administration Committee, which does so much of the governing and administration of the Senate. It is this committee to which we have to turn with respect to vital matters concerning the running not only of the Senate but, as well, our individual offices.

It is a trying job because it requires saying "No" more often than "Yes." EVERETT JORDAN has endeared himself to his Senate colleagues not by saying "Yes" to them but rather by the way in which he has said "No" to them—with complete understanding, with patience, and with commensurate kindness.

But he is endeared to us for more than his great kindness, humility, and warm personality. He is endeared to us for his great courage—moral courage, and physical courage.

His great courage earlier this year on the gravely threatening physical condition that led to crucial surgery was an inspiration to all of us. He walked through the Valley of the Shadow of Death, and came through with flying colors, and back to the Senate with amazing activity and effectiveness following that tremendously successful surgery.

Then we watched him show a moral courage of rare quality and depth as he sought reelection to the Senate. We saw him stand tall and straight, and refuse to drop to the level of political invective and polemics—and we were immensely proud of him. By his conduct in the campaign, he reflected the highest credit on the U.S. Senate.

I shall always remember his exemplary campaign conduct and I shall strive to emulate him. And when I feel provoked because of what I consider an unfair political attack on me, I shall remember the performance of EVERETT JORDAN and try to emulate his exemplary restraint.

We will miss him greatly. We wish for him and his the very best of everything.

RETIREMENT OF SENATOR JOHN SHERMAN COOPER OF KENTUCKY

Mr. JORDAN of North Carolina. Mr. President, to me, one of the richest rewards of service in this great legislative body has been the rare privilege of coming to know and work with so many of the country's finest men and most outstanding public figures.

One of the most difficult parts of such an association comes when it is time to say goodby to one such man.

Thus it is with a mixture of pride and sadness that I add my personal tribute to those so many of you have already accorded our valued colleague, JOHN SHERMAN COOPER, on the occasion of his retirement.

Nothing I can say here today will add to the brilliant luster of his accomplishments as a soldier, diplomat, and statesman.

The record is there for all to see and admire.

What I will longest remember, however, are the qualities of JOHN SHERMAN COOPER, the man—his unfailing kindness and courtesy, his gentle humanity, and, when the occasion demanded, his iron will and resistance to those things he considered unwise or unethical.

It is for those qualities that I have admired and respected JOHN SHERMAN COOPER throughout our years of service together on the Rules Committee, on the Public Works Committee where he became ranking minority member, and on the Agriculture committee while he was assigned to it.

Even though our politics have differed, our aims and interests have been much the same throughout those years—particularly in our common desire for conservation and development of natural resources through public works projects and for advancement of human resources through education.

Those of us who have been privileged to know him here are wiser and richer for the experience. His native State of Kentucky, the country, and indeed the world, have been the beneficiaries of his effective and dedicated service.

I am proud today to salute him as both a very good friend and a great American.

JOHN SHERMAN COOPER

Mr. WILLIAMS. Mr. President, before the 92d Congress adjourns, I want to express my respect and admiration for one of the true pillars of this body who will not be with us when the 93d Congress convenes in January. The term of the senior Senator from Kentucky expires this year, and he has decided to retire.

JOHN SHERMAN COOPER has now served nearly 20 years in the Senate—longer than any other Senator from the State of Kentucky except one. The people of Kentucky have recognized the outstanding service he has rendered his State and the Nation, and reelected him with majorities of 199,000 votes in 1960 and 217,000 votes in 1966; no other candidate for a statewide office in Kentucky has ever rolled up that kind of majority.

To say that Senator COOPER has been a leader of the Senate would be a terribly inadequate understatement; indeed, he has been one of the most respected men to serve in this body, and close to a one-man institution.

He is one of the Senate's leading experts on foreign affairs, and has distinguished himself as a member of the Committee on Foreign Relations. He has also served with great distinction as the ranking minority member of the Committee on Public Works, and as a member of the Rules and Administration Committee, and the Select Committee on Standards and Conduct.

As the chairman or ranking minority member of the Subcommittee on Roads for 16 years of his service, Senator COOPER has participated in developing every major highway act in recent history. In the process, he has always paid particular attention to the need for environmental safeguards in connection with highway construction, and for compensation to individuals and businesses displaced by new roads.

Since 1967, Senator COOPER has been a member of the Subcommittee on Air and Water Pollution, and as such has played a major role in development and enactment of all the major environmental legislation of recent years. He has had a longstanding interest in environmental preservation, and among other things, he cosponsored the National Historic

Preservation Act of 1966 and the National Wild Rivers Act of 1968.

Senator COOPER has also compiled a long record of commitment to aiding our Nation's schools. In years past, he served as a member of the Committee on Labor, Education and Public Welfare, and was chairman of the Subcommittee on Education in 1953 and 1954. He joined the late Senator Robert Taft, Sr., in introducing the Education Financing Act of 1948, a measure which passed the Senate, but not the House.

It was, however, the first bill providing such Federal aid to schools to pass either Chamber and served as the forerunner of the Elementary and Secondary Education Act enacted in 1965. Furthermore, as a member of the Committee on Agriculture, Senator COOPER supported extension of the school lunch program to schools serving many children of low-income families. And in 1968, he helped secure a 3-year extension of, and increased appropriations for, the school breakfast program initiated in 1966.

In the field of foreign policy, Senator COOPER was a supporter of the Marshall plan, and of aid to Greece and Turkey after World War II. He has been a stanch protector of the congressional prerogative for deciding when the country should go to war, and in recent years has attracted wide attention as sponsor of measures to end U.S. involvement in the fighting in Indochina. The amendments he cosponsored to prohibit use of U.S. forces in Laos, Thailand, and Cambodia are the only binding restrictions which have been enacted into law concerning the war in Southeast Asia.

In addition to his work in the Senate, JOHN SHERMAN COOPER has been a delegate or alternate delegate to four sessions of the United Nations General Assembly. He has also been an adviser at a number of international conferences and in 1956, during a break in his Senate service, served as U.S. Ambassador to India and Nepal.

Mr. President, I think it is clear that Senator COOPER has been one of the most active and influential Members of this body during the past two decades. He has, moreover, earned the unqualified respect of those of us who have been privileged to work with him, and the sincere appreciation of his constituents; although he is retiring now, he most certainly will not be forgotten.

JOHN SHERMAN COOPER

Mr. BAYH. Mr. President, I am pleased to join Senators in paying tribute to JOHN SHERMAN COOPER for his fine and conscientious work during his many productive years as a Senator. The Senate will be the poorer without his principled and studious approach to legislation.

I have had the particular pleasure of working with JOHN on a bill to provide a grievance system for all employees of the Foreign Service. During consideration of this proposal, JOHN listened patiently to the arguments of all concerned, and made extraordinary efforts to find an accommodation satisfactory to all the parties. I will miss his independent thinking, his attention to detail, and his broad perspective.

I have also enjoyed working with JOHN on the Public Works Committee and on its Subcommittee on Roads. As ranking minority member of the committee, JOHN worked diligently and fought vigorously for the positions he believed in. His vast experience in public works matters was very helpful to me and to other committee members over the years.

Mr. President, JOHN SHERMAN COOPER is a leader of this body, and for that reason we in the Senate are sorry he is retiring. But more important, JOHN SHERMAN COOPER's strong stand against the continuing war in Vietnam, and his courageous position as a spokesman for equal justice and equal opportunity for all our citizens, have made him a leader of the Nation. For this reason, the whole country will miss having him in the Senate—though I am sure he will continue to be active in public affairs for many, many years.

On behalf of the countless citizens who have been helped and protected by JOHN SHERMAN COOPER—and as a matter of my own personal feelings—I extend to him our thanks for a job well done, and our best wishes for his next endeavors.

TRIBUTE TO SENATOR McCLELLAN

Mr. ALLEN. Mr. President, this past Thursday, the Senator from North Carolina (Mr. ERVIN), chairman of the Committee on Government Operations, presented to the Senator from Arkansas (Mr. MCCLELLAN), on behalf of the committee, a parchment scroll containing the Senate's unanimous resolution of August 16, 1972, which commended him for his outstanding service to the Nation. The scroll was signed by the committee's 17 members and by the junior Senator from Arkansas (Mr. FULBRIGHT). Senator MCCLELLAN also was given an inscribed silver tray as a further token of the committee's esteem.

Senator ERVIN's eloquent words on this occasion about our distinguished colleague and former Government Operations Committee chairman, reflected the heartfelt sentiments of all of us who have had the privilege and pleasure to serve with Senator MCCLELLAN. I ask unanimous consent that his remarks be printed in the RECORD.

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

STATEMENT BY SENATOR SAM J. ERVIN, JR., CHAIRMAN, COMMITTEE ON GOVERNMENT OPERATIONS, IN APPRECIATION OF FORMER CHAIRMAN JOHN L. MCCLELLAN

I have the honor of making certain presentations to our former Chairman and our friend, John McClellan, on behalf of the other members of the Committee. John is one of my—I started to say oldest acquaintances, but I'd better say—friends of long standing in the Senate because John had the good judgment to marry one of my constituents. So I knew John before I came to the Senate, and when I came to the Senate I was assigned to the Government Operations Committee of which he was the ranking Democrat and of which Joe McCarthy was Chairman. Although I haven't worked as closely with the Committee as some of you have, I have been on the Committee ever since.

I would say that John McClellan enjoys the admiration of all members of the Committee and has always—at all times—been fair and given every member of the committee an opportunity to present his bills and to have them acted on in the Committee. And I want to assure you, that as long as I continue to be Chairman I am going to do the same thing by his standards.

To my mind, John McClellan is the ideal public servant. He always had the characteristic of industry. He's willing to work. He informs himself as to the facts connected with every issue that comes before him. But he not only has the characteristic of industry—which I think is the first characteristic of a good legislator or a good public servant—he also has a high degree of intelligence. He reaches information by reasons of industry, and then forms conclusions, and by virtue of intelligence he reaches intelligent conclusions.

John's got another quality—the highest quality of anyone I've ever known—and that is the quality of intellectual integrity. So when John reaches a conclusion, it is not only an informed conclusion and an intelligent conclusion, but a conclusion which is intellectually honest in the highest degree.

Then he has another, what I consider the last of the fundamental traits of a good legislator, and he has it in as high a degree as any public servant in any capacity I've ever known. And that is the quality we sometimes are inclined to find in short supply in public men—that is moral and political courage.

So to my mind, John McClellan is the ideal legislator because of his industry, because of his intelligence, because of his intellectual integrity, and because of his unsurpassed moral and political courage. And I am sure that all of you agree with me in this summation of John's qualities as a legislator and the great services he has rendered to our country.

It is on account of these things that you have authorized me to present to John as a token of our admiration and affection, this scroll, which has been subscribed by all members of the Committee, and by my ol' colleague from Arkansas, Bill Fulbright.

RETIREMENT OF SENATOR CLINTON P. ANDERSON, OF NEW MEXICO

Mrs. SMITH. Mr. President, it has been a wonderful privilege for me to serve both in the House of Representatives and the Senate with that very great American and outstanding statesman, CLINTON P. ANDERSON, the senior Senator from New Mexico. Most particularly gratifying has been to serve so many years with him on the Senate Committee of Aeronautical and Space Sciences. He has been a brilliant leader and chairman of this important committee. Because of him the United States is the foremost leader on space exploration and achievement. Under his direction as chairman of this committee, the United States staged a dramatic comeback after seriously trailing the Soviet Union following the advent of Sputnik to establish an overwhelming superiority over the Soviet Union on achievement in space exploration.

Without CLINTON P. ANDERSON's brilliant leadership, this would never have been accomplished. I know, for I saw this firsthand in my capacity as the

ranking minority member of this committee for many years.

But more significant than his impressive leadership on space matters has been the humanitarianism of CLINT ANDERSON. Not only has he projected this in his championship of legislation for the welfare and betterment of people but as well in his everyday life relations with the Members of the Senate, the employees of the Senate, personnel in the other branches of the Government, the people of his beloved State of New Mexico, and the American public.

The Senate simply will not be the same without CLINT ANDERSON. I shall miss him sorely.

We wish him and his wonderful wife the very best of everything in the retirement that they both so richly deserve.

RETIREMENT OF SENATOR KARL E. MUNDT, OF SOUTH DAKOTA

Mrs. SMITH. Mr. President, it has been my privilege to serve all of my time in Congress with KARL MUNDT, the senior Senator from South Dakota. He preceded me in the House of Representatives by 17 months, as we were both Members of the 76th Congress. In 1948 we were both elected to the U.S. Senate. He, Senators CLINTON B. ANDERSON and RUSSELL B. LONG, and I are the surviving members of the 1949 class of 19 freshman Senators that included such illustrious graduates as President Lyndon B. Johnson and Democratic Vice-Presidential nominee Estes Kefauver.

In the Senate we have served together on the Committees on Appropriations and Government Operations. He was an extremely articulate, incisive, and effective Senator for many years until his untimely stroke.

We have missed KARL MUNDT. We shall continue to miss him. We wish for him the greatest possible return of full health and we wish for him and his wife, Mary Mundt, the maximum of happiness.

SENATOR HARRIS

Mr. WILLIAMS. Mr. President, when the 92d Congress adjourns sine die, a number of fine Members of the Senate will be leaving congressional service because their terms expire this year, and they have chosen not to seek reelection. One such is Senator FRED R. HARRIS, of Oklahoma, and I take this opportunity to note the outstanding service he has rendered this country.

In a relatively brief period of time, FRED HARRIS has become known as one of our Nation's most prominent leaders in the causes of justice, dignity, quality education, and adequate health care for all Americans. He first came to the Senate in 1964, when he was elected to a 2-year, unexpired term, after having served 8 years as a member of the Oklahoma State Senate; in 1966, he was reelected to a full 6-year term.

As a Member of the Senate, FRED HARRIS moved quickly into the vanguard of a movement to bring about much-needed reforms in the seniority system and other Senate procedures, and he now is chairman of the Committee on Senate Reform of the Senate Democratic Caucus. He also lost no time in becoming a leader of efforts to improve our Nation's health care system. As chairman of the Committee on Labor and Public Welfare, I can attest to the fact that Senator HARRIS has been one of the prime movers in the Senate of health and child care legislation.

Furthermore, Senator HARRIS has become expert on the complex problems of the welfare system, and has introduced legislation which would remove inequities in it, and assure an adequate level of support for those truly in need. He has also been deeply involved in efforts to protect the environment and conserve natural resources and I have been privileged to work with him on a number of bills in this area, particularly the Marine Mammal Protection Act.

Outside of the Senate, FRED HARRIS has distinguished himself as a leader of the Democratic Party; he was chairman of the Democratic National Committee from January 1969 to March 1970, and worked to reform delegate selection and national convention procedures, as well as to broaden the base of the party. In addition, Senator HARRIS served as a member of the President's National Advisory Commission on Civil Disorders—The Kerner Commission—in 1967 and 1968; currently, he is cochairman of the Commission on the Cities in the Seventies, a 12-member panel appointed by the National Urban Coalition to investigate the status of the Kerner Commission's recommendations for action, and to report on emerging urban issues.

Mr. President, it is clear that FRED HARRIS has committed himself to bringing about needed change in many areas of our national life. He has served with distinction in this body, and I regret very much that he will not be once again taking his seat here when the 93d Congress convenes in January. However, I know that FRED and his wonderful wife LaDonna intend to remain in Washington, each continuing the fine work they have been involved in, and I think all Senators would agree with me when I say I am very glad that they will.

RETIREMENT OF REPRESENTATIVE CHARLES RAPER JONAS

Mr. JORDAN of North Carolina. Mr. President, this week House colleagues from both sides of the aisle and from States scattered throughout the Nation paid well-deserved tribute to an outstanding North Carolinian, Representative CHARLES RAPER JONAS, who is retiring after an illustrious 20-year career.

I am proud today to join in that salute and to bring to the attention of the Senate some of the reasons for that general acclaim.

One of the explanations, surely, is the fact that from the very start of his Capitol Hill career he established a reputation as a highly knowledgeable Member with a tremendous capacity for hard work and attention to detail.

He also demonstrated a strong sense of responsibility and integrity in both fiscal matters and questions of legislative principle.

Although he was just the second Republican Member of Congress to represent a North Carolina district in this century when elected in 1952, he has shown throughout his career a capacity for putting the needs of the State and country above purely partisan considerations.

Those qualities have earned him the respect and admiration of all who have known him and had the opportunity of either serving with him or observing the results of his work in the House.

The same attributes account for his assignment to the Appropriations Committee, a highly coveted position, early in his career and for the widening scope of his influence on the committee and in the House as a whole in the ensuing years.

The hallmark of his career and the trait for which he is best and most widely known has been his continuing battle against carelessness and waste in Government spending.

A colleague from another State said of him the other day that his contribution to the cause of good government is virtually immeasurable. If the taxpayers of the Nation knew how many millions of dollars CHARLIE's prudence had saved them, they would rise up to thank him with one resounding voice.

To that, those of us who have served with him in North Carolina's delegation for so long can say a fervent "amen" as well as "Godspeed."

RETIREMENT OF REPRESENTATIVE ALTON A. LENNON

Mr. JORDAN of North Carolina. Mr. President, as the second session of the 92d Congress draws to a close, I think it appropriate to bring to the Senate's attention the fact that it marks the end of the congressional career of a distinguished North Carolinian who some Senators will recall as a colleague in this body.

I speak in that regard of Hon. ALTON A. LENNON who is retiring after eight terms in the House as Representative from North Carolina's Seventh District.

He was elected to that seat after serving as a Member of this body by gubernatorial appointment in the early 1950's upon the death of Senator Willis Smith.

His work has been of a distinguished caliber reflecting great credit to himself and to his State during both phases of his Capitol Hill career.

While serving with distinction as a member of the House Armed Services Committee and the Merchant Marine and Fisheries Committee, his most noteworthy House accomplishments have been in the area of marine resources research and development in his capacity as chairman of the Subcommittee on Oceanography.

He was signally honored recently by the National Oceanographic Association which presented him with its first "Man of the Year" award for the marine resources programs developed under his direction.

That was but one of the honors he has been accorded at various times during his career in which he has attained the re-

spect not only of his own delegation but of the House as a whole for his legislative knowledge, for his close attention to issues affecting the interests of his State, and for his dedication to duty, and unflagging integrity.

North Carolina and the Nation have benefited greatly from his service and, as one privileged to work with him as a friend and colleague during most of his years in Washington, I am proud to bring his accomplishments to the attention of the Senate.

THE 175TH ANNIVERSARY OF THE U.S. FRIGATE "CONSTELLATION"

Mr. BEALL. Mr. President, it is with great personal satisfaction that I report to you today on the success of the recent celebration in connection with the 175th anniversary of the launching of the U.S. frigate *Constellation*. This vessel is now permanently docked at Pier 1, in her home port of Baltimore.

Congress recently passed and President Nixon signed into law S. 2499. This legislation, which I sponsored, authorizes the Secretary of the Treasury to strike up to 100,000 commemorative medals marking this anniversary. The design and specifications for these medals will soon be determined by the *Constellation* Committee and the Treasury Department. I believe that these medals will be an enduring and fitting tribute to this historic ship, the first ship of the U.S. Navy. The funds raised by the sale of these medals will substantially aid the untiring efforts of the *Constellation* Restoration Committee to return this 18th-century ship to its original condition, minus the structural changes necessitated by long years of service. Already, my office has received numerous inquiries regarding the purchase of these commemorative medals.

I wish to thank all Senators and the Members of the House of Representatives who supported this legislation, and to let them know that, by so doing, they shared in and contributed to the week-long dockside activities in honor of this vessel.

These festivities culminated Thursday, September 7, 1972. At this time I had the privilege of participating in a ceremony which served to remind all of us standing on the new *Constellation* Pier in Baltimore of our Nation's early struggles for freedom and liberty. We were pleased to have present the Soviet square rigger *Tovarish*, under the command of Captain Candenko, and a complement of Soviet cadets who were visiting Baltimore to honor the *Constellation*. We were especially pleased to have as our guest of honor Mrs. David Eisenhower. Mrs. Eisenhower graced not only these ceremonies, but the city of Baltimore and the State of Maryland as well, and I am happy to say that she was welcomed with warmth and enthusiasm. Both Senator MATHIAS and I were proud and honored to welcome these distinguished guests as they joined Baltimore in paying tribute to the *Constellation*.

During these ceremonies it was my pleasure to present to the *Constellation* Committee a framed copy of Senate bill 2499, a copy of the public law bearing the President's signature, and the pen used by the Chief Executive to sign this legislation into law.

Mr. President, I ask unanimous consent that the article entitled "The *Constellation* at 175," published in the September issue of Baltimore magazine be printed in the RECORD. The article summarizes the current activities of the *Constellation* Committee and indicates future plans for this noble and aged vessel.

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

THE "CONSTELLATION" AT 175

(By Christopher T. George)

One hundred and seventy-five years ago this month a large crowd gathered at a Fell's Point shipyard. They had come to see the 9 a.m. launch of the frigate *Constellation*, the second ship to be launched by the fledgling U.S. Navy and the first to put to sea. (The frigate *United States* had been launched several weeks before.)

To a succession of drum rolls, men removed wedges that held the ship above the dark waters of the Patapsco. The *Constellation* then slid slowly downward on ways greased with tallow. She glided to anchorage some 100 yards away. Volunteers on board fired 16 rounds in salute; they were answered by artillery in the Navy Yard. The spectators around the ship yard and on boats dotting the harbor erupted in loud cheering.

After the rejoicing of that early morning crowd in 1797, the *Constellation* had a long and noble career. She fought and defeated British and French men o' war, was instrumental in crushing the Barbary Pirates, and, in the 1840's, helped open China to Western trade. During the Civil War she protected Union interests by blockading against Confederate raiders. Then, even after the golden age of sailing ships had dimmed, she continued to serve her country in a high capacity when, on President Roosevelt's orders, she became the flagship of the U.S. Atlantic Fleet in World War II.

The *Constellation* was towed home to Baltimore in 1955, and this month she will be feted in honor of her one hundred and seventy-fifth year. These celebrations could not be possible were it not for the Constellation Restoration Committee. In fact, there would be no *Constellation* at all if the committee had not fought to save her—from the Navy itself.

In her last years with the Navy, the frigate decayed badly, and in 1953 Naval officials announced their intentions to scuttle her. Concerned Baltimore businessmen, who now make up the committee, initiated political action to save the *Constellation;* they brought her to Baltimore.

The committee, a private, nonprofit body, has labored throughout the ensuing 17 years to raise enough money to restore the ship. Close to $1.4 million has been gathered, but an additional $500,000 is needed to complete restoration—and further sums will be required for maintenance thereafter.

Earle Burger, an assistant director of the project, says that although no federal grants have been forthcoming, the committee receives matching grants from the city and the state. *Constellation* commemoration medals, struck about ten years ago from copper bolts withdrawn from the hull during early restoration, sell "very, very well" at $2 each. Requests for them are received from all over the world. But most of the funds come from visitors to the ship, who pay an admission charge of $1. Mr. Burger says that at one time a peak of 60,000 people a year paid to see the man-of-war, but because the temporary berth at Pier Two was a poor location, receipts dropped badly. He looks to an upswing in people visiting the frigate when she moves to her new home at Constellation Pier.

The 18th century ship which visitors see today is largely the result of restoration by Baltimore naval architect Leon D. Polland. Mr. Polland, who has been chief of construction and repair since work began in 1958, said recently, "The ship, when we got her, was what everyone calls a hulk, and I must admit they were close to the truth."

Mr. Polland, an average-sized man with short, gray hair and steel-rimmed glasses, stood on the top deck of the *Constellation*. "Nothing you see here—the spar deck, the bulwarks, the masts—existed as you see it when we received the ship. In addition to recent decay, naval modifications in 1853 had modernized her into a fast corvette. We are in the process of rebuilding her into a frigate."

A frigate, Mr. Polland explained, has two complete decks of guns. A corvette has only one. In the 1853 refitting, *Constellation* was "razeed," or cut down, and newer, heavier, guns were installed on the remaining deck. "During our restoration," he said, "we rebuilt the spar deck, which includes a forecastle and a quarter deck aft. Thus she again became a frigate."

Mr. Polland is guided in his work by David Steel's Dimensions, an extensive list drawn up in England in 1790. The original ship was almost certainly built to similar specifications.

"These figures are based on centuries of experience. You need dependable references and sources—no one can just build a frigate," he smiled. Other sources include drawings of sister ships such as *The Congress*. But great care must be taken to make every detail the right size. "The masts and spars, for instance, are all in a certain proportion to one another. Aside from the purely functional purpose, a shipbuilder invariably attempts to create something proportionally perfect for others to admire. He looks upon a well-proportioned ship as something akin to a beautiful woman."

The "beautiful woman" now berthed off Pratt Street has been the center of a raging controversy. Even though copper pins bearing the date 1797 and the name of the shipbuilder, David Stodder, have been discovered, some people have refused to believe that the *Constellation* is an 18th century ship.

"We guess around 25 per cent of the ship is original," stated Earle Burge in the frigate's defense. "That's quite a lot in a ship of *Constellation's* age. With wooden ships in salt water, the rate of replacement is quite high. Timber might be replaced every ten or 12 years—though wood in the lower decks and lower hull might last much longer."

Other details believed to have been on the ship since 1797 include the carved gangboards on the top deck, the hawser clamp for the old hemp anchor rope, iron hooks to hold the crew's hammocks, many of the "knees;" or naturally curved beams connecting the sides of the ship to the decks, and the bilge pump. (There is a similar one on the *Constitution*, the only other U. S. ship of 1797 in existence.)

The bases of the *Constellation's* masts are girdled with iron hoops or bands of mid-19th century vintage.

"The wooldings—the word simply means *windings*—were originally rope," he explains. "Iron fastenings had not been invented when *Constellation* was built, and all rigging fittings consisted of rope instead of iron. Iron fittings were invented in the 1840's and forged in the shipyards. But the iron bands are so

much stronger and so much more permanent than rope that I would hesitate to take them off." Precisely the same decision, he added, was reached by the caretakers of Boston's *Constitution* and the *H.M.S. Victory* in Portsmouth, England.

The iron hoops are the only iron to remain, however; the remaining fittings of the rest of the masts and of the spars have been recreated in the original rope. The latter iron fittings will be displayed below decks to show the development of naval architecture.

The topmasts and topgallants are the latest parts to be reconstructed. Mr. Polland's team of 12 craftsmen ("They do the work of 30 men—if we had sufficient money the job could have been completed in 12 months") should finish the renovation of *Constellation* by the end of this year.

Most of the carpentry has been carried out here, but materials have often come from far away. The upper sections of the masts came from Portland, Oregon; the ropes were made in New Bedford, Connecticut; and deadeyes, round wooden blocks used to tighten the shrouds, were carved in Portsmouth, England. Wherever possible, Mr. Polland prefers to "buy American" and to use products made in Baltimore. The cannons for the gun deck, for instance, are being cast in fiberglas by McClean Brothers of Baltimore. Mr. Polland explained that iron guns would be too costly to handle because of their great weight. (An 18-pounder cannon weighs 5,200 pounds.) McClean's cannons will look "just like the real thing," he says.

If people express disappointment that parts of the *Constellation* are "modern," it can be answered that Williamsburg is even less genuine. *Constellation* should be considered an authentic 18th century man-of-war, and repairs and replacements have been made only where necessary.

When *Constellation* has taken her place as one of the great tourist attractions of Baltimore's new Inner Harbor, she will look much as she did shortly after that September morning 175 years ago when the citizens of Baltimore came to cheer her at the start of her long career.

THE SALT TREATY AND THE INTERIM AGREEMENT

Mr. BAYH. Mr. President, last week the President signed the SALT Treaty and the interim agreement between the United States and the Soviet Union regarding the limitation of strategic arms. This vital step, approved by the Senate, was an important move toward the vital goal of reducing the risks of global conflict and destruction. The interim agreement lays the groundwork for what we all hope will be fruitful negotiations in the second round of the SALT talks directed toward a permanent treaty to end the deadly spiral of the arms race. For too long both of the great superpowers have devoted themselves to increasing their armaments and increasing the stakes in a worldwide balance of terror. Now we can begin to halt this perilous and wasteful process, and get on with the business of making our world safer, not more dangerous.

I believe that this interim agreement represents an important measure of progress toward the goal of a safer world. For the first time, both of the great nuclear powers have agreed to place some limits upon the scope of their awesome weaponry. Hopefully, the next round of negotiations will make some progress toward reducing the amount of destructive force that each nation has at its command. Arms reduction should be our ultimate goal; I am hopeful that this arms limitation agreement will be but the first step toward that vital end.

The President is to be commended for obtaining this agreement. The SALT negotiators worked long and hard to preserve U.S. security, and at the same time to provide significant and lasting limitations on strategic weapons. I believe that they drove an acceptable bargain in this round of talks. Had this interim agreement not adequately reflected the genuine security needs of the United States, I am confident that the President would never have approved it, and if I did not feel that way, I would not have voted to approve it. I believe that this interim agreement provides the United States with a subtantial margin of security, and that it can point the way for meaningful and fruitful negotiations in the next round of SALT talks.

I say this despite the long debate and eventual approval of the Jackson amendment to the joint resolution approving the interim agreement. I do not believe that the United States got the worst part of the bargain at the SALT I talks. Nor do I wish to commit our negotiators at the SALT II talks to any hard and fast formula for the next agreement, even before negotiations have begun. Nor do I wish to commit the Senate—which is constitutionally required to advise and consent to any treaty that may arise out of SALT II—to some formulation of policy which may not even be applicable for years to come. Yet that is one way in which the Jackson amendment might be construed.

Senator JACKSON'S amendment urges the President not to agree to any further agreement with the Soviets which "limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union," and specifically sets forth as the standard by which "inferiority" is to be judged, the numerical equality expressed in the recently ratified ABM treaty. The Senator from Washington (Mr. JACKSON) stated repeatedly on the Senate floor that he did not believe that any agreement which did not provide for "equality" between the United States and the Soviet Union would be acceptable to him. Let me state, Mr. President, that I would heartily agree with Senator JACKSON on the point. We live in an extremely dangerous world. Unforunately, neither side of the global conflict has ever been able to bring itself to rely on the other side's professed good intentions. And so we have both built up these huge arsenals with which to deter the other side from launching any suicidal assault against the other. I believe that at a minimum, our deterrent capability should and does rest upon equality of forces with the Soviet Union. I believe that this has been—and should continue to be—the basis of our defense posture. I can see no greater risk in these times of high peril and uncertainty than creating or presenting a condition of strategic inequality; a condition which might prove a deadly temptation to the other side to attempt to gain some advantage from its own superiority.

So I believe in strategic equality. Without it I do not believe that we can maintain our own security; nor could we play our role in the maintenance of the security of our friends and allies in other parts of the world. And it is precisely because I believe in strategic equality that I opposed the Jackson amendment. Senator JACKSON suggests that the only equality that counted was the strict numerical parity of intercontinental land and undersea-based missiles, and strict parity of throw weight on a megatonnage basis. This narrow definition of equality of strategic forces would actually make more difficult the negotiation of a further arms limitation and reduction agreement.

This narrow definition of "equality" simply makes no sense in terms of present-day defense realities. The United States presently enjoys greater than a 2-to-1 advantage over the Soviet Union in the number of targetable, deliverable nuclear warheads. In 5 years, we will hold the same advantage, some 10,000 warheads to the Soviets' approximately 4,000 warheads. How can it be said then, that an agreement which does not exact as one of its terms strict numerical equality of missiles—of missiles, not targetable warheads—provides for strategic inferiority? Yet this is precisely how Senator JACKSON interprets his own amendment—that no matter how great our advantage in warheads, we must have numerical parity in intercontinental missiles, or we will be in an "inferior" position.

I cannot agree with this analysis, for our strategic strength is based upon our entire array of weapons systems deployed around the globe. Our national security is adequately protected not only by our intercontinental missiles, but by our sea-based Polaris force, and by our strategic bombing capability. In fact, any of these three forces is sufficient in and of itself to deliver the kind of destructive blow to any enemy that should deter that enemy from launching a first strike at the United States. Even under the most desperate type of circumstances, where a successful first strike could manage to destroy every last one of our land-based missiles, the nuclear destruction capable of being unleashed by our submarine-launched missiles and by our bombers would be sufficient to destroy any enemy many times over. And our submarine-based missile deterrent is as close to invulnerable as is possible. Our strategic bombers are in the air around the clock. Our security, in short, depends on no single element of our strategic forces. And thus, the level of strategic force which is necessary for us to deter any aggression against us need not be hinged upon any single element of weaponry.

Our superior technology has enabled us to develop weapons far more sophisticated than our adversaries. We do not need the same numbers of missiles to accomplish the same destructive results. Our MIRV warheads make possible the utilization of a single missile to produce far more destruction than our adversaries can produce with larger numbers of missiles. And our more compact warheads are equal in deadly force to the larger, heavier warheads of the Soviets.

Since we are some 2 years further ad-

vanced in the technology warhead delivery than are the Soviets, we have been able to amass an intercontinental strategic force which is far superior to the Soviets, and will continue to remain so.

Under these circumstances, there was no need for the Senate to pass the Jackson amendment. Indeed the language of the Jackson amendment might be termed meaningless—that is, in terms of strategic realities. However, it could have a most unfortunate effect. Through its insistence that we attain numerical parity with the Soviets in missiles, in addition to our overwhelming superiority in warhead technology, the Jackson amendment may have the effect of convincing the Soviets that we were not sincere in reaching an agreement to limit strategic arms. Indeed, given our great advantage in warhead technology, strict adherence to numerical equality in missiles—that is, delivery vehicles—might mislead the Soviet Union into fearing that we were preparing for a preemptive first strike capability. If this were to develop, I fear that the real incentive for the Soviets would be to step up development of their own MIRV technology, and to accelerate the momentum of their already burgeoning nuclear submarine fleet.

I am sure this was not the result intended by Senator JACKSON. But I fear that this might follow from such a construction of the Jackson amendment. Indeed, although spokesmen for the administration declared that the administration supported the Jackson amendment and the concept of "intercontinental strategic equality," the administration also made it clear that they did not support Senator JACKSON'S interpretations of his amendment. This rather confusing distinction, I must confess, made it more difficult to gather exactly what was the position of the administration. But the crucial factor is that it will be the Executive who will be negotiating the next round of strategic arms agreements, and not the Senate. We will have our chance to advise and consent to agreements presented to us. It seems to me that that is the time for debate and decision as to the proper shape of these agreements—not before they are signed, much less negotiated.

Mr. President, recognizing the need to move forward to SALT II, I voted to approve this interim agreement despite the unfortunate and, I believe, unwise tacking on of the Jackson amendment. I am prepared to exercise my judgment upon any finished agreement when the proper time comes. I shall do this with an eye on protecting the security of the United States. That cannot be negotiated away. I hope that my reservations about the deleterious effect of the Jackson amendment are unfounded, and that the Governments of the United States and of the Soviet Union can move on now toward concrete agreements which will serve the cause of peace, in our time, and for all the generations to come.

ENCOURAGEMENT FOR BUSINESS ENTERPRISE

Mr. FANNIN. Mr. President, America must have a strong economy if we are to remain a strong Nation and if we are to solve the multitude of social problems today. The only way we will have a strong economy is to have a healthy climate for business and industry.

Yet today we find business under strong attack. We find a frightening lack of knowledge and understanding as to how our business enterprise system works, and how it must work to support the society we all want.

People who want a better life for everyone should seek to encourage business enterprise, not tear it down.

Mr. President, an excellent speech on this subject was delivered on August 3, 1972, by William P. Reilly, a civic leader and the chief executive officer of Arizona Public Service Co. The Arizona Legislative Review recently printed this speech which was delivered before the Business Political Committee of Arizona. I ask unanimous consent that the article be printed in the RECORD.

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

ENCOURAGEMENT FOR BUSINESS ENTERPRISE

Fellow members of productive America:

You are highly complimented by being so addressed—all of us here represent the Productive America sector of our economy. And, we are bi-partisan' which means active in both parties. This is a far cry from being non-partisan which means inactive in both parties.

Productive America carries the burden of responsibility for providing the means for successfully meeting the total needs of the people of America—and large portions of the world.

There is a difference between those who produce and consume—and those who consume without producing.

You are producers.

Let's look at where we are—

209 million people

70 million under 18—not in work force

22 million over 64—not in work force

7 million—sick, lame and lazy

So, half of our people are not part of our productive work force.

How about the other half—

First, let's divide them—men and women, about 52 million each.

When you deduct people in schools and colleges, members of the armed services, in prisons, the young anti-establishment people who roam the country—the noble women who stay home to take care of their families—we get down to a labor force of about 85 million, of which about 30 million are women—thus you have 85 million men and women taking care of the 209 million.

But, within the 85 million labor force are those who provide services financed by the gross national product of America's productive system.

These people include those who run our federal institutions, our state, county, municipal governments, our schools, etc., etc.—who are entirely dependent for their livelihoods on the fruits of the productive sector.

Then there are those who depend on the voluntary contributions supported by businesses taking care of local unmet needs—and the foundations financed by the wealth of the nation to study and condemn our systems—

And, there are the unemployed who, through no fault of their own, are between jobs.

There is talk about a 4-day work week, more recreation, more leisure time activities—and at the same time a need for 35 million more jobs by 1980.

The reality to be faced is—all but those 17 and under can vote—producer or non-producer, and the non producers outnumber the producers.

Productive America provides the means—and is virtually non-existent in policy roles—taxation without representation was never greater.

Did you see one business executive at the last convention—one representing a large taxpayer—or a larger employer? (Editor's Note: Reference is to the Democratic National Convention. Mr. Reilly's address was delivered prior to the Republican convention.)

Did we see one on the list of Arizona delegates?

Did you read the platform adopted?

Did it sicken you as a productive American?

Are we not somewhat responsible for this?

Does it not bother you that we are left out of decisions? That we are led instead of leading?

During the next few months we will be under a barrage of criticisms—

And when it comes will we run and hide—or will we redouble our efforts to educate people—our employees, our customers—

Will we work harder to support candidates who know and understand the benefits of a productive America—and vote to preserve its benefits?

Recently I heard the statement made in an address that "The Business of America is Business."

The theme of this talk attacked the system that has made this country what it is today.

The business and industrial sector of America was castigated—portraying them as elements that are out to reap the highest profit possible, with little or no regard for the consequences of their actions.

In so doing, the speaker joined the ranks of an ever-increasing chorus of people who have launched an assault on the reputation of America.

These people question many of our national institutions, including our economic system. They crusade for radical changes in our system of corporate ownership, changes so drastic that they would all but destroy free enterprise as we know it. Their beliefs, their purposes, their actions run contrary to the principles of the majority of our people. Deliberately or not, they are also weakening our free competitive system.

And they are having an impact that is frightening to behold.

In one survey conducted recently, students on campuses from coast to coast were asked whether they agreed with this proposition: "Business is overly concerned with profits and not with public responsibility."

Sixty-one per cent of all students said they agreed strongly and another 34 per cent agreed partially. Only five per cent disagreed.

It's pretty obvious that the image of business in the eyes of college students isn't what it ought to be.

If you were so inclined you could write that off on the basis that college students are a relatively small portion of the total population.

But, let's look at another survey—which asked a representative sample of the American public: "Just as a rough guess, what per cent profit on each dollar of sales do you think the average manufacturer makes, after taxes?"

The median public estimate of a manufacturer's after-tax profits was 28 per cent.

But the correct answer for that particular poll was 4 per cent—and that figure has not been as high as 6 per cent since 1950.

It's a little disconcerting to know that at a time when profit margins for American industry are close to the lowest in a quarter of a century, the American public's estimate of profit is at its highest.

And this fallacy about profit is not limited to one segment of our population. The mis-

conception exists among every group surveyed: men and women, young and old, whites and blacks, manual workers and farmers, Republicans and Democrats, Americans with high incomes and low incomes, those with some college education and those with none, those who own stock and those who don't. All guessed wrong, and all by a very wide margin.

Disturbing? It is to me. And I'm sure it is to you.

Surprising? Not a bit. Especially when you consider that few, if any, teachers in our high schools and universities have ever had basic courses in economics—and few, if any, have been exposed to the working world as employees of Productive America.

I'm sure all of you in recent months have seen results of surveys that paint an equally bleak picture.

They paint a picture of more than 200 million people supported and sustained by a system that is an integral facet of their daily lives—but about which they know or understand very little.

From the halls of Congress to the campus lecture circuit and the TV talk-show, every type of platform is being used to convince the American public that private business is a sinister influence on our society. The words and the bias may differ from person to person, but the basic contentions are always the same—our products are shoddy . . . our advertising is deceptive . . . our prices are rigged . . . our profits are excessive . . . our plants are the major sources of pollution . . . and our economic and political power is enormous.

That's the picture some people would like to paint of America, and its business system.

But that's not my picture, and I'm sure it's not yours.

My picture of America, though, contains exactly the same words I referred to at the outset.

But when you put them in their proper position in a sentence structure, you get a much more accurate and positive view of this country and its business enterprises.

That's why I think: "The Business of Business is America."

That statement gives me a picture of a life support system for this country.

There are nine million or so individually owned businesses of every conceivable type that provide jobs and goods and services for all the people of America.

Corporations alone, which seem to be the form of business that is the favorite target, number more than one and a half million.

In addition to the direct payroll that these businesses and corporations provide, they are also the major source of revenue for taxation at nearly every level of government.

They, therefore, provide the foundation for additional millions of jobs at the federal, state and local level.

In addition to that, they provide much of the dollar support for our schools, police and fire protection, construction of public facilities, roads, buildings and the sundry other governmental services.

And by far not the least, they provide much of the support for the defense of our country.

The reason that business is able to play such a major role in the support of life in this country today is because business is designed to operate at a profit—and share its profits with its owners, its shareholders, its employees, the various governmental taxing agencies, the volunteer service organizations and the preservation and defense of the nation. The sharing of its profits through dividends paid to investors underlie the integrity of our insurance policies life, health and liability, which give us such peace of mind. This is just one example of benefit to the American system of sharing in the country's productivity.

Let me give you an example of revenue sharing—by our company in one year—1971—

$37 million collected from our customers went into coffers of taxing agencies—

½ of our profits went to Uncle Sam—and he does not have one penny invested in our company but shares equally in our profits through his income tax portion—

When we needed a rate increase of $10 million—we had to ask for $20 million—½ to the company and ½ to Uncle Sam. This is inflation producing!

Each one of you is in the same boat—it will get worse instead of better—

Our first job, of course, is in Arizona—let's get with it.

What will you do about assuring that the Business of Business is Arizona and America.

NEED FOR FEDERAL WORKMEN'S COMPENSATION STANDARDS

Mr. WILLIAMS. Mr. President, when a worker is injured on the job today, his or her economic outlook is bleak. Disability and medical benefits differ in each State. In most jurisdictions the benefit levels may not even be adequate to maintain a subsistence level of existence.

Congress recognized the seriousness of this problem when the National Commission To Study Workmen's Compensation Laws was created as part of the Occupational Safety and Health Act of 1970, through an amendment by the Senator from New York (Mr. JAVITS).

The Compensation Commission studied the problems of workmen's compensation for more than a year before issuing a comprehensive report last July. That report contains a series of recommendations for sweeping changes and revisions in our system of workmen's compensation programs. The central focus of their recommendations is the need for uniform Federal standards for benefits and care administered, if at all possible, by the individual State jurisdictions.

These improvements are urgently needed. Many of the recommendations were incorporated into the amendments that the Senate recently passed to the Longshoremen's and Harbor Workers' Compensation Act which extends workmen's compensation protection to more than 800,000 workers in Federal areas of interest.

It is my intention to make the improvements in our workmen's compensation system one of the first priorities of our committee next year. At such time I expect to introduce proposed legislation to implement or improve upon the Commission's recommendations and to begin hearings at an early date.

FEDERAL GRAND JURY INDICTMENT OF FORMER BRIG. GEN. EARL F. COLE

Mr. GURNEY. Mr. President, I wish to associate myself with the remarks recently made by the distinguished senior Senator from Illinois (Mr. PERCY) when he commented on the recent indictment by a Federal grand jury for the northern district of Virginia of former Army Brig. Gen. Earl F. Cole, who figured prominently in the public hearings that the Senate Permanent Subcommittee on Investigations held last year in regard to irregularities in the management of the military post exchange systems.

As Senator PERCY has stated, Cole, who was retired by the Army on June 30, 1970, at the reduced rank of colonel, was indicted on October 12, 1972, for one count of conspiracy to defraud the Government by making false statements and claims along with 15 counts alleging the actual making of such false statements and claims. Also indicted was his former secretary, Catherine Jean Baker.

After some 17 days of hearings were held—commencing on September 30, 1969, and concluding on March 4, 1970—on the subject of fraud and corruption in the management of the military clubs and messes, as a member of the subcommittee I went to Vietnam, along with subcommittee staff members, in November of 1970 to continue the investigation into the post exchange system.

It was there we found that General Cole had cast a long shadow across Vietnam while serving as the Deputy Chief of Staff for Personnel and Administration at Headquarters, U.S. Army, Vietnam—USARV—from June of 1966 until January of 1968 and, later, as the Deputy Chief of Staff to Ambassador William Komer at the Civil Operations and Revolutionary Development Support—CORDS—portion of the Military Assistance Command for Vietnam—MACV—until December of 1968.

Colonel Cole initially appeared before the subcommittee in executive session on July 13, 1970, and, thereafter, in public session for 4 hearing days from March 10 through 17, 1971.

At the outset of his testimony, Colonel Cole read from his prepared statement as follows:

> For the last 18 months I have been the target of unprecedented, unproved, untrue and slanderous accusations which have destroyed my career and my very existence. (Hearings, Part 7, P. 1534)

Then, throughout his testimony, Colonel Cole steadfastly denied any wrongdoing of any nature whatsoever, this in spite of the fact that some two dozen or more witnesses—either through their personal appearances or by submitting sworn statements—testified in varying degrees as to Colonel Cole's several improperties. Whenever he was confronted with directly contradictory testimony, Colonel Cole would usually state, "I do not recall." He criticized the subcommittee for keeping track of the number of such statements and, in his closing statement on March 17, he found that some subcommittee staff members had very little else to do when they determined that he had used that phrase some 72 times during his testimony. Actually, the number was closer to 200.

After the hearings had terminated, the subcommittee members considered the evidence taken in some 1,200 pages of testimony and contained in some 365 exhibits and then proceeded to put together a report. That report, some 300 pages in length, was finalized and was filed with the Senate on November 2, 1971.

It is interesting to note that this report, which was agreed to unanimously

by all nine of the subcommittee members, found essentially as follows in regard to the machinations of Colonel Cole:

The first finding was to the effect that the 2-year investigation showed a worldwide pattern of corruption and criminality in both the club system and in the Army-Air Force exchange system.

The subcommittee also found, that as a part of this, many American brokers and salesmen used every corrupting device—gifts, bribes, kickbacks, free housing, entertainment, sex—to persuade PX and club personnel to buy their goods. One such individual—perhaps the most powerful and influential in Vietnam, as he was in Korea before—was the infamous William J. Crum. Crum's two biggest lines of merchandise were liquor and slot machines. His ability to establish virtual monopolies—including the illegal entry of the slot machines in violation of Vietnamese Customs regulations—were aided and abetted time and time again by then-General Cole in that, as Deputy Chief of Staff for Personnel and Administration, he had administrative control over all post exchanges and clubs in Vietnam.

The subcommittee found that General Cole's influence was so strong as to, through intimidation of certain CID units and agents, deter them from further investigation of Crum's holdings once an irregularity was discovered. It also included the transfer of a USARV-Long Binh club officer by the name of Maj. Clement St. Martin to a remote location in Vietnam once St. Martin had uncovered a conspiracy between club custodian, Sgt. William Higdon, and vendor Crum. Incidentally, Sergeant Higdon has since been convicted by a military court for his own improprieties during this same period.

There is much more to this bizarre story. A portion of it pertains to the strange way in which several officers of general rank quietly acquiesced in Cole's whitewash of St. Martin's findings. Another portion pertained to the Army's own attempts to cover up the Cole matter, prematurely closing—and then reopening—the case when it learned of the dogged determination of the subcommittee's investigators.

The subcommittee members summed up their thoughts, however, when we stated that Colonel Cole's sworn denials of assistance to William Crum were in direct conflict with the preponderance of the evidence in the hearing record. This also included Cole's trips to Hong Kong, BCC. Accordingly, we stated that the report was being referred to the Department of Justice for appropriate action.

Significantly, the subcommittee also found as follows:

The committee also finds that Earl F. Cole's conduct falls squarely under Article 134 of the Uniform Code of Military Justice in that his actions in Vietnam and in Europe were prejudicial to good order and discipline of the Armed Forces. *The seriousness of his misconduct as detailed in these hearings would have been cognizable by general court-martial.* (Report, Pp. 291–2) (Emphasis supplied.).

During the aforementioned executive session on July 13, 1970, Cole was asked several questions pertaining to his financial affairs—this testimony was made public on March 4, 1971. Thereafter, this matter was pursued in considerable depth by subcommittee investigators when Cole's various bank accounts and other financial records were duly subpenaed and carefully examined. The examination included a detailed analysis of his own travel records and those of his close employees.

Mr. Carmine S. Bellino, a former FBI agent and a certified public accountant who served as a consultant to the subcommittee, headed up this portion of the investigation and he testified, as to his findings, in Colonel Cole's presence on March 17, 1971. This testimony is in part 7 of the hearings record and is contained in pages 1920 through 1935 therein.

It is especially interesting to note that a portion of Mr. Bellino's testimony pertains to what appeared to be excessive living quarters claims to the Government, excessive overtime charges, and the securing of travel expense money to travel from Saigon to Hong Kong, BCC; Manila, Philippine Islands; and to New York, N.Y., while still ostensibly employed in Saigon. Who was the person or persons involved? Mrs. Catherine Jean Gault—also known as Catherine Jean Baker—and Earl F. Cole.

While I recognize that it is not the purpose of the Senate Permanent Subcommittee on Investigations to seek out criminal indictments, or to see how many persons who appear as witnesses are sent to jail, it is gratifying to know that when we all work so hard in attempting to bring out the truth—which may well include evidences of wrongdoing of a criminal nature in our inquiries into the economic and efficient operations of our Federal Government—the Department of Justice acts promptly and responsibly to our requests to charge those whom they determine, through the judicial processes, to be the wrongdoers. In so stating, I recognize that an indictment is merely a formal accusation that the defendant had committed a certain crime. Thereafter, all of the rights and privileges that the U.S. Constitution and the acts of Congress to assist an accused in the defense of the allegations against him come into play. And that is as it should be.

In closing, I want to refer to an accusatory statement that Colonel Cole made at the conclusion of his own testimony, which was an uncalled for comment in regard to the distinguished Senator from Illinois (Mr. PERCY) who is the ranking minority member of the Permanent Subcommittee on Investigations.

Colonel Cole succeeded in castigating the subcommittee in general, but at the outset of his criticisms he said the following:

Sir, from the opening day, Senator Percy has made what I consider libelous and slanderous statements concerning me.

He has impressed upon me that I possibly may have committed perjury, that I have disgraced my uniform, that I was unfit to wear a uniform . . ." (Hearings, Part 8, P. 1956)

It is my impression, and I am pleased to state, that the recent turn of events has completely vindicated my colleague, although I really do not believe that any vindication was necessary, as I think that Colonel Cole's ill-conceived comments were vilifying at their inception.

Senator PERCY pursued this investigation with his usual diligence and enthusiasm, in my opinion. In that regard, he is to be commended for the many contributions that he made. His leadership was an inspiration, particularly to those of us who serve as minority members of the Investigations Subcommittee.

I would not conclude, however, without expressing a further thought that those long and strenuous hearings were stewarded under the able direction of the acting chairman, the distinguished senior Senator from Connecticut (Mr. RIBICOFF).

VETERANS' ADMINISTRATION MEDICAL SCHOOL ASSISTANCE AND HEALTH MANPOWER TRAINING ACT OF 1972

Mr. HARTKE. Mr. President, as chairman of the Committee on Veterans' Affairs, I am pleased to support the amendments to House Joint Resolution 748 which embody the compromise reached as to the respective versions of the bill as passed by the House and by the Senate—which was reported to the Senate originally as S. 2219. As agreed upon by the Senate and House committees, the compromise version which passed the House of Representatives on Thursday and the Senate on Friday would provide assistance in the establishment of eight new medical schools. The original House bill would have authorized five such schools and the Senate version made provision for 10 new medical schools.

With respect to funding, the House version originally authorized a total first-year appropriation of $33 million with similar appropriations for the next 7 years. Senate amendments authorized $125 million for the first and succeeding years. As agreed upon by the two committees House Joint Resolution 748 as now amended provides for $25 million in each fiscal year for the purpose of assistance in establishing new medical schools, plus an additional $50 million for each such fiscal year for financing the remaining programs under the resolution. The compromise version also incorporates certain additional provisions contained in the Senate version of House Joint Resolution 748 which are designed to emphasize and strengthen the health manpower training programs in the Veterans' Administration and affiliated institutions.

Mr. President, I believe this bill presents a major step forward in improving the capacity of the Veterans' Administration to train needed health personnel and to maximize the potential of its medical resources in providing leadership to the Nation's medical community in the development of health care manpower education and training programs. Both our veterans and our Nation will be the beneficiaries of this farsighted program. I particularly wish to commend the House Committee and its able and distinguished chairman, OLIN "TIGER" TEAGUE for his leadership in developing this legislation. On the Senate

side I want to particularly praise the hard work of the chairman of the Subcommittee on Health and Hospitals (Mr. CRANSTON), whose dedication and commitment to providing the best in health care to our Nation's veterans has found fruition in this bill. The interest and effort to secure passage by the senior Senator from West Virginia (Mr. RANDOLPH) who has been a hard-working member of the committee also has been instrumental in obtaining the bill which we will send to the President.

I would also hope that following the passage of this bill, the Senate would give serious consideration to providing in the fiscal year 1973 supplemental appropriations bill initial funding of this bill in the amount of $40 million.

THE DISTRIBUTION OF REVENUE SHARING FUNDS IN MARYLAND

Mr. BEALL. Mr. President, revenue sharing is among the most significant pieces of legislation to be acted on by the 92d Congress, or any Congress, for that matter. It marks the beginning of a new era in Federal and State relations. Local planners will now be able to make many decisions on needs and prorities without going through the redtape and overlapping programs that often characterize the present system of Federal grants.

For the State of Maryland, revenue sharing means $107 million for the 1972 calendar year, and the Treasury Department expects to begin mailing checks for the first half of the year on October 27. These initial payments for the January–June period will be followed up in early January with checks for the July–December period.

Mr. President, many inquiries have been made about the allocations to counties and municipalities in Maryland, and the Treasury Department has provided breakdowns for units with a population over 2,500. I point out that this legislation provides for a distribution to all communities, but the information is not yet available.

Mr. President, I ask unanimous consent that the data outlining revenue sharing allocations for the State of Maryland be printed in the RECORD.

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

Revenue sharing funds for Maryland

Total allocation to the State of Maryland	$107,000,000
Total to Maryland State government	35,700,000
Total to county and municipal governments	71,300,000
Allegany County government	1,317,928
Cumberland	659,456
Frostburg	93,260
Westernport	81,895
Total Allegany County	2,215,969
Anne Arundel County government	6,744,163
Annapolis	409,813
Total Anne Arundel County	7,154,059
Total Baltimore County	$10,231,415
Total Baltimore City	23,881,944
Calvert County government	283,786
Municipalities	38,381
Total Calvert County	322,167
Caroline County government	365,595
Municipalities	89,795
Total Caroline County	455,390
Carroll County government	648,189
Westminster	62,086
Other municipalities	78,170
Total Carroll County	788,446
Cecil County government	491,193
Elkton	65,428
Other municipalities	98,886
Total Cecil County	655,507
Charles County government	467,127
Municipalities	36,226
Total Charles County	503,354
Dorchester County government	491,437
Cambridge	193,920
Other municipalities	41,209
Total Dorchester County	726,566
Frederick County government	690,310
Brunswick	84,913
Frederick	504,772
Other municipalities	176,015
Total Frederick County	1,456,010
Garrett County government	524,956
Municipalities	41,297
Total Garrett County	566,253
Harford County government	1,193,921
Aberdeen	125,131
Bel Air	58,689
Havre de Grace	108,108
Total Harford County	1,485,849
Howard County government	718,535
Total Howard County	718,535
Kent County government	141,152
Chestertown	29,459
Other municipalities	19,382
Total Kent County	189,993
Montgomery County government	3,871,718
Rockville	171,039
Gaithersburg	30,345
Takoma Park (part)	48,170
Other municipalities	39,838
Total Montgomery County	4,161,110
Prince Georges County government	7,806,374
Berwyn Heights	14,307
Bladensburg	27,232
Bowie	127,390
Brentwood	22,463
Capitol Heights	25,020
Cheverly	24,759
College Park	83,181
District Heights	27,725
Forest Heights	13,092
Glenarden	17,642
Greenbelt	61,330
Hyattsville	79,404
Laurel	96,992
Mount Rainier	37,198
Riverdale	31,097
Seat Pleasant	$36,008
University Park	10,641
New Carrollton	48,715
Takoma Park (part)	33,964
Other municipalities	34,132
Total Prince Georges County	8,658,668
Queen Annes County government	251,506
Municipalities	25,860
Total, Queen Annes County	272,367
St. Marys County government	1,226,460
Municipalities	23,009
Total, St. Marys County	1,249,469
Somerset County government	414,674
Crisfield	64,014
Other municipalities	20,277
Total, Somerset County	468,965
Talbot County government	371,383
Easton	88,680
Other municipalities	38,082
Total, Talbot County	498,145
Washington County government	$2,028,592
Hagerstown	566,837
Other municipalities	142,207
Total, Washington County	2,737,636
Wicomico County government	794,971
Salisbury	321,824
Other municipalities	130,781
Total, Wicomico County	1,247,576
Worcester County government	601,957
Pocomoke City	42,500
Total, Worcester County	644,457

PLIGHT OF SOVIET JEWS

Mr. CRANSTON. Mr. President, the plight of the Soviet Jews who wish to emigrate has, for the time being, moved off the front pages. But Soviet ransom fees remain and the oppression and humiliation of minority groups in the Soviet Union continue.

Some weeks ago, Richard Reston, of the Los Angeles Times, wrote an excellent article pointing out that President Nixon's recent trip to Moscow may have worsened rather than improved the situation for Soviet Jews.

Of course, that was not the President's intention. He went to Moscow to improve U.S. relations with the Soviet Union, and for that I applaud him mightily.

But because the United States, through our Presidential visit, may inadvertently have worsened an already bad situation, and because that bad situation persists, I think it proper that we have before us a constant reminder that a terrible inequity continues to be perpetrated against Soviet Jewry and that the United States has a responsibility to use our diplomatic and economic powers to persuade the Soviet Government to change its policy.

Accordingly I ask unanimous consent that the article by Richard Reston be printed in the RECORD.

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

[From the Los Angeles Times, Sept. 24, 1972]

PRIVATE NOTE SAYS NIXON SOVIET VISIT WORSENED JEWS' PROBLEMS

(By Richard Reston)

WASHINGTON.—A confidential memorandum now circulating in the White House says that President Nixon's spring summit conference in Moscow has compounded the problems of Russian Jews.

"It is the conviction of the Soviet Jewish leadership that the President's trip was a disaster for them," a copy of the memorandum obtained by The Times says.

"They expressed the opinion that the United States seemed more interested in selling corn than in protecting human rights and individual freedom."

The document also warns of growing Jewish pressure on the United States to use economic pressure on the Soviet Union to obtain better treatment of the Russian Jewish population.

The private analysis of the Administration's Soviet policy comes at a time when Mr. Nixon and the Republican Party are wooing Jewish votes and campaign contributions.

The memorandum was submitted to the White House from outside the government. It was written by Leonard W. Schroeter, a Seattle attorney and an employe of the Israeli Ministry of Justice from 1970 until earlier this year.

Schroeter visited the Soviet Union to look into the status of Soviet Jewry after Mr. Nixon's trip.

Schroeter particularly was interested in the new education taxes imposed on those who want to migrate from the Soviet Union.

The Seattle attorney had lengthy conversations with Russian Jewish leaders and intellectual dissidents in Moscow, Leningrad, Minsk, capital of the Soviet republic of Byelorussia, and Riga, capital of the Baltic republic of Latvia, his document says.

"A view reiterated to me by Jewish leadership in all four cities was that they were living in the most difficult time they have faced in recent years," the memorandum declares.

"They attribute the difficulty of their situation to the recent visit of President Nixon."

The memorandum was sent to Leonard Garment, the President's top assistant on minority questions.

Asked about the report, Garment said that he received it and that he had met with Schroeter. "Beyond that, I wouldn't have anything to say," he said.

As the Israeli Embassy, a spokesman said the mission had studied the memorandum. "Everything stated in the document is correct. Schroeter saw the right people and the information is excellent," the spokesman said.

Besides quoting the fears of Russian Jews about the adverse repercussions of Mr. Nixon's Soviet policy, the memorandum cites additional information provided by U.S. embassy officials in Moscow and other non-Jewish persons in the Soviet Union.

SITUATION CALLED PERILOUS

"I was advised of . . . their belief that the Soviet climate for Jews is unusually perilous," the memorandum says.

"The indications of these men to me was that the rage, frustration and distrust on the part of Soviet leadership toward Jews have become so extensive that they cannot preclude the imminent possibility of measures far more serious than selective trials and existing repressive measures.

"They feel that there is grave danger of government-inspired and/or spontaneous physical attacks upon the Jewish population . . .

"Prior to (the Nixon) visit there were wholesale preventive arrests and the imprisonment of Jewish leaders without explanation in the jails of distant cities and the house arrest of scores of others. These men were not released until after the President's visit ended and they were told that their arrests were occasioned by the president's trip.

"Also, the telephones of virtually the entire Jewish leadership were cut off and have not to this date been restored. In addition, the jamming of broadcasts from foreign stations intensified massively at the time . . .

"These efforts to seal off the Soviet population from any foreign contact have continued and been intensified.

"Widespread interrogation by the KGB (the Soviet secret police), which commenced before the visit of President Nixon, has increased subsequent to it. The entire block across the street from the Moscow synagogue was razed because of the Soviet belief that the President might visit the synagogue."

The rising furore over the plight of Russian Jews confronts Mr. Nixon with a political dilemma in a presidential election year during which he is attempting to move Soviet-American relations forward on several fronts.

AREAS OF ACCORD

Washington and Moscow are moving rapidly toward a comprehensive trade agreement which eventually is expected to grant the Soviet Union most-favored-nation status. The two nations already have agreed to limit strategic nuclear weapons and to cooperate in a variety of other fields. They are now preparing to talk about European security arrangements and the mutual reduction of military forces in Europe. Huge wheat and feed grain deals between the two nations already have been concluded.

Meanwhile, some increasingly restless Jewish leaders in this country argue that this political and diplomatic momentum must stop until such time as the Soviet Union halts what these Jewish leaders have described as the "new slave trade in Jews."

The new Kremlin tax on those attempting to leave the Soviet Union can range from $5,000 to $35,000 for educated Jews.

Privately, Administration officials concede that the President's trip hurt Russian Jews in the short run. They argue, however, that broader Soviet American cooperation and contact cannot help but liberalize the internal Communist regime in the long run. And this, they say, will lead eventually to an easing of repressive measures against Russian Jews.

They also point out that whenever the Soviet Union makes a serious move toward East-West detente, the automatic response of the internal party and police apparatus is to tighten its grip on the population.

Despite the Administration's optimistic long-range view of Soviet-American relations, a number of U.S. senators have raised serious questions about the U.S. position in recent weeks. Ninety American congressmen and five university presidents recently protested the Kremlin's harassment of Jews.

The memorandum sent to the White House urges the President to point out in the sharpest terms that the present Soviet attitude toward Jews "has seriously jeopardized amicable American-Russian relations." The document suggests that the President express his embarrassment about the Soviet tax levy on Jews while noting its destructive impact on hopes for detente.

NEW ENGLAND'S NO. 2 FUEL OIL SITUATION

Mr. STAFFORD. Mr. President, fall has arrived, winter will soon be upon us, and we, in New England and the Northeast, are once again facing the possibility of a fuel oil shortage early next year. This is not a new problem for our area. We have long sought a high, permanent level of No. 2 fuel oil imports into the Northeastern States. Regrettably, our warnings have not all been heeded, and once again we must ask for prompt action to avoid a severe crisis.

It might be useful to review for a moment the frustrating history of New England's efforts to meet its fuel oil needs.

During August of 1969, the New England delegation began to warn of the threat of a fuel oil shortage in the forthcoming winter 1969–70. Our warnings were ignored with the comments that we did not know about the oil business and the major oil companies did. Unfortunately, they did not. A severe supply crisis occurred. It was only through the continuing efforts of the New England delegation that emergency relief was provided in February 1970, in the form of No. 2 fuel oil import allocations.

Two years ago about this time we began to warn of a residual fuel oil shortage, and bland assurances were once again given by the major oil companies. At that time, it was only through intervention by the White House and the Office of Emergency Preparedness that a crisis was averted.

Last year the New England delegation asked that the level of No. 2 fuel oil imports into district I, allocated to independent deepwater terminal operators, be increased to 100,000 barrels per day, and be made permanent, beginning on January 1, 1972. However, the No. 2 fuel oil import program for district I was increased by only 5,000 barrels per day, but it was made a permanent part of the oil import program.

This year we have again sought action to avoid a crisis during the coldest months of the forthcoming winter. The President's response has been encouraging and the supply situation for the remainder of 1972 appears to be under control. On September 18, President Nixon amended Proclamation 3279 to authorize an additional 5,000 barrels per day of No. 2 fuel oil imports into the east coast and to permit importers to borrow up to 10 percent of their 1973 quota for use in 1972. As General Lincoln has pointed out, home heating oil imports into the Northeast are now at an authorized level of 83,000 barrels per day for the last quarter of this year.

Unfortunately, all of the imported fuel oil is still subject to the Western Hemisphere limitation which forces New England importers to buy in the Caribbean market where two major oil companies exert dominant power. This limitation benefits those companies and Venezuela, and hurts independent marketers and consumers in the Northeastern States. I frankly cannot understand why this limitation cannot quickly be suspended permanently. The No. 2 fuel oil import program is supposed to help American consumers and our oil policymakers should recognize this basic fact.

The limitation makes it possible for Caribbean and Venezuelan refiners to raise prices, which they have done in recent weeks. It also allows tanker companies to raise their spot rates for shipments to New England, which they have done in recent weeks. This policy prevents New England importers from buying sup-

plies that are available in Europe and at the Caribbean refineries which run on Eastern Hemisphere crude oil. In short, the Western Hemisphere limitation discriminates against New England and the Northeastern States in a vital program, and I strongly urge its prompt removal.

We still face a further problem with the No. 2 fuel oil import program in that there has been no announcement about 1973 program levels. As the Senators from New England are aware, two-thirds of the heating oil in any winter is consumed after January, and the real supply crisis usually occurs in February and March.

It is very possible that import levels could be sharply reduced on January 1. New England does not know what to expect. Unless the level is increased, and unless we have an announcement soon, there is sure to be a supply crisis, because no plans can be made at this time for the first month of 1973.

The solution remains the same as the one proposed for the last 2 years, that is increasing the level of No. 2 fuel oil imports for independent deepwater terminal operators in district I to 100,000 barrels per day. I might point out that this is only slightly more than the current level of 83,000 barrels per day.

At that level there would be a better supply picture for fuel oil in New England, the competitive position of independent marketers would be strengthened, and there could be some price relief to the consumers of our area.

Mr. President, the need for prompt action to provide such an increase is greater than ever. The signs of a fuel-oil shortage in the Northeast are growing each week. I believe we are on a collision course and that action must be taken by the Federal Government before the end of October if we are to avoid a crisis during the 1972–73 winter.

I should like to review for the Senate some of the factors which underscore the concern of those of us who live in the Northeast and depend so heavily on No. 2 fuel oil. Nearly 70 percent of New England's homes are heated by this fuel and the New England States, plus New York, New Jersey, and Pennsylvania consume more than 55 percent of the Nation's No. 2 fuel oil. The east coast from Maine to Florida acounts for nearly 70 percent of the Nation's consumption of home heating oil.

First. Stocks of distillate oil are far below normal. As of September 29, east coast stocks of distillate fuel oil were 15.1 million barrels, nearly 20 percent below last year's level. In districts I–IV, the area east of the Rockies, stocks were 21.8 million barrels, more than 10 percent below levels of last year. Given the sharp increase in demand that has occurred during the current year, these low levels are cause for grave concern, and underscore the severity of the supply problem afflicting the east coast.

Second. The current gasoline shortage provides strong evidence that we are fast approaching the point where domestic refining capacity is not sufficient to meet demand for all petroleum products. Gasoline production is at record levels and it still does not appear to be enough to meet surging demand. This increased gasoline production has reduced refinery output of distillate and has been a major factor in the slow stock build up. Gasoline stocks are low in many parts of the country, but as in the case of No. 2 fuel oil, most of the shortage exists on the east coast. The increased demand for gasoline will contribute to a fuel oil shortage in the coming winter.

The recent gasoline shortage points up another fact: with refinery capacity stretched to the limit the answer to the distillate supply tightness is not more crude oil imports because it cannot lead to more No. 2 fuel oil production. The answer is quite clear, more imports of the finished product itself, No. 2 fuel oil, and in some instances, gasoline.

I am aware that objections are always raised that finished product imports lead to "export of the refining capacity." We in New England are frankly tired of having this clouded issue raised. Current import rules governing the importation of crude oil and petrochemical feedstocks, and the proposed regulations for 1973, permit the "export" of many times the refining capacity involved in the No. 2 fuel oil program for district I.

Third. The major oil companies have recently admitted to the Price Commission that stocks on No. 2 fuel oil are low and have intimated that they will not increase domestic refinery runs of the product. This is blackmail to obtain higher prices and the answer from the consumers is clearly not higher prices, but more imports.

But a most significant fact is that the major oil companies themselves admit the clear possibility of a shortage. The fact that they have allowed distillate stocks to fall so low at this late date, it is likely to be physically impossible to produce enough No. 2 fuel oil to meet next winter's increased demands.

Fourth. As I have indicated we are rapidly running out of time in which to build up stocks, time in which to make plans for efficient shipment of No. 2 fuel oil into New England deepwater terminals after January 1. As the Members of the Senate from New England are well aware, a heating oil crisis involves not only a short supply of the product but also the lack of transport capacity. Long range planning is essential to assure that enough oil can be moved at the right time to meet the peak demands of winter; further, there must be some slack, some excess transport and refining capacity, to meet the demands of the Northeast in case of very severe cold.

In brief, as the lead time dwindles, the danger of shortage and supply disruptions increases. The continuing delay of Federal officials is thus cause for grave concern. Somehow whenever the major oil companies face a crisis in crude oil supplies and ask for increased import quotas they get a decision out of the Oil Policy Committee in a short time.

I trust that the critical heating oil problem for 1973 will receive equally prompt attention in the weeks ahead, and that New England will receive quick action on both the requests for suspension of the Western Hemisphere purchase limitation and for an increased level of imports in 1973.

Mr. President, the history and facts I have presented today underscore the need for a prompt decision to increase import allocations for district I. The Northeast is facing a severe problem; the solution lies in the hands of the Federal Government, particularly the Oil Policy Committee, which has before it the request of the people of New England.

In past years our requests have not been handled with dispatch. I trust that this year there will be a prompt decision, and that we can soon tell the fuel oil consumers of the Northeastern States that a supply crisis will not occur in 1973.

TRIBUTE TO MICHAEL J. BAKALIS, ILLINOIS SUPERINTENDENT OF PUBLIC INSTRUCTION

Mr. PERCY. Mr. President, I have placed in the RECORD through the past several years a number of articles about Governor Ogilvie and the leadership of the State of Illinois in various fields such as prison reform, drug abuse, mental health, revenue sharing, welfare reform, highway construction, and tax reform.

I am pleased to now reciprocate in a bipartisan sense and pay tribute in another area of accomplishment: education, under the able and competent leadership, with bipartisan backing, of our Illinois Superintendent of Public Instruction, Michael J. Bakalis.

I ask unanimous consent that an article published in Time magazine for October 9, 1972, be printed in the RECORD.

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

ILLINOIS INNOVATOR

Although he is superintendent of public instruction in Illinois and a former history professor, Michael J. Bakalis, 34, is convinced that education is far too important to be left solely to professional educators. "I have no allegiance either to the teachers or to the school board members," he says. His duties are to the children, he believes, and he is determined to take a fresh look at what they need. "What's wrong with our schools," according to Bakalis, "is a certain mindlessness about what we think they should be doing."

After his election to office two years ago, Bakalis held six regional hearings, gathering suggestions and discussing them at a meeting of 3,000 citizens. "We pour our money and, more importantly, our children into the public schools and are given no accounting of what happens to either," was the gist of many complaints. Out of 20 lbs. of testimony, Bakalis and his associates drew up a set of common goals for Illinois schools in the 1970s, the only ten-year plan of its kind in the U.S. Bakalis promises to experiment with more plans for individualzed, go-at-your-own-speed instruction, a frequently expressed demand at the hearings. In certifying teachers, he intends to play down education courses in favor of monitored teaching experience, including a compulsory one-year internship. He pledges prekindergarten programs (voluntary attendance for ages three and four) in every school district four years hence, new reading centers for adults, better schools for prisoners, new courses in consumer education, and more experiments with a twelve-month school year.

Even as he was drawing up his master plan, Bakalis was ordering improvements in the way Illinois educates its poor and minority children. Even if they cannot solve all social problems, "schoools have the responsibility to guarantee every child an ample op-

portunity to become self-sufficient," he believes. To that end, he has ordered a series of wide-ranging—and sometimes controversial—reforms. The most important:

That more centers be set up and staffed with bilingual instructors to teach Cuban, Mexican and Puerto Rican children social studies, science and math in their native tongue. There are 42 such centers now, but they reach only about 5,000 of the estimated 100,000 Spanish-speaking children in Illinois. Formerly, the chief goal of Illinois' public schools in educating such youngsters was to teach them English, despite a dropout rate that exceeded 70% in Chicago alone.

That the racial composition of all student bodies and staff must not vary more than 15% from that of the district as a whole. Bakalis asked each of the state's school districts to report to him the racial composition of its schools and found that 21 of the districts did not comply with his guidelines. For those districts he has provided a manual outlining various methods of desegregation, such as school pairings and pupil reassignments. If the districts do not soon come up with satisfactory plans, Bakalis has threatened them with court action. One of these areas is Chicago, where 501 of the city's 656 schools fail to meet the Bakalis standard.

That privately operated vocational education be revamped to give poor children another route to jobs. Cracking down on the 400 such schools in Illinois, whose courses ranged from poodle grooming to computer programming, his office ran frauds out of business. Among those closed was a school for innkeepers whose advertised job placement service turned out to be just a list of hotels and motels.

GREEK BAKER

Explains Bakalis: "The ultimate doers may be the local school districts, but this office has to be the mover and shaker." Ironically, Mayor Daley's Democratic machine expected no such innovations when it tapped Bakalis to run for superintendent against a well-entrenched Republican incumbent in 1970. Quiet and unobtrusive, Bakalis was known neither to politicians nor voters. The son of an unschooled Greek immigrant who ran a wholesale bakery, he grew up on Chicago's blue-collar West Side and graduated from Northwestern with a doctorate in 1966. He was a history professor and assistant dean of arts and sciences at Northern Illinois University in De Kalb when he agreed to run for office. To the surprise of the professional politicians, he led a vigorous grass-roots campaign and rode into office with a 500,000-vote margin, largely because of voters' disgust with his predecessor's patronage-ridden regime.

Bakalis quickly made it clear that his would be no ordinary politician's office. He refused to clear appointments with Democratic leaders, recruited a staff of enthusiastic young teachers anxious to try out new ideas and even managed to cut his administrative budget, eliminating jobs and seven staff automobiles, including his own limousine. He holds regular "bypass the bureaucracy days," during which anyone can talk with him without going through the regular redtape. To keep top assistants in touch with the classrooms, he ordered them to teach weekly courses at colleges throughout the state. Bakalis himself taught a course in public education at Rosary College outside Chicago last year, and next year will teach politics and education at Northwestern.

Above all, Bakalis' administration has a sense of urgency. Because of a constitutional change, his job becomes appointive by the state board in 1975. His reforms have offended so many groups—politicians and white parents over desegregation, school boards and teachers over certification—that his staff is worried about whether he will be appointed. Says one: "We've got to do all we can now."

H.R. 9265—VETERANS DRUG AND ALCOHOL TREATMENT AND REHABILITATION ACT OF 1972

Mr. CRANSTON. Mr. President, I rise to report to my colleagues on the status of H.R. 9265, the Veterans Drug and Alcohol Treatment and Rehabilitation Act of 1972, as passed by the Senate on September 7, 1972. This bill which was unanimously approved in the Veterans' Affairs Committee and in the Senate represented the culmination of extensive work over the last year and a half by the Veterans' Affairs Subcommittee on Health and Hospitals, which I am privileged to chair.

Since passing this bill on September 7, we have been attempting to resolve the very substantial differences between the Senate amendment and the House bill through negotiations between the Committees on Veterans' Affairs of the two bodies.

Unfortunately, I very much regret to report today that these negotiations have not been successful in reaching a compromise. I wish to explain something about what has taken place and why we have not been successful.

Mr. President, the purpose of this statement today is to make a public accounting of the disposition of this important piece of legislation and not in any way to lay the blame for our impasse at the doorstep of either body of Congress.

During the period of the last 5 weeks since Senate passage of H.R. 9265, our two Committees on Veterans' Affairs have been engaged in extensive negotiations to resolve four very major pieces of veterans legislation, all of which this past week were sent to the President for signature. I refer specifically to the three bills which were the subject of final passage yesterday, H.R. 12828, the Vietnam Era Veterans' Readjustment Assistance Act of 1972, House Joint Resolution 748, the Veterans' Administration Medical School Assistance and Health Manpower Training Act of 1972, and H.R. 10880, the Veterans Health Care Expansion Act of 1972, and to the bill sent to the President this past Wednesday, H.R. 12674, the National Cemetery Act of 1972. This was an enormous amount of legislation to conclude in the short time available, and I believe that our resolution of these bills in what I believe was a most effective and fair manner, without the necessity for formal conference, is a great credit to the members and staffs of both committees.

However, our extensive work to produce these four bills would not permit us the amount of time necessary to reach an accommodation on the veterans' addiction legislation.

Mr. President, the Senate amendment to H.R. 9265 had eight principal purposes related to addiction treatment, as follows:

First, direct the VA to carry out a broad-range program for treating and rehabilitating addicted veterans.

Second, require contracting for care in community facilities for Vietnam era addict veterans when VA services are not available.

Third, Set up VA machinery to seek out and counsel addicted veterans and help them obtain review and correction of less than honorable discharges by the military. The Defense Department established a drug amnesty program last summer. But, in general, the military efforts to rehabilitate men who have become addicted while in the ranks have been halfhearted, poorly coordinated, and ineffective. Incredibly, DOD has few, if any, reliable figures available of the number of men who are being rehabilitated, and little hard data on the effectiveness of various military treatment programs.

Fourth, give the VA authority to treat and rehabilitate some 18,000 addicted veterans who received less than honorable discharges because of drug use.

Fifth, establish VA programs, in cooperation with other Federal agencies and public and private employers, to assist recovered addicts in finding productive employment.

Sixth, guarantee that medical records of addicted veterans remain confidential. Veterans have been reluctant in the past to enter VA treatment programs for fear that their addiction will not be kept confidential. This fear has been well founded. Prior to enactment of the recent comprehensive drug act, establishing the White House Special Action Office for Drug Abuse Prevention, the VA had provided information on the drug treatment of numerous veterans, without their consent or knowledge, to State and Federal agencies, such as the Postal Service and the U.S. Civil Service Commission, when those agencies requested it.

Seventh, allow treatment of veterans even though their addiction may not have been acquired while in the service, thus eliminating the difficulty of establishing when an honorably discharged veteran, who escaped detection for his drug usage during service, actually acquired or aggravated his addiction disability.

Eighth, restore medical benefits for service-connected conditions to certain disabled veterans who were given undesirable discharges because of drug use or other reasons.

By contrast, the House-passed bill was considerably more circumscribed in its approach, and did not deal with alcoholism at all. The House bill took the approach of simply authorizing the VA to provide treatment for veterans' drug addiction without regard to the nature of the veteran's discharge or a finding of service-connection for his addiction disability. It also provided for VA treatment of active duty servicemen under military orders regardless of whether they elected treatment in a VA facility, and specifically authorized VA treatment, custody, and discipline of veterans civilly or criminally committed to the VA by a U.S. district court.

Thus, there were some very real and major differences in philosophy and legislative approach between the versions of the bill as passed by the two bodies. After considerable negotiation, a tentative accommodation that would have been reasonably agreeable to the Senate was reached, but the House members did not

feel that there was sufficient time for them to study and investigate all the implications of all the provisions of the compromise we were attempting to negotiate.

I fully understand the concern of the House committee in this regard. The approach of the Senate bill was indeed a comprehensive and somewhat complicated one.

It was still open to us at this point to accept the provisions as passed by the House. But, we felt that certain principles in the Senate approach to the question of addiction treatment and rehabilitation were so fundamental and crucial to meaningful legislation that we could not, in good conscience, go along with the House approach.

Let me list those matters which we deemed so crucial:

First, we felt that a comprehensive rehabilitation program, to follow the period of detoxification, needed to be mandated in the law, and that during this period of rehabilitation for veterans with GI bill benefits the VA should be placed almost in the role of a guardian in order to be in the position to define and exercise control over the education and training to be pursued by the veteran addict during his rehabilitation period and also to be able to exercise control over the disposition of cash to such veteran based on his GI bill entitlement.

Second, we felt that, just as important as providing for comprehensive rehabilitation—which all experts agree is an indispensable part of any successful drug abuse program—was the notion that addicts undergoing such rehabilitation should not be given an advantage over nonaddict veterans and, therefore, that the GI bill entitlements of such veterans in a VA rehabilitation program should be reduced proportionately based upon the duration of their participation in such a VA rehabilitation program.

Third, we believed that the law must mandate the VA to provide alternative treatment modalities to each veteran, a matter of the most urgent concern in the case of providing treatment for very young addicts who may have acquired their addiction in an alien environment and whose addiction may have been of short duration. We were extremely concerned at the VA trend toward reliance on methadone maintenance in such cases.

Fourth, we felt that treatment and rehabilitation provided for veterans should not depend on the availability of a VA medical facility and that, therefore, the provision of such treatment and rehabilitation on a contractual basis in approved community facilities should be mandated in the law when the VA was unable to provide prompt treatment and rehabilitation—with the alternative modalities—for a veteran addict.

Fifth, we believed that the treatment program in VA facilities should be kept on a voluntary basis in order to enhance the success of the atmosphere through the motivation of the parties being treated.

Sixth, we felt that to deal in the law with the question of drug addiction and to ignore the pervasive problem of alcoholism addiction was not appropriate and that, therefore, at a minimum it would be necessary to provide a firm statutory direction for certain VA initiatives in the treatment and rehabilitation of veteran alcoholics.

Seventh, we felt—as a matter of morality—that if we were to legislate eligibility for VA treatment and rehabilitation of veteran drug addicts regardless of whether or not they acquired their addiction in service and even if they were court-martialed for the highest of crimes for which they received a dishonorable discharge—and both the House bill and the Senate amendment and the administration proposals would have covered such cases—that it was incumbent upon us, at the same time, to rectify the immorality of the present title 38 medical eligibility provisions, under which a veteran who may have received an undesirable discharge for a relatively minor infraction, such as repeated AWOL's, and who never was the subject of a court-martial is not now eligible for VA care for a battle wound received prior to such discharge, so that such a veteran could receive medical treatment for such a service-incurred disability even if he had an undesirable discharge.

Now, Mr. President, I do not wish to suggest that the Senate would necessarily have insisted that each and every one of these seven points be covered in compromise legislation. But we felt we could not recede on all of them together.

The result is, Mr. President, that the 92d Congress will not legislate specifically on the question of providing treatment and rehabilitation for veteran addicts. As all Senators are aware, the Congress has dealt extensively with the addiction problem—both alcoholism and drug addiction—in three separate pieces of legislation enacted in the last 3 years. Most recently, in the Drug Abuse and Treatment Act of 1972, Public Law 92–255, we provided for the establishment of a Special Action Office on Drug Abuse Prevention in the Executive Office of the President to give general direction to a most extensive and comprehensive treatment program for drug addicts in the Nation. Many veterans are and will be dealt with under this legislation.

Insofar as the VA's treatment of drug addiction is concerned, the present situation is as follows:

First, H.R. 10880, which the Senate sent to the President for signature yesterday, of which I was the author in the Senate, authorized the VA to provide outpatient and ambulatory care, by fee or contract, for the nonservice connected conditions of any veteran, wartime or peacetime, when necessary to obviate the need for the hospitalization of such veteran. Prior to this legislation, it was necessary for the VA, under the existing eligibility provisions of section 612(f) of title 38, to hospitalize a veteran addict prior to being able to provide him with followup outpatient care under the so-called "post-hospital" provision in paragraph (2) of that subsection. With the enactment of H.R. 10880, this period of hospitalization will no longer be necessary, and the VA will be able, in my judgment, to make a determination that outpatient care is necessary to obviate the need for hospitalization in the case of any veteran addict and therefore to provide all appropriate outpatient and ambulatory care for the treatment and rehabilitation of such addicts. This will remove a major statutory impediment which has restricted the effectiveness of the VA drug treatment program as it has been functioning over the last 18 months to meet the crisis of drug addiction among returning servicemen.

And as I indicated, this outpatient care can be provided by the VA on a fee or contract basis under the provisions of 612(f) as amended in H.R. 10880.

Second, the immediate need for being able to provide treatment to veteran addicts who received less than honorable or general discharges is not present in any way near the same degree as it was 2 years ago when the compelling need for this legislation first presented itself.

This is true for several reasons: First, since the initiation of the Department of Defense "amnesty" policy for drug abuse cases over a year ago very few addict servicemen have been receiving disqualifying discharges; second, the Defense Department has been undertaking—albeit far too slowly, and not in a comprehensive way—to alter the discharges of veterans given disqualifying discharges based on their drug addiction prior to institution of the amnesty policy, and third, under Public Law 92–255 substantial resources are being devoted throughout the country to drug treatment and rehabilitation, under the general direction of the Special Action Office, and these programs are now available to serve veteran addicts who would not be eligible—under present statutory requirements governing VA medical care—for treatment in VA drug programs because of the disqualifying nature of their discharges.

Third, the strong concerns which have been expressed by the veterans' organizations about the inability of their veterans' service officers to represent veterans who have received drug treatment should, I am advised, be resolved by the issuance of regulations next week by the Special Action Office pursuant to Public Law 92–255, which will lift the present interpretation that under the medical confidentiality provisions of that law veterans could not authorize the release of their drug treatment files to veterans' service officers to represent them in securing veterans' benefits. I do not mean to suggest that the provisions in section 659 of the Senate amendment to H.R. 9265 governing medical confidentiality, which would have specifically authorized such written releases to veterans' service officers, would not be a preferable approach, but merely to suggest for the interim, at least, that these new SAUDAP regulations should provide an amelioration of the problem.

In conclusion, I wish to point out that the House, by not being able to concur in the approach of the Senate bill under the very limited time available to study this bill, is not rejecting the Senate approach. Indeed, I have been advised that the House committee will engage with us at the start of the 93d Congress in a very

careful investigation of the full veterans' addiction treatment question and particularly the approaches taken in the Senate amendment, which I intend to introduce as a new bill as soon as the 93d Congress convenes.

Again, Mr. President, I wish to express my appreciation to the House Committee, particularly to its chairman, my friend, Mr. Teague, and the chairman of the Hospitals Subcommittee, Mr. Satterfield, who have extended so much courtesy and cooperation to me in successfully resolving the three pieces of legislation sent to the President yesterday, in which I have been so deeply involved. I am hopeful that, when there is time to devote their usual thoughtful consideration to the addiction treatment and rehabilitation legislation, the same cooperation and constructive approach will produce an effective legislative measure in this field.

NOISE POLLUTION

Mr. MANSFIELD. The measure passed by the Senate on Friday—the so-called noise pollution bill—is the first major piece of legislation directed toward alleviating what is fast becoming one of the irreversible assaults on our environment. Had it not been for the dogged determination and efforts of the Senator from California (Mr. TUNNEY), this measure might still be stalled in jurisdictional controversy and disagreements between the committees sharing the responsibility. Through his sincere and hard-driving approach to working out the problems, our distinguished and able colleague, Senator TUNNEY, has worked what might be referred to as a legislative miracle. Working as a member of the Air and Water pollution subcommittee of the Committee on Public Works, he met many times with the members of the Committee on Commerce concerned with this legislation; and while some still hold reservations about some aspects of the measure, all concerned determined that it was important that the beginnings of control of noise pollution be made in this Congress.

The Senate is indebted to Senator TUNNEY and all other Senators who cooperated in allowing the Senate to work its will to lay out the groundwork for future protection of our environment.

SERIOUS SHORTAGE OF NATURAL GAS

Mr. FANNIN. Mr. President, when we talk about the serious shortage of natural gas in America, most people think about the homes and industries which receive natural gas through pipelines.

I call attention to the fact that the shortage of natural gas also is a threat to the millions of persons who depend on LP-gas, sometimes called bottled gas.

Through years of experience in the LP-gas business, I can tell the Senate personally that LP-gas is essential to many, many households for heating and cooking. It is especially important in rural or remote areas.

Mr. President, the board of directors of the National LP-Gas Association passed a resolution on September 28, 1972, calling attention to the plight of this industry and the customers who are dependent upon this product. I ask unanimous consent that this resolution be printed in the RECORD:

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

RESOLUTION

Whereas it appears that a shortage of natural gas and other forms of energy threatens our national interest, and

Whereas a substantial portion of liquefied petroleum gas is derived from natural gas sources, and

Whereas the liquefied petroleum gas industry serves nearly 13 million customers, predominantly households, and the threatened natural gas shortage can affect ability to service this important segment of the nation

Now, therefore, the Board of Directors of the National LP-Gas Association hereby resolves that:

1. Immediate steps should be taken to lease additional offshore areas, now controlled by the Federal and State Governments for immediate exploration and development;

2. There should be an immediate and intensive program of further exploration and drilling of the areas of the Continental Shelf, in the Atlantic, Gulf, and Pacific areas;

3. The Federal Power Commission be encouraged and requested to stimulate the increased drilling of wells in this country by removal of existing well head price controls or establishment of a more realistic price for domestic gas.

CHANGES IN TRANSPORTATION POLICY

Mr. WEICKER. Mr. President, the issue of transportation is not a fashionable issue; but it does involve the young, the old, the poor, the unemployed, the disabled and all of us stranded and choking because of the American obsession with the automobile.

The President has recognized the need for precedent-breaking changes in our transportation policy.

He has increased expenditures for mass transit sevenfold.

He has begun to revive rail passenger service.

He has upgraded our airports and airways.

He has, for the first time, made safety, housing and the environment equal partners to concrete, steel and oil in creating a national transportation system.

He has introduced transportation revenue sharing and has played a key role in urging the Senate to open up the Highway Trust Fund for mass transit.

But where has Senator MCGOVERN been?

Where is the Democratic candidate's concern for the old, the poor, the young, the disabled, the homeless who are victims of our national transportation disaster?

On 19 key transportation votes over the past 2 years, Senator MCGOVERN has managed to bestir himself to vote on exactly four.

Let us take a look at some of the other votes the junior Senator from South Dakota felt were so unimportant as to be undeserving of his presence.

Late in 1971, the highway lobby, not content with spending only $6 billion a year of the taxpayers' money on highways, decided to raid the liquor tax for another $350 million for highways. We gave Senator MCGOVERN two opportunities to oppose this outrageous grab, but he did not bother to show up for either the Ribicoff amendment or the Percy-Weicker amendment.

About the same time, the Senate voted to give the many nearly bankrupt public transit companies a tax break by eliminating the 10-percent excise tax on new transit buses. Apparently Senator MCGOVERN does not agree on the gravity of the situation facing many of these transit operators since, again, he did not bother to cast his vote.

The same problem—bankrupt transit companies—returned to the Senate on March 2 of this year when we voted $800 million for subsidies to public transit operators. But the Senator had still not come around to recognizing the very real danger of mass transit going out of business all over the country. Again, he did not bother to show himself.

Any discussion and any voting record on transportation would, of course, be incomplete without turning to Amtrak, the Nation's beleagured effort to restore truly excellent inter-city rail service. Unfortunately, we do not know Senator MCGOVERN's stand on the problem. On April 27 the Senate approved a major new infusion of funds for Amtrak, but, again, we were without the Senator's wisdom and counsel.

But there is something of an irony in the MCGOVERN Amtrak "nonstand." On August 18 of this year he did manage to issue a press release calling for "us to take advantage of the great potential for quiet, clean, and dependable transportation systems." So far, so good. Unfortunately he went on:

Development elsewhere, notably the French Aerotrain, the British Hovertrain, and German and Japanese magnetic suspension vehicles, illustrates how far the United States has lagged behind in this area.

Well, first, I sincerely hope that the people at Sikorsky aircraft in my State of Connecticut do not see that statement.

After all, they have developed and built the Turbotrain, one of the most modern passenger vehicles in the world, and they might begin to think the Senator wants to import Japanese trains or have some other company in America subsidized to produce competition for the Turbo.

Second, seeing now how concerned Senator MCGOVERN obviously is over excellence in intercity rail passenger service, I am particularly disappointed that he was unable to be with us on Thursday of this week when the Senate approved the supplemental appropriation bill which contained $57 million for Amtrak—much of which is intended to purchase additional Turbotrains.

Finally, Mr. President, we must come to the most important single transportation issue of the past 2 years—the 1972 highway bill.

In a policy statement on the environment delivered on Saturday, October 7, Senator MCGOVERN called for the reallocation of revenues in the Highway Trust Fund that would appropriate more

money for mass transit and less for highway construction.

That is nice, but on September 19, the Senate—shattering 16 years of precedent—did exactly what Senator McGOVERN wanted and he was not here to help. I might add, that those of us who were urging support of this legislation, the Kennedy-Weicker and Cooper-Muskie amendments, thought that the vote might be so close that we even attempted to get the candidate back to Washington for the votes. Obviously, we did not succeed. Senator McGOVERN did attempt to adopt our whole principle in a press release 2 weeks later, but votes, not press releases, are what will move America.

CHICAGO'S INDUSTRIAL SKILLS CENTER STRESSES PRODUCTIVITY, EMPLOYMENT, EDUCATION

Mr. PERCY. Mr. President, increasing productivity is generally taken to mean marginally increasing the real output per manhour of those people already employed. These productivity increases are critical to the continued growth and strength of our economy. But most important of all are productivity gains that are related to greater use of the Nation's unemployed work force. Such gains represent a jump in productivity in an order of magnitude greater than increases attributed to changes in the work practices of those already employed.

One mechanism for achieving fuller utilization of our human resources is to be found in the new coexistence between industry and education—not just a reworking of the old manpower training programs, but a new and creative relationship between the private and public sector. In this context, I am especially impressed by the principles and applications put into practice by Chicago's Industrial Skills Center. I believe the center presents a unique and viable solution for the problem of reducing our unemployment problem and achieving a quantum jump in increased productivity.

The Industrial Skills Center is an inner city Chicago high school devoted to reorienting high school dropouts. Its students, many of whom were unable to conform to the disciplines of high school, attend the Industrial Skills Center for the very reason that its policies and programs are vastly different from those common to the high schools they were forced to leave. The Skills Center has no specific rules or regulations. It requires only that all students treat each other with mutual dignity and respect. Placed in his own individual academic program, each student works through a standardized package of materials and progresses at his own pace.

When the students first enter the Industrial Skills Center they are given intensive counseling and the opportunity to motivate themselves. This dimension of the program aids in pinpointing the student's psychological, academic, or disciplinary problem which led to his premature departure from the traditional high school system. It also affords a continuing opportunity to develop a closer student-faculty relationship. An absence of disciplinary and tardiness problems and a building that is free from vandalism indicate, as much as anything, the students' appreciation of this atmosphere of trust.

The essence of the Skills Center idea is that high school students can be productive members of the work force and get paid for it while they pursue their high school education. In this new concept of high school education, half of the student's 8-hour day is devoted to academic endeavors and the remainder to industrial skills training through production of a marketable product.

Two years ago Western Electric recognized the potential rewards of a new alliance between industry and education. The company farmed out a small portion of its telephone cable assembly operation to the student-employees of the Skills Center. Within 6 months the center's student-workmen, who work 4-hour shifts, passed the break-even point and produced at a profit. Western Electric officials noted that the quantity, quality, and diversity of the product model in the Industrial Skills Center shop was as high or higher than comparable production at its large Hawthorne facility.

A year later Motorola, Inc., added an electronic dimension to the Skills Center. This outstanding Chicago-based electronics firm established a component testing and automotive radio repair shop adjacent to the Western Electric shop. Both industrial facilities are successful, socially and financially. Both afford the participating high school student a marketable skill upon graduation and income while pursuing his education.

The Skills Center's relationship with Western Electric and Motorola is designed so that the company and the school board share the startup costs. The school board provides for the floor space, maintenance, security, lighting, heat, water, and other such necessities. The company supplies desks, chairs, assembly lines, benches, tools, equipment, and security fencing—if necessary—all of which may be considered donations to the school or assets of the company returnable upon termination of the relationship. In addition, the company absorbs the salary of a supervisor who is responsible for training and overseeing the operation.

In the case of a product-producing shop, production materials are purchased by the board of education for the Industrial Skills shops. The materials, now the property of the school board, are assembled by the student-workers and returned for sale to the parent company. Then the company bills the board of education for acceptable products only. Material handling charges, pickup and delivery of product, and student salaries are absorbed in the price of the product.

Billing of an acceptable product, recording of accounts receivable, and disbursement of wages takes place in a school board account. By so doing, the student-workers remain the responsibility of the school board and do not become a liability to the company. As employees of the school board, the students begin working for $1.70 an hour with the opportunity of moving through a pay scale that approaches $3.

Though financial success has been important to this program, other measures of success depict the real rewards of the concept. In the Industrial Skills Center's first year, 78 Chicago dropouts appeared for reorientation and in less than a year returned to the high schools they had left. Seventy out of 78 of these dropouts were able to complete the requirements needed to graduate when they returned to the traditional high school system. There were also students who decided to continue their education at the Industrial Skills Center. In 1971, nine of the 13 members of the first graduating class continued their formal education and the remaining four found jobs. In the second graduating class, 12 of the 33 graduates went on to college and two of the 12 received scholarships.

The initial success has not stifled the Industrial Skills Center's desire to grow. The center continues to encourage Chicago area industrial enterprises to join Western Electric and Motorola in their proven success, and it is presently completing a building trades center which will stress multicraft skills, expose students to a wide range of building crafts, and function as a preapprenticeship program for the building industry. The administrators hope that when the facility is completed, the Department of Housing and Urban Development will award the Skills Center grant moneys so that its student-workers will learn through building, and begin the work of rehabilitating the deteriorating inner city. I intend to seek the assistance of the Department of Labor, the Department of Housing and Urban Development, and of the President's National Commission on Productivity in giving special consideration to this novel idea in the hope that it will become the prototype for a governmental initiative to reinvest, through education and industry cooperation, in the unemployed people of this Nation.

In addition to giving the dropout another chance and providing him with a marketable industrial skill, the Industrial Skills Center concept may have application to the area of penal reform. In the center's 2-year history, three convicted criminals have been students, attending the center during the day and returning to Cook County Jail at night. Today, after participating in the Industrial Skills Center program and acquiring a high school diploma, these three young men are employed and productive members of the community. There has been no recidivism.

I am glad to see that someone has finally discovered a workable formula for blending public education with the private sector. I feel strongly that broader application of the Industrial Skills Center concept could have nationwide ramifications by serving to more fully utilize America's human resources, revolutionize segments of our educational system, and offer a proven alternative to present-day prison work-release programs.

NATURAL GAS SHORTAGES IN NATION'S URBAN CENTERS REQUIRE IMMEDIATE ATTENTION

Mr. JACKSON. Mr. President, the United States faces a serious and grow-

ing problem: demand for natural gas is outstripping available supplies.

From 1950 to 1970 the demand for natural gas increased at an annual rate of 6.6 percent—a growth rate substantially higher than for other energy resources. Despite the fact that we have substantial natural gas resources yet to be discovered and developed, drilling activities for new supplies of crude oil and natural gas declined sharply.

From 1956 to 1971 the total number of wells drilled dropped by 53 percent, and exploratory drilling declined by 57 percent. Based on annual reports of 56 interstate pipelines, natural gas reserves, owned or controlled, declined in 1971 for the fourth consecutive year. During the years between 1968 and 1971, reserves declined 37.4 trillion cubic feet. In other words, we are producing and using up natural gas faster than it is being discovered and developed.

The inevitable result is that the Nation is experiencing a growing gap between supply and demand—a shortage of available natural gas supplies to meet present consumers' requirements.

As the shortage grows more severe, pipeline companies and gas distributors are forced to curtail—reduce or cut off—natural gas deliveries to customers who had been counting on certain supply levels promised them in contracts. Interstate pipeline companies submit their curtailment plans to the Federal Power Commission—FPC—for review, and the distributors' curtailment plans are similarly reviewed by State commissions.

Seven interstate pipeline companies instituted gas curtailments during last year's heating season, and to date 27 pipeline companies have submitted curtailment plans to the FPC. Since November 1970, the volumes curtailed exceeded 500 billion cubic feet.

A recent FPC analysis indicates, moreover, that supply deficiencies for the period from April 1972 through March 1973 will be substantially more severe than shortages in the same period from 1971 to 1972. For a group of 15 companies, combined shortages of approximately 1.0 trillion cubic feet are expected—nearly 10 percent of their total 1970 annual sales.

Gas sales by class of customer in 1971 reveal that, on a national scale, residential use accounts for 23.2 percent; commercial, 9.4 percent; industrial, 42.2 percent; electric utilities, 18.3 percent, with 4.9 percent listed as other—company use, transmission mainline fuel, and so forth. The percentages in these categories are strikingly different, however, in some areas of the country where serious shortages exist.

Gas sales made in 1971 in New England, for example, were distributed as follows: residential sales, 42.9 percent; commercial, 15.3 percent; and industrial, 29.4 percent. These figures are significant, for, should there be a severe winter ahead for New England, the inability of distributing companies to obtain enough supplemental supplies to make up for curtailment deficits could mean a crisis situation in the next several months in an area where residential customers would inevitably be affected.

If the winter becomes abnormally severe in Boston, to use only one example, areas of the city might be denied gas, forcing large blocks of small industrial buyers, commercial establishments, and residential consumers to turn off their gas outlets, stop business, and daily activity, and move out for as long as a month.

The reason for Boston's serious supply problem is that the distributing company has been unable to obtain enough imported or domestic supplies to make up for a 10-percent curtailment deficit authorized by the FPC and imposed by its major pipeline supplier. The Boston Gas Co. had been counting on foreign liquefied natural gas—LNG—supplements in September, but, because of project delays in Algeria, Boston will not see any LNG until February, and next year's supply will be only 40 percent of what was expected.

There is enough LNG in Alaska available to supplement Boston's supply shortage, but there are no American ships available to carry the needed LNG from Alaska to Boston. I am informed that the Boston Gas Co. has petitioned the Department of Defense and the administration for an exemption from the Jones Act which prohibits interstate shipments unless they are carried in American vessels. The administration apparently feels that the Boston natural gas situation docs not constitute an emergency sufficient to allow such an exemption, because the request was denied.

Meanwhile, throughout New England, distributors have used such staggering amounts of propane—a petroleum derivative that can be mixed up to 40 percent with natural gas before it becomes inefficient to use—that the available propane supplies in that area are sold out.

New York is similarly plagued with gas supply problems. It, too, is concerned not only with its ability to supply consumers with enough gas this winter but also next year. The Brooklyn Union Gas Co. in the New York metropolitan area is faced with escalating curtailment levels, starting with 12 to 14 percent for the winter months. By next summer, the supply deficit will have reached 18 percent of contract volume which means that there will not be enough gas available in the summer to store for the next winter's use. The consumers affected in New York are 77 percent residential, and the rest are small industrial and commercial users.

The growing crisis in natural gas supply is under review at a number of levels. Under Senate Resolution 45, the Senate Committee on Interior and Insular Affairs, in concert with the Committee on Commerce, the Committee on Public Works, and the Joint Committee on Atomic Energy, is studying natural gas policy issues and preparing a report on the hearings conducted over the past 2 years. The FPC expects to release the results of its National Gas Survey in January. This broad study, which has input from consumer representatives and academic experts as well as agency staff, should provide a reliable data base to define the outlook for the future. The Interior Department, meanwhile, is reviewing its 5-year plan for Outer Continental Shelf leasing in consideration of the need to accelerate lease sales of offshore acreage so that new resources may be found and developed. The Office of Emergency Preparedness, in conjunction with the Defense Department and Department of the Interior, forms the Emergency Petroleum and Gas Administration, and a recent meeting of its Emergency Advisory Committee for Natural Gas was convened to discuss the gas industry's ability to meet the Nation's requirements this winter.

But I am not confident that enough is being done to prevent the loss of essential services should an unusually severe winter hit the Nation this year. The near-term problems associated with the Nation's gas shortage deserve top-priority treatment. Much time and effort is being devoted to studying and planning for the future, but we need to know what plans have been made to meet possible emergency shortages in the next few months and for the following winter.

Accordingly, I ask unanimous consent to have printed in the RECORD a letter to Gen. George A. Lincoln, Director of the Office of Emergency Preparedness, requesting a report to be prepared by an interagency group and furnished to the Committee on Interior and Insular Affairs by December 1, 1972.

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

U.S. SENATE, COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., October 14, 1972.

Gen. GEORGE A. LINCOLN,
Director, Office of Emergency Preparedness, Executive Office Building Annex, Washington, D.C.

DEAR GENERAL LINCOLN: As you know, the Senate Interior and Insular Affairs Committee, in conjunction with the Commerce Committee, the Public Works Committee and the Joint Committee on Atomic Energy, is engaged in a fuels and energy study under Senate Resolution 45. In the course of this study, the seriousness of the present and growing shortage of available natural gas has repeatedly come to our attention.

Although many studies are being conducted as to the nation's ability to cope with or minimize future shortages, immediate information is needed as to current supply problems and the status of emergency readiness in natural gas for the 1972–73 and 1973–74 heating seasons.

Accordingly, I hereby request that an interagency report be prepared under your direction and in conjunction with the Department of the Interior and the Federal Power Commission in response to the following quetsions:

1. In those states where natural gas curtailments are now or may be operative by 1974:

a. What is the status of distributors' ability to meet firm contract obligations from primary sources of supply, storage capacity and/or supplemental sources?

b. Which major metropolitan areas appear unable at this time to obtain enough supplies to meet the needs of their firm customers, should this or next winter prove severe?

c. What measures are being taken by federal agencies to help such distributors obtain needed supplies?

d. In the event of severe weather conditions and an urgent need for additional supplies in, for example, Boston, New York or Chicago, where would such supplies be found and how long would it take to reach those market areas?

e. Could interstate pipelines be used in such situations as common carriers?

2. What are the constraints on additional measures that might be taken to relieve the pressures caused by the shortage of natural gas in the interstate market?

3. Is Congressional action required to divert gas from the intrastate market in an emergency and, if so, what specific legislation would be needed?

4. What role does the Jones Act play in restricting our ability to supplement gas supplies? Is legislation needed to empower the Office of Emergency Preparedness to make exemptions so that natural gas distributors may prepare for possible emergency situations?

5. What are the criteria being used by State commissions and the Federal Power Commission when proposed curtailment plans are being analyzed or disputed? Is it advisable that these standards be reviewed and measured against environmental and energy conservation standards? If so, what agency or agencies should have that responsibility?

6. What is the extent and nature of fuel substitution taking place by major industrial gas users now (or soon to be) subject to curtailment?

7. What additional Congressional action might assist in meeting the problems of short-term gas shortages?

I would appreciate your cooperation in arranging for the preparation of responses to these questions by December 1, 1972, in order that the Committee may use this information in preparing its recommendations for the new Congress.

Sincerely,

HENRY M. JACKSON, *Chairman.*

THE OPPORTUNITY FUNDING CORP.

Mr. JAVITS. Mr. President, the Opportunity Funding Corp.—OFC—a private, nonprofit organization established with a $7.4 million grant from the Office of Economic Opportunity, held its annual meeting in Washington October 4. A list of the members of its board of governors is attached. The objective of this organization is to demonstrate that innovative applications of risk-reduction and other indirect financing techniques—guaranties, discounting, incentive—can increase the flow of private capital into low-income communities.

On July 15, 1971, I called to the attention of the Senate the launching of the first two programs announced by Opportunity Funding Corp.—its bank deposit program, designed to strengthen local financial institutions in poverty impacted areas, and a bonding program to assist minority construction contractors from such areas.

At that time I said that—

OFC constitutes an important experimental effort to determine to what extent, and in what ways, the vast resources of the private sector can be brought to bear on the problems of urban and rural poverty and underdevelopment.

On that occasion I also introduced into the CONGRESSIONAL RECORD a statement by David B. Hertz, board chairman of OFC, describing those first two OFC programs and and noting that OFC would in the future be announcing additional programs including a program to provide flexible loan guarantees, a real estate development program, a program to make increased amounts of SBA loan money available for plant and facilities loans in poverty communities, and a consumer credit program. I am happy to note that today all of those programs but one have been announced and are now operational.

I note from the materials distributed at its annual board of governors meeting that OFC has achieved an overall leverage factor of approximately 23:1—that is, every dollar of OFC funds set aside for reserves against possible losses has produced $23 from other sources, predominantly private sector sources.

Thus, with only a relatively small amount of Federal funds, OFC in its short history has already demonstrated how taxpayer dollars when used as a catalyst—and a means of normalizing the risks of investment in the poverty community—can generate significant investment for the economic development of these areas.

OFC also published a preliminary summary and first-year findings of its banking and bonding program. These findings, included in a new OFC publication entitled "Case Studies and First-Year Findings of OFC's Banking and Contractor Bonding Programs," are summarized as follows:

SUMMARY OF FIRST-YEAR FINDINGS, BANKING AND BONDING PROGRAMS

1. That the Federal Government waive for minority banks the requirement that certain categories of federal deposits be collateralized by government obligations;

2. That the Federal Government, in its program to increase deposits in minority banks, seek to emphasize the inclusion of larger amounts which can be retained by these banks for periods of six months or more, thereby making more of these funds available for commercial and other loans in the minority community;

3. That deposits made in the Federal Government's program be distributed on a formula basis which gives enhanced incentive to minority banks to invest these funds in loans in their communities;

4. That the FDIC give consideration to more frequent use of the technique of purchasing the capital notes of capital-impaired, minority-owned banks where no other bank exists whose main purpose is to serve that minority community;

5. That an operating Federal program be established to provide guaranties to assist minority communities to raise capital for the establishment and support of minority-controlled commercial banks;

6. That SBA be permitted to guarantee letters of credit issued by commercial banks in lieu of bonds or as an inducement to surety companies;

7. That contractors participating under the SBA program be encouraged to take advantage of financial management services provided by commercial banks in conjunction with local contractors' assistance organizations such as those affiliated with the Minority Contractors Assistance Project;

8. That innovative technical assistance and working capital programs of organizations such as the Minority Contractors Assistance Project be expanded and strengthened;

9. That in view of the fact that the Federal Housing Administration will accept partial letters of credit in lieu of performance bonds on FHA-backed housing projects and in light of the recent recommendations by the General Accounting Office that performance bonds no longer be required for Federal construction contracts, a full review be made of Federal legislation and regulations to determine whether Federal performance bond requirements should be rescinded in favor of risk protection instruments which will be less costly and which will also afford greater opportunity for small and minority contractors.

While these findings necessarily are tentative, I believe that they deserve serious consideration by all who are concerned about the revitalization of our urban and rural poverty communities.

I ask unanimous consent that a list of the members of the Board of Governors be printed in the RECORD.

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

MEMBERS OF BOARD OF GOVERNORS OF OFC

CHAIRMAN

David D. Hertz, Director, McKenzie and Company, New York, New York.

VICE CHAIRMAN

John D. Mabie, Vice President and Director, A. G. Becker and Co., Chicago, Illinois.

GOVERNORS

Robert O. Dehlendorf, II, President, Arcata National Corporation, Menlo Park, California.

Nathan T. Garrett, Executive Director, Foundation for Community Development Inc., Durham N.C.

Eli Goldstron, President, Eastern Gas and Fuel Associates, Boston, Mass.

James M. Hall, Executive Vice President, Music Corporation of America, Los Angeles, California.

Dr. Jesse D. Lay, Superintendent, Knox County Schools, Barbourville, Kentucky.

Dan W. Lufkin, Commissioner, Department of Environmental Protection, Hartford, Connecticut.

J. Howard Marshall III, Director, Texas Commoner Bank, N.A., Houston, Texas.

Alex P. Mercure, President, New Mexico Technical Vocational School, El Rito, New Mexico.

Dr. Robert C. Dowels, Dean, Graduate School of Business Administration, Atlanta University, Atlanta, Georgia.

C. Dolores Tucker, Secretary of State, State of Pennsylvania, Philadelphia, Pa.

Theodore Brown, Executive Vice President, First National Bank of Denver, Denver, Colorado.

SENATOR JOHN SHERMAN COOPER, REPUBLICAN OF KENTUCKY

Mr. HOLLINGS. Mr. President, the end of this Congress marks the retirement of JOHN SHERMAN COOPER and, with this, the culmination of a most distinguished career.

Through his many years of experience abroad, including his service in World War II, the United Nations, and as our Ambassador to India, he brought to the Senate a true knowledge of foreign policy and issues. Coming from the mountains of Kentucky, his roots are in the soil and he knows agriculture. Living there through the depression years, he knows poverty firsthand, and his compassion for the poor and needy has permeated his thinking.

JOHN SHERMAN COOPER is easily one of the most esteemed Members of the Senate and that respect comes from both sides of the aisle. The leadership which he has exercised in the Senate is patent. Whenever a Cooper amendment of a Cooper bill is called up, it passes. When JOHN SHERMAN COOPER addresses the Senate, the Senate listens.

He has served this body and this Nation with wisdom, judgment, compassion, and moral integrity. Always taking the

position which his innate sense of justice demanded, he is a statesman in the truest sense of the word, and we will miss him.

DEATH OF ARTHUR H. BORNE, PIONEER AMERICAN AVIATOR

Mr. FANNIN. Mr. President, commercial aviation has reached such a state of sophistication that around-the-world flights in a matter of hours are taken for granted. Man's skills and knowledge have advanced perhaps more rapidly in this area than in any other field of science.

It is sometimes difficult to realize that such progress has been accomplished in the lifetime of one man. I think it appropriate to call to the attention of the Senate the recent death of one of America's pioneer aviators, Mr. Arthur H. Borne.

Mr. Borne was closely alined with aviation almost from its inception in this country, and continued to show great interest in flight advances at the time of his death on September 10, 1972, in Cananea, Sonora, Mexico.

Mr. Borne was privileged to have known the Wright brothers, and his first pilot's license was signed by Orville Wright. He literally was a pioneer aviator, having built and flown his own aircraft in the early days. He trained pilots for the Army in World War I and later was a test pilot for Boeing Aircraft. He was a member of the team which advised Kingford Smith in his early flight around the world, and also one of the early airmail flyers.

Mr. Borne was known and respected in Mexico as well as in this country, and flew for many Mexican Government officials and other dignitaries. The later years of his life were spent in northern Mexico, where he was engaged in mining as well as in aviation. He was buried in Cananea, and is survived by his wife, Teresa, of that city.

ANOTHER CONGRESS ENDS WITH NO ACTION ON GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the 92d Congress is about to adjourn with a substantial amount of unfinished business. But none is of longer standing than the genocide convention, which was originally submitted for ratification in 1950. That makes this the 11th Congress that has adjourned without taking action on this issue.

However, there were some encouraging developments. In May of last year, the Foreign Relations Committee voted to send the convention to the floor. Also last year, the administration came down firmly in favor of ratification, with the Attorney General and the Secretary of State strongly endorsing the convention.

Unfortunately, in the rush of business at the close of this session, the single objection to its consideration by the Senator from North Carolina was sufficient to block action this year. I would hope that the convention could be readied for floor action early in the 93d Congress, so that there will be ample time to debate its pros and cons, and finally permit an up-and-down vote on ratification.

I hope my colleagues will support early action on the genocide convention in the next Congress.

AMENDMENT 1687 TO PROVIDE FOR FAIR TREATMENT FOR SINGLE TAXPAYERS

Mr. GURNEY. Mr. President, late last night the Senate debated and voted on the amendment of the distinguished Senator from Oregon to equalize the taxes of single, unmarried taxpayers with those of married ones.

The hour was late and I did not wish to delay the Senate with my remarks. I desire at this time to make these remarks in full support of the amendment. I am very pleased to cosponsor and support this amendment which my distinguished colleague from Oregon has called up for consideration by the Senate. The amendment is not a very elaborate one or complicated one. It is, however, a most important one.

We hear much today, especially now that the political season is coming to an end, of the need to correct inequities in our Federal tax laws. We hear much of business deductions, depletion allowances, accelerated depreciation provisions. Yet, of all of the provisions of the Internal Revenue Code, the one which discriminates against more individual taxpayers than any other is the provision which discriminates against single persons.

Mr. President, there are perhaps 30 million unmarried taxpayers in this country working in every occupation, at every level of the socioeconomic scale. They work just as hard at the same kind of jobs as their married counterparts do. Yet, when April 15 rolls around, they pay out approximately 20 percent more in taxes than their married counterparts with the same taxable income.

Those unmarried individuals who are responsible as heads of households, just as much as if they were married, pay about 10 percent more on identical amounts of taxable income.

Mr. President, these people are being discriminated against for no just or valid reason. They are required to pay for more than their share of Federal income taxes simply because they have chosen not to, or have failed to marry.

As I said at the outset, the pending amendment is not an elaborate one or a complicated one. It is one, however, which is based on the premise that fundamental and basic fairness requires that the marital status of an individual taxpayer ought not be considered in the determination of how much of that individual's income is due to the Federal Government.

Mr. President, I join with the distinguished Senator from Oregon and the other cosponsors of the amendment in urging the adoption at this time of our amendment to the debt ceiling bill, H.R. 16810.

ANOTHER BARRIER FALLS

Mr. HART. Mr. President, some consider 22-year-old Barbara Barrett the next Amelia Earhart—for she, too, has broken a barrier in aviation.

Flying for Zantop International Airlines in Detroit, Miss Barrett is the first woman in the country hired as a pilot for a commercial airliner. She is the first woman officer on a 4-engine airliner and the first woman to fly the U.S. mail.

Her achievements were brought to my attention by the Michigan Chapter of the Ninety-Nines, Inc., an organization of women who are pilots. Earlier this month the group presented the Amelia Earhart Award to Miss Barrett, noting that her license represented some 3,000 hours of flying time during the last 3 years.

A resident of Niagara Falls, N.Y., Miss Barrett has been an instructor in a Cessna 150, copilot on a MU–2F—a high wing turbo prop—and copilot of a Lear-23. She attended flight school in San Angelo, Tex., and Cleveland, Ohio.

Flyers and nonflyers alike hail this long overdue forward step. Included in this commendation should be the management of Zantop International Airlines. Barriers such as the one involved here can be removed only if employers act responsibly.

INTERCHANGEABLE MANAGEMENT TEAM AT IBM

Mr. PERCY. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "IBM's Interchangeable Management Team," published in Time magazine for October 9, 1972.

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

IBM'S INTERCHANGEABLE MANAGEMENT TEAM

In *The Organization Man*, William H. Whyte Jr. described the management training process at IBM: "By deliberately exposing a man to a succession of environments, they best obtain that necessity of the large organization—the man who can fit in anywhere. 'The training,' as an IBM executive succinctly puts it, 'makes our men interchangeable.'" Though that corporate portrait is 16 years old, IBM proved once again last week that its leadership, like its computers, is a smoothly running assemblage of interchangeable parts.

T. Vincent Learson, chairman and chief executive of the corporation for only 15 months, chose his 60th birthday to announce that he will retire next Jan. 1. He will be replaced by Frank T. Cary, 51, now IBM's president. Learson's departure, in fact, is little more than a routine management turnover. Back in 1966, when he became president, he expressed his intention of stepping down at 60. Learson will leave the corporation in brimming health; IBM's first-half net income rose 22%, to a record $618 million, on record revenues of $4.7 billion.

Beginning the day after Learson steps down, IBM will require its 37 other top officers to retire at 60. The new age limit will apply to Learson's predecessor, Thomas J. Watson Jr., who will turn 60 on Jan. 8, 1974. Chief executive of IBM for 15 years, Watson gave up that title last year after a heart attack but remained a member of the company's board and its top decision-making body, the Corporate Office. IBM's present retirement age of 65 will continue to cover the remainder of its 265,493 employees, but some expect that the new executive age limit will eventually be applied to all. IBM is not the first large firm to move toward earlier retirement for high officers. Last July Westinghouse Electric began requiring its top seven executives to retire at 60 and become "officer-directors," who devote their attention to "socially important issues" that affect the company.

Learson, a 37-year veteran of IBM, was responsible for developing many products, particularly the highly successful System/360. Introduced in 1964, the 360 has done more than any other recent innovation to maintain IBM's technological and financial lead over the rest of the computer industry.

Cary, the chairman-designate, joined the company in 1948 as a salesman in Los Angeles after he was graduated from U.C.L.A. He became a vice president in 1966 and succeeded Learson as president last year. So far, no one has been named to replace Cary in the presidency. Likely contenders include two men from IBM World Trade Corp., the overseas arm that accounted for half of the parent firm's profits last year. They are Gilbert E. Jones, the Trade Corp.'s chief executive, who will move up into the Corporate Office on Jan. 1, and Jacques G. Maisonrouge, a French citizen, who will replace Jones as chief executive of IBM World Trade.

Learson will remain on IBM's board, but he says that he will take advantage of his retirement to "sharpen up my golf, do some more sailing, travel, and spend more time with my family. I've had 37 years of fun working with IBM. My wife and I now want to have some fun loafing." Spectacled and soft-spoken, Cary offers a noticeable contrast to his imposing and forceful predecessor. But Cary is not expected to introduce any alterations to IBM management style. Says a former IBM financial executive: "At IBM, the players may come and go, but the play remains the same."

PENSION REFORM LEGISLATION

Mr. ROTH. Mr. President, I regret that this Congress will come to a close before we can pass any pension reform legislation—action that is long overdue. Pension protection is essential to the financial security of millions of American workers.

All of us have come to realize the tremendous impact that the private pension system can have on the lives of working men and women and on the economy. About 30 million individuals, or almost half of the Nation's workers, are presently covered by private pensions. Pension assets now total approximately $150 billion and are growing at the rate of more than $10 billion each year.

Yet, the laws governing private pension plans are inadequate and ineffective to secure adequate protection of the benefits to which the workers are entitled. These deficiencies create many hardships for workers who thought they had planned for a secure retirement only to be disappointed. Thousands of workers are not realizing their expectations because of inadequate, inequitable, or nonexistent vesting provisions. The pension expectations of others are destroyed when pension plans are terminated as a result of going out of business or merging with another company. Many of these plans do not have adequate funds to pay all the vested benefits rightly due to the plan participants. On top of all of this is the lack of uniform minimum standards of conduct required of fiduciaries, administrators, and trustees which has jeopardized the financial security of employee benefits.

Many reform proposals are before us at the present time. This attests to the growing awareness of the need for effective pension legislation. Due to the importance of this legislation, I realize that we do not want to hurry into passing a so-called reform bill which will only prove to be ineffective. The whole pension area must be thoroughly studied to insure that we pass the best piece of legislation possible.

Fortunately, we have already laid some foundation for legislation. Three committees having legislative jurisdiction over these matters have held extensive hearings on the private pension system. The Senate Committee on Labor and Public Welfare recently reported out on a major bill—S. 3598—which is known as the Retirement Income Security for Employees Act. This measure passed the full committee by a unanimous vote and was referred over to the Senate Finance Committee on September 19, 1972.

The Finance Committee reported out on S. 3598 on September 25, 1972, but deleted from S. 3598 what it considered to be tax related matters traditionally dealt with by the tax committees. Senator LONG, in explaining the committee's position, said that his committee does not expect to act on pension legislation until next year.

The Senate Finance Committee has a number of other pension bills before it, including the administration's proposed Individual Retirement Benefits Act of 1971. The same holds true in the House Ways and Means Committee. Moreover, the House General Subcommittee on Labor is also reviewing the private pension system in depth.

Obviously, Mr. President, the 92d Congress will not act on pension legislation. Yet the need for comprehensive legislation is undeniable. I feel that pension reform is of the utmost importance to protect the retirement security of millions of workers. It is for these reasons that I feel pension legislation should be made the first order of business of the 93d Congress.

CONNECTICUT SOLID WASTE MANAGEMENT PROGRAM HAILED

Mr. WEICKER. Mr. President, there is much debate throughout the country on how best to manage the growing volume of solid waste that flows from our homes, offices, factories, farms, and institutions. There is no question about the fact that effective solid waste management is one of the major domestic needs of our times. It is unfortunate that some in both public and private life believe that the refuse problem can be solved by piecemeal and retrogressive approaches—that, for example, we can reduce the solid waste fallout to manageable proportions by outlawing the use by consumers of just some of the items that end up as refuse; or by forcing deposits on bottles and cans, or by placing burdensome taxes on some and not other products because they end up as trash.

Fortunately, there are others in this country—and I believe they are in the majority—who look forward in seeking solutions to our solid waste crisis. The people of the State of Connecticut speaking through their legislators, their Governor, and their Department of Environmental Protection, are among those who believe in progress rather than retrogression in protecting the environment of our beautiful State. They believe that we can move forward to our objectives by harnessing modern technology to the effective and hopefully profitable management of solid waste in Connecticut.

I wish publicly to congratulate the people of Connecticut, their farsighted legislators, and the enlightened members of the executive branch of the State government for their part in making Connecticut the first State in the Nation to tackle the problem of solid waste on a statewide basis. At the same time, I believe my colleagues in the Congress will be interested in knowing how the people of Connecticut plan to solve their refuse problems. The program I am about to describe implements Public Act 845 enacted last year by the General Assembly giving the Commissioner of Environmental Protection responsibility for statewide solid waste management. This act requires a statewide solid waste plan by July 1, 1973, with implementation to follow.

It is interesting to know that some 7 million tons of solid wastes will be generated in Connecticut in 1972. By 1985, wastes from homes, businesses, institutions, farms, and other sources are expected to total some 10 million tons. Like the rest of America we have a refuse problem pretty much in proportion to our population.

The State's 15 regional planning agencies and 169 cities and towns will play active roles in the planning and implementation process. A number of solid waste advisory committees, made up of municipal representatives, already have been formed and regional meetings with local officials have been held.

A major corporation, with outstanding management, planning, development and technical capabilities, has been selected to develop and manage Connecticut's statewide system for disposing of garbage, trash and other solid wastes with maximum recovery of materials and energy. The firm was chosen from among 22 organizations that submitted proposals to Dan W. Lufkin, commissioner of the Department of Environmental Protection.

In seeking these competitive proposals, the Department of Environmental Protection documented the State's solid waste management policy, which in broad terms calls for:

1. Maximum material reuse or recycling either through separation at the source, using separate collections where feasible or recovery of material after combined collection and volume reduction.
2. Resource recovery through use of refuse as a source of energy to the extent materials recycling is not feasible.
3. Maximum volume reduction of materials not recycled or recovered as energy so as to minimize landfill requirements.
4. Equitable distribution of the costs associated with the system among its users.

It was further stated that it is the policy of the State to accomplish these objectives with maximum participation by private enterprise in planning, construction, management and operation of facilities and the systems required.

It goes without saying that the system to be developed jointly by the State and industry must be environmentally sound and economically feasible.

The program consists of several phases, including design, construction and operation of the facilities for recovery, reuse and disposal of refuse. The

first phase will be design of the system, which will include compatible existing and proposed facilities. It will require about a year to complete and is valued at $1,115,000. Of this amount, $450,000 are in contract funds from the State of Connecticut and the Federal Environmental Protection Agency. The balance will be in the form of work performed by members of the project team—the prime contractor, the State's department of environmental protection and two local utility companies.

The program being developed will be flexible. Commissioner Lufkin has emphasized that we cannot lock ourselves into any one process of resource recovery and/or disposal. The state of the art is changing so fast that we must remain open to technological and social innovations. The commissioner believes that such an approach based on the efficiency of the new machines and processes for recycling wastes from mixed refuse, the application of economic incentives and changes in laws and customs will make maximum resource recovery feasible within just a few years.

A major goal of the first year's effort will be to determine the best economic and environmental mix of solid waste processing, recycling and disposal in relation to facilities and markets which exist or can be developed in the different geographical regions of the State.

Connecticut within a year will begin building a $100 million statewide solid waste management system that will salvage all metal and glass for recycling, generate electricity from trash and extract gas and fuel from garbage. The Department of Environmental Protection has stated that starter units of the system will be built in Hartford, New Haven, and New Britain.

Although initial construction costs may be as high as $8 million just for the starter units, revenue from recovered resources and energy is expected to offset the operating costs. The three municipalities in which the starter units will be built are reported to be putting up more than half of the cost, with the State providing the remaining money.

Gov. Thomas J. Meskill, commenting on the statewide program, cited the "failure of piecemeal solutions in our race against environmental degradation." He added:

> Statewide planning for resource recovery, implemented regionally, in concert with local government, offers great potential benefits to the people of Connecticut. It will help to create a more liveable human environment, while conserving natural resources and providing additional jobs for Connecticut citizens.

We in Connecticut will be happy to share our experiences with the Members of the Congress and the governments of the several States as our program develops through the planning and implementation stages. We believe we are on a progressive, forward-looking, economic, and socially beneficial course that once again will enable the State of Connecticut to set the national pace in the constructive resolution of a major national challenge.

VETERANS' DAY IN BIRMINGHAM

Mr. ALLEN. Mr. President, on Sunday and Monday, October 22 and 23, as has been my custom for many years past, I will participate in National Veterans' Day in Birmingham—its 26th. This is a solemn occasion during which we in Alabama, and Americans everywhere, pay tribute to those brave men who gave their lives in service to their country and to those more fortunate men and women who performed their duties and returned home.

Previously known as Armistice Day, this observance was started after World War I and was held each year on November 11 to mark the end of hostilities in that war.

Planning for National Veterans' Day in Birmingham began in 1946 with Gen. Dwight D. Eisenhower lending his personal assistance. As President, he prevailed upon Congress to change the name of Armistice Day to Veterans' Day dedicated to veterans of all wars in which the United States has been engaged. When the Nation observed its first Veterans' Day, in 1954, it was actually Birmingham's seventh year.

Shortly thereafter, the National Veterans Organization, which is composed of nine leading veterans groups through the Nation, officially recognized Birmingham as being founders of Veterans' Day and created a National Veterans Award, authorized by Congress to be presented each year during the Birmingham observance honoring an outstanding citizen who has made the greatest contribution to further the patriotic interest of veterans. This year's award will be made Sunday night to Brig. Gen. Jimmy Stewart.

Once consisting of a colorful parade, National Veterans' Day in Birmingham is now a 2-day observance. In addition to the Sunday awards dinner, a full schedule of activities will be held on Monday. At 10 o'clock all religious faiths will participate in fitting memorial services with one church in the city to be designated to conduct official Veterans' Day memorial services and all other churches paying special tribute to our veterans.

A world peace luncheon, with Adm. Elmo R. Zumwalt, Jr., Chief of Naval Operations, as featured speaker, will be held at noon to reaffirm our faith in the principles of freedom throughout the world and to rededicate ourselves to active and forceful opposition to aggression and the favoring of strong military forces as our best guarantee for a continuing peace.

The annual Veterans' Day parade, which has a nationwide reputation as one of the most stirring held anywhere in the Nation, will start at 2 p.m. and will include air and ground units of the Alabama National Guard, Reserve, and ROTC units, bands, floats, and veterans organizations.

Veterans' Day is a day for hope and prayer for peace, and a day of remembrance and gratitude to America's veterans whose sacrifices have preserved the heritage of freedom and liberty which we enjoy today. Every man and woman who served our country, answered the call to duty according to the dictates of his or her own conscience. One of the most moving expressions of this individual sense of responsibility was made by the Father of our Country, George Washington, during his first year as President of the United States. He said:

> I have obeyed a summons to which I can never be insensible. . . . When my country demands the sacrifices, personal ease must always be a secondary consideration.

I am proud that in the State of Alabama more than 400,000 living veterans, from the Spanish-American War to Vietnam, are proof of Washington's words, for these Alabamians also "obeyed a summons" and answered the call of America when the need was greatest.

SUPPORTING FOR AMENDMENT ON PAYMENT OF EXTENDED UNEMPLOYMENT COMPENSATION BENEFITS

Mr. CASE. Mr. President, yesterday, I joined Senator MAGNUSON in offering an amendment to the debt ceiling bill to eliminate totally those restrictions which presently bar the payment of extended unemployment compensation benefits in all except three States and Puerto Rico. The Senate approved the Magnuson amendment.

The Federal-State Extended Unemployment Compensation Act, enacted in 1970, was designed to deal with the then-rapid surge in unemployment that this country was experiencing. Accordingly, it specified that this 13-week extension of unemployment benefits could not be paid unless a State's unemployment rate was sharply increasing—in technical terms, the rate has to be at least 120 percent of the rate prevailing in that State in the 2 previous years.

The present law simply does not apply to, or deal with, the persistent degree of high unemployment that many States are presently experiencing. In fact, the unanticipated effect of the 1970 law has been to end entitlement in those very States where unemployment has levelled off on a high plateau.

In effect, the thousands of jobless exhausting their 26 weeks of State benefits are told that the degree of unemployment does not matter. They are told that they are entitled to extended benefits only if conditions are becoming still worse at an ever-increasing pace.

Now we are paying the price of this oversight in the 1970 law. Twenty States, all with unemployment rates high enough otherwise to entitle them to these extended benefits, have been triggered out of entitlement solely because of a leveling-off in these rates. Truly, this represents a cruel "Catch-22" logic that I am certain the Congress never intended.

In my own State of New Jersey, unemployment stands at 7.3 percent of the work force—far above the national average and above the rate of a year ago. Yet on August 18 of this year, 24,000 workers in my State lost their entitlement to these extended benefits—not because the economic situation is improved, but because conditions have not gotten worse at a fast enough pace to satisfy the requirements of existing law.

Jobless workers in New Jersey have

been exhausting their normal State unemployment benefits at a constant rate of 10,000 per month. As in many other States, most will have no other recourse except to go on the welfare rolls—and this at a time when State and local governments across the country literally have their backs against the wall financially. The Federal Government finances 50 percent of the cost of this program of benefits.

I urge the House to join the Senate in correcting the oversight in the present law by striking entirely the "120 percent requirement" of the Federal-State Unemployment Compensation Act of 1970.

FAILURE OF LEGISLATION TO PROHIBIT TRADING IN IRISH POTATO FUTURES ON COMMODITY EXCHANGES

Mrs. SMITH. Mr. President, I deeply regret the action of the House yesterday in killing the legislation to prohibit trading in Irish potato futures on commodity exchanges. This was legislation keenly desired by the majority of farmers in Aroostook County, Maine.

The House of Representatives has again displayed a lack of consideration for the farmers of Aroostook County. For again it has killed this legislation by a distressingly overwhelming negative vote.

Back in 1964 the Senate passed this legislation without a dissenting vote. But when it went to the House, the House killed it by bottling it up in committee. Yesterday the House again voted to kill the legislation.

Earlier this year, at the request of the president of the Maine Potato Council, I introduced a bill to obtain $10 million for a land retirement program to give financial assistance to deserving farmers in Aroostook County. I was able to get the Senate to pass the bill and to appropriate such funds without a single dissenting vote.

But again the House of Representatives displayed its lack of consideration for the farmers of Aroostook County, and the House Appropriations Committee conferees killed this legislation of mine that the Senate had unanimously supported.

I simply cannot understand the negative attitude of the House of Representatives to the needs of Aroostook County. Not only has the House this year killed these two measures designed to aid Aroostook County farmers, but the House has also killed the Senate passed funds for the Dickey-Lincoln power project in Aroostook County.

Year after year at my request, the Senate has repeatedly appropriated $800,000 for the Dickey-Lincoln power project, but year after year the House has killed all such funds for Aroostook County by action on the House floor and by the action of the House appropriations conferees. The latest action of the House in killing the Senate appropriated $800,000 for the Dickey-Lincoln power project was that taken by the House appropriations conferees.

I deeply regret the lack of friends in the House for Aroostook County as most recently evidenced by the negative action in the House yesterday in killing the legislation it did. In contrast, I am very grateful for the repeatedly proved friendship of the Senate for Aroostook County in the unanimous support it has given over the years for, first, prohibition of potato futures trading; second, land retirement funds; and third, appropriations for the Dickey-Lincoln power project.

NUCLEAR SAFETY PROBLEMS DESCRIBED TO THE SCIENTIFIC COMMUNITY

Mr. GRAVEL. Mr. President, Science magazine, which is a publication of the American Association for the Advancement of Science, carried a series of four articles on nuclear power safety-problems during September. The magazine has a circulation of about 165,000 copies, mostly within the scientific community.

The articles are written by Robert Gillette, who has published several additional articles on nuclear power in previous issues of Science, including May 28, 1971, July 9, 1971, and May 5, 1972.

In his report September 15, 1972, Gillette quotes a prominent engineer at the AEC's Oak Ridge National Laboratory as follows:

What bothers me most is that after 20 years, we are still making purely subjective judgments about what is important and what is not in reactor safety. Purely by decree, some things like the rupture of a reactor pressure vessel are ruled impossible. To decide these things without some objective measure of probabilities is, to me, almost criminal.

Nicholas von Hoffman, a columnist syndicated in the Washington Post, wrote as follows in his commentary October 11, 1972:

Reading Gillette's series is the next best thing to coming down with a howling case of leukemia . . . This isn't an abstruse hair-pulling contest between a bunch of far-outs in white lab smocks. Your life may depend on the outcome.

Mr. President, I ask unanimous consent that Robert Gillette's four articles from the September 1, 8, 15, and 22 issues of Science magazine be printed in the RECORD.

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

[From Science magazine, Sept. 1, 1972]

NUCLEAR SAFETY—THE ROOTS OF DISSENT

"It is somewhat confusing that concern over nuclear plant safety has increased recently. Some explanation to be found in sensationalist publications . . . but the most important reason appears to be the widespread lack of knowledge of both the excellent safety record of the nuclear power industry and the extreme efforts, unprecedented in any other industry, to assure that nuclear plants are designed, constructed, and operated with the highest attention to public and employee safety."—The U.S. Atomic Energy Commission, in a statement to the congressional Joint Committee on Atomic Energy, February 1972.

"This is being advertised as a no-risk business and that's not true. We don't know that reactors are unsafe, but we're concerned about their being as safe as the manufacturers would like you to believe. Maybe it's time the AEC told the public that if people want to turn the lights on they are going to have to expect to lose a reactor now and then, and possibly suffer great dislocations and property losses as well."—A senior reactor safety engineer, National Reactor Testing Station, Idaho Falls, Idaho.

The great public debate over radiation standards that flared up 3 years ago has peacefully declined in recent months, probably because the Atomic Energy Commission (AEC) decided to impose strict new limits on the nuclear power plant emissions that sparked the controversy in the first place. But even as that furor was dying down, a new one was swiftly rising in its place—this time over the ability of reactor safety systems to guard against a disastrous accident, should a nuclear plant suddenly lose its cooling water. Expressions of puzzlement from the AEC notwithstanding, the indications are that this new debate over reactor safety comes as less of a surprise than the commission's remarks to Congress would suggest.

To be sure, the AEC has spent tens of millions of dollars in the past 25 years to ensure the safety of nuclear power plants. And it is probably true, as the AEC claims, that the fears of an ill-informed public and the eagerness of "sensationalist" publications have helped to magnify and distort the risks inherent in nuclear plants.

Nevertheless, the new issues of nuclear safety are real. What is more, they appear to be a direct outgrowth of serious internal troubles that have been building up for several years within the AEC's $53 million reactor safety research program.

The new safety debate has centered mainly on the adequacy of backup cooling systems in nuclear plants; the technical substance of this issue has been discussed in previous articles (see *Science*, 5 May). This current article, and others to follow, trace the roots of the issue to problems in the management of the nuclear safety program, and to an intense discord that has developed between the AEC and its national laboratories. This first installment outlines the major grievances of safety researchers and the turbulent history of their program. A second article will discuss long delays in key research projects, and a third will take up the safety program's relations with the AEC's entirely separate regulatory arm.

The internal problems of the nuclear safety program are complex, but there are two main ones. First, at a time when more and more of the nation's utilities are building increasingly powerful nuclear plants, the safety program has accumulated an enormous backlog of unfinished research and unanswered questions. Construction of large experimental facilities the commission itself has repeatedly described as urgently needed has fallen years behind schedule. One nuclear test facility at the AEC's National Reactor Testing Station in Idaho that was supposed to have been finished in the middle 1960's is still being built, and it shows little promise of producing useful data before the middle 1970's. By then, as many as 80 benefited from these data will be near completion or in operation.

There are, in addition, dozens of "problem areas" in the safety of conventional water-cooled reactors that remain unresolved. Many of these problems are described in a 1970 AEC publication entitled "Water Reactor Safety Program Plan." The plan outlines 139 unsettled safety questions, and designates 44 of them (in the document's emphasis) as *"very urgent, key* problem areas, the solution of which would *clearly* have *great impact*, either directly or indirectly, on a major critical aspect of reactor safety."

The second major problem concerns the attitudes that safety researchers themselves, working in the national laboratories, hold toward all this unfinished business; a series of interviews during the past 2 months reveals that many of them are genuinely worried about it.

In Washington, the official position is that completion of this work certainly would be

desirable, but that, in the meantime, nuclear plants are being designed with sufficient "conservatism" to make up for any uncertainties in their performance. In the national laboratories, however, a number of safety researchers are far less confident. "We are not trying to be accident-mongers," one project manager says. "But we don't think our tools are adequate for proving this assertion."

As the new debate has grown during the past 2 years, first internally, then out in public view, scientists and engineers in the safety program have come to believe that their work is linked to a vital national issue. At the same time, those interviewed say they have also become convinced that the AEC, in its eagerness to develop a thriving nuclear industry—and to get on with building the breeder reactors it has dreamed about for 20 years—has deliberately bypassed tough safety questions still hanging over ordinary, water-cooled reactors.

These beliefs are thoroughly entangled with widespread feelings of discontent over important changes that have occurred in relations between the AEC in Washington and its national laboratories. During the past several years, much of the old autonomy the laboratories had enjoyed for two decades has been supplanted by a forceful new style of management from Washington. And along with the new management has come a new emphasis on applied research and engineering tasks that seem inappropriate, if not distasteful, to many. Researchers and administrators in the laboratories do seem to recognize that, to some extent, these changes are an inevitable result of advances in nuclear technology. But they are nonetheless unhappy with what they consider to be a practice of "overmanagement" by Washington that allows little opportunity to appeal and debate decisions as to which research is important and which is not. The end result of all these feelings has been a deep, and for some, a rather bitter estrangement from AEC headquarters that has done nothing to speed the laggard pace of safety research.

To put things in an organizational context, it should be noted that all of the $53 million the AEC plans to spend on safety research this year will flow through the agency's main "promotional" branch, the Division of Reactor Development and Technology (RDT). This division holds jurisdiction over all civilian reactor R & D—including safety research and the commission's most prominent undertaking, the multibillion dollar breeder program. (Whereas this arrangement may make good sense from an administrative point of view, many of the AEC's critics—both inside and out—regard it as a built-in conflict of interest, in the sense that a single unit of the agency is responsible both for encouraging the growth of an industry and for supporting research with a high potential for raising embarrassing questions about the industry's safety. Thus, one of the key questions to be answered is whether the RDT has been able to discharge both duties with equal enthusiasm. Its critics contend that it has not.)

This year, roughly half the $53 million earmarked for safety will go into water reactor studies—the focus of concern—and half into breeder safety. Of the water-reactor money, about $6 million is destined for Oak Ridge National Laboratory to pay for a miscellaneous assortment of eight to ten projects involving 75 scientists and engineers. Some of this also goes for research contracted by Oak Ridge to a small number of universities and private firms.

The remaining $20 million for water reactor safety is destined for the National Reactor Testing Station (NRTS), where the AEC's "operating contractor," the Aerojet Nuclear Corporation, does most of the nation's water reactor safety research. About 120 scientists and engineers at Idaho draw their salaries from this money. Technically, all are employees not of the government but of ANC, a subsidiary of the Aerojet-General Corporation that exists solely for the purpose of running the Idaho installation.

Thus, in criticizing AEC policies, the dissident scientists and engineers at Oak Ridge and Aerojet place themselves in the difficult position of biting the only hand that feeds them—namely, the RDT, and more precisely, the division's controversial director, Milton Shaw.

A former aide to Vice Admiral Hyman G. Rickover, Shaw supervised the design and development of the nuclear propulsion plants aboard the aircraft carrier *Enterprise* and the cruiser *Long Beach* before taking up his present job in December 1964. Over the years—and in spite of criticism from the laboratories—he has acquired a reputation in Washington as a strong and competent administrator. A man of engaging bluntness, Shaw readily concedes that dissension exists in his safety program, though he says the reasons are not entirely clear to him.

"Unquestionably, people are unhappy, and morale at Idaho is poor," he said in a recent interview, "but sometimes it's hard to know why." Shaw suggested that some of the enmity may be a natural backlash to several traumatic but necessary management shakeups at Idaho over the past few years. He also spoke of an "unwillingness" in the laboratories to adapt to changes imposed by an advancing technology. Beyond this, he said, the closeness of researchers to their work may make the possibility of nuclear accidents "seem more real than it is" and thus may inflate the urgency of safety research in their eyes. There are, moreover, strong feelings among Shaw's staff that the laboratories simply are "hungry for contracts" and are willing to exaggerate safety problems to get them—an accusation the researchers angrily deny.

What, specifically, are the laboratories' grievances? During interviews, research administrators at Oak Ridge and Idaho expressed a variety of allegations, which will be examined in more detail later. Among these were charges that:

Between 1968 and 1971 the RDT bootlegged money from water reactor safety to accelerate the breeder, and in the process killed or cut back a number of key research projects that had just begun to raise questions about nuclear plants coming up for licensing.

Shaw had shown considerable indifference toward urgent needs of the regulatory branch for technical help during this period, and for several years forbade direct contact between safety researchers and the AEC's regulatory staff.

Shaw allowed reactor manufacturers to pass judgment on new research proposals from the laboratory, and tended to skirt questions the industry insisted it had solved, even though safety researchers disagreed. Some of those interviewed said they considered this an effort to curry the industry's financial support for the breeder.

Shaw had used contractors at Idaho as a scapegoat for long construction delays on major test facilities for which he himself was largely responsible.

Besides all this, there is a profound dissatisfaction with Shaw's tight control over RDT programs in the laboratories. His style of administration is often described in the laboratories as "vindictive" and "autocratic" and one that is not above "forcing out" competent research managers who persist in their dissent from official thinking. An Oak Ridge administrator in the middle of the feud with Washington summarizes this view:

It's no secret that there has been a trend away from science and toward more engineering work in the laboratories for a good number of years, and this is understandable, given the state of the technology. I don't regard it with disfavor, although we would like to do more science. . . . My big complaint about Shaw's setup is that too often it runs on the assumption that the chief is always right, rather than in a manner consistent with the public welfare where open debate takes place. In my view, the wrong people are in charge of water-reactor safety.

In talking about their grievances, critics both at Oak Ridge and Idaho uniformly insisted on anonymity. They contended that use of their names in connection with criticism of AEC policies or officials would, in all probability, cost them their jobs. As evidence, several named colleagues who had once held high-level positions in the safety program and had been shuffled to "nothing jobs," they said, after clashing with Shaw. "His is a vindictive administration," said one man who supervises a large-scale project at Oak Ridge, "and people are frightened."

At the Idaho facility the level of anxiety seemed even higher, and not without reason. In an interview, Charles Leeper, a physicist who became president of Aerojet Nuclear last year, emphasized that it was essential that the company maintain good relations with its "customer"—in this case, the RDT and its director. "I'm accustomed to dealing with the Air Force," Leeper said, "and I've watched program managers go down the chute right and left because they had trouble with the customer."

Prior to this reporter's arrival at Idaho Falls, where the NRTS maintains its administrative offices, Leeper said he reminded his senior staff of a standing rule that only he would express the company viewpoint. Others, he said, were free to voice personal or professional opinions, but only under this proviso: that if any employee's comments "sour his relationship with the customer, we cannot guarantee that after some time has elapsed that he will still be in his same position. We would, however, make every effort to find him a suitable opening in this organization, or elsewhere in Aerojet, or allow him to look beyond the company."

For some Aerojet staff, discretion thus ruled out talking in company offices. They did, however, consent to make arrangements for evening meetings at a designated spot on a back street in Idaho Falls, followed by a drive to private homes some miles away.

That men nationally recognized in their profession should feel impelled to such maneuvers suggests how far relations between the commission and the Idaho installation have deteriorated. For a fair perspective on the long trail of events that led to this situation it is worthwhile to trace the early history of the NRTS, its mission and self-image, and the ways in which both were sharply transmuted in the mid-1960's.

The Idaho facility had a fitful beginning in the late 1940's as the newly formed Atomic Energy Commission began roughing out its ambitious peacetime plans for military and civilian reactors. The commission had chosen the freshly organized Argonne National Laboratory near Chicago to lead its reactor R & D programs, and it came close to going a step further and picking Argonne as the place to build a series of large experimental reactors—among them the first breeder, the first prototype propulsion plant for nuclear submarines, and the AEC's powerful Materials Testing Reactor.

The AEC changed its mind on this point largely at the behest of physicist Edward Teller, who argued that the "calculated risks" taken by the Manhattan Project during the stress of war could no longer be justified, least of all in the suburbs of what was then the nation's second most populous urban area. Adherents of the Argonne site—among them Enrico Fermi, Robert Oppenheimer, and Glenn Seaborg—complained that Teller and the safety advisory group he headed for the AEC had exaggerated the dangers of a nuclear accident, but Teller prevailed. In 1947, the commission began a search across the West for a place to establish a remote proving ground.

The site that the commission finally selected, an old Navy gunnery range 30 miles west of Idaho Falls, could scarcely have been more

remote. Even today, as in the 1940's, the overwhelming impression a visitor receives of the NRTS is one of vast emptiness. Nearly the size of Rhode Island, the site sprawls across 893 square miles of sand and sagebrush and the black, contorted lava flows of the Snake River plain. Snowy peaks of three mountain ranges—the Bitterroot, Lemhi, and Lost River mountains—embrace the site on its western boundary. To the east, more than 100 miles across the flat desert (and well beyond the site's perimeter) three sharp spires of the Tetons are visible on the clearest days. Within the proving ground, clusters of reactors and laboratories are scattered miles apart.

BOOM TIMES IN THE 1950'S

During the 1950's the testing station grew rapidly—in fact, well beyond the commission's initial expectations—as Congress, at the urging of the Joint Committee on Atomic Energy, pumped more than $2 billion into military reactors and the AEC's burgeoning efforts to promote civilian power reactors. In 1949 the AEC thought it eventually might build as many as 10 reactors in Idaho; by the mid-1960's 40 dotted the landscape and 9 more were completed or under construction by last year. The total investment in hardware at the NRTS has since passed $500 million and the work force, though down from a peak of 5500, remains nearly 4000.

Despite its great cost and historic importance to nuclear technology though, the NRTS somehow always remained the ugly duckling in the commission's collection of research establishments, never quite achieving recognition as a full-fledged national laboratory. For one thing, institutional arrangements lent an overall incoherence to the installation that made it seem to outsiders as more of a melange of independent activities than a unified laboratory. It was thought of mainly as the place where separate groups—the Navy, Argonne, Westinghouse, General Electric, and others—went to build experimental reactors in secure isolation not only from the public, but, as things worked out, from each other as well. Above all Charles Leeper says, NRTS is still chiefly a proving ground. "One problem," he says, "is that some people would like it to be a national laboratory but it is not."

Even so, a collective sense of identity as an important and distinctive research institution did manage to take root over the years. It fluorished, interestingly enough, within the nuclear division of the Phillips Petroleum Company, which the AEC hired in 1950 as the site's operating contractor. During the next 15 years, the Phillips contingent provided a full range of "housekeeping" services for the site and it operated (and helped to design) a dozen test reactors for the commission. Along the way, Phillips acquired several hundred scientists and engineers, many of them reactor physicists and materials scientists who made important contributions to the scientific base for adavnced designs of reactors

Within Phillips the first semblance of a coherent safety research program appeared in the 1950's. It grew quickly, in step with the general pace of reactor R & D. As the program expanded it acquired a certain cohesiveness and esprit, nurtured partly by the exotic nature of its work—the abnormal behavior of nuclear plants—and partly by a large measure of freedom the commission granted it in choosing which problem demanded first and closest attention.

Reminiscing about happier times, one manager at Idaho described the mission of the safety program and its liberal relationship with the AEC this way:

"The commission put us out here 15 years ago to learn about abnormal reactor behavior and to think about what would happen if one of these machines went out of control. . . . You have to understand that an operating, pressurized water reactor contains an immense amount of stored energy—the equivalent of 50,000 pounds of TNT in the mechanical energy of the circulating hot water alone, and 50 to 100 times that in thermal energy. The whole problem comes down to containing *this* energy to squeeze a little more out of the nuclear fuel, and to *controlling* this energy in the event of an accident.

"This is such an extremely complicated area that, historically, Washington was content to let us tell them what their designs didn't cover, and to make research proposals. In effect, they let us tell them what we should be doing in reactor safety."

This prolonged honeymoon began a swift decline in 1965, shortly after Shaw took command of civilian reactor programs. By last year, the relationship had fully reversed itself: Now the NRTS, and the safety program in particular, function on a short, tight leash from Washington. Research proposals are subjected to painstaking scrutiny by teams of engineers under Shaw; money available and the tasks assigned to Idaho vary from month to month under strict control from headquarters.

"Isn't this reasonable?" Leeper says rhetorically. "The highly creative days and the permissive times are behind us, and the demands now are for a hard bitten reduction to economical practices."

The researchers themselves agree that times are hard all right, but not quite in the same sense. During one conversation three senior scientists and engineers complained that the budget now fluctuates wildly, that Washington often assigns new tasks without allocating more money, and that the emphasis in research programs continually varies—all with little explanation from Washington. Said one project manager:

"The budget has become a year-long confusion, a continuing battle. It gets rewritten four or five times a year; the year before last it was reprogrammed no less than 12 times. We are constantly having to accelerate some projects, decelerate others, and shift people from one thing to another. All of this gives the safety program a great instability and generally slows our progress."

Another critic at Idaho added this commentary:

"It has been impressed upon us that we are a captive contractor, and this is one of our main complaints. It means that we're not allowed to pick up contracts from elsewhere—from the AEC or the industry—in times of slack budgets. We're forever having to hire professional people, lay them off, hire them back. . . . Under manpower ceilings set in Washington, we sometimes have more money to spend than people to spend it on. After awhile, guys get tired of being shuffled from one job to another, or of pumping gas and selling real estate in town, waiting to be rehired, and they leave. It's pretty hard to keep research teams together under these conditions. . . "

Shaw says that when he took over in 1964, reactor R & D programs in all the national laboratories were in a "deplorable" state. Research on watercooled reactors, he says, was poorly coordinated among the laboratories, frequently redundant, and heavily entwined with basic research ventures to an extent that it was no longer appropriate for a technology presumably on the brink of commercial status.

As he saw it, there were two main tasks at hand: To wean the industry from government support of water reactors, and to marshal his forces for a concerted thrust on the commission's prime objective—an economical breeder. By all accounts, he took on both these tasks with immense energy and with a lesson learned from Admiral Rickover—namely, that a tough, centralized management stressing a "disciplined engineering approach" both to research and to construction of new reactors may not win friends, but it gets results.

The results so far are mixed, but certainly few friends have been won. Within months after taking office in December 1964, Shaw began a series of drastic reorganizations at Idaho that finally brought the demise of the Phillips organization last year, the rise of Aerojet in its place, and a continuing series of purges of old Phillips people from the new Aerojet structure.

Simultaneously, amid this turmoil, Shaw began imposing a rigorous and unfamiliar regimen of quality control standards and procedures on research projects in all the AEC's laboratories, Idaho included. It was all part of the new era of engineering discipline, and it was necessary, Shaw says, in order to rectify slipshod practices in the conduct of research. But to workers in the laboratories, the new regulations and the paperwork that came with them placed a staggering and, they felt, inappropriate and unnecessary burden on their work with little benefit in return.

"Engineering is the name of the game," says Shaw, an engineer.

"When he came in, science died," says a physicist at Idaho.

Thus, by 1967, the present conflicts had been kindled, and the forces were set in motion that would bring safety research of the highest priority to a virtual standstill.—Robert Gillette.

[From Science magazine, Sept. 8, 1972]

NUCLEAR SAFETY (II): THE YEARS OF DELAY

(By Robert Gillette)

Although it could hardly have foreseen so at the time, the Atomic Energy Commission embarked in 1963 on a construction project that was to become one of the longest-running, most trouble-ridden ventures of its kind in the commission's 25-year history. That was the year the AEC set out to build a modest little nuclear reactor called LOFT at the National Reactor Testing Station in the Idaho desert. The reactor's name was an acronym from "Loss of Fluid Test," and it aptly indicated the $18 million facility's unusual mission.

According to plans at the time, LOFT would be completed in 1966. It would then be studded with instruments and sealed inside a massive concrete and steel "containment" dome at the desert proving ground. After a series of small-scale experiments, technicians would run the reactor up to its full power of 50 megawatts and abruptly drain it of its cooling water.

Inside the dome, LOFT would partially melt. But in destroying itself it would give safety researchers their first look at a reactor in the throes of what the AEC had formally declared to be the "maximum credible accident" that a nuclear power plant could reasonably be expected to suffer—a major loss of cooling water through a ruptured pipe.

The LOFT project was, therefore, of central importance to the commission's safety research program. In making this point, in its annual requests to Congress for money, the AEC was not stingy with superlatives. LOFT was the "largest and most vital" test facility in the safety program. It was the "focal point which provides a fundamental sense of direction to water reactor safety investigations." Among other things, LOFT would demonstrate a "live accident [that] makes investigators face reality."

Later on, the AEC promised that LOFT could make "extensive contributions" toward erasing nagging doubts about the adequacy of backup cooling systems in nuclear power plants—a subject the commission considered to be "perhaps the most urgent problem in water reactor safety," even before it became a public issue.

For all its stellar importance though, the only reality LOFT has yet made anyone face is that putting together an experimental reactor—even a small one—can be a very trying experience. Nine years later, the AEC is still struggling to finish building the LOFT

facility, let alone run it. At last report construction was 80 percent completed, but work is now more than 6 years behind schedule. LOFT's crucial experiments have been expanded in scope but postponed until 1974 or 1975; by then, as many as 80 nuclear power plants that might have made use of the results in their design will already be running. What's more, now that construction costs have ballooned to $35 million, AEC officials in charge of the project have just about given up the idea of letting such an expensive piece of equipment seriously damage itself, much less melt. So in all probability the consummate experiment originally planned will not take place.

Nor is LOFT the only major safety test facility to have sustained long delays and soaring costs. A second reactor at the Idaho installation—the Power Burst Facility (PBF)—was completed last summer, 4 years late and $8 million or 100 percent over the original cost estimate. The PBF was designed to subject nuclear fuel assemblies to abnormally stressful conditions, in order to better understand the behavior of fuel rods before and during an accident. The commission has designated fuel-failure research as being of highest priority; thus between the two test reactors, some of the most urgent safety research planned by the AEC has been postponed.

What happened to LOFT and PBF? Interviews with AEC officials in Washington, and with scientists and engineers at the NRTS in Idaho, turn up a tangle of conflicting charges and countercharges that reflect strong disharmonies that have grown up between the two sides in recent years. An article last week outlined the nature of these problems and some of their history. This week's article attempts to unravel the reasons for delays in important safety research projects that appear to be both cause and victim of this enmity.

The basic causes of delay and overrun are clear enough in themselves; the controversy arises over whom, if anyone, to blame. For both reactors, the first major delays occurred just at the point when detailed designs had been completed and construction was about to begin. In the case of the PBF, the fuel-testing facility, AEC headquarters sent down an order in April 1965 to revise the blueprints and build a more "versatile" reactor, capable of running in a steady state as well as of producing bursts of power. It was a major design change, and one that the Government Accounting Office (GAO), the investigatory arm of Congress estimates cost $1.3 million and 10 months in progress. The GAO, in a brief report on LOFT and PBF last year, did not comment on the merits of this decision.

As for LOFT, by far the more troubled of the two projects, the AEC decided in May 1967 to radically alter the reactor's main purpose from one of proof-testing a containment shell of the type that surrounds nuclear power plants to one of testing out emergency core cooling systems. In this case, the GAO report made no comment on the merits or the consequences of this decision, although a reasonable guess might attribute half the delay and overrun to it.

More controversial is the matter of "quality assurance." Both sides agree that Washington made a vigorous effort, beginning about 1966, to apply strict new quality standards to the construction of the two reactor plants, and it is evident to all concerned that both projects became bogged down in the process. But whose fault was it?

Milton Shaw, the AEC's director of reactor development and technology (RDT), and the central figure in this dispute, is explicit: The responsibility, he has made amply clear in interviews and in testimony before the congressional Joint Committee on Atomic Energy, belongs to the Phillips Petroleum Company, whose nuclear division was hired by the AEC in 1950 to run the NRTS and to manage the Idaho site's safety research programs. At Shaw's behest, the AEC severed its remaining ties with Phillips last summer and turned over full responsibility for safety programs to the new operating contractor at NRTS, the Aerojet Nuclear Corporation.

Shaw describes the years trying to complete the two projects—particularly LOFT—as one of the most frustrating experiences of his life. In the first place, he says, their objectives were "narrowly conceived" by Phillips. And second, for some reason, the company had endless problems getting pumps, valves, and other parts of "acceptable quality."

"For one reason or another," he told the Joint Committee in March 1970, "we were unable to get from Phillips the management talent necessary to get the LOFT and PBF projects done."

At Idaho, however, scientists and engineers in the safety program—some of them formerly employed by Phillips—tell a different story, the essence of which is that the AEC used Phillips as a scapegoat for much of its own ineptitude. To the extent that their story can be independently verified, there is evidence that Shaw shifted a significant portion of the blame for delays and overruns from the AEC to Phillips.

In interviews, the Idaho researchers conceded that the Phillips contingent at the NRTS did have some trouble hiring talented engineers and managers, partly because the site was so isolated.

At the same time, however, Shaw's explanations of the problems at Idaho appear to have omitted the fact that for virtually all the 15 years that Phillips ran the safety program it did not have full legal authority to administer design and construction contracts to the firms that actually built the dozens of test reactors at Idaho. Instead, that responsibility belonged to the AEC's own outpost at the proving ground, the Idaho Operations Office.

One senior engineer formerly with the PBF project explained the limits of Phillips authority this way:

"Our responsibility was limited to early, conceptual designs for projects like LOFT and PBF. The AEC operations office let the contracts to architect-engineers—the design firms—and to construction companies. Once detailed design began we merely had authority to review and comment on a project's safety and whether it was meeting its objective. These observations were passed on to the AEC."

As problems developed with LOFT and PBF, former Phillips officials at Idaho are said to have made a strong plea to Shaw in 1968 for full authority over the two floundering projects. The authority was granted in early 1969. Within 3 months, as problems continued and the Joint Committee wanted to know why, Shaw stripped Phillips of its management authority over the safety program on the grounds of its inability to hire sufficiently qualified staff. "The name of the game," said one man now employed by Aerojet, "is cover your number."

The GAO report on the two projects, issued in August 1971, confirmed but did not comment on, this train of events. Several researchers at Idaho, including two who had reviewed a draft version of the report, said that the final, public version omitted serious criticisms of the AEC's management of the LOFT and PBF projects. One of those who had read the draft said that, They attributed these deletions to pressure exerted by the commission, which customarily reviews GAO reports of AEC affairs before they are made public.

In an interview, Shaw was asked whether he thought it was fair to blame Phillips for delays in construction when they lacked full authority over contracts. "If they didn't have it, who did?" he said. The AEC, it was suggested. "Well, let's be fair. *Neither* Phillips nor the AEC out there had the necessary competence."

Perhaps the bitterest conflict of all at Idaho developed around Washington's efforts to institute stringent new quality standards in the construction of reactors—not only for commercial nuclear power plants, but for AEC's own test reactors as well. These two parallel efforts—one internal, one aimed at the industry—commingled to a large extent, and, in the view of a number of safety program staff, with disastrous results. An administrator at Oak Ridge National Laboratory who watched the battle at Idaho from afar says:

"You have to give Shaw credit for pushing the industry to adopt tougher standards. They were urgently needed, and some elements of the industry—and I refer to Westinghouse and General Electric [the two leading reactor manufacturers]—fought it all the way. The question is whether these or similar standards are appropriate for research facilities. We think they are not."

The critics in Idaho charge that in late 1966 Shaw co-opted the LOFT project for use as a "showcase" for standards, to prove to a reluctant industry that they really were feasible. The problem, says an engineer involved in the affair, was that some of the standards, in their initial form, turned out not to be feasible:

"The whole philosophy became one of using LOFT to develop standards and check them out, rather than producing the safety information we desperately needed. And some of them were a bit extreme, requiring that metals be traceable back to the mine. . . . The overall effect was to drive up costs of some components by a factor of 3 to 5 and to stretch out timetables by two and a half."

Months were consumed by haggling among Phillips, the AEC in Idaho, and teams of engineers under Shaw in Washington over the acceptability of particular pieces of plumbing. Voluminous documentation was required to verify that standards were being met and that tests and inspections were being carried out according to the new rules. (Meanwhile the Power Burst Facility was having problems of its own. No one tried to use it as a showcase, but the new standards meant redesigning many parts. To speed things along, project engineers tried to meet the "intent" of new standards for pipes, pumps, valves, and other parts while liberally construing the "letter" of the standards. For their trouble, some were fired. "It was a hard learning experience," one man recalls, and one the GAO says accounted for most of the slippage in schedule.)

Amid all the bickering, construction on LOFT came to an almost complete halt between May 1968 and October 1970. One problem, it developed, was that no manufacturer in the country would bid on such essential items as coolant pumps and valves and control-rod mechanisms that Washington wanted made according to its new standards. This impasse was finally resolved by "cannibalizing" these parts from a number of old reactors, including one aboard the scrapyard-bound N.S. *Savannah*, the nation's first and only nuclear freighter. "So here we sit," says an engineer at Idaho, "building it out of scrap."

Roy Swanson, the AEC's project manager for LOFT at Idaho, confirms that such parts are being used in the reactor, but he says it's unfair to characterize them as "scrap," even if they are 10 or 12 years old and don't fully measure up to the new standards. He said that the pumps and valves are now being refurbished in shops at NRTS and they'll soon be good as new.

Did the use of LOFT to develop new standards cause major delays in the project? Swanson said:

"Sure, it caused some delay, but the standards weren't *that* far out. They were based on experience in the Navy and elsewhere. And there were other problems, like building

a 200-ton door for the containment (shell) so we could move the reactor in and out on a railroad car. . . ."

Was LOFT used to show industry that the new standards would work? Did this ploy work?

"Yes, this did happen. You'd take a company by the hand and show them step by step how they could meet a standard, and you're starting to see companies advertise in trade journals that they meet RDT-Shaw standards. . . . It's true that some were a little too tough, and we couldn't get bidders on pumps and valves at first, but you go in and negotiate these things. And sometimes you have to compromise a little."

Isn't it understandable, Swanson was asked in a conversation, that safety researchers should be upset at having their project "expropriated" for this purpose? "Sure," he said. "But whenever you get into standards you take a beating on the head."

In Washington, Milton Shaw says that it's "ridiculous" to think that so important a research facility would be used principally as a showcase to sell new standards to the industry, although if it did so "that might have been a worthwhile spinoff."

Shaw says it was all part of a strenuous effort on his part to introduce a "disciplined engineering approach" to the conduct of reactor R & D by the AEC's national laboratories. For the laboratories management, this entailed occasionally drastic reorganizations aimed at tying research more closely to specific goals—such as developing an economical breeder reactor—and it also meant establishing firm, clear lines of authority, modeled after the aerospace industry, leading back to Shaw's own teams of engineers in Washington. Moreover, laboratories were instructed to seek out and employ new program administrators who were familiar with the nuclear industry and sympathetic to the need for rigorous quality control in research.

This was necessary, Shaw says, to improve the reliability of expensive and potentially dangerous experimental facilities. "We were losing data because of breakdowns and defective equipment, and because some things were not being calibrated well enough to permit an experiment to be repeated."

The campaign for quality assurance at Idaho was prompted in part, he said, by the discovery in 1965 of "bum welds" in the Advanced Test Reactor while it was under construction. Repairs required virtually rebuilding the reactor, he said.

In the case of LOFT, Shaw conceded that he has had a hard time convincing experimenters at Idaho that their reactor should be built to higher standards than those applied to commercial nuclear power plants. This disparity is justified, he argues, because LOFT is meant to provide empirical verification of safety system designs, and it is not meant merely to "proof-test" a typical reactor. And he wants to prevent any mishaps, such as a ruptured pipe, that might accidentally damage the reactor. "We don't want the technology damned because of flaws in the equipment."

In important ways, during the past 8 years, Shaw has industrialized those segments of the national laboratories that come under his aegeis as director of civilian reactor R & D. Major portions of the laboratories, he reported to the congressional Joint Committee this year, have been "converted from a research orientation to one stressing disciplined engineering application, proof-testing, and quality assurance, as well as soundly developed applied technology."

The laboratories have not taken kindly to this discipline, which they are inclined to view as excessive. (One of the first and sharpest protests came in 1967 from Albert V. Crewe, then director of Argonne National Laboratory, who remarked in a speech that Argonne's purpose was "not to build submarines but to produce knowledge.")

At Idaho, a senior physicist associated with the LOFT project made his complaint:

"Around 1968 money for basic physics, such as nuclear cross-section work, just dried up. The philosophy was that if something didn't solve a problem—particularly for the breeder—it wasn't going to be picked up in the budget. . . . We can't even do *applied* research now in some cases. Money budgeted for development work on instruments for LOFT essentially stopped in 1968. We'd like to make some improvements in them to extend the data we get from this reactor. But we're forced to use instruments already 'on the shelf.'"

At Idaho and within the safety program at Oak Ridge National Laboratory equally strong feelings prevail that the new quality standards have driven up the cost of doing research without producing any visible improvement in the quality of the research itself.

Certainly test reactors at Idaho grew more expensive. At Oak Ridge, where a much smaller safety research program revolves to a lesser extent around great test facilities, estimates are that RDT standards have driven up the purchase cost of materials by 8 to 10 percent and doubled the cost of some equipment.

These added expenses—combined with the general inflation in the cost of doing research during the 1960's and on into the 70's—dealt a harsh blow to reactor safety research. As costs rose, the program's overall budget grew slowly in some years and remained static in others. At the same time, the Atomic Energy Commission, partly in response to prodding from the Joint Committee on Atomic Energy, found itself accelerating the breeder program, and dipping into money allocated to water reactor safety to do it. Something had to give, and what gave was research intended to resolve questions of the utmost urgency pertaining to dozens of commercial nuclear power plants then on the drawing boards and under construction.

[From Science magazine, Sept. 15, 1972]

NUCLEAR SAFETY (III): CRITICS CHARGE CONFLICTS OF INTEREST

(By Robert Gillette)

One February day in 1971, the Oak Ridge National Laboratory (ORNL) in Tennessee received a bit of bad news from Atomic Energy Commission headquarters in Washington that still evokes feelings of anger and resentment among the laboratory staff. With only a brief explanation, Oak Ridge administrators were told that a project they considered to be the laboratory's single most important piece of nuclear safety research—a study of how reactor fuel rods might behave during a major loss-of-cooling accident—was going to be canceled, even though it was nowhere near completion.

Oak Ridge had already absorbed significant cuts in its $5 million safety research budget, and the laboratory had suffered them in relative silence. But this was too much to bear: The project had run only 2 of a scheduled 4 years; it pertained to a problem that the AEC itself had said demanded urgent attention; the study was the only one of its kind then under way: it pursued issues of great interest to the AEC's regulatory staff, which depended on the safety program for technical support; and above all, in the opinion of Oak Ridge researchers, the fuel-rod study had begun to raise some troubling questions about the margins of safety in nuclear power plants then under construction.

"We are astounded at your decision to discontinue this experimental work," William B. Cottrell, ORNL's director of nuclear safety, protested in a memorandum to his counterpart at AEC headquarters, Andrew J. Pressesky, the assistant director for nuclear safety.

"This matter is of such grave concern to so many persons," Cottrell wrote on 4 March and again on 30 April, "that I expect ORNL management to raise questions with others in AEC. . . . No one really knows what will happen in a reactor core in the event of a loss-of-coolant accident [and] the AEC in general—but Regulatory in particular—needs an in-house program to assess this very complex matter."

The safety director's pleas were fruitless, however, and the project was killed. The official explanation had to do with a general shortage of funds for safety research, but one Oak Ridge administrator, who insists on anonymity, says that Pressesky offered a remarkably different explanation in private. "You won't find this in writing," the administrator said, "but the reason he gave for canceling the study was that it raised more questions than it solved."

Safety researchers took that to mean their findings were rubbing the reactor "vendors" or manufacturers the wrong way, but Pressesky denies this inference. In a recent interview he asked whether his quoted remarks were written or oral. Informed they were oral, he said, "What I probably meant was that I had misgivings about how well these experiments represented real nuclear fuel."

Whatever the truth of the matter, the incident served to reinforce a growing conviction among safety researchers, both at Oak Ridge and at the National Reactor Testing Station in Idaho, that authorities in Washington were shaping the safety program more to fit the desires of the nuclear industry than to accommodate the needs of the AEC's own regulatory and licensing staff. In its haste to get on with developing the breeder, Washington seemed to researchers in the field to be methodically sidestepping grave uncertainties that still surrounded ordinary, water-cooled nuclear power plants. Why it should do so was something of a mystery, but two possible motives suggested themselves to worried researchers at Oak Ridge and Idaho. Either officials in Washington attached far less urgency to water-reactor safety than they professed to, or they were deliberately attempting to "keep a low profile" on embarrassing safety questions that threatened to jeopardize the industry's financial support of the breeder program. "I am convinced," says one research manager at Idaho who subscribes to the latter view, "that RDT [AEC's Division of Reactor Development and Technology] is simply in bed with the vendors. Everyone wants his merit badge for the breeder."

The AEC's congressional testimony over the past few years leaves no question that large segments of the water-reactor safety program are lagging far behind schedule. What remains open to debate is whether these delays were as deliberate as they might appear. An article last week traced some major delays and shortages of funds to cost overruns and other administrative problems in building two major research reactors at the Idaho installation. This current article takes up the critics' contention that, fundamentally, the safety program's difficulties derive from serious conflicts of interest within RDT, of which the safety program is part.

Allegations of an inborn conflict of interest—on the ground that it both promotes and regulates the nuclear industry—are old hat to AEC. It has long since learned to shrug off such accusations with the argument that there was no reason why the same agency could not carry out both functions independently and with equanimity, so long as the proper checks and balances of internal power prevailed.

With this in mind, the AEC reorganized itself in 1961 in an effort to separate regulatory functions from the agency's "development" programs. These functions—including all the administrative machinery for licensing nuclear power plants—were joined together to form a distinct regulatory arm,

whose director answered to the five commissioners. Glenn Seaborg, the former AEC chairman, has written that this organization "evolved for one simple reason: so that the right hand would know what the left hand was doing, yet be independent of it."

Looking back though, it appears that things never quite worked out that way. The regulatory staff never achieved full independence. Moreover, right from the beginning and all through the years, communication and coordination between the two sides was notoriously poor—in part because the commission simply neglected to establish clear and reliable lines of administrative contact between the two "hands" of its staff. Indeed, in April 1967, more than 5 years after a distinct regulatory staff came into being, Congress' usually friendly and paternal Joint Committee on Atomic Energy found itself imploring the commission to improve its internal communications:

"It appears to the committee that not all the necessary steps have been taken in the past to coordinate the work of these two organizations. The supposed ease of exchanging information and views between the operating and development staff, on the one hand, and the regulatory staff, on the other, is one of the chief arguments made against a complete separation of the AEC's regulatory functions from its other activities. It is most important that this exchange take place in fact as well as in theory, and that one of the results be a meaningful nuclear safety research effort."

The 1961 reshuffle had left both sides—the regulatory and development units—in a difficult situation, pregnant with conflicts of interest. For one thing, the safety research program had remained behind in the AEC's main development arm, the RDT. While this probably made eminent sense at a time when nuclear power plants were still under development and far from a commercial reality, times changed. Five years later, the regulatory staff would depend heavily on the safety program for help in assessing the safety of dozens of power plants coming up for licensing. Thus, in the middle 1960's, the RDT found itself in the position of conducting a research program that was actively engaged in raising pointed questions about the very reactors the RDT had worked so hard to develop. Moreover, the division could scarcely have hoped to avoid accusations of mutual backscratching with the industry when, precisely at the time the AEC began cutting back its reactor safety budget, it began spending lavishly on the breeder program and encouraged utilities and reactor vendors to do the same.

To make matters worse, the regulatory staff remained almost totally dependent on the charity of the RDT to pay for research on any broad, pressing question that new designs of nuclear power plants might raise. Whereas "Reg" could let small, special purpose consulting contracts to universities or private firms, the commission gave it no money for a coherent research program of its own. Nor has the regulatory arm ever had the option of paying money directly to the RDT for work it wanted done. Instead, the most it could do was submit a formal "request for information" and hope Shaw and his division could see their way clear to spend the time and money required. There is abundant evidence to suggest that, more often than not, the time and money was not available and the questions went unanswered.

The inherent drawbacks of these arrangements might have remained mostly academic, had two unforeseen problems not developed in the middle 1960's.

First, around 1966, the regulatory staff encountered what appeared to be major gaps in the information generated by the safety research program. Utilities had begun ordering nuclear plants of unprecedented size—with capacities of 1000 megawatts electrical, more than ten times the size of any pressurized water reactors then in operation—but the technical reports of the safety program dealt mostly with much smaller reactors. New information and new experimental data were needed to assess the safety of the mammoth plants that the utilities wanted, and the safety program would have to produce it as expeditiously as possible in order to make any contribution at all to the licensing process.

Then the second problem popped up. Just as the regulatory staff requested this new research, the budget for water reactor safety research hit a plateau and then, incredibly, declined.

What apparently triggered the regulatory staff's hunger for information was an application from Consolidated Edison of New York for a permit to build an 873-megawatt nuclear plant named Indian Point 2. The design of the plant proposed a dramatically high power level that in turn implied a new reliance on such safety features as the emergency core-cooling system to protect the reactor, as well as the nearby public, from an accidental loss of cooling water and a potentially disastrous melting of the core.

The AEC issued Con Edison its permit on 14 October 1966, but evidently did so with some misgivings. Two days earlier, the AEC's semiautonomous Advisory Committee on Reactor Safeguards (ACRS) issued a statement stressing an urgent need for new research to ensure the reliability of the hitherto untested backup cooling systems. Two weeks later, on 27 October, then director of regulation Harold L. Price took the unusual step of appointing a "task force" of 12 prominent scientists and engineers to review the information available on loss-of-cooling accidents, and the backup systems that were intended to lessen the consequences of such accidents. One year later, the task force, headed by the late William K. Ergen of ORNL, issued its findings in a 221-page report that pointed to a host of technical uncertainties. More had to be learned about the mechanisms and circumstances of pipe rupture, the presumed cause of a coolant loss. More had to be known about the behavior of fuel rods and the fission wastes inside the fuel rods during an accident. Improvements, based on experimental work, were needed in existing computer simulations of accidents.

The Ergen report was scarcely one to inspire confidence, and even at that, according to one man who helped write it, the document represented a "serious compromise" between the least sanguine members of the task force and the far more optimistic industrial participants. The AEC did eventually publish the report but went to no great lengths to encourage its circulation. The public version bore no date, price, or address of any place where it might be obtained, nor did it bear the identification numbers customarily assigned to such reports.

If the available correspondence on the subject is any indication, the RDT's response to the demands for new research on loss-of-cooling accidents was phlegmatic at best. To his credit, Milton Shaw in 1967 reoriented a major research reactor then under construction at Idaho to emphasize studies of emergency cooling problems. But the project, called the Loss of Fluid Test facility (LOFT), ran into prodigious cost overruns and delays and began gobbling up money that might have gone into research. More than 2 years after the Ergen group had dropped its bombshell, the ACRS complained to Glenn Seaborg, then chairman of the AEC, that its exhortations for more work on loss-of-coolant accidents and related problems seemed to be falling on deaf ears. In a letter of 12 November 1969, the ACRS told Seaborg:

"The committee has strongly recommended safety research of this kind several times during the last three years; the regulatory staff has also strongly supported such work. However, only small or modest efforts have been initiated thus far.

"In its comments on 20 March 1969, the committee also recommended that '. . . considerable attention be given now to the potential safety questions related to large water reactors likely to be proposed for construction during the next decade. Larger cores, higher power densities, and new materials of fabrication are some of the departures from present practice likely to introduce new safety research needs. . . .' It appears that, because of funding and for other reasons, the recommendations of the ACRS will not be implemented at this time."

It should be noted that this criticism also came 2 years after the Joint Committee on Atomic Energy upbraided the AEC for not fitting the safety program to the regulatory arm's needs.

Those needs, of course, had not been ignored altogether. Even the modest effort cited by the ACRS was producing results, and there results were even less encouraging than the Ergan group's findings. According to one man involved in this research at Idaho:

"The more we worked this problem the more it fell apart in our laps. Everything we did to analyze the physical phenomena, to improve correlations, to better describe what happens during blowdown [the explosive depressurization of a reactor vessel] pushed our predicted temperatures higher toward melting and the margins of fuel safety lower.

The more we got into this the more it became apparent that RDT was very unhappy with all this. The problems we were raising were upsetting their cozy relationship with the vendors and utilities, whose support they needed for the breeder. . . . It also became clear that Shaw and others just didn't believe a serious accident of this kind could happen, and that it was really worth working on. They'd say all the right things in public, but in the small, executive session their enthusiasm would cool off."

Both sides think the probability of a major accident is low, but low means different things to different people. In the spectrum of estimates, officials in Washington lean toward lower estimates—on the order of one chance in a billion—than researchers in the laboratories. "What bothers me most," says a prominent engineer at Oak Ridge, "is that after 20 years we are still making purely subjective judgments on what is important and what is not in reactor safety. Purely by decree, some things, like the rupture of a reactor pressure vessel, are ruled impossible. To decide these things without some objective measure of probabilities is, to me, almost criminal."

It is difficult for an outside observer to judge the extent to which estimates of accident probabilities have cooled or fired enthusiasm. Shaw and Pressesky acknowledge that differences of opinion exist, but they say the debate is irrelevant. "Our job is to work out these problems," Pressesky says, "and that's what we're trying to do. For our purposes, the probability of an accident is one." Shaw adds that he thinks serious reactor accidents will inevitably occur—but that safety systems will protect public life and property.

And yet, all this time, strange things were happening to the safety budget. As always, Congress authorized money for both breeder reactor and water-cooled reactor safety in one lump sum each year, and between 1969 and 1972 this sum oscillated gently between $34 million and $37 million. Within that essentially constant budget, though, money allocated to breeder studies during the 4-year period rose from $4 million in 1969 to more than $11 million in 1972.

The source of this added money was clear, and so were the effects of its transferral. Over the vigorous protests of the Advisory Committee on Reactor Safeguards and the regu-

latory arm, water reactor safety research was being sacrified for the benefit of the breeder.

Who is responsible for this sacrifice is far less clear. One analysis suggests that not all the blame is Shaw's, although he has tended to serve as something of a lightning rod for the rancor of short-changed researchers. In his annual appearances before the Joint Committee's budget hearings, Shaw has forthrightly pointed out that pumping new money into the breeder has brought about cutbacks in "vital and important" studies pertaining to water-cooled reactors. Moreover, the records of the hearings show that he consistently asked for 10 to 20 percent more money for nuclear safety than he ultimately received. Just as consistently, the AEC's own budget-makers and the White House budget office markedly reduced the amount Shaw was allowed to request from Congress. It is difficult to imagine that these cuts were not approved, at least in part, by the five commissioners. And the Joint Committee, in its eagerness to press on with the breeder, has shown no public signs of anxiety over water reactor safety either.*

Nevertheless, the ups and downs of the safety budget, and the emphasis on the breeder, aroused strong suspicions among safety researchers that the RDT had been a bit too intimate with the industry. The suspicions have been further piqued by the RDT's efforts to escape its financial problems by divesting itself of major safety research tasks and inducing the nuclear industry—especially the utilites—to pay for the work instead. In Washington, it is argued that the industry really ought to shoulder a larger part of the burden for safety research, now that nuclear energy is a commercial reality. "They have to stand on their own two feet," Shaw says of the utilities and vendors.

But a number of the critics at Oak Ridge and Idaho fear that, if the commission is too successful in this endeavor (which to date it has not been), the AEC may cripple its own ability to judge the quality of industry-sponsored work. To Washington, this bears a taint of special pleading, but the critics respond that the entire effort raises still more questions of conflicting interests. As one senior administrator puts it, "This is like asking the agricultural chemical industry to tell us how safe pesticides are."

These feelings are coupled closely with the researcher's irritation at RDT's practice of letting reactor manufacturers review their proposals for new research, before RDT passes judgment on the proposals. In an interview, an administrator at Idaho expressed the complaint this way:

"Shaw will say, 'Have you found a problem? Just send us a proposal.' So we send a proposal. First it's screened by teams of engineers in his office before anyone, including REG, has a chance to comment on it. If it gets past this stage, they send it to the vendors for comment. Not to impartial experts in universities or foundations, but to the *vendors*. And great Scott, the industry is very upset by these proposals. We keep raising questions that they'd just as soon not hear about. They've already convinced REG that it's not a problem at all. . . . In the end, RDT chooses to identify with the needs of the industry, not the regulatory staff."

Officials in Washington have an explanation for this procedure, which is simply that they want to ensure that safety research is related to practical problems of reactor design. Pressesky makes the point that proposals go simultaneously to vendors and the regulatory staff, and sometimes not to vendors at all. Accusations of favoritism toward industry are flatly denied. "I hear things about conflict of interest all the time," Shaw says. "I can't let it bother me. . . . Some of the industry people come down on us just as hard."

How are relations now between the development and regulatory sides of the AEC? In some respects things are looking up. Funds for reactor safety are up to $53 million this year, and about half the increase since 1971 has gone toward water reactors. Perhaps the most charitable judgment of the present situation comes from L. Manning Muntzing, the director of regulation, who told the Joint Committee last March that his staff had a "very close working relationship" with the RDT.

If that is true, it would seem to represent a dramatic transformation. Only a month before, the ACRS again criticized the RDT for failing to head the interests of the regulatory staff. In a letter to the new chairman, James Schlesinger, the ACRS ticked off a list of problems yet unsettled, some still hanging fire from the middle 1960's. Among its demands, the ACRS asked for "special emphasis" on fuel studies of the sort Oak Ridge used to do, and it suggested that, "in the future, the AEC safety research program should reflect more directly in extent and detail the recommendations and needs of the Regulatory staff and the ACRS."

It was a familiar refrain, and one that evidently caught the ear of the General Accounting Office, the investigatory arm of Congress. Although no congressman has asked it to do so, the GAO has initiated its own investigation of the turbulent relations between the safety program and the regulatory staff. The GAO expects to have its report ready sometime next spring.

[From Science magazine, Sept. 22, 1972]

NUCLEAR SAFETY (IV): BARRIERS TO COMMUNICATION

(By Robert Gillette)

Amid all the other difficulties that have plagued the Atomic Energy Commission's safety research program in recent years—the upheavals in its management, the fluctuations in its budget, the long delays in getting major projects done—a number of laboratory workers have come to suspect that the AEC has tried to suppress discussion of reactor safety issues, not only before the public but within the nuclear profession as well. Specifically, the researchers allege that on three occasions the AEC has prevented them from meeting with foreign reactor experts to talk over problems of mutual interest; that the AEC tried last fall to block a professional symposium on reactor safety scheduled by the American Nuclear Safety Society next March; and that for years the AEC's Division of Reactor Development and Technology (RDT) sharply limited the circumstances under which even its top-level safety researchers could speak directly with the AEC's own regulatory authorities on matters pertaining to the licensing of nuclear power plants. Thus, "freedom of speech" joins the bundle of other issues raised by the years of unhappy relations between those who conduct safety research in the laboratories and those in Washington who hold the purse strings and set the course of the laboratories' work.

Allegations that the AEC had tried to limit discussion of safety issues in professional circles were made by several scientists, engineer, and research managers during a series of interviews at the National Reactor Testing Station in Idaho, the AEC installation where most of the nation's reactor safety studies are carried out. In some respects, the charges are reminiscent of those made 2 years ago by John Gofman and Arthur Tamplin, the AEC scientists whose criticism of radiation standards made their names household words, at least in environmentally attuned households.

There are important differences between the two cases, however. For one thing, the mutual name-calling that marked the AEC's dispute with Gofman and Tamplin is absent here; the Idaho researchers seem more inclined to view officials in Washington as being misguided, rather than malicious. It is also worth noting that—with the exception of testimony presented to recent AEC hearings on emergency core cooling—safety researchers have been reticent about voicing their complaints in public, in part to preserve a semblance of working relations with Washington, and in part out of the conviction that public criticism would leave their employer, Aerojet Nuclear Company, little choice but to remove them from their jobs.

Of the researchers' three main complaints, the best documented concerns their relations with foreign experts. A dispute in this matter arose earlier this year, when groups of Japanese and German nuclear researchers and regulatory officials sought permission from the AEC to visit the Idaho installation to talk over mutual concerns about the emergency core-cooling systems of nuclear power plants. Both Japan and Germany were following an internal AEC flap over the adequacy of these backup safety systems, both countries were pressing their own research programs on core-cooling problems, and the Germans, for their part, were mulling a public recommendation from their safety advisory committee to suspend all reactor licensing until the controversy was settled.

The AEC refused to allow either technical delegation to visit Idaho, although both groups did come to the United States. The Japanese spent 2 days in Washington, D.C., in February, and an 11-man West German group, headed by director of reactor safety research Wilhelm Sahl, spent about 3 weeks talking with AEC officials in Washington and touring nuclear power plants and AEC facilities. Klaus Gottstein, the science counselor of the German embassy in Washington, said the delegation's inability to visit Idaho was not disappointing "because we knew about this decision in advance."

Why were the two groups turned away? Gottstein says he was given to understand that a visit to Idaho would be "inconvenient," as researchers there were very busy and couldn't take the time to show visitors around. The Germans were also assured that any information available in Idaho was also available in Washington. Gottstein emphasized that the meetings in Washington "went extremely well" and resulted in an informal agreement to exchange safety information more fully.[1] Nevertheless, several senior re-

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* The Joint Committee may also have cast a skeptical eye on AEC requests for safety money after the agency diverted to other purposes or simply failed to spend $12 million or 8.5 percent of the funds appropriated for nuclear safety from 1965 through 1968. The committee said in 1969 that this was "indicative of persistent over-estimates of budget needs."

[1] There are indications, however, that the Germans came away with somewhat less than they had sought. An internal AEC memorandum, dated 8 May and initialed by the assistant director for nuclear safety, Andrew J. Pressesky, notes that the Germans are mounting a $45 million, 5-year research program on emergency core cooling problems that "should be very useful to the U.S. regulatory people and industry." However, the memo continues, when the German delegation proposed an "early exchange of raw data" and an exchange of research personnel, "the U.S. side discouraged both of these proposals and countered with the suggestion that a fuller exchange of published reports be made." The memo held out the possibility that a U.S. technical team might visit Germany later this year; during the past month, the AEC is said to have turned down a request from another group of German reactor specialists to visit the Idaho installation.

searchers at Idaho said they thought face-to-face talks with both the Germans and Japanese would have been fruitful and would have caused only minimal interruption of their work.

One official in the regulatory branch in Washington disagreed with the contention that the two groups had been barred from Idaho to stifle discussion of safety issues, but he was nonetheless critical of RDT officials for not allowing the visitors in. "The whole philosophy on foreign relations here is wrong," he asserted. "The thinking is that we're ahead, and so any interchange is a one-way street—we give and they take. But in issues like this we can't afford not to talk to others."

AN EMBITTERED SEMINAR

Another incident—this one with an apparently happier ending—raised the hackles of Idaho researchers last October. According to well-placed sources, executives of the Aerojet Nuclear Company at Idaho—acting on instructions from RDT officials in Washington—actively discouraged Aerojet scientists from planning a major national symposium reactor safety to be held at Idaho Falls in 1973. The sources said that the scientists first were told that they could not use company time and telephones to organize the meeting. When they offered to do it all on their own time, the sources said, they were told that would not do either. "Milton Shaw [the director of RDT] just didn't want them to have that meeting, even though there had been no open meetings on safety there in years," one source asserted.

Charles Leeper, the current president of Aerojet Nuclear, indicated in an interview that Washington's objections were part of a general complaint that professional staff in the national laboratories, as well as at Idaho, were spending too much time organizing and attending meetings, with the result that productivity was less than it could be. Leeper, a physicist, commented, "I came from an [industrial] environment where 3 days a year for professional meetings is considered pretty good."

In any case, as the story goes, plans for the symposium were revived after John Landis, then president of the ANS, took the matter up with several AEC commissioners and won a compromise. The meeting will now take place this coming March, but on "neutral ground"—at the University of Utah in Salt Lake City, and with a new cosponsor—the Atomic Industrial Forum, a trade organization.

Perhaps the most serious accusation of the three voiced by safety researchers concerns the rules governing communications between the safety program, in RDT, and the AEC's separate regulatory arm, which depended on the safety program for technical help in licensing nuclear power plants.

Researchers at both Idaho and Oak Ridge National Laboratory say that as long ago as 1966, and as recently as 1971, they were expressly forbidden to speak with members of the regulatory staff about such controversial matters of reactor safety as fuel-failure and seismic research, except in meetings prearranged and closely supervised by RDT officals in Washington. During these formal meetings, the researchers said, RDT officials allowed them to answer specific questions propounded by the regulatory staff, but discouraged them from volunteering their concerns about the safety of specific nuclear power plants. Under no circumstances were they allowed to discuss "program planning" of future research with the regulatory staff or to collaborate with the regulatory staff to define technical uncertainties that might require new R & D.

The regulatory staff, of course, could always read the monthly progress reports that researchers at Idaho turned out, but the same restrictions that applied to meetings also applied to the reports. Those safety researchers interviewed invariably made the additional point that these curbs prevailed all during a time when the congressional Joint Committee on Atomic Energy and the AEC's Advisory Committee on Reactor Safeguards were imploring the commission to improve communications between its "promotional" and regulatory arms.

The purpose of these restrictions, several research managers contended, was to allow RDT officials whom they considered "industry-oriented" to filter out information that might lead regulatory authorities to believe that serious uncertainties existed in reactor safety. Sources at Oak Ridge agreed that this may indeed have been one motive for screening out "speculative" information, although one research manager ascribed this procedure more to bureaucratic jealously. "They're also out to protect their prerogatives," he said. "Mainly, I think, they didn't want us to raise questions with the regulatory people and use them to bring pressure to bear for new R & D, necessary as it might have been."

Andrew J. Pressesky, RDT's assistant director for nuclear safety, denies any knowledge of taboos on direct communications with the regulatory arm, although he says he would "prefer to be informed" of any informal conversations of this sort. "The problem," he said in an interview, "is that when an idea or a concern first arises it sometimes doesn't stand the test of time. It may not be worth anything. We want to guard against that problem."

Pressesky's denial, however, is at variance with the statements of two senior researchers who both say they were instructed in no uncertain terms "not to consult with regulatory people." (One of them says he was roundly chastised when he did so anyway). The critics readily acknowledge that RDT supported a small "technical assistance" effort within the safety program that provided about $250,000 worth of consultative services to the regulatory staff each year (out of a total water reactor safety budget of $16 million to $20 million), but they maintain that this came nowhere near satisfying the regulatory arm's need for information, especially as concerns over the adequacy of emergency cooling systems grew during 1969–71.

How did these tightly leashed communications affect the licensing of nuclear plants? Several research administrators interviewed said they thought these barriers—combined with RDT's persistent reluctance or inability to carry out research the regulatory staff wanted—deprived the AEC of information urgently needed to judge the safety of plants coming up for licensing. As one program manager expressed it:

"Whether the regulatory staff sensed this or not—some did and some did not—these difficulties placed them at an extreme disadvantage in assessing the safety needs of reactors. In fact they have been a little lax in what they let the industry get away with, because in many cases the regulatory people had no independent evaluation of what the industry was telling them."

REMEDIES AND SECRECY

It should be clear by now that a great many problems afflict nuclear safety research in the AEC, and that these problems have been building and festering for a long time. It remains to be asked what role the five AEC commissioners played in the triangular battles between the safety program and its overlord, the RDT, and the regulatory staff. The answers, it turns out, are elusive.

Certainly there is good reason to believe that these problems have been of continuing interest to at least some of the commissioners. One can find conciliatory exhortations in occasional public speeches. But none of the commission's deliberations on this or any other subject are part of the public record. Indeed, during the years that Glenn Seaborg was chairman, from 1961–71, many of the staff once included in commission meetings were no longer invited, and the digests of commission meetings, once readily available to insiders, became scarce. In all probability the commissioners receded further than ever behind closed doors as a means of encouraging spontaneous and forthright discussions among themselves, but in the process they left few clues to their thinking.[2]

It is known that in 1966 the commission set up a "steering committee" of high-level staff from development and regulatory branches in an effort to bring the two sides together. Pressesky says the committee was disbanded this year because communications are now satisfactory and its services were no longer needed. Predictably though, opinions about the committee's effectiveness vary. One Oak Ridge administrator says that from his vantage point it appears the committee "never accomplished a thing."

It is also known that the commission recently considered at length, then rejected, the one remedy to current problems seemingly favored by a majority of safety program managers—that of removing the water-reactor portion of the safety program from the development side of the AEC and placing it under the wing of regulatory and licensing authorities.

This was a reasonable solution, those in the laboratories argued, because water-cooled reactors have essentially passed beyond the development stage, and what's more, such a move would liberate the regualtory staff from its reliance on the "promotional" side of the AEC for technical support. There is, moreover, a precedent for this arrangement: West Germany's safety research program is a subunit of the federal government's licensing arm.

The commission discussed the transplantation of safety research in executive (or secret) session with the Joint Committee on Atomic Energy on 25 April. The next day, in a letter subsequently made public by the Joint Committee, AEC chairman James Schlesinger said the commission had unanimously disapproved the idea. Schlesinger wrote, in part, that:

"Safety is a fundamental element in the basic design and development of a nuclear reactor. . . . Removing the safety research function from the Division of Reactor Development and Technology would likely have detrimental effects upon the overall safety of reactors. The proposed action would create a category of safety-oriented personnel and would hinder the intimate and day-to-day exchanges that they must have with those charged with reactor design and development. Such isolation would limit their effectiveness.

In the meantime, the AEC is left with something of a munity on its hands among some very "safety-oriened" personnel who have, to a large degree, lost faith in the ability of officials in Washington to conduct safety research in a manner fully befitting the public welfare. The problems linger on, and there is no assurance that they will not be duplicated in the multibillion program to develop an economical fast-breeder reactor. For the very same people who helped to make the water reactor safety program what it is today are fully in charge of the breeder.

TIME TO PREPARE FOR HEARINGS ON NUCLEAR REACTOR SAFETY

Mr. GRAVEL. Mr. President, on October 10, 1972, the Joint Committee on Atomic Energy announced that it will hold public hearings "on the general sub-

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[2] For an analysis of the closed nature of policy formulation in atomic energy, see Harold P. Green, "Nuclear safety and the public interest" (Nuclear News 15 (9), 75 (1972).)

ject of nuclear reactor safety" early in the 1973 session of Congress.

I would point out that nuclear safety involves far more than just the reactors. Necessarily involved are the nuclear fuel-reprocessing plants, nuclear waste storage and burial practices, radioactive transport practices antisabotage measures, plutonium processing hazards, routine leakage of radioactive poisons all along the line, plutonium diversion prospects, and the preservation of national security.

When the radioactive fission-products and plutonium are shipped out of the powerplants where they are produced, nuclear safety problems spread far and wide. Man cannot get rid of long-lived radioactivity once he has created it. He can move it around, but it will always be somewhere. Some of it will have to be kept out of the environment for more than 100,000 years.

Mr. President, I ask unanimous consent that a prepared statement and a press release follow:

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

A MILLION TIMES WORSE THAN ARSENIC

There is no large disagreement about the biological harmfulness of radiation. A single "curie" of lethal strontium-90, with a radioactive half-life of about 30 years, will spit out 37 billion high-speed particles per second, and each emitted particle has enough energy to smash about a quarter of a million chemical bonds in human tissue. Both cancer and genetic defects can start with radiation injury to a *single* cell, if additional variables are present.

Another way of describing the power of radiation is to consider a strong poison like arsenic. If you make ordinary arsenic radioactive, it becomes about a million times more harmful than it was before. Radioactivity is the ultimate pollutant.

THE RADIOACTIVE FUTURE

There is also no disagreement about the quantities of radioactive poison produced by so-called "clean" nuclear plants. In *one* year, one large plant produces as much long-lived radioactivity as the explosion of about 1,000 Hiroshima bombs (including a few million "curies" of strontium-90, plus about 600 pounds of plutonium-239 with a radioactive half-life of 24,000 years. A single pound of plutonium, escaping into the environment and inhaled eventually by humans, could cause several billion cases of lung-cancer.

The A.E.C. plans to license about 1,000 large nuclear power plants in the next 30 years—a plan which would produce the radioactive equivalent of 1,000,000 Hiroshima bombs every year plus 600,000 pounds of plutonium, annually.

REQUIREMENT FOR NEARLY PERFECT CONTROL

There is virtually no disagreement on the necessity of containing and isolating about 99.99% of a power-plant's long-lived radioactivity. For centuries or more. Experts have described the consequences of unsuccessful containment:

The 1970 Nobel Laureate for Physics, Dr. Hannes Alfven: "In a full-scale fission program, the radioactive waste will soon become so enormous that a total poisoning of our planet is possible." (*Bulletin of the Atomic Scientists,* September, 1971).

The former Director of the AEC's Argonne National Lab, Dr. Albert Crewe, after a discussion of the medical foresight, engineering skill, and administrative controls required by nuclear technology: "Should any of these three lines of defense fail, then the entire population of the world could be in serious danger." (*Science* magazine, February 25, 1972).

The present Director of the AEC's Oak Ridge National Lab, Dr. Alvin Weinberg: Technical "deficiencies" in a "plutonium economy", if unremediable, "could mean catastrophe for the human race." (*Nuclear News,* December, 1971).

THE ODDS AGAINST NEAR-PERFECTION

If the price of losing in nuclear roulette is "catastrophe for the human race", is an allegedly "remote" chance of losing OK? Are there any odds which are *acceptable?* When is gambling proper, and when is it morally degenerate?

The odds seem extremely high, or at least 50–50, that we *will* botch our way into a real radioactive mess if we continue building nuclear power plants.

There are still many *serious* unsolved problems in nuclear technology pertaining to the crucial "containment" requirement.

There are severe deficiencies in every other human technology, also. After 60 years of experience, we still make millions of defective cars.

Even when we apply both care and love, as in the Apollo program, about 10% of the missions have failed due to something simple like a faulty switch.

The military people also have trouble with key systems; in February 1971, the North American Air Defense Command sent a fully authenticated national emergency alert out over the A.P. and U.P.I. wires—by mistake. In May 1969, a $50 million nuclear submarine sank at dockside. Two nuclear submarines are also full of men at the bottom of the ocean, along with the "unsinkable" Titanic which sank on its first voyage.

In spite of the mathematical odds against it, two airliners collided in the wide open spaces above the Grand Canyon in 1956.

PROBLEMS WHICH CAN'T BE SOLVED

Because humans are fallible, careless, and sometimes demented, it is unreasonable to assume we will achieve a miraculous 99.99% success in the radioactive "containment" operation year in and year out.

Furthermore, it is reckless to count on some special immunity for nuclear facilities when it comes to sabotage, earthquakes, and war.

As Dr. Alfven has warned us: "If a problem is too difficult to be solved, one cannot claim that it is solved by referring to all the efforts made to solve it."

HYSTERIA, ARROGANCE, COMMON-SENSE

In a recent paper entitled "Energy and Environment", published in the May 1972 issue of the *Bulletin of the Atomic Scientists,* Dr. Alfven addresses the very issue which confounds so many members of Congress:

"The technologists claim that if everything works according to their blueprints, fission energy will be a safe and very attractive solution to the energy needs of the world. This may be correct. Hence, they consider all the objections to be due to 'ignorance', 'viciousness', or 'hysteria'. This is not correct. The real issue is whether their blueprints will work in the real world and not only in a 'technicological paradise'.

"Fission energy advocates say that in all other technologies one accepts certain risks, and that there is no way of completely eliminating all hazards. They claim to have taken all reasonable precautions to eliminate risks. What more can they do?

"This may very well be true, but it is irrelevant because we are facing risks the nature of which we have never before experienced. The consequences of nuclear catastrophes are so terrible that risks which usually are considered to be normal are unacceptable in this field."

OBJECTION TO GUINEA-PIGGERY

We are already involuntary guinea-pigs in some great biological experiments called "pollution" and "food additives". Forty years from now, today's babies may start registering the experimental results in a grisly rate of premature death. Maybe 99% of pollutant chemicals will turn out to be safe. But 1% may turn out to be as bad as thalidomide.

Are we willing to submit to the radioactive "containment" experiment also? The guinea-piggery principle is the same: industry claims the *right* to experiment on life until its activity is proven harmful, instead of sparing us until the activity is proven safe. When citizens try to resurrect their "inalienable right to life, liberty, and the pursuit of happiness", industry uses threats like totally unnecessary unemployment or blackouts.

A DEEPENING DEPRAVITY?

There are other fundamental questions about nuclear electricity.

Does anyone have the right to reach into the future and commit the next 50 generations to a legacy of our radioactive garbage, so that we can squander electricity today?

Where is the morality of building an energy technology which also creates the likelihood that private atom bombs will be made from stolen nuclear fuel?

Will nuclear electricity necessitate the substitution of a "nuclear priesthood" for democratically chosen leaders? This grim prospect is discussed by the Director of the Oak Ridge National Laboratory, Dr. Alvin Weinberg, in the July 7, 1972 issue of Science magazine.

Does the vulnerability of nuclear powerplants nullify national security efforts of the Defense Departments?

A HARD WAY TO BOIL WATER

Nuclear evangelists claim that the benefits of nuclear fission will outweigh the risks; enthusiasts urge us to contemplate the great benefits.

Positive thinking about nuclear fission inevitably fails to conjure up an exciting benefit. This touted technology, defying human fallibility, sporting huge control panels, computers, and "defenses in depth", all engineered by masters on the very "edge of the impossible", accomplishes only one useful thing: it boils water. That's a hard way to boil water.

AN UNNECESSARY TECHNOLOGY

In 1970, we got four times more energy from burning wood in this country that from nuclear fission. In 1971, we got less than 1% of the country's energy from fission. By 1985, if we hurry, the AEC says we might get about 15%. (fifteen percent).

The overwhelming share of this country's energy will be coming from our fission-free alternatives.

All the energy choices are intrinscially more attractive than fission. Coal gasification and geothermal technologies are starting to become commercially available now, and solar technologies would be certain to work, too.

Since these options could easily do 100% of the job, nuclear fission is unnecessary. It is not now, and never will be, a choice between nuclear electricity or blackouts.

NINETEEN YEARS UNDER THE ATOMIC ENERGY ACT

The wisdom, morality, and sanity of choosing nuclear fission to boil water, or to heat any other fluid, have needed full debate before Congress for a long time.

Is it rational to promote nuclear fission instead of power from sunlight?

Should we permit nuclear fission at all?

Is nuclear electricity compatible with civilized values?

Will the Joint Committee on Atomic Energy allow reexamination of the fundamental assumptions behind the Atomic Energy Act of 1954?

[From the Office of the Joint Congressional Committee on Atomic Energy, October 10, 1972]

JOINT CONGRESSIONAL COMMITTEE ON ATOMIC ENERGY ANNOUNCES PLANS TO HOLD PUBLIC HEARINGS ON NUCLEAR REACTOR SAFETY

Chairman John O. Pastore and Vice Chairman Melvin Price announced today that the Joint Congressional Committee on Atomic Energy is planning to hold public hearings on the general subject of nuclear reactor safety early in the forthcoming Congressional session.

The Committee is awaiting the completion of a comprehensive safety review report which was requested by the Committee of the Atomic Energy Commission in late 1971. The Committee was recently informed that the report is in the final stages of preparation. The Commission plans to solicit the views of knowledgeable organizations and individuals in the nuclear reactor, energy, and environmental fields as a final step in the completion of the study in order to assure that all significant aspects are covered.

The Committee has been informed that the Atomic Energy Commission expects to complete the safety study and publish the report in December. Chairman Pastore said:

"This report on reactor safety was requested by the Committee in order that an organized and comprehensive presentation of the subject would be available as the focal point for Committee hearings. The Committee plans to allow sufficient time for review of the report by all interested parties prior to the conduct of our hearings. Proceedings in this manner I would expect that we could have an orderly and efficient review of the present status of nuclear safety and the plans for future work in this field."

It was stated that one of the objectives of the planned hearing was to develop a public record in which all of the factors involved in reactor safety would be set down in proper perspective. It was also stated that neither the announcement of the planned hearings nor their conduct are intended to affect the AEC's present regulatory activities and responsibilities.

In making the announcement Chairman Pastore and Vice Chairman Price stated they believed that the hearings could be conducted early in the Congressional session next year. Congressman Price stressed the growing dependence on nuclear energy in the United States. He said:

"In 1963 the Joint Committee held extensive hearings on the role which nuclear power should play in meeting our long term energy needs. In these hearings general agreement was reached on the need for supplementing our longer term energy supplies by the development and utilization of nuclear energy. Events in the interim have increased the need for nuclear energy. As explained by Dr. Edward David, the President's Science Adviser, in his statement before the Committee last month, we are not doing as well as we had planned in reducing the environmental impact from the use of fossil fuels, particularly coal. Obviously we must do a better job in improving our use of coal. We must take greater advantage of our wealth of fossil fuels as was the intent when our civilian nuclear power program was established 10 years ago. The set-backs and uncertainties in the coal and petroleum industries place a greater load on nuclear energy than we originally anticipated."

Congressman Price referred to recent expressions of concern in some quraters relative to the safety of nuclear power. He went on to explain the primary importance which was given to obtaining the best solutions to environmental effects and general safety problems in all phases of the development of this new technology. He said:

"In no area of technology has greater emphasis been given to safety and environmental considerations than in the development of nuclear technology. From the very beginning we have recognized that these are areas on which we should not reduce emphasis. Since concern has developed in the minds of certain people, we believe it appropriate to have a comprehensive review of these matters. We chose to proceed in the same manner as was done in the early 1960's in setting up the nation's civilian nuclear power program. This was to initiate a comprehensive review and study of the matter by those specifically responsible for activities in this field and then obtain contributions from other knowledgeable sources."

The Committee plans to announce a specific schedule for the hearings after receipt of this study. One of the variables which precludes setting the date at this time was identified to be the unknown magnitude and nature of the contributions from knowledgeable people outside of the Atomic Energy Commission which must be considered in the completed report. Committee members have stressed the importance of considering such contributions in order that the Congress and the public receive a comprehensive and professionally sound review of these matters.

BRIEF IN SUPPORT OF CONSTITUTION OF THE UNITED STATES

Mr. PACKWOOD. Mr. President, I ask unanimous consent that there be printed in the RECORD a brief amicus curiae prepared by the Amicus Curiae Committee of State Chief Justice, retired, in support of the Constitution of the United States. The members of this committee are William C. Perry of Oregon, Charles T. Donworth of Washington, and Harry S. Harnsberger of Wyoming.

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

BRIEF IN SUPPORT OF THE CONSTITUTION OF THE UNITED STATES

Supreme Court of the United States, October term, 1972; 69–5003, William Henry Furman v. State of Georgia; 69–5030, Lucious Jackson, Jr. v. State of Georgia, on writ of certiorari to the Supreme Court of Georgia; 69–5031, Elmer Branch v. State of Texas on writ of certiorari to the Court of Appeals of Texas

MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE

The appeal in the above cases arose from the claim of the defendants that the death penalty is unconstitutional—violative of the Eighth and Fourteenth Amendments. The State of Georgia and the State of Texas have filed petitions for rehearing re the decision of this Court in June, 1972—408 U.S. 238—that imposition and carrying out of the death penalty in these cases constitute cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments.

The Amicus Curiae Committee is interested in the decision of this Court due to the fact, in the main, that in the considered judgment of the Committee's members the Majority Opinions of the Court—in presenting the bases for the decision—failed to consider the controlling factor: that the Fourteenth Amendment does not make the Eighth Amendment apply against the States. That is, such applicability was merely assumed by the Majority Opinions—erroneously.

This assumption by the Court Majority was erroneous because not in conformity with the controlling intent of the State Legislatures which ratified the Fourteenth Amendment.

In view of the time exigencies, no attempt has been made to obtain the assent of Petitioner States to filing of this motion and the accompanying Brief Amicus Curiae; this omission being deemed to involve no prejudice to their rights due to the nature of the point presented by this motion and the Brief for this Court's consideration.

Wherefore, the Amicus Curiae Committee of State Chief Justices (Retired) in support of the Constitution of the United States respectfully requests permission to file with the Court, for its consideration, the attached Brief Amicus Curiae.

Respectfully submitted,

By HAMILTON ABERT LONG,
Sponsor-Director.
HARRY LEROY JONES,
Washington, D.C., Counsel.

SEPTEMBER 17, 1972.

BRIEF AMICUS CURIAE

Preliminary statement

The appeal in the above cases arose from the claim of the defendants that the death penalty is unconstitutional—violative of the Eighth and Fourteenth Amendments. The State of Georgia and the State of Texas have filed petitions for rehearing re the decision of this Court in June, 1972—408 U.S. 238—that imposition and carrying out of the death penalty in these cases constitute cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments.

The Majority Opinions of the Court—in presenting the bases for the decision—failed to consider the controlling factor: that the Fourteenth Amendment does not make the Eighth Amendment apply against the States; such applicability was merely assumed by the Majority Opinions—erroneously. This assumption was erroneous because not in conformity with the controlling intent of the State Legislatures which ratified the Fourteenth Amendment.

In view of the fact that the first eight Amendments were expressly made a bar initially against the Federal government only, this failure of the Fourteenth to make them—including the Eighth—apply against the States means inescapably that the abovementioned assumption in the subject cases was invalid and in conflict with the Constitution, as amended.

This presents a proper, indeed a compelling, reason in the eyes of the Constitution for reconsideration by this Court of the subject decision; in the considered opinion of the members of the above-named Amicus Curiae Committee.

We respectfully submit that the cases should be re-argued and reconsidered in all the fundamental, constitutional aspects—with special focus on the question noted above; and that the Petitioners' request for re-hearing be granted accordingly.

I. Fourteenth Did Not Incorporate the First Eight

Upon full consideration of the basic question: "Did the Fourteenth incorporate the first eight Amendments?" this Court decided in the negative (and has never held to the contrary)—in *Bartkus v. Illinois* (1959) 359 U.S. 121, the Court stating at 124:

"We have held from the beginning and uniformly that the Due Process Clause of the Fourteenth Amendment does not apply to the States any of the provisions of the first eight amendments as such. Citing earlier cases. The relevant historical materials have been canvassed by this Court and by legal scholars. Citing Fairman article which, with Morrison article, in Stanford Law Review of December, 1949 presented and discussed definitively all pertinent historical evidence supporting the stated conclusion indisputably. These materials demonstrate conclusively that the Congress and the members of the legislatures of the ratifying States did not contemplate that the Fourteenth Amendment was a shorthand incorporation of the first eight amendments making them applicable as explicit restrictions upon the States."

Since this 1959 decision, the Court has nevertheless repeatedly assumed—as in the

subject cases—or ruled by "selective incorporation" that this or that part of the first eight Amendments was made by the Fourteenth to apply against the States. Yet there is not an iota of historical evidence, as to the State Legislatures' ratification, supporting any such "selective incorporation" theory; as observed, for example, by Chief Judge Henry J. Friendly of the 2d Circuit Court of Appeals (California Law Review October, 1965, at 934):

". . . it appears undisputed that the selective incorporation theory has none. [no historical support] And it does seem extraordinary that a theory going to the very nature of our Constitution and having such profound effects for all of us should be carrying the day without ever having been explicated in a majority opinion of the Court."

It is indisputable that the historical records as to the Fourteenth's ratification contain not a vestige of evidence indicating that it was intended to give the members of the Supreme Court any such Rule-by-Man power as this "selective incorporation" theory and practice involves. All evidence indicates that nothing could have been more alien to the thinking, discussion, intent of the Ratifying Legislatures.

II. The Intent of the Ratifying Bodies Is Controlling

It is the intent of the Ratifying Bodies (not debates in the Framing Body, *Maxwell v. Dow* (1900) 176 U.S. 581, 601–602) which controls the meaning of any part of the Constitution; for example:

McCulloch v. Maryland (1819) 17 U.S. 316, 403.

Lake County v. Rollins (1889) 130 U.S. 662, 670–671.

South Carolina v. United States (1905) 199 U.S. 437, 448–450.

Story: *Commentaries on the Constitution of the U.S.* (1833) Sec. 426, 451.

As to the Fourteenth Amendment, it follows that it did not—and today does not—grant to the Supreme Court any power of "selective incorporation" of the first eight Amendments so as to make them, in part or as a whole, apply against the States; in the complete absence of any historical evidence of such intent of the ratifying Legislatures. Nor did they intend to "incorporate" the first eight Amendments as a whole.

III. Death Penalty Not Intended To Be Barred by Fourteenth

The existence of Laws—Acts of Legislatures—in Ratifying States, authorizing the death penalty as punishment for specified crimes, at the time of adoption of the Fourteenth as well as thereafter proves conclusively that such Ratifying Legislatures did not intend to abolish this penalty—certainly not by way of authorizing Supreme Court members so to rule at their Rule-by-Man pleasure a century later. The nation-wide use of the death penalty, during the intervening century since adoption of the Fourteenth, provides compelling evidence of lack of its intent to abolish the penalty—even if there were otherwise any doubt as to this intent of the ratifying Legislatures.

Stuart v. *Laird* (1803) 5 U.S. 299, 309

McPherson v. *Blacker* (1892) 146 U.S. 1, 27

Fairbank v. *U.S.* (1901) 181 U.S. 283, 308–311

IV. The Constitution's Original Meaning—per the Ratifying Bodies' Intent—Is Controlling and Does Not Change With Any Change in Meaning of Words or in Public Sentiment Over the Years

The Ratifying Bodies' intent, fixing the original meaning, as to any part of the Constitution continues to be controlling, despite changing words or public sentiment as the years pass.

Dred Scott v. *Sanford* (1857) 60 U.S. 393, 426

South Carolina v. *U.S., supra*, 448–450

Schechter Poultry Corp v. *U.S.* (1935) 295 U.S. 495, 528–529

U.S. v. *Butler* (1936) 297 U.S. 1, 62–63

The Federalist, for example No. 78

Quoted at length in Appendix, *post*

In ruling against any pretense so to change by the Supreme Court to conform to changed public sentiment, regarding slavery, Chief Justice Taney stated for the Court in the *Dred Scott* case, *supra* 426:

"No one, we presume, supposes that any change in public opinion or feeling, in relation to this unfortunate race, in the civilized nations of Europe or in this country, should induce the court to give to the words of the Constitution a more liberal construcion in their favor than they were intended to bear when the instrument was framed and adopted. Such an argument would be altogether inadmissible in any tribunal called on to interpret it. If any of its provisions are deemed unjust, there is a mode prescribed in the instrument itself by which it may be amended; but while it remains unaltered, it must be construed now as it was understood at the time of its adoption."

This applies equally to any change in public sentiment, or governmental practice, with regard to the death penalty: the Supreme Court is powerless to make any change in the long-established meaning of the Constitution, as amended. For the Court to try to make any such change is usurpation: "treason to the Constitution"—as Chief Justice Marshall defined it in *Cohens* v. *Virginia* (1821) 19 U,S. 264, 404. He meant nothing to the contrary—of *change* by the people only and by amendment only—by his statement that: ". . . it is a *Constitution* we are expounding . . . to be adapted to the various crises in human affairs." *McCulloch* v. *Maryland, supra* 407, 415.

V. The Constitution Makes Null and Void, "AB Initio." All Things Governmental in Conflict With It—Including Any Supreme Court Pronouncements, Rulings, Orders—as if Non-existent

The Constitution controls the Courts including the Supreme Court.

Marbury v. *Madison* (1803) 5 U.S. 137, 177–180

The Federalist, for example Nos. 78, 80, 81

This basic law of the people itself makes null and void *ab initio* all things governmental in conflict with it—a nullity from the start as if never existing.

Marbury v. Madison, supra, 177–180.

Cohens v. Virginia (1821) 19 U.S. 264, 414.

Dodge v. Woolsey (1855) 59 U.S. 331, 347–348.

Norton v. Shelby County (1886) U.S. 425, 442.

Fairbank v. U.S. (1901) 181 U.S. 283, 285–286.

Adkins v. Children's Hospital (1923) 261 U.S. 525, 554.

The Federalist, for example Nos. 33, 78.

Story, *Commentaries on the Constitution of the U.S.*, Sec. 439–440.

This applies to the five-to-four ruling by this Court regarding the death penalty in subject cases.

VI. The Drastic, Fundamental, Sweeping Changes in the People's Lives for All Time, in American Civilization, Implicit in the Subject Death-Penalty Ruling, Make It Gravely Needful That This Court Permit Re-Argument

The basic importance of the death-penalty ruling in subject cases—due not only to its immediate effect but its implications for Posterity and the security of the liberties of the people over the generations, especially as to the method by which effected—cannot be exaggerated; as stressed expressly in all four of the strongly dissenting opinions. The ruling's drastic, fundamental, sweeping changes—caused or implied—in the lives of the people for all time (subject to constitutional amendment to remedy it) and in American civilization, make it of utmost importance that this Court grant re-argument and permit reconsideration as to all aspects, pertaining to interpretation of the Constitution. At stake are the well-being of self-government itself, the stability of the Republic and constitutionally-limited government, as well as public confidence in the moral and intellectual integrity of public servants as public trustees, chief of all the oath-bound members of this Court—historically so honored, even revered. The grave lack of clarity, unity, in The Majority's five separate opinions adds to the urgency, need.

CONCLUSION

The Eighth Amendment does not apply against the States, neither by reason of the Fourteenth Amendment nor by exercise of any power granted to this Court by the Constitution. The decision regarding the death penalty in the subject cases is not authorized by the Constitution and is based on an erroneous assumption to the contrary. The petitions of the State of Georgia and the State of Texas should, therefore, be granted so as to permit re-argument and reconsideration by this Court.

Respectfully submitted,

By HAMILTON ALBERT LONG,
Sponsor-Director.
HARRY LEROY JONES,
Washington, D.C., Counsel.

September 17, 1972.

APPENDIX

The Supreme Court's ruling in the 1905 South Carolina case: The original meaning is controlling

The Supreme Court's power is limited with regard to interpreting the Constitution—ascertaining and defining the intent with which it was framed and ratified.

The rule is well-settled that the object of interpretation, or construction, of a provision of the Constitution ". . . is to give effect to the intent of its framers, and of the people in adopting it." *Lake County v. Rollins*, 130 U.S. 662, 670 (1899). In this opinion, the Court had earlier made it expressly clear that by the phrase, "the people in adopting it," the meaning was "the people who voted it into existence." This referred to the American people's intent expressed through their duly appointed agents—the members of the State Ratifying Conventions—in 1787-1788; or later, with regard to each amendment, in either the State Ratifying Conventions or the State Legislatures, depending upon which method of ratification was used in any particular instance to approve the amendment.

The basic rule of interpretation is clear and has been repeatedly stated by the Supreme Court, for example in *South Carolina v. United States*, 199 U.S. 437 (1905) at pages 448–449:

"The Constitution is a written instrument. As such its meaning does not alter. That which it meant when adopted it means now. Being a grant of powers to a government its language is general, and as changes come in social and political life it embraces in its grasp all new conditions which are within the scope of the powers in terms conferred. In other words, while the powers granted do not change, they apply from generation to all things to which they are in their nature applicable. This in no manner abridges the fact of its changeless nature and meaning. Those things which are within its grants of power, *as those grants were understood when made*, are still within them, and those things not within them still excluded. As said by Mr. Chief Justice Taney in *Dred Scott v. Sandford*, 19 How. 393, 426:

"'It is not only the same in words, but the same in meaning, and delegates the same powers to the Government, and reserves and secures the same rights and privileges to the citizens; and as long as it continues to exist in its present form, it speaks not only in the same words, but *with the same meaning and intent with which it spoke when it came from the hands of its framers, and*

was voted on and adopted by the people of the United States. Any other rule of construction would abrogate the judicial character of this court, and make it the mere reflex of the popular opinion or passion of the day.'

"It must also be remembered that the framers of the Constitution were not mere visionaries, toying with speculations or theories, but practical men, dealing with the facts of political life as they understood them, putting into form the government they were creating, and prescribing in language clear and intelligible the powers that government was to take. Mr. Chief Justice Marshall, in *Gibbons v. Ogden*, 9 Wheat. 1, 188, well declared:

" 'As men whose intentions require no concealment, generally employ the words which most directly and aptly express the ideas they intend to convey, the enlightened patriots who framed our Constitution, and the people who adopted it, must be understood to have employed words in their natural sense, and to have intended what they have said.' "

(Italics added)

Immediately preceding the above-quoted statement from the opinion in the 1856 *Dred Scott* case—60 U.S. (19 Howard) 393 at 426, the Court had in that opinion made further clarifying remarks about negro slaves in explanation of its refusal to violate the intent of the Constitution—the intent of its Framers and Adopters—merely because of changed popular sentiment about slavery. It stated:

"No one, we presume, supposes that any change in public opinion or feeling, in relation to this unfortunate race, in the civilized nations of Europe or in this country, should induce the court to give to the words of the Constitution a more liberal construction in their favor than they were intended to bear when the instrument was framed and adopted. Such an argument would be altogether inadmissible in any tribunal called on to interpret it. If any of its provisions are deemed unjust, there is a mode prescribed in the instrument itself by which it may be amended; but while it remains unaltered, *it must be construed now as it was understood at the time of its adoption* (Italics added)

NOTE: The above-mentioned *Dred Scott* case concerned the negro slave of that name and this case—in which he sought his freedom—has ever since been famous for political as well as constitutional reasons.

IF YOU ARE GOING TO GET HURT, DO IT IN ILLINOIS

Mr. PERCY. Mr. President, I invite the attention of Senators to an important step in health care taken by the Illinois Department of Public Health, Division of Emergency Medical Services and Highway Safety. The department has established the Nation's first statewide system of emergency care for the critically injured. The Illinois Statewide Plan for Trauma Centers, consisting of a network of 40 centers across Illinois, has led to the reorganization and reorientation of medical resources throughout the State and serves as a national model for solving many of the complex problems of emergency health service.

Known as the Illinois Plan, the trauma center concept is a bold new approach to the treatment of critical injury. Elements of health care systems that are often fragmented have in this instance been brought together to provide expert care for accident victims. Existing hospitals have been designated as trauma centers and provide specific points of entry into the medical care system for critically injured patients in a geographical area. A uniform emergency medical communications system allows doctors to talk to outlying trauma centers and to emergency mobile vans. Air and ground transportation systems have been reorganized and upgraded as well.

Critically injured accident victims are not the only people to receive benefits from this new concept of health care. Medical personnel, particularly members of the nursing profession, are also receiving advantages as a result of the Illinois Plan. The advent of the state trauma program has provided nurses with the opportunity to accept new roles and responsibilities in critical care. To prepare them for this new role, a 4-week specialty course for graduate nurses has been developed. An outgrowth of the Nation's first system of trauma centers, this post-graduate education in trauma is also the first of its kind. The trauma nurse is a multipurpose, cross-trained, intensive care specialist able to cope with the total needs of the critically injured patient.

I commend Gov. Richard Ogilvie and the Illinois Division of Emergency Medical Services and Highway Safety for providing the opportunity for nurses to assume more responsibility and to contribute greater services to the severely overworked and seriously short-handed medical professions. Because of this progressive and unique program, nurses are coming to realize that their roles can and should be expanded. They now have a chance to realize more satisfactorily their own professional potential.

The Illinois Plan is making important progress in two areas of health care: critically injured patients are receiving a much better chance for survival and recovery, and medical personnel are being utilized more fully. I applaud this multifaceted approach to improved care for critically injured patients. I hope that many other States will benefit from Illinois' experience with this new concept in health services and will emulate our State's progressive attitude toward new methods of patient care.

I ask unanimous consent that an excellent article from Todays' Health, describing Illinois' unique emergency care system be printed in the RECORD.

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

IF YOU ARE GOING TO GET HURT, DO IT IN ILLINOIS

(By David Zimmerman)

Jon Michael Nevious of Galatia, Illinois, has to agree with a recent remark of Illinois Governor Richard Ogilvie. "If you're going to get hurt," Ogilvie told a governors' convention, "do it in Illinois." The governor's offbeat boosterism was based on statistics showing that his state has found a unique workable plan to help accident victims survive.

No one knows this better than Jon Nevious, a 24-year-old construction worker. He didn't know it, though, at about 4:30 p.m. on June 29th 1972, as he pulled on his goggles, revved his Honda 350 motorcycle, and pulled out of the parking lot of the Tison and Hall Concrete Products Company in Harrisburg, about ten miles from his home at Galatia, Illinois.

Galatia is a tiny community in the undulating country of cornfields and coal mines at the southerly tip of Illinois. It has a population of 800, no doctor, and very little in the way of industry or work. Jon was fortunate to have a job as batch man at the cement company, and was content with his lot that bright late afternoon in June as he rode home to his wife, Treasa Darline and his two-year-old son, Michael O'Brien.

By about 4:40 p.m., Jon had neared the intersection of Route 44 and Raleigh Road. So had a 1966 Oldsmobile driven by 57-year-old Clarence L. Barnfield. According to the report of state trooper Bill Dial, the automobile, failing to yield right of way, turned left in front of the motorcycle. In the crash, Barnfield sustained minor injuries. Nevious, who did not have a helmet on was not so fortunate.

Jon's face was badly smashed, his jaw shattered in several places. He began to bleed profusely into the nasal passages to his windpipe. One clavicle (the so-called collar bone) was broken; there was the possibility of damage to major underlying blood vessels. The young man's neck was injured and there were deep cuts on his legs.

In the space of seconds, the strong, blond-haired young man had become a trauma case—or accident victim. The incidence of trauma has been called by doctors "an unchecked injury epidemic for which available medical care has been poor." As a killer, it trails only heart disease and cancer, taking 100,000 American lives each year.

Illinois has found a way to save the lives of many of those caught up in this epidemic. While trauma includes a variety of catasrophes such as home accidents, knife and gun wounds and industrial mishaps, a large proportion of its victims are persons involved in motor vehicle accidents. According to National Safety Council statistics, Illinois had a 12 percent drop in auto deaths last year and was one of only a few states to show improvement.

Siren howling, an ambulance whisked Jon, bloody and unconscious, over the seven miles from the accident scene to Doctors Hospital at Harrisburg, Illinois. It is a small hospital, with only 60 beds and limited facilities. The only doctor available was a general practitioner, Jon was severely hurt and it was clear that his urgent needs could not be met at Harrisburg.

Meanwhile, Jon's wife had been summoned. "When I arrived at the hospital," she recalls, "the scene was one of total confusion."

Jon remembers little. Most of the time he was unconscious.

It was at this time that the Illinois Trauma Care System swung into high gear. This system links 37 Illinois hospitals and borrows from medical evacuation techniques perfected in Vietnam, using flying ambulances, well-trained emergency crews, and on-the-spot field communications.

"Trauma care has been American medicine's most serious failing," says one veteran Illinois surgeon. The Illinois Trauma Care System, only 16 months old but already remarkedly effective, is trying hard to rectify that failing, both for the people of Illinois and perhaps as a model for the rest of the nation.

As Jon lay helpless and bleeding in the small downstate hospital, the system had slipped quietly into motion.

A call had been placed to Doctors Memorial Hospital at Carbondale, Illinois, about 40 miles distant. It went to Bob Motti, a new kind of severe-injury specialist called a trauma co-ordinator. Motti is a tall, laconic man in early middle age. He and some 40 specialists like him who have been hired by Illinois are former military corpsmen. They are non-M.D. specialists in emergency care and evacuation techniques. Most have battlefield experience.

Trauma co-ordinator Motti's job in the system was to get Jon to the care he needed. Safely. Quickly.

Meanwhile, at the Harrisburg hospital (Motti was informed) an airway tube had

been slipped down Jon's throat to assist his breathing. An intravenous catheter (I.V.) was inserted to provide fluids to compensate for lost blood. The external bleeding was staunched. But Jon was bleeding, copiously, from internal injuries to his face. He well might choke to death on his blood or "bleed out"—die from its loss.

Quickly, Bob Motti weighed the options open to him. He could bring Jon there to Carbondale where Doctors Memorial, because of its large staff and excellent facilities, has been designated regional trauma center for all Southern Illinois. Alternatively, he could send Jon to a still-larger medical center upstate. From his experience in two wars, Motti knew that Jon's injury, a flail mandible (multiple-fractured lower jaw) was extremely dangerous—and required the services of a faciomaxillary surgeon, a specialist in jaw repair.

None was available in Carbondale. The closest faciomaxillary specialist and trauma team Motti could find was in Springfield, Illinois, 185 miles—and three-and-a-half hours by ambulance—from Harrisburg. In an ambulance, Motti decided, Jon could hardly hope to survive: "He would choke to death on his own blood."

Motti turned quickly to a second new trauma specialist, Carbondale trauma nurse co-ordinator Mrs. Joy Goodman. She is an attractive, decisive woman, a veteran nurse, whose job it is to teach trauma nursing techniques and to provide trained nurses for emergency needs throughout Southern Illinois. Mrs. Goodman agreed with Motti: speed was essential. As he picked up the phone to call Southern Illinois Airport, she grabbed her bag of special trauma equipment and, with two nurse trainees in tow, hurried out.

Minutes later they were airborne in a private plane which Southern Illinois University makes available as an emergency ambulance. The twin-engine Cessna 402 took off from Carbondale at 6:30 p.m. and touched down at Harrisburg at 6:45.

The ambulance carrying Jon from the hospital met the plane. Jon was semi-conscious. As they loaded him onto the plane, he suddenly reached up, pulled out his airway, and exclaimed: "I'm going to vomit!"

He did. He vomited up the blood that had run down into his stomach.

"There were puddles of blood all over the plane," Mrs. Goodman recalls. "At that moment, I thought, 'This is it!' He had so many fractures, you couldn't know if he had any airway left at all."

Eighteen precious minutes passed while she replaced the airway and suctioned out the blood and mucus that had collected in Jon's lungs. Jon's wife, Treasa, pale and distraught, felt helpless because there was nothing she could do—except hope and pray.

They took off at 7:03 p.m.

Jon Nevious is one of 15,000 trauma victims that the system handled in its initial year. And while the airplane or helicopter that whisks the critically injured over long distances in a short time is its most visibly dramatic aspect—it is not what accounts for its success. Planes long have been used as ambulances, Mrs. Goodman points out. The trick is in arranging for them to be at the right place at the right time, previously a time-consuming hit-or-miss proposition which could eat up an entire day. Now this can be achieved in minutes, through the preestablished contacts of each area's trauma co-ordinator, who is on call 24 hours a day. Says the system's innovator and director, Chicago surgeon David Boyd, M.D.: "It's not the aircraft that makes the system. It's the system that makes the aircraft work."

Aboard the Cessna, trauma nurse co-ordinator Mrs. Joy Goodman worked hard at keeping her patient alive. "I was on my knees over him," she says. "I suctioned him every two or three minutes. The oxygen was going. The I.V. glucose was going. But his blood pressure dropped . . .

"We were working with this boy all the way. The pilot knew he was bad. He really pushed it." Later, Treasa would remember Mrs. Goodman urging the pilot: "Can't you go faster?"

From Carbondale, meanwhile, trauma co-ordinator Motti spoke by phone to Springfield. The surgical team—a face surgeon, an ear, nose and throat man, and a bone specialist—were standing by. Motti checked to be sure an ambulance would meet the plane at Springfield airport.

Aware of the young man's desperate race against the clock, the pilot used the call signal designated to medical emergencies. "I've got a lifesaver!" he radioed down to the tower. All air traffic stopped so that he could land immediately. It was 7:54. At 8:20, Jon was in the trauma room at Springfield's St. John's Hospital, *alive*.

Donor blood and all else that Jon needed was on hand. And when he did choke on his own blood, skilled hands were there to quickly cut an incision into his windpipe so that he could breathe. For Jon, and for members of the highly specialized surgical team, it was to be a long night.

Dr. David Boyd also has put in many long days and nights to make the Illinois system work. A handsome man of medium height, with black hair and a determined set to his face, Dr. Boyd, who is in his mid-30's, has swarmed over Illinois' trauma care problem like a middleweight boxer vying for a knockout.

"People just *expected* to die after an accident," he told community planners and medical colleagues up and down the state. "Because a hell of a lot of them did die."

For the most part, he won agreement and consent. Occasionally, there was a sharp demur. One doctor stood up at a town meeting to say of Dr. Boyd: "That doctor is a liar!"

Excepting Chicago, this physician's town is one of only two or three in Illinois that have remained outside the system—which is voluntary. "They'll join," Dr. Boyd says, "when they begin to find out that Aunt Mary doesn't have to die. That young George who is injured doesn't have to be disabled for life. That there is no need to wait in an emergency room six hours for care. People's expectations for emergency care are rising."

Already, people are beginning to realize those expectations. People such as Jon Nevious.

Eight hours after he arrived at St. Joseph's, Jon was wheeled out of surgery from the first of three long, difficult operations that have mended his broken bones, reshaped his battered face—and restored his life. Had it not been for the system, which delivered him quickly to the care he needed, the outcome might have been different.

In setting up the system, Dr. Boyd and his close associate, Springfield surgeon Bruce Flashner, M.D., extended to most Illinoisans military trauma-care methods that have been proved in Korea and Vietnam, and for the poor in the Trauma Unit at Cook County Hospital, which daily handles dozens of gravely injured Chicagoans, many of whom are knife or gunshot victims. Because of this huge load of trauma cases, which most other hospitals are reluctant to admit, Chicago is not yet part of the trauma network—although Dr. Boyd is working to bring it in. In their campaign to build the new system, he and Dr. Flashner quickly found key help in an enthusiastic ally. Illinois Gov. Richard Ogilvie had been gravely injured during World War II when the tank he commanded was blown up. He was rescued by a military corpsman, and so knows the worth of expert first aid assistance. Gov. Ogilvie put the trauma co-ordinators on the state payroll, and used his power to help Drs. Boyd and Flashner set their system in motion.

A network of trauma centers has been created at 37 of Illinois' 305 hospitals. These are hospitals staffed and equipped to treat trauma—and it is to them, not to other hospitals, that police, ambulance drivers and other emergency workers have been instructed to take the badly injured.

With this concentration of cases, trauma teams, headed for the most part by general surgeons, spend much or even all of their time treating the gravely injured. To keep these personnel available, less-grave emergencies, which are the majority of cases, are diverted to other emergency rooms.

In trauma, the critical moment may occur long before a patient reaches the hospital, at the accident scene where emergency workers first find him. Mistakes are costly. An unsplintered fracture can become compounded, producing permanent crippling. An unsecured broken neck can produce permanent paralysis. An unstaunched wound can bleed out a patient's life. A comatose patient, without an airway, can choke to death on his tongue.

To provide at least the basics of on-the-spot emergency care, trauma staff are training ambulance attendants, for whom there have been no training or licensing requirements in Illinois. Soon, officials say, standards will be in force for attendants, vehicles and equipment.

Already, check-lists have been passed out to ambulance attendants, police and other emergency workers to help them evaluate critical-injury factors—including airway, breathing, respiration, bleeding, pulse, wounds and mental state. Another feature of the program will be the purchase of a mobile radio for every one of the 900 emergency ambulances in Illinois. Currently, only four percent of the ambulances in the state have radio communication with hospitals designated as state trauma centers. Most ambulance drivers have been able to communicate only with their own dispatcher and do not have contact with the hospital until they arrive at the emergency room door.

The radio network, called HEAR (Hospital Emergency Area Radio), was established as a cooperative effort by the member institutions of the Illinois Hospital Association. Trauma centers are linked to other hospitals, as well as to two state-owned helicopters.

With the new radio equipment in all emergency vehicles, those first upon the scene will be able to talk directly to their trauma co-ordinator. He can help them assess the injured person's condition, advise them on first aid, and tell them where to take him.

How well is the system doing? Data on all cases is fed into a computerized file in Chicago. Regrettably, there are few "before" statistics to provide baselines against which to compare it.

Dr. Boyd estimates, however, that previously eight percent of seriously injured persons died after the arrival of first aid. In a full year's operation, in which the system cared for 15,000 patients, he says mortality was two percent. This 98 percent survival matches life-salvage success among combat-injured men in Vietnam—which military medicine experts regard as a triumph.

The computer is helping, too, in pinpointing soft areas of trauma care. In analyzing spinal cord injuries, of which 400 occur each year in Illinois, experts found that few deaths occur in the first hours after help arrives.

"This is the kind of information we need," explains Dr. Boyd, "because it takes the pressure off of us to ship neurosurgical problems into local hospitals. Rather, there is time to get them into major centers, where there are neurosurgeons and support teams."

In contrast, analysis of another type of injury suggests the need for greater haste. In studying infection-prone, but non-fatal injuries to the right colon, Dr. Boyd and his

colleagues found far fewer complications in persons brought directly to a trauma center, compared to those detoured through an outlying hospital's emergency room.

Adding to the computer file at the rate of 40 cases a day, planners hope soon to have enormous amounts of data to help trauma co-ordinators route their patients to care. And for long-term planning, too.

Even without statistical proof, the system has won widespread professional and popular acceptance. In part, this is because Drs. Boyd and Flashner have skillfully provoked public awareness of the trauma-care crisis.

In Carbondale, the director of Doctors Memorial Hospital, Jack Taylor, M.D., also is encouraged. On the first anniversary, he said: "I think we're now offering an alternative to what was a non-system. This is the beginning of a system. We've made a start, and the stage is set for us to grow."

In Springfield, the state capital, Governor Ogilvie says: "We'd like to see others, in other states, utilize our experience. I think this is something that is needed everywhere."

Far to the south, in tiny Galatia, Jon Nevious has come home. He still speaks unclearly, for his mouth is wired shut so that his facial bones will heal correctly. He has trouble moving one of his arms, and his body is stiff and pain-wracked. But he is mending, and one day, if he persists, he again may be able to work. Thanks to the system, Treasa Darline has her husband; little Michael O'Brien has a Daddy—and Jon Michael Nevious has a new lease on life.

SUMMARY OF ACTIVITIES OF THE COMMITTEE ON FOREIGN RELATIONS, 92D CONGRESS

Mr. FULBRIGHT. Mr. President, it is time once again to attempt to put into perspective what the Committee on Foreign Relations has done in the last 2 years.

There has been a great deal of activity as the statistics and summaries appended to this statement show. In every category of endeavor—except nominations—the Committee on Foreign Relations has had more subjects referred to it, and acted upon more matters, than in the previous Congress. In fact our calendar has been more voluminous than any which has ever compiled the committee. The statistics and summaries speak for themselves. I ask unanimous consent that they be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. FULBRIGHT. Mr. President, the real questions are what does this all amount to? What have we not faced?

It all amounted to considerable progress not only statistically but also qualitatively in the degree to which the Senate exercised its constitutional responsibilities. There was 34 treaties approved. Two years ago, I was forced to comment on the "shabby use" of the treaty process; so I am pleased to note significant improvement in the number and quality of the product. I have in mind the so-called ABM Treaty and others in the arms control area—the Seabed Arms Control Treaty and the Latin American Nuclear Free Zone Protocol—the Okinawa Reversion Treaty, Aircraft Hijacking, the Mexican Boundary, Narcotics Control, and the pace-setting Shrimp Agreement with Brazil.

Moreover, the enactment of the Case bill, requiring the submission of executive agreements, including those classified for our scrutiny, gives us a tool to insure proper use of the treatymaking process. Indeed, it may well be that the interim agreement with the Soviet Union on strategic offensive weapons or the Okinawa Reversion Treaty would not have been submitted for our consideration if the Senate had not shown its concern during the previous Congress over the use of executive agreements, as in the case of the Spanish bases.

There is, of course, some distance yet to go. The committee was unsuccessful in its efforts to make treaties out of the base agreements with Portugal and Bahrain. The Senate did vote to require such agreements to be treaties in the future, but could not prevail in conference with the House.

The Foreign Relations Authorization Act of 1972 was a step forward. It offered a very useful opportunity to examine the whole range of activities of our foreign relations establishment and some healthy corrective measures were adopted, including acceptance of a proposal by Senator AIKEN and me to create a Commission on the Organization of the Government for the Conduct of Foreign Policy.

Healthy also, in my view, was the fact that the Senate in 2 successive years rejected a foreign aid bill. This action underlined better than anything else the need for a new approach in the foreign aid field. The Senate voted twice to end our involvement in Vietnam only to see the efforts fail for lack of support in the House. One of the most important positive actions was Senate passage of a war powers bill to prevent similar entanglements in the future—another effort which failed in the House.

Other measures were taken to undo the mistakes of the past. The Gulf of Tonkin resolution was repealed and the Senate agreed to establish a special committee to study the termination of the Declaration of National Emergency issued by President Truman in 1950, which should lead to further momentum in this area.

Among other major steps the Senate authorized the replenishment of funds for the International Development Association, the Inter-American Development and the Asian Development Bank.

In the area of nominations progress was made. The practice of conferring the rank of ambassador, personal or otherwise, on a variety of persons not subject to confirmation was limited by requiring Senate confirmation of all whose service will exceed 6 months. The Senate exercised its constitutional prerogative on 10 such appointments. In one instance the committee refused to go along with bestowing this rank on someone who was not a chief of mission, and in two other instances made clear that its approval was "one time only." On the basis of principle also the committee refused to approve four nominees to an advisory commission and nine promotions in the Foreign Information Service. Like the treatymaking process, the confirmation process has been in danger of atrophying, but is becoming more meaningful again.

The legislative oversight activities have been very carefully pursued with excellent results. The Subcommittee on U.S. Security Agreements and Commitments Abroad continued its studies with in-depth review of U.S. activities in Greece, Laos, Thailand, Cambodia, and Vietnam.

Other subjects studied by committee members and staff included U.S. policies and programs in Brazil, prospects for a comprehensive nuclear test ban, the United Nations, the Soviet Union, Western Europe, Guatemala, and the Dominican Republic, the problem of heroin traffic, and the prospects for peace in the Middle East.

The committee's decision to review the Pentagon papers led to the publication of four excellent special studies on various aspects of the history of our involvement in that area. A fifth study, based on still-classified documents, remains unpublished—but available to Senators—at the insistence of the State Department.

Presently getting underway is an in-depth analysis of the role of multinational corporations in U.S. foreign relations.

The committee also devoted itself, among other things, to the SALT talks, the foreign policy implications of our defense budget, the developments in South Asia, and the unfolding relationship with the Peoples Republic of China.

It gives me great pleasure to acknowledge the contributions of all the members of the Committee on Foreign Relations in cleaning up so well the committee's calendar and in preserving the forward movement in exercising our responsibilities. The ranking minority member deserves particular credit for his wise counsel and for sustaining the nonpartisan spirit within the Committee on Foreign Relations.

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

COMPARISON OF WORKLOAD OF COMMITTEE ON FOREIGN RELATIONS, 91ST AND 92D CONGRESSES

(NOTE: The following statistics fail to take into account measures considered and acted on by the Committee on Foreign Relations in connection with other legislation. For example, 38 bills, separately introduced, were considered as amendments to the Foreign Assistance Acts of 1971 and 1972. Another nine were considered together with the Foreign Relations Authorization Act of 1972, and seven with the War Powers Legislation.)

	91st Cong.	92d Cong.
Treaties:		
Held over	14	21
Submitted	28	35
Withdrawn	1	
Approved	20	34
Left on Executive Calendar	1	2
Bills and Joint Resolutions:		
Referred	73	140
Reported		38
Passed Senate [1]	26	30
Defeated		2
Concurrent and Senate Resolutions:		
Referred	70	93
Agreed to in Senate [1]	13	17
Nominations:		
Submitted	2,754	2,586
Approved	2,744	2,425
Ambassadors		66
Executive branch		12
International organizations		36
Advisory Commission		12
Routine FSO's		2,299
Returned to President		135
Withdrawn		4
Not acted on		22

[1] Includes those passed without reference to the committee

TREATIES APPROVED

1. Treaty on the Limitation of Anti-Ballistic Missile Systems (Ex. L, 92–2). Approved August 3, 1972 by a vote of 88 to 2.

2. Seabed Arms Control Treaty (Ex. H, 92–1). Approved February 15, 1972 by a vote of 83 to 0.

3. Protocol to Latin America Nuclear Free Zone Treaty (Ex. H, 91–2). Approved April 19, 1971 by a vote of 70 to 0.

4. Convention on the Suppression of Unlawful Seizure of Aircraft (Ex. A, 92–1). Approved September 8, 1971 by a vote of 53 to 0.

5. Convention for the Suppression of Unlawful Acts Against the Safety of Aviation (Ex. T, 92–2). Approved October 3, 1972 by a vote of 89 to 0.

6. Okinawa Reversion Agreement (Ex. J, 92–1). Approved November 10, 1971 by a vote of 84 to 6.

7. International Plant Protection Convention (Ex. D, 84–2). Approved June 12, 1972 by a vote of 74 to 0.

8. International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (Ex. G, 91–2). Approved September 20, 1971 by a vote of 75 to 0.

9. Amendments to the International Convention for the Prevention of Pollution of the Sea by Oil (Ex. G, 91–2). Approved September 20, 1971 by a vote of 75 to 0.

10. Treaty on recovery and return of Stolen Archaelogical, Historical, and Cultural Properties between U.S. and Mexico (Ex K, 91–2). Approved February 10, 1971 by a vote of 72 to 0.

11. Termination of the Bryan-Chamorro treaty between the U.S. and Nicaragua (Ex. L, 91–2). Approved February 17, 1971 by a vote of 66 to 5.

12. Nice Agreement Concerning the International Classification of Goods and Services (Ex. M, 91–2). Approved December 11, 1971 by a vote of 75 to 0.

13. Extradition treaty with Spain (Ex. N, 91–2). Approved February 17, 1971 by a vote of 72 to 0.

14. Protocol to double tax convention with France (Ex. O, 91–2). Approved November 29, 1971 by a vote of 79 to 0.

15. Boundary rectification treaty with Mexico (Ex. B, 92–1). Approved November 29, 1971 by a vote of 79 to 0.

16. Inter-American Convention to prevent and punish acts of terrorism and related extortion (Ex. D, 92–1). Approved June 12, 1972 by a vote of 74 to 0.

17. International Wheat Agreement (Ex. F, 92–1). Approved July 12, 1971 by a vote of 78 to 0.

18. Locarno Agreement establishing an international classification for Industrial designs (Ex. I, 92–1). Approved December 11, 1971 by a vote of 75 to 0.

19. Protocol to the Convention on International Civil Aviation (Ex. K, 92–1). Approved December 11, 1971 by a vote of 75 to 0.

20. Convention on Taking Evidence Abroad in Civil or Commercial Matters (Ex. A, 92–2). Approved June 13, 1972 by a vote of 84 to 0.

21. Cultural Property Convention (Ex. B, 92–2). Approved August 11, 1972 by a vote of 79 to 0.

22. Amendment to Statute of the International Atomic Energy Agency (Ex. C, 92–2). Approved March 17, 1972 by a vote of 66 to 0.

23. Convention for avoidance of double taxation with Norway (Ex. D, 92–2). Approved August 11, 1972 by a vote of 79 to 0.

24. Partial Revision of the Radio Regulations (Ex. E, 92–2). Approved June 13, 1972 by a vote of 84 to 0.

25. Extradition Treaty with Argentina (Ex. F, 92–2). Approved June 13, 1972 by a vote of 84 to 0.

26. Treaty on the Swan Islands with Honduras (Ex. H, 92–2). Approved June 12, 1972 by a vote of 74 to 0.

27. International Organization of Legal Metrology Convention (Ex. I, 92–2). Approved August 11, 1972 by a vote of 79 to 0.

28. Protocol to the Single Convention on Narcotic Drugs (Ex. J, 92–2). Approved September 18, 1972 by a vote of 69 to 0.

29. Convention on International Liability for Damage caused by Space Objects (Ex. M, 92–2). Approved October 6, 1972 by a vote of 67 to 0.

30. Double taxation convention with Japan (Ex. E, 92–1). Approved November 29, 1971 by a vote of 79 to 0.

31. Universal Copyright Convention (Ex. G, 92–2). Approved August 14, 1972 by a vote of 67 to 0.

32. Protocol to Northwest Atlantic Fisheries Convention (Ex. C, 92–1). Approved October 3, 1972 by a vote of 89 to 0.

33. Amendments to the International Convention for Safety of Life at Sea (Ex. O, 92–2). Approved October 3, 1972 by a vote of 89 to 0.

34. Shrimp agreement with Brazil (Ex. P, 92–2). Approved October 3, 1972 by a vote of 89 to 0.

TREATIES CONSIDERED BUT NOT FINALLY APPROVED

Genocide Convention (Ex. O, 81–1). Reported, May 4, 1971.

International Convention on Civil Liability for Oil Pollution (Ex. G, 91–2). Reported August 5, 1971.

Geneva Protocol on Poison Gas (Ex. J, 91–2). Public hearings, March 1971.

Convention on Psychotropic Substances (Ex. G, 92–1). Hearing February 4, 1972.

Vienna Convention on the Law of Treaties (Ex. L, 92–1). Hearing August 3, 1972.

BILLS AND JOINT RESOLUTIONS PASSED BY THE SENATE

1. S. 2819, Foreign Assistance Act of 1971. Approved February 7, 1972. Public Law 92–226.

2. H.R. 16029, the Foreign Assistance Act of 1972. Passed Senate September 26, 1972.

3. H.R. 14734, Foreign Relations Authorization Act of 1972. Authorized appropriations for the Department of State, United States Information Agency, Arms Control and Disarmament Agency, and Peace Corps. Approved July 13, 1972. Public Law 92–352.

4. H.J. Res. 1227, Interim Agreement Between the United States and the Soviet Union on measures with respect to the Limitation of Strategic Offensive Arms. Approved September 30, 1972. Public Law 92–448.

5. S. 18, to amend the U.S. Information and Educational Exchange Act of 1948 to provide assistance to Radio Free Europe and Radio Liberty. Approved March 30, 1972. Public Law 92–264.

6. S. 3645, to further amend the U.S. Information and Educational Exchange Act of 1948 with respect to Radio Free Europe and Radio Liberty. Approved August 20, 1972. Public Law 92–394.

7. S. 531, to authorize the U.S. Postal Service to receive the fee of $2.00 for execution of an application for a passport. Approved May 14, 1971. Public Law 92–14.

8. S. 596, to require that international agreements other than treaties, hereafter entered into by the United States, be transmitted to the Congress within 60 days after the execution thereof. Approved August 22, 1972. Public Law 92–403.

9. S. 748, to authorize payment and appropriation of the second and third installments of the U.S. Contributions to the Fund for Special Operations of the Inter-American Development Bank. Approved March 10, 1972. Public Law 92–246.

10. S. 749, to authorize U.S. Contributions to the Special Fund of the Asian Development Bank. Approved March 10, 1972. Public Law 92–245.

11. S. 2010, to provide for increased participation by the United States in the International Development Association. Approved March 10, 1972. Public Law 92–247.

12. S. 2260, to amend further the Peace Corps Act, as amended. Approved October 8, 1971. Public Law 92–135.

13. S. 2359, for the relief of Willard O. Brown. Approved July 26, 1972. Private Law 92–104.

14. S. 3160, to provide for a modification in the par value of the dollar (jointly with Committee on Banking, Housing, and Urban Affairs). Approved March 31, 1972, Public Law 92–268.

15. S. 3726, to extend and amend the Export Administration Act of 1969 to afford more equal export opportunity, to establish a Council on International Economic Policy and for other purposes. (Consecutively with Committee on Banking, Housing, and Urban Affairs). Approved August 29, 1972. Public Law 92–412.

16. H.R. 11948, to amend the joint resolution authorizing appropriations for participation by the United States in the Hague Conference on Private International Law and the International Institute (Rome) for the Unification of Private Law. Approved.

17. H.R. 15577, to give the consent of Congress to the construction of certain international bridges. Approved September 26, 1972. Public Law 92–434.

18. S.J. Res. 182, authorizing the President to invite the States of the Union and foreign nations to participate in Farmfest-USA and the World Ploughing contest. Approved August 28, 1972. Public Law 92–407.

19. H.J. Res. 984, to amend the joint resolution providing for U.S. participation in the International Bureau for the Protection of Industrial Property. Approved.

20. H.J. Res. 1211, to amend the joint resolution providing for membership and participation by the United States in the South Pacific Commission. Approved.

21. H.J. Res. 1257, to authorize an appropriation for the annual contribution by the United States for the support of the International Agency for Research on Cancer. Approved.

22. H.J. Res. 1268, calling for an immediate and appropriate moratorium on the killing of polar bears. Passed Senate October 6, 1972.

23. S. 4022, to provide for the participation of the United States in the International Exposition on the Environment to be held in Spokane in 1974. Passed Senate October 5, 1972.

24. H.R. 7117, to amend the Fishermen's Protective Act of 1967 (consecutively with Commerce Committee). Conference report agreed to October 11, 1972.

25. S. 2700, to extend diplomatic privileges and immunities to the mission to the U.S. of the Commission of the European Communities and to members thereof. Passed Senate March 17, 1972.

26. S. 2956, to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress. Sent to conference August 14 and 17, 1972.

27. S. 3722, to provide for the establishment of a Foreign Service grievance procedure. Passed Senate June 22, 1972.

28. S.J. Res. 115, instructing the Secretary of State to call for an international moratorium of 10 years on the killing of all species of whales. Passed Senate June 29, 1971.

29. S.J. Res. 217, to create an Atlantic Union delegation. Passed Senate October 4, 1972.

30. H.J. Res. 850, to authorize the Honorable Carl Albert, Speaker of the House of Representatives, to accept The Ancient Order of Sikatuna (Rank of Datu), an award offered by the President of the Philippines. Approved September 22, 1971. Private Law 92–24.

BILLS AND JOINT RESOLUTIONS REPORTED BUT NOT PASSED

S. 390, to provide for a U.S. Foreign Service scholarship program. Reported adversely June 24, 1971.

S.J. Res. 48, to repeal authorization for the employment of Armed Forces for the protection of Formosa and the Pescadores, Reported September 21, 1971.

S. 2224, to amend the National Security Act of 1947, as amended, to keep the Congress better informed on matters relating to foreign policy and national security by providing it with intelligence information obtained by the Central Intelligence Agency and with analysis of such information by such agency. Reported July 17, 1972. Referred to Senate Armed Services Committee.

S. 4039, to amend Public Law 90-553 concerning an International Center for Sites for Chanceries for Foreign Embassies. Reported October 12, 1972.

CONCURRENT AND SENATE RESOLUTIONS APPROVED

1. S. Con. Res. 38, commending the President for initiating a proposed "Journey for Peace." Agreed to by Senate August 2, 1971.

2. S. Con. Res. 54, relating to the printing of additional copies of hearings entitled "War Powers Legislation." Agreed to by Senate December 17, 1971; Agreed to by House May 9, 1972.

3. S. Con. Res. 55, providing for the recognition of Bangladesh. Agreed to by Senate March 21, 1972.

4. S. Con. Res. 73, relating to XXVth Congress of the Inter-allied Confederation of Reserve Officers to be held in Washington, D.C. Agreed to by Senate June 30, 1972; Agreed to by House July 27, 1972.

5. S. Con. Res. 82, to express the sense of the Congress that the United States Government urge the establishment of a United Nations Voluntary Fund for the Environment to which the United States would contribute its fair share. Agreed to by Senate June 12, 1972.

6. S. Con. Res. 97, in behalf of prisoners of war and missing in action. Agreed to by Senate September 27, 1972.

7. S. Con. Res. 100, requesting the President to consider sanctions against any nation that provides sanctuary to terrorists. Agreed to by Senate September 28, 1972 (without reference to Committee).

8. S. Res. 26, to provide for a study of matters pertaining to foreign policy of the United States by the Committee on Foreign Relations. Agreed to March 1, 1971.

9. S. Res. 136, requesting a negotiating conference in reference to the prices of wheat. Agreed to July 12, 1971.

10. S. Res. 140, authorizing special supplementary expenditures for an inquiry and investigation pertaining to the making of policy relating to United States involvement in Southeast Asia. Agreed to July 24, 1971.

11. S. Res. 214, relative to the submission of any Portugese base agreement as a treaty. Agreed to March 3, 1972.

12. S. Res. 237, authorizing additional expenditures by the Committee on Foreign Relations for a study of matters pertaining to the foreign policy of the United States. Agreed to March 6, 1972.

13. S. Res. 246, extending the good wishes of the Senate to the citizens of Japan and the participants of the 11th Winter Olympic Games. Agreed to January 31, 1972 (without reference to Committee).

14. S. Res. 304, to establish a Special Committee on the Termination of the National Emergency. Agreed to September 11, 1972.

15. S. Res. 311, authorizing supplemental expenditures by the Committee on Foreign Relations for a study of matters pertaining to the foreign policy of the United States. Agreed to June 23, 1972.

16. S. Res. 354, recognizing India's 25th anniversary as an independent, democratic nation. Agreed to August 15, 1972 (without reference to Committee).

17. S. Res. 358, expressing the sense of the Senate on the tragic killings of Israeli Olympic team members at the 20th Olympiad at Munich. Agreed to September 6, 1972 (without reference to Committee).

CONCURRENT RESOLUTION REPORTED BUT NOT AGREED TO

S. Con. Res. 21, calling for suspension of military assistance to Pakistan until present conflict is resolved. Reported May 13, 1971.

KENNEDY CENTER TRUSTEES RESPOND TO OPERATIONS REPORT BY COMPTROLLER GENERAL

Mr. RANDOLPH. Mr. Preident, approximately 13 months ago the John F. Kennedy Center for the Performing Arts was opened in our National Capital City. Since that time, this beautiful building has stimulated an upsurge in performing arts activities in Washington. Thousands of people have attended performances at the Eisenhower Theater, the Opera House, and the Concert Hall. More than 2 million other people have toured the Kennedy Center.

From the beginning, the Kennedy Center was conceived as a facility with a dual function—a national monument to President Kennedy and a center for artistic productions.

As with any enterprise of the size and diversity of the Kennedy Center, there have been problems during its initial phase of operations. Last December, the Committe on Public Works requested the Comptroller General to conduct an investigation into the financing and operations of the Kennedy Center. The Comptroller General's report was delivered to the committee on August 8, 1972. This document contained a thorough discussion of the center's organization and operations to date and offered recommendations as to how its management and financial structure might be revised so as to avoid situations such as occurred in the past year.

Mr. President, I have received a letter from Roger L. Stevens, chairman of the board of trustees of the John F. Kennedy Center for Performing Arts. In his communication, Mr. Stevens discusses the major points in the Comptroller General's report. There is widespread public interest in the Kennedy Center; and to add to the public knowledge of its operations I ask unanimous consent that the text of Mr. Stevens' letter, together with an accompanying table, be printed in the RECORD.

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

OCTOBER 6, 1972.

Senator JENNINGS RANDOLPH,
Chairman, Public Works Committee,
New Senate Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: As you know the Board of Trustees of the Kennedy Center appreciate that the Committee requested the report by the Comptroller General concerning "Financing and Operations of the Kennedy Center for the Performing Arts." This report, dated August 8, 1972, followed the Board of Trustees' expression to the Committee in hearings in December, 1971, of the critical need for additional construction funds, either from public or private sources.

The Trustees indeed welcome the comprehensive review of the General Accounting Office of our operations; we have had a close relationship with GAO over many years, hold their views in high regard, and have sought their counsel on numerous occasions. While reviewing the many difficulties in the early months of the Center's operation, which we have acknowledged in the past, the report confirms that the Trustees have taken action, at times drastic action, to put the Kennedy Center on a sound operational basis. We are confident today that with the changes in personnel, procedures, and auditors, the Committee would agree that our operations are conducted on a sound professional basis and our start-up difficulties generally have been overcome.

It should be pointed out, however, that a number of our problems were caused by our immediate success. We have exceeded all estimates for the first year's usage of the Kennedy Center. In a year of theater crisis, we have presented in the three theaters approximately 875 performances during the first year of operation. We have had a total of approximately 1.6 million attend performances, of which 75,000 received reduced price tickets to encourage use of the Center by students and those of all income levels. We have handled an estimated 2 million visitors to the Center, and the Kennedy Center stands second only to the Capitol of the United States as a tourist attraction for Americans and foreign visitors who come to Washington. I think the Congress has every reason to be proud of what it has accomplished, and we on the Board of Trustees feel we have fulfilled our mandate for operation of the Center.

There are several matters raised by the GAO Report, which I feel merit additional comment to avoid misunderstanding. I will, however, avoid any discussion of minor discrepancies between our views and those of GAO.

1. With respect to construction costs the GAO Report shows that $24,500,000 was furnished by the Trustees for construction purposes, which is $1½ million more than the Government matching grant called for, not including the $1,200,000 for land acquisition and the cost of the first concept by the architect. The contribution of the Trustees to the project does not include administration expenses, and the costs of planning and other items of operation over the 14-year period since the Act was enacted by Congress, which amounted to at least $3½ million. Thus, the Trustees have furnished for the purpose of completing the Kennedy Center at least $6 million more than the $23 million matching grant.

In considering the construction difficulties encountered by the Board of Trustees, the Committee should take into account the procedures followed by the Board in construction. Supervision of design and construction of the building—which is a "public building"—was required to be placed under the aegis of the General Services Administration, as agent for design and construction. This agency, which directs much of the Federal Government's construction, ensured that the structure was built in accordance with generally applicable federal standards and with the best construction expertise available. During the construction of the Center, the GSA has been paid fees of close to $1 million for its services. The general construction contractor was John McShain, Inc., which was paid a fee plus reimbursement for all expenses, on a cost-plus-fixed-fee basis, practically all subcontracts were all let by competitive bid. The procedures followed were approved by the Senate and House Public Works and Appropriations Committees and by GAO. The architect was the internationally known Edward Durell Stone, who used the engineering firm of Syska and Hennesey (engineers of the structural work on Lincoln Center).

Thus, the Trustees depended on the figures supplied by this experienced group of experts. We had regular project review meet-

ings with them and had every reason to expect their estimates would be accurate. Further, our Building Committee and Executive Director of Engineering constantly review the progress of construction. In 1969, $66,400,000 was the estimated cost of finishing the building and was based upon data review by the GAO. The figures presented to your Committee and Congress have always been based on reports from the experts mentioned above.

Some reference appears in the report to the additional and unexpected costs incurred by the Board of Trustees after Congress authorized appropriations and borrowing in the amount of an additional $12.5 million in 1969. It was not anticipated at that time that the contractor and its subcontractors would subsequently assert delay damage claims, totalling $6.1 million, resulting from alleged mistakes of the architect, of the general contractor, of the Trustees, and of GSA in the preparation and administration of the construction contract. These claims only surfaced in January 1970 and reached a head in October 1970 when the mechanical and electrical subcontractors walked off the job, claiming that they were entitled to substantial delay damages. These two subcontractors walked off the job at a critical point, when the building would have been left exposed to the elements had they not returned before the onset of winter weather. At that point the Trustees were faced with the prospect of a cessation of building activities while litigation ensued. Expert advice given to the Trustees at that point indicated that rapidly accelerating building costs could result in an additional $10 million construction cost if a prompt settlement were not reached with the two subcontractors. On this basis, it clearly seemed prudent to settle the claims of the two subcontractors, even though we did not agree with their position. The result was the payment of approximately $2.2 million in delay damage claims. In addition to the $2.2 million paid to the two subcontractors referred to above approximately $150,000 in additional delay claims has been settled in order to keep the job progressing to its substantial completion in October 1971. The payment of these claims is directly responsible for the shortage of funds of the Trustees with which to make additional payments to contractors of approximately $2.4 million.

Appended to this letter for your information is a chart showing the steep escalation of building prices during the years of the Center's construction, which will throw further light on our problems. It can be seen that any delay in construction resulted in appreciable increases in costs which all construction sustained and which could not have been foreseen by our experts. Also attached is a summary of the cost of our facilities compared to those of Lincoln Center, on both a square foot and cubic foot basis. It shows our actual costs as two-thirds of Lincoln Center without any adjustment for the escalation of prices since the completion of their buildings. These figures were furnished by Col. William Powers, who supervised construction for the Lincoln Center, as he did for most of the construction of the Kennedy Center.

2. A reference is made in the GAO Report to a lease-purchase agreement on both the seating and carpets. Since these items were essential to our operation, and funds were not available to complete payment of the purchase prices, the only solution at the time was to finance them on terms customary in the trade. Many finance companies were contacted, and we, of course, took the best bids, which, considering the high interest rates the Government and large corporations are paying for money, were not excessive.

3. As to the parking concession, the report states that we could have entered into a more favorable contract if we had not required an advance. In retrospect this might be true, but at the time, due to the escalation of construction costs, we needed an advance against rental to cover these increases. There were only two companies that were willing to make an advance. The other bids were for management contracts.

Inflation, which has resulted in greatly increased interest rates, has credited difficulties with respect to repaying the Government loan. As stated in the GAO Report, the original feasibility study for the garage was based on a 3% interest rate on the Government loan. But the rates at the time the financing was secured were nearly double this 3% rate. Of course, this makes repayment of the debt difficult. Further, the conclusions of GAO are based on existing parking rates; if the rates are increased in the future, the GAO conclusions would have to be modified.

4. With specific reference to Chapter 6 of the GAO Report, which reviews the problems in management of Center operation, the Trustees recognized its management difficulties soon after the commencement of the Center's operations. We are confident that the initial shakedown of our operation has resulted in a tight operation which compares favorably with that of other performing arts operations in the country.

The budgeting process of the Kennedy Center at the beginning of its operations was difficult to initiate. The Trustees had no experience on which to base the operation of three new theaters. Nevertheless, budgets were prepared, though they were not always met. The Committee should be advised that in their June, 1972, meeting the Board of Trustees adopted what we consider to be a realistic budget. The budget was prepared by our new Comptroller, who worked very closely with the Center's Finance Committee, which was established at the Board's Annual Meeting in January. This budget was premised on actual operating experience and reflects a good understanding of the costs which we can be expected to incur in the future.

I do take exception to the statement in the Report that the Center did not know the total costs relating to the operation of the theaters. I have been connected with the operation of many theaters for the last twenty years and can, within an hour of inspecting figures, tell whether the theaters are being operated correctly and at the right costs. It was from my experience in this field that I discovered many expenditures that were high, especially in the well publicized case of the stagehands. As a result, we immediately started negotiations with the Stagehands' Union to secure release from inefficient work rules; and eventually, with the help of our Executive Director for the Performing Arts, secured a very favorable reduction in cost.

5. With reference to difficulties which the Kennedy Center had in its beginning months with the box office operations, there were unfortunately very few experienced box office personnel available in the Washington area because of the lack of theater activity prior to the opening of the Kennedy Center. The result was poor service for the public and inadequate controls. During the past five months, however, most of the problems in our box office operations have been resolved, albeit with some difficulties encountered even today. Generally, GAO's criticism of our early auditing procedures is justified. To solve this problem we retained the CPA firm of Lutz and Carr, experienced in theater auditing, to assist us in revising our box office procedures. This revision has been effected, and we are confident that the procedures now followed are beyond criticism.

6. Chapter 8 on Theater Operations reflects some misunderstanding about the operations of the three theaters at the Kennedy Center.

First, as to the rental agreements on the theater, we have two arrangements for both the Eisenhower Theater and the Opera House. In the Eisenhower Theater, a non-profit institution may rent the house for $10,000 a week, with only the front-of-the-house supplied by the Kennedy Center. The Opera House is rented for $15,000 a week on the same basis. I do not recall any weekly bookings in the Concert Hall, and it is usually rented on a per performance basis, except in the case of the Washington Performing Arts Society and the Washington National Symphony. These are both local non-profit organizations, have financial difficulties of their own, and rent the halls at the same rent they paid at Constitution Hall, which is quite low.

The greatest confusion occurs where the report lists the results of productions on page 62. GAO's figures are not helpful in describing the results of theater operations. For example, there is no explanation of what is meant by "production expenses". When the Eisenhower Theater and the Opera House are rented to outsiders, each arrangement is usually different. The results of negotiations depend on whether the production wants our theaters or we want the production. Generally speaking, on all outside bookings there is a minimum guarantee against a percentage, which in the case of the Eisenhower Theater is usually 25%. In the Opera House the minimum is usually from $35,000 to $20,000 against a percentage, depending on the number of stage hands, advertising, take-in and take-out, etc. There are no so-called "production expenses," except in the case of those productions presented by the Kennedy Center itself. Nevertheless, the GAO Report designated many expenses as "production expenses" for attractions which the Center did not produce. I am at a loss to understand what is meant by the report.

7. The Trustees have formed a non-profit corporation called Kennedy Center Productions, Inc., to underwrite the cost of new plays and musical comedies, the performances of which are important to the Center. Also, so far as possible, the corporation will assist in sharing the cost of essential cultural and public service operations, such as opera and ballet. All profits, if any, will be turned over to the Kennedy Center, but all losses are borne by the Trustees and other public-spirited individuals. It is hoped that the Production Company will provide a means for raising funds for creative and innovative programming from Foundations, corporations and others, which would not be otherwise available.

The financial relationships between Kennedy Center and the Production Company vary in individual cases, depending upon circumstances, but the general pattern is as follows: from the proceeds of the ticket sales for the run of a production, Kennedy Center first retains the operating expenses of the production which it has advanced; it next retains its rental charge which is the same as that charged to any other non-profit tenant, ($10,000 per week for the Eisenhower Theater and $15,000 per week for the Opera House); any surplus income is returned to the Kennedy Center Productions, Inc., to reimburse it for its actual expenditures in connection with the production; any surplus is available for the underwriting of other attractions, some of which might have built in losses such as opera and ballet.

8. GAO failed to take into account the fact that the Trustees made a conscientious decision to expend funds for a suitable inauguration of the Center in September 1971. Instead, the GAO lumped the operation of ARIODANTE and MASS into the general theatrical operations of the Center. The

opening festival budget included $350,000 to produce MASS and $150,000 for ARIODANTE. MASS was to run for eleven performances and ARIODANTE two. No one could possibly expect to recover these funds, but this was an expenditure regarded as worthy of the vision of the Congress and the Presidents of the United States who created the Kennedy Center. None of the well-known art centers in the country have opened with the acclaim and artistic approval received by the Kennedy Center. Fortunately, there will be some recovery from the $500,000 allotted to these productions, because we still have the sets and costumes of both productions, which are worth $100,000. This should have been capitalized as an asset to offset the expenditure. Also we are entitled to revenue from the album sale and royalties from any productions from MASS that are done over the next decade. At the moment, productions of MASS are being planned all over the world, and there should be considerable revenue coming in.

Despite a chaotic season experienced throughout the country in the American Theater, during the first year's operation of the Kennedy Center, the Eisenhower Theater will have been occupied all but three weeks; this does not include the two weeks devoted to the University Theater Festival sponsored by the Kennedy Center, which during the two-week period presented the ten best productions selected from 335 university theaters throughout the country. The Eisenhower Theater, with the exception of the public events, has averaged $12,000 a week in gross income, which is a better result than that of any comparable theater in the country. Most recently, we have used the three theaters during the last week in August and the first week in September for a grand opening of a music festival called "The Old and the New in Music," to great critical acclaim. It showed a deficit as expected, and did not bring in any rent.

The Opera House had a similar successful season and was occupied each week to the middle of August, when it was necessary to replace light bulbs and perform cleaning tasks. Because most of the tenants were nonprofit institutions, there was an average of $15,000 a week of gross income in this theater.

With the results mentioned above, the Trustees feel that we have successfully fulfilled the mandate of Congress to "present classical and contemporary music, opera, drama, dance, and poetry from this and other countries" and to "develop programs for children and youth and the elderly."

In conclusion we appreciate the attention which the Committee has given to the difficulties as well as triumphs experienced by the Kennedy Center during its first year of operation. We trust that with the continued support of Congress we can overcome the obstacles which remain to our continued financial viability and we can continue to provide leadership for the nation in the performing arts.

Sincerely,

ROGER L. STEVENS,
Chairman.

COMPARATIVE COSTS OF JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

	Date completed	Square feet	Cubic feet	Cost	Dollars per square foot	Dollars per cubic foot
Philharmonic Hall[1]	1962	230,000	4,620,000	19,270,000	84.00	4.17
New York State Theatre	1966	295,000	5,170,000	19,540,000	66.00	3.78
Metropolitan Opera[2]	1967	554,000	12,200,000	46,340,000	84.00	3.80
J.F.K. Center[3]	1971	1,500,000	27,100,000	[4]70,000,000	46.67	2.58

[1] The Philharmonic Hall was substantially completed in 1962. Since that date construction costs have escalated more than 70 percent.

[2] (1) Buildings in Lincoln Center serviced by Central Mechanical Plant which cost $3,500,000 additional. (2) The Metropolitan Opera was substantially completed in 1967. At this time the Kennedy Center was in its earliest construction phase. The cost of construction escalated some 50 percent between 1967 and 1971.

[3] Cost of construction escalated more than 25 percent between the last hearings in 1969 and 1971 when the Kennedy Center opened.

[4] Estimate.

SEPTEMBER 15, 1972.

Mr. ROGER L. STEVENS,
John F. Kennedy Center for the Performing Arts, Washington, D.C.

DEAR MR. STEVENS: In reviewing the G.A.O. report on the finances and operations of the Center, I would like to point out that "Production Expenses" as used by the G.A.O. on page 62 of the report is not used in accordance with the generally accepted theatrical useage of the term.

Most of the events shown were not productions of the Center and merely represented rentals of the various houses on either a straight rental, or percentage rental arrangement. I do not know what the G.A.O. considered a "Production Expense" in these rental situations.

Sincerely,

WILLIAM B. HERMAN.

M. E. HARRINGTON BACKS PRESIDENT IN LETTER TO LIGGETT & MYERS STOCKHOLDERS

Mr. GURNEY. Mr. President, in 1971 Congress provided that communications between corporations and stockholders and between union leaders and their membership would not be covered as a "contribution or expenditure" under the Federal election statutes.

The labor movement has, as it justly should, exercised this right. But, the business community has declined the opportunity to take advantage of this change by publicly expressing a preference for candidates, thus abdicating an important opportunity to be heard.

Such was the case, at least until M. E. Harrington, president of Liggett & Myers, Inc., came along.

Over Mr. Harrington's signature, Liggett & Myers, the Nation's 212th largest corporation, has sent its 45,000 stockholders a letter endorsing President Nixon's reelection. In the letter, Mr. Harrington states:

I have been impressed with what I consider to be the basic soundness of the Administration's position in the economic, foreign relations and international trade areas insofar as they affect this corporation.

When these areas are compared to the positions of the Democratic nominee, Mr. Harrington concludes, these "are rightly matters of interest to you as stockholders."

Mr. President, I make this statement on this occasion for two reasons: First, to commend Mr. Harrington on his choice for President. Second, to salute him as a businessman who is willing to stand up and be counted by taking advantage of a right that Congress gave him and to lead the way for his colleagues in the executive suites to follow.

I ask unanimous consent that the New York Times article of October 11, discussing Mr. Harrington and his actions, be printed in the RECORD.

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

[From the New York Times, Oct. 11, 1972]

HEAD OF LIGGETT & MYERS BACKS NIXON IN LETTER TO STOCKHOLDERS

(By Ernest Holsendolph)

In a rare move among corporate executives, the President of Liggett & Myers Inc. has denounced the Presidential candidacy of Senator George McGovern and endorsed the re-election of President Nixon in a letter sent to 45,000 company shareholders.

M. E. Harrington, president of the New York-based company, criticized what he called Senator McGovern's "misunderstanding" of the business community. He said the Democratic nominee's election to the Presidency would likely result in a tax increase of $16 billion for individuals and businesses.

In previous years, election laws prohibited the "contribution or expenditure" by corporations in connection with elections, but an amendment passed by Congress last December permits electioneering in corporate communications to stockholders and communications between union leaders and their membership.

FIRST TO USE AMENDMENT

Liggett & Myers, which ranks 212th on Fortune's list of the nation's largest industrial companies, is believed to be the first to take advantage of the new law.

Mr. Harrington warned, in a letter mailed last week, that corporate income taxes could increase 25 per cent, "much of which would be used to support ill-conceived social goals."

Concerning Mr. Nixon, Mr. Harrington said: "As chief executive officer of a large, diversified corporation, I have been impressed with what I consider to be the basic soundness of the present Administration's posture in the economic, foreign relations and international trade areas insofar as they affect this corporation."

Mr. Harrington continued:

"I am disquieted with the varied approaches of Senator McGovern whose program, if elected, appears to be based on a misunderstanding of the business community and its historical objectives of increasing gross national product, productivity, employment, and profit for the benefit of the investing public.

"These factors, and others, such as the treatment of depreciation, investment credit, individual gift and inheritance taxes are rightly matters of interest to you as stockholders, who would be among the first to feel their impact."

LAND USE CONFERENCE

Mr. MATHIAS. Mr. President, on September 18 I reported to the Senate a summary of the findings of a Land Use Conference held in Columbia, Md., as

well as a partial list of invitees to that conference.

At this time I wish to complete the register of those in attendance, so that the full scope of the conference may be recognized.

I therefore ask unanimous consent that a list of names of Marylanders who attended the Land Use Conference be printed in the RECORD.

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

Ralph Bitely, Chief, Wildlife Management, Maryland Department of Natural Resources, State Office Building, Annapolis, Md.

A. R. Bond, State Forester, Department of Natural Resources, State Office Building, Annapolis, Md.

Alvin Bowles, Bureau of Air Quality Control, Maryland State Department of Health, 610 N. Howard Street, Baltimore, Md.

Mrs. Charles Broderick, Glyndon, Md.

David L. Brown, The Marriott Corporation, 5161 River Road, Washington, D.C.

Joseph K. Burton, 6561 Bock Terrace, Oxon Hill, Md.

Donald O. Buttermore, Westinghouse Electric Corp., Box 1488, Annapolis, Md.

Eldon M. Chorney, The Rouse Company, Exhibit Building, Columbia, Md.

Jack Clifford, P.O. Box 67, California, Md.

Edward F. Connor, 7903 18th Avenue, Adelphi, Md.

John Capper, Deputy Adjutant, Chesapeake Bay Affairs, State Office Building, Annapolis, Md.

James M. David, Office of Planning Coordination, Courthouse, Upper Marlboro, Md.

Jeanne Davis, 10308 Crimson Tree Court, Columbia, Md.

Ann Marie DeBiast, Bureau of Air Quality Control, Maryland State Department of Health, 610 N. Howard Street, Baltimore, Md.

Eva Dieke, 38 Palmer Green, Baltimore, Md.

Sally Dieke, 38 Palmer Green, Baltimore, Md.

Mrs. Emory Dobson, Maryland Environmental Trust, 8 E. Mulberry Street, Baltimore, Md.

Allan M. Eddy, Bureau of L.A.S.H.A., Room 225, Brooklandville, Md.

Virginia J. Edwards, 5367 Storm Drift, Columbia, Md.

Richard W. Emory, Jr., Maryland Environmental Trust, 8 E. Mulberry Street, Baltimore, Md.

Mrs. Richard W. Emory, Jr., Maryland Environmental Trust, 8 E. Mulberry Street, Baltimore, Md.

Mrs. W. G. Fastie, 220 Valley Road, Owings Mill, Md.

Mrs. Judson C. French, 1207 Azalea Drive, Rockville, Md.

Myron Goldberg, Maryland Capital Park & Planning Commission, 8787 Georgia Avenue, Silver Spring, Md.

Mrs. J. Edward Hamel, 5128 Elliots Oak Drive, Columbia, Md.

Johnston N. Hegeman, R.D. 1, Box 240, Cool Spring Road, Bel Air, Md.

Donald Hildebrandt, Land Design Research, 316 Teachers Building, Columbia, Md.

H. Lee Hoffman, Maryland Environmental Trust, 8 E. Mulberry Street, Baltimore, Md.

Melvin L. Hughes, Sr., 2122 Park Beach Drive, Aberdeen, Md.

Wayne Hunley, Land Design Research, 316 Teachers Building, Columbia, Md.

Theodore H. Ifft, USDA Soil Conservation Service, Room 522, 4321 Hartwick Road, College Park, Md.

Stuart Janney, III, State's Attorney's Office, 14th Floor, 1 S. Calvert Street, Baltimore, Md.

Mrs. Randolph W. Jones, Maryland Environmental Trust, 8 E. Mulberry Street, Baltimore, Md.

Mrs. Clarence J. Kern, Route 3, Box 182, Denton, Md.

Tom Kierzkowski, Whitman Requardt & Associates, 1302 St. Paul Street, Baltimore, Md.

Kenneth Landry, Land Design Research, 316 Teachers Building, Columbia, Md.

Randy H. Lee, State's Attorney's Office, 14th Floor, 1 S. Calvert Street, Baltimore, Md.

Judy Leonhard, 5862 Morningbird Lane, Columbia, Md.

Donald G. Lofgren, 25 Crescent Road, Greenbelt, Md.

Henry R. Lord, Deputy States Attorney, 14th Floor, 1 S. Calvert Street, Baltimore, Md.

Dr. Norman H. MacLeod, Code 652, Goddard Space Flight Center, Greenbelt, Md.

William Mangels, Bureau of Planning & State Highway Adm., Room 200, 1123 N. Eutaw Street, Baltimore, Md.

Michael Nawrocki, Hittman Associates, Box 810, Columbia, Md.

J. Michael Nethery, USDA Soil Conservation Service, Room 522, 4321 Hartwick Road, College Park, Md.

Wilson E. Nolan, 100 Chinquapin Round Road, Annapolis, Md.

Cy Paumier, Land Design Research, 316 Teachers, Columbia, Md.

Minny Pohlmann, R.D. 1, Dickerson, Md.

J. Frank Raley, P.O. Box 67, California, Md.

Mrs. J. Frank Raley, P.O. Box 67, California, Md.

Mrs. Lucile Roeder, 808 Trost Avenue, Cumberland, Md.

Mrs. Florence Rogers, 7800 Seven Mile Lane, Pikesville, Md.

Chuck Shaw, Land Design Research, 316 Teachers Building, Columbia, Md.

Harry W. Staley, Route 3, Box 64A, Westminster, Md.

John W. Stout, Jr., Baltimore Gas & Electric Company, 7017 Kenleigh Road, Baltimore, Md.

Christopher Tabor, Middle Patuxent Valley Association, Columbia, Md.

Mary Vincett, Baltimore County.

Mrs. George S. Wills, Maryland Environmental Trust, 8 E. Mulberry Street, Baltimore, Md.

Mrs. Jean Worthley, Baltimore County.

Mrs. J. M. P. Wright, Maryland Environmental Trust, 8 E. Mulberry Street, Baltimore, Md.

Robert W. Ziehm, Howard County Soil Conservation Service, 9051 Baltimore National Pike, Ellicott City, Md.

George Siehl, Environmental Policy Division, Library of Congress, Washington, D.C.

Stanley G. Lemon, Chesapeake Instrument, Shadyside, Md.

Carl Tenner, Arundel Center, Annapolis, Md.

D. F. Tuthill, Department of Agriculture Resources and Economics, University of Maryland, College Park, Md.

Dr. Sidney Ishee, College of Agriculture, University of Maryland, College Park, Md.

Louis R. Van deVelde, IBM Federal Systems Division, 18100 Frederick Pike, Gaithersburg, Md.

Kenneth H. Steward, Engineering & Design Division, Maryland-National Capital Park & Planning Com., 8787 Georgia Avenue, Silver Spring, Md.

Hedley Clark, West Street, Annapolis, Md.

Mary Ellen Bay, Uniontown Historical District, Route 5, Westminster, Md.

SENATOR CHARLES H. PERCY'S 1972 ANNUAL REPORT

Mr. PERCY. Mr. President, I am pleased to submit to my Illinois constituents my sixth annual report on the legislative activities of Congress since assuming my seat in the U.S. Senate.

As the 92d Congress prepared to adjourn, it could look back upon an important list of accomplishments.

In March, President Nixon signed into law the bill establishing the Special Action Office for Drug Abuse. I was privileged to act as Senate sponsor of that measure, which is now an important weapon in our fight to cut down crime.

In May, the President signed into law a program providing important new benefits for miners, including thousands of Illinois miners, who have been disabled by black lung disease. In the field of transportation, $225 million has been authorized to enable Amtrak to continue its efforts to improve and expand rail passenger service throughout the United States.

The Higher Education Amendments Act, passed in June, provides new programs to assist colleges and universities, and their students. The measure includes grants for students from families with incomes below a certain ceiling, as well as emergency assistance to schools experiencing severe financial difficulties.

The 20-percent social security increase and the new cost of living escalator, both of which I cosponsored, head a series of important improvements enacted for our Nation's senior citizens.

The ceiling on retirement earnings was raised and widows will now receive the same pensions as their husbands, instead of 82.5 percent, as under the old law.

Also established were minimum benefits of $200 a month to individuals and $300 for retired couples who have paid social security taxes for 30 years, regardless of their levels of working income; and my proposal to have all but $1 of the cost of all drugs prescribed for illness covered under medicare was adopted.

My continued efforts to improve conditions in nursing homes and other long term health care facilities for the aged were marked by the adoption of two of my amendments. One authorizes $17.5 million over 3 years to develop programs to train nurses aides and orderlies; the other authorizes projects to rehabilitate elderly patients by encouraging them to join in activities and generally take an interest in their surroundings.

My proposal to create a special assistant to the Secretary of Housing who would be concerned principally with housing for the elderly is now a reality, and my bill to authorize half-fares on airlines for the elderly was approved by the Senate as the session prepared to end.

I was disappointed, however, that, after 3 years of intense discussion and debate, the Senate decided it was not yet ready to accept a complete overhaul of our disastrous and chaotic welfare system. Instead, it voted late in the session to test, over a 2-to-4-year period, three different welfare plans:

The President's original welfare reform plan, which would establish a nationwide, uniform Federal welfare system granting a minimum living subsidy to the poor—$2,400 a year for a family of four.

The Senate Finance Committee's "workfare" proposal, which would make any parent of a school-age child in-

eligible for welfare. Instead such parents could get a guaranteed Federal job at $48 a week with possible supplements raising it to $69 a week.

A third welfare reform plan which would establish a nationwide, uniform Federal welfare system granting a minimum living subsidy to the poor—$2,600 a year for a family of four.

This test approach was adopted largely because no single welfare reform plan won enough Senate support for a majority.

However, a number of important welfare changes were adopted, including a tax rebate of about 10 percent for low-income workers; an $800 million authorization to establish child-care facilities so that mothers on welfare can take jobs, and federally guaranteed minimum monthly incomes for the aged, the blind, and the totally disabled of $130 a month for individuals and $195 a month for couples.

The American consumer suffered a serious setback in the final weeks of the 92d Congress when the most important piece of consumer legislation ever presented before it was filibustered to death in the Senate.

As a principal author of this measure, which would have created an independent Consumer Protection Agency, I was deeply disappointed that a small group of Senators could prevent the Senate from acting upon legislation it had overwhelmingly approved in the previous Congress, and which the House resoundingly passed earlier this year.

This bill, representing more than 2 years of refinement and improvement over previous measures, provided a well-balanced program designed to safeguard consumer interests while protecting the rights of the vast majority of responsible businessmen. It was supported by Montgomery Ward and its parent company, Marcor, Inc., as well as by groups representing consumers and by the American Bar Association and the American Trial Lawyers Association.

The Consumer Protection Agency's principal functions would be to represent consumer interests in proceedings before Federal agencies and courts; conduct surveys and research on consumer matters, disseminate information on developments of interest to consumers, and provide grants for consumer research programs.

Essentially, the Agency would act as an advocate for consumers in the halls of government where, too often, the regulatory agencies created to act as watchdogs of industry, have instead become their lapdogs.

Although another 2 years of effort apparently have gone down the drain, too many people from all walks of life—Government, business, and the public—have invested too much time, energy, and effort in this bill to permit it to be written off for lost. This legislation will be actively pursued in the next Congress, until it is successfully passed and signed into law.

The revenue sharing bill enacted by Congress represents a far-reaching innovation in our system of supporting local public services, and embodies the principles of legislation I sponsored when I first came to the Senate. The historic measure we adopted earmarks $30.1 billion in Federal income tax revenue over 5 years for States and localities to enable them to deal with local needs and priorities.

Distribution of the funds is based upon the calendar year and is retroactive to January 1, 1972. The 1972 allocation is $5.3 billion, of which Illinois' share is $274.6 million, third highest in the Nation. The State will receive $91.5 million, while $183.1 million is distributed among the counties, cities, townships, and villages. For calendar 1973, Illinois will receive an estimated $309 million, with about one-third going to the State and the rest to localities.

These funds will provide an important source of revenue for local governments, which bear the brunt of our more difficult domestic problems, and are passed to the limit to meet the rising costs of vital public services.

In January 1972, I held in Carbondale the first official hearings by a Senate committee in southern Illinois in decades, and the first ever on revitalizing life in rural America. A few months later, the landmark Rural Development Act was signed into law by President Nixon. This legislation is designed to help make rural America a better place in which to live and work, and to make rural living more attractive for young families.

Briefly, this measure expands credit facilities for family farms, and provides for loans to small rural businesses. It also provides Federal funds for more municipal services and facilities, with particular emphasis on housing, and on water and sewage disposal systems, which are vitally important in attracting industries, and the jobs they create, to rural areas.

In this session, there was a determined move to reassert congressional authority and to accept congressional responsibility in the field of foreign policymaking. The Senate passed historic legislation, which I cosponsored, to delineate more clearly the executive-legislative relationship as it relates to war powers. The bill, which had broad conservative and liberal support, provides that American troops cannot be involved in future combat for longer than 30 days without congressional agreement. This would not impair the authority of Presidents to respond to instant threats to our security, but would be a deterrent to undesirable wars which are not generally considered to be vital to our national security interests. The House did not agree to this bill, but the groundwork has been laid for enactment in the next session.

Both Houses did agree to ratify the Strategic Arms Limitation Treaty on defensive nuclear weapons and to accept the executive agreement on offensive nuclear weapons. These accords, finally negotiated by President Nixon and Chairman Brezhnev in Moscow, set the stage for further negotiations to limit the strategic arsenals of the superpowers, thus curtailing the arms race, increasing chances for peace and hopefully releasing billions of dollars annually for domestic needs in both countries. I strongly supported the concept and worked closely with the Arms Control Agency both here and abroad as a member of the Senate Foreign Relations Committee.

Twice the Senate approved amendments to end American participation in the Vietnam war, but in one case the parent bill was defeated and in the other, the Senate-House conference committee killed the end-the-war amendment. As the session drew to a close, another effort was defeated narrowly. I voted for all three measures, which called for an end to the war 4 months after all our prisoners were returned and we had been given a full accounting of those Americans missing in action. I also was a cosponsor of the resolution urging all nations to bring pressure on North Vietnam to release our prisoners.

The Senate passed a foreign aid bill in late September which reaffirmed our support for the military and economic needs of the State of Israel, provided vital military assistance to our allies, and earmarked $5 million for the care and welfare of South Vietnamese children who are victims of the war. I supported all efforts to responsibly reduce unnecessary foreign aid and to move toward programs of multilateral rather than bilateral aid programs, thereby sharing costs with other developed countries.

While this session of Congress recorded significant advances in many areas, the list of problems requiring urgent attention remains long.

A high priority item must be a renewed effort to reform our costly and wasteful welfare system. We simply cannot afford to continue throwing good money after bad in obsolete programs which have signally failed to do the job. The cost, in budgetary terms as well as in wasted human lives, is just too high.

I believe that Congress also will focus its attention next year on tax reform and the need to develop some system of comprehensive health coverage.

Congress will continue its investigation by the Inter-Governmental Relations Subcommittee into the impact of local real estate and personal property taxation. While Congress cannot legislate directly in this area, it can offer incentives to encourage States to reform their property tax systems to make them more efficient, impartial, and equitable.

Soaring costs of public services accompanied by constantly rising tax bills have led to an understandable "taxpayers revolt" over systems that are unwieldy, archaic, and riddled with favoritism. It is imperative that something be done, and I am confident that Congress will develop a program to help alleviate tax burdens on such groups as the elderly and the poor for those States which undertake to revamp and modernize their tax systems.

In the field of health care, costs are skyrocketing to where even members of middle income families cannot afford to become ill. Fully 20 percent of all Americans have no health insurance of any kind, and the problem is especially serious among low-income families. Though medicaid was established to provide benefits for the poor, it has reached less than half of those it was designed to serve. At the same time, costs of both medicaid and medicare have far out-

stripped estimates, and many beneficiaries have complained of long delays, poor service and bureaucratic snarls in their efforts to have claims validated and paid.

A variety of health insurance proposals have been introduced, ranging from some which would establish a monolithic Federal health insurance scheme, which I oppose, to others which would minimize Federal participation and rely heavily on private carriers.

Last year I introduced jointly with the minority leader, Senator HUGH SCOTT, a bill to establish a single unified health care delivery system available to all Americans on a voluntary basis.

It would provide financial protection against catastrophic illness by covering all costs above a certain ceiling determined by a formula which considers both family income and family size. I consider this essential to any health measure that is developed in the Congress.

This bill, which also provides coverage for comprehensive outpatient care, combines the resources of both the Federal Government and private enterprise in a pluralistic system in which all participants would pay at least something for their health protection.

Another area of congressional concern promises to be trade legislation, especially as prospects for improved relations with Russia and China offer the possibility of increased trade with those nations. A whole range of trade restrictions that developed during the cold war will now have to be carefully reviewed.

At the same time, efforts undoubtedly will continue to formulate new restrictions, as a way to meet rising competition from overseas and rectify our balance-of-payments deficit. The Hartke-Burke bill, in particular, is designed to curb the activities of American corporations with extensive overseas operations, in the mistaken belief that these facilities abroad are taking jobs away from American workers at home.

Based upon first hand experience of more than 25 years as a business executive, I can say flatly that this kind of legislation will not improve domestic employment, but in fact will undermine seriously the very sector of our economy that has consistently led in the creation of new jobs here.

The way to meet competition of imports is not by erecting higher tariff walls and throttling down our economic engine, but by assisting, through measures such as the Trade Adjustment Assistance Act I introduced this year, those communities and companies which have been hard hit by international competition.

This measure would make available Federal grants and loans to retrain, for employment in other industries, workers who have lost their jobs because of overseas competition. It also would provide assistance for hard-hit companies to adjust into other lines of endeavor, and to help communities that depend heavily on an import-hit industry to attract new business.

The priority list on the national agenda is considerably longer, but I have sought here only to offer a highlight of what I consider will be leaders among the many legislative proposals that will emerge next year.

Before closing this sixth annual report, I would like to thank all of you who have taken the time to express your thoughts and suggestions throughout the year. Your letters and telegrams constituted a very important source of information and guidance for me. I have enjoyed meeting with many of you during my frequent visits in Illinois, and in Washington. I appreciate your support and encouragement, and hope that the year ahead will bring you good health, happiness and prosperity.

THE EFFECTS OF FEDERAL OVERSPENDING

Mr. GURNEY. Mr. President, the American public's concern about the effects of Federal overspending is now being felt throughout Congress. This stimulus has resulted in a number of proposed solutions to provide coordination and restraint to congressional spending, some of which we will be discussing today as we consider the debt ceiling bill.

One approach to the problem has been proposed by the distinguished junior Senator from Tennessee (Mr. BROCK). His bill provides that Congress account for the Nation's priorities in developing its own proposed budget. The bill has been referred to the Committee on Government Operations.

Mr. President, I ask unanimous consent that a transcript of the U.S. Chamber of Commerce's program, "What's the Issue," which explains the thrust of S. 3894, be printed in the RECORD.

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

WHAT'S THE ISSUE?

(Chamber of Commerce of the United States Public Service Radio Program, MBS "Brock Bill to Control Spending" October 5, 1972)

Mr. BOOTH. The cost of government is literally eating the country out of house and home. In 1970, Americans spent $14 billion more for government than for food, clothing and new cars combined. The cost of running the Federal Government has increased by ⅔ from 1958 to 1971. It's frightening to think that the cost of government is still on the increase with no let-up in sight.

You may ask how can we do all of the things we're trying to do for people without adding more millions of dollars to the cost of government. Well, there may be some answers to that question and we've asked Sen. William E. Brock of Tennessee to discuss them with us. Our reporter today is Frank van der Linden of the Washington bureau of the *Nashville Banner*. I'm Arch Booth of the Chamber of Commerce of the United States.

Before we begin the general questioning, Sen. Brock, how did we get into this fix, if that's a fair question? Why isn't it that the Federal Government can't be under better control than it is today?

Sen. BROCK. Well, I think in the first place, let's don't start taking the easy route of criticizing government for some evil intent. I don't think there was any malicious desire to create the problems we have in this country. I think it just sort of happened. We, since World War II, have had so many problems thrust upon the government and the people in this country that we responded to each in a piece meal fashion. And the government has sort of grown like Topsy. It's grown at an uncontrolled and unmanaged fashion so that today when an appropriations bill is presented to the Congress where we are trying to solve a particular problem, we have no mechanism in the Congress with which to evaluate that program in its relationship to things that are already going on in other programs. We don't have any method of evaluating its impact financially, fiscally, monetarily—its impact on the consumer and the taxpayer. As a result, we have situations where families can qualify for federal assistance under 16 different federal programs.

That means, in effect, that nobody knows who's qualified or who's not. That means also that people in some instances are getting money that they should not get; other people who really need help are not getting proper support. We have an audit agency in government which audits our federal programs in terms of dollars and cents, but we have no audit agency in government to measure human impact: What is this program going to do to people or for people? And this is the sort of thing that just must be stopped. The government must become more responsive to the American people or they're going to loose faith in the entire system of government in this free land of ours and I don't think any of us want that.

Mr. BOOTH. That's a very interesting summary. We've been growing very rapidly—population, economic size and strength and in our demands upon government to do things for us. So you're saying what we need is a better mechanism, a better means of analyzing where we are, where we're going and how all of that relates to the taxpayers. Well, Mr. van der Linden, there it is, so your question is next.

Mr. VAN DER LINDEN. Senator, you've introduced a bill to reform the Congressional budgetary process. Could you tell us just what this bill would do?

Senator BROCK. Well, it attempts to address that problem that I mentioned, Frank, of a lack of cohesion and planning at the level of congressional spending. The first thing that it would do is to set up a joint committee on the budget and that means that every bill that comes to the Congress would have to go through that committee first in order to see if it fitted within the overall limitations we have on our money.

There's just so much you can take from the American taxpayer. I think that we're about at that ceiling. I don't think we can increase taxes anymore without breaking the backs of some taxpayers in this country.

So the first thing we say is that a legislative committee that is created here in the bill would review all receipts and expenditures of government and establish broadly the amount that can be spent in program areas. In other words, what they would do, is to establish national priorities. That isn't done today. So we need to do that; we must do it in order to properly evaluate each program that is submitted to us.

Secondly, we require that programs that are going to be passed by Congress not only say how much they're going to spend this year, but how much is it going to cost next year and the following years—for five years. In other words, we require them to project their expenditures out for five years so we will know what the long term impact on the American people will be.

Thirdly, we require a three year limitation on authorizations for all federal programs and what that says is that there are some 1600 federal programs today. Some of them are out of date. Some simply aren't working. But they were authorized years ago and nobody seems to pay much atention to them so they just go on and on and on and cost the people more and more money. We require each agency, each program to come in and be re-evaluated at least once every three years.

Fourth, we require—before a new program

is adopted—that it be pilot tested. Too many times planners in Washington have engaged in social experimentation with the American people as a nation. Not only is it costly, but it's done great human damage to individual citizens and we require that each program that is going to be adopted at some point in the future be pilot tested on a limited basis so that we know whether it's going to work or not.

And finally, we require that the Congress appropriate the money every year—not a long term appropriation. We can give them a long term projection so that there can be adequate planning, but the appropriation should be done on an annual basis.

Mr. VAN DER LINDEN. But as a practical matter, Senator, can this bill which is very idealistic in its aims be passed by this Congress in view of all of the different built-in interests in the old system?

Sen. BROCK. That's a fair question. I don't know that it could pass in this particular Congress, but I know that it will pass at some point, hopefully in the next Congress because the American people know the price they're paying. Look at the situation. Today in this country, the average family cannot afford to own a home because the Federal Government has forced the price of housing beyond the reach of the average family. So what they have to do, the average family has to turn to the Federal Government for a subsidy to own a home. Now it's the average person that pays the taxes. It isn't the rich. There aren't that many. It isn't the poor, they don't pay taxes. But the working family in this country pays the taxes. How ridiculous can it be for them to have to turn to us and say, "Give me some of my tax dollars back so that I can even own a home." That's insane.

Mr. VAN DER LINDEN. Would this bill actually result in placing the ceiling on expenditures that the President is asking Congress to do? Would it have that effect?

Sen. BROCK. Well, not directly. What it would do is it would say that any expenditure must be considered in light of whether or not: 1. Is it going to create inflation? and 2. Is it going to raise taxes? If it would do one of those two things, then it will have some rough sledding.

Mr. BOOTH. Let me offer a viewpoint, Mr. van der Linden, to your question to Sen. Brock about whether the public is interested in whether this sort of a bill could be passed or not.

I would like to say that we, in the business community, are certain to have great enthusiasm for the bill which Sen. Brock is introducing. The bill, of course, is brand new. Just being introduced, the public doesn't know about it and the business people of the country don't know about it, but I can safely predict that it's going to have enormous support. We as consumers—as well as taxpayers as well as business people who are trying to run a successful and profit-making business—are terribly concerned about the drift of things in this country and it's easy to see that the bill itself, the five components that Sen. Brock just told you about, will have enormous popularity. The whole question is to get public attention focused on them and that's something that we're going to undertake at the National Chamber. We're going to give this bill all-out support because we think it's one of the finest things that's come along in the fiscal field in many a day.

Sen. BROCK. Frank, let me add one point to that too. We hear an awful lot in this country about the alienation and frustration of young people, of minorities—Blacks, browns and all the rest—people who are literally being oppressed by the cost of living today. It's just very difficult for a young man who comes out of high school and goes to work; he gets married and he's got a new baby and he's trying to make payments on a refrigerator—it's getting harder all the time. These young people and I think the working people in this country simply are insisting that government be more responsive to the average citizen—that his voice be heard for a change. It isn't today. This is a government of pressure, of response to the large pressure-point politics that are being played. What we are trying to do in this bill is to make the government more responsive across the board to the needs of all people.

Mr. VAN DER LINDEN. And it's your hope, I would presume, that if you could get Congress actually in control of the budget for the first time that you could weed out the nonessential program and concentrate on the essential ones.

Sen. BROCK. Congress is the people's branch of government. Nobody elects the Secretary of Health, Education and Welfare or the Secretary of Housing and Urban Development, but every member of Congress is elected by the people of this country. That's where the voice is loudest and that's why the Congress must get control of the budget process.

Mr. VAN DER LINDEN. Well, would it help in this Committee to have a big and adequate staff for your new committee. It seems to me that the weakness of Congress is that you don't have anywhere near the number of staff people that every federal bureau has. I notice this in Congressional hearings on appropriation bills. You may have a whole platoon of spokesmen for the HEW to testify, for example, for a bill and the Senate committee may have one man to handle it.

Sen. BROCK. I'll buy that with limits. I don't want to create a new bureaucracy. We've got too much of that already.

Mr. VAN DER LINDEN. That's true. But I think you do need to have an ability to get your own independent statistics to evaluate these programs and not have to rely on agencies' own statistics which of course are self-serving.

Sen. BROCK. Absolutely.

Mr. VAN DER LINDEN. Sen. Brock, you just told us about your bill to try to get some control over the Congressional budgetary process. Could you tell us what you will do now to follow through on this? Will this bill go to a certain committee and you'll have hearings, or just what will happen next?

Sen. BROCK. Well, I think two things have to happen. First, I'm going to begin to personally contact my colleagues in the Senate and in the House and try to enlist their support. But probably more important than that, Frank, are things like this program where the general idea is presented to the American people because we need their help. I've been working for Congressional reform ever since I've been in the Congress and I often have said the reason we've had little success was because it was a cause without a constituency.

We must have help on this. The American people must realize that the way government is structured today, it is a government of advocacy, and with all due respect to the Chamber of Commerce, Mr. Booth, I don't see why we have to have a Department of Commerce and Department of Labor. I think that the government should be responsive to the people that work in this country and it should be designed to afford every person in America an opportunity to work and to maximize his own future—his own opportunity.

So we need active enlistment of support in the communities of America across the board. If they start writing their congressmen then we're going to start getting results.

Mr. VAN DER LINDEN. What would you say is the best appeal that you could make to the people? Is this the idea perhaps that if you ever hope to get a roll-back in federal spending and, most important to the taxpayer, a reduction of the taxes that are so burdensome to people that you would find that this is one way actually to say we will get tax reform but we've got to reform the government in order to get the tax reform?

Sen. BROCK. I think there are several areas of appeal. First of all, from a negative point of view, I don't know that it matters so much who is in control of the government—whether it's Democrats or Republicans. The way it's being run today, it's out of hand, it is out of control. So, in the first instance, we're going to have higher taxes if we don't do something about government. We're going to have more inflation if we don't do something about government. We're going to have government that is not responsive to the average working citizen of America.

So all of these things can be changed if the American people will get behind this kind of Congressional reform. We can have more economical and yet more workable government. We can have government that really responds to people—that is really people-oriented. We can have government that doesn't cost as much. We can have lower taxes and we can stop this inflation.

But more than anything else, we can put the hands of the people back in the government. We can enhance the voice of the American people, if they want it.

Mr. BOOTH. Let me offer this thought, Mr. van der Linden, to supplement and underscore what the Senator has said. For years, taxpayers at all levels in all walks of life have worried and complained about federal spending, about how to cut it, and have written to their senators and their congressmen calling for a cut. Now then, there would usually come back this almost unanswerable question: "Well, where would you cut the budget? You just write and tell me where to cut the budget," and they'll send them a picture, maybe, or if it's a personal interview they'll show them the budget which is bigger than the telephone book of most any city in the United States and you're baffled. You feel like climbing the wall.

Now, here's a ray of hope. Sen. Brock has offered this five-point program which he's just explained to us and at long last we can get a handle on this budget and we can have an answer—a constructive, positive answer to this challenge—"Where would you cut the budget?" I think that taxpayers all over the United States and consumers should and will applaud Sen. Brock for this fine five-point program for dealing with the budget. We aren't ever going to see any very cheap government in this country, but it's well-nigh out of control now and he's offering a way to control it.

Mr. VAN DER LINDEN. Do you think that the one-year limit on expenditures might be one of the best features here so that Congress will actually never spend a nickel beyond this and have to come back every year for the money for each program?

SEN. BROCK. Of course, I'm caught up in this bill and I'm prejudiced. I believe in it and I think it will work for the benefit of the people. But that's one point Frank. But it's also important that we look almost every year or certainly every year at a certain percentage of our federal programs to see if they're really working for the American people. You know the Senate did something just a couple days ago that was really great. I think. We've got well over a thousand commissions—advisory commissions—that cost the taxpayers millions of dollars in this country and are never reviewed. They just go on and on and on. And my committee just voted out a bill that required every commission to expire at the end of two years which means that if they've done a good job, they can come back and rejustify themselves and we will reinstitute them. But if they're not, we can stop them. That's what I'm trying to do with the federal programs that directly affect the American people as well. And if we can do that, I think we'll all benefit.

Mr. BOOTH. Again, to have a put-in here, you've asked which is the better of these points. I'd think that would be a hard question to answer. I think each of these five points, Mr. van der Linden, is indispensable. We usually talk about a three-legged stool

being an ideal thing to sit on. I've never seen a five-legged stool but maybe Sen. Brock has invented one here. I think here's a five-legged stool which will work and I think it's the way out for us taxpayers in having a way to live with our government and live with our problems and to be sure that our senators and congressmen have a means of coping with an ever growing federal bureaucracy.

Mr. VAN DER LINDEN. Of course, the objection is undoubtedly going to be made that you want to cut back on social programs, that you want to starve the schools and starve the poor and all those programs.

Senator BROCK. That's a lot of baloney. The thing about it is that we're not spending enough money in some of those very areas—problems of the environment, problems of our schools with the children of this country; they desperately need better educational opportunities. But when you have 10, 20, 30, 40 different programs, all in the field of manpower training, for example, the money isn't getting down. The old trickle-down theory that was established years ago isn't working any more. The money isn't trickling down. It's being shortstopped by an incredibly large and unresponsive bureaucracy.

Mr. VAN DER LINDEN. This is one thing you would cut, I would hope.

Senator BROCK. Well, I think we very much can.

Mr. BOOTH. Or consolidate. Here's the Office of Management and Budget which lists 448 assistance programs in education alone and it strikes me that the very essence of what Senator Brock is offering here is a means of relating and consolidating and making us get more for our dollars.

Mr. VAN DER LINDEN. It would certainly cut out a lot of paper work. Any school administrator can tell you how many papers he has to file just to get one little grant.

Senator BROCK. And we're going to let the schools have a voice in how to best educate the children, too, because today the Federal Government is coming in and saying, "Buy so many typewriters, even if you don't have a typing course." Now that's ridiculous.

Mr. VAN DER LINDEN. "It's free money so why don't you get the free typewriters." That's what they're telling them.

Senator BROCK. That's right. And it is so immoral, so wrong, not to let the American people have a voice in what their problems are, what their priorities are, what their needs are. That's what we're trying to get at. There shouldn't be 500 different programs—as there are—that have an impact on American youth. There should be programs that help young people to achieve their own potential in their own way.

Mr. BOOTH. Senator, I am sure that one of the most troublesome problems that you grapple with is to try know whether or not programs that the Congress has on hand or is thinking of enacting are really doing the job they set out to do. Now is there, in your opinion, in your new proposal, the means of knowing whether the government is doing the job it sets out to do?

Sen. BROCK. We would require that in my bill. We would require an audit of these programs to see that they're helping people, not just perpetuating the wages and salaries of bureaucrats who are not responsive to people. We require that these programs work for the benefit of the American people.

Mr. BOOTH. As I understand it, not only would you do that when enacting a program, but you have a three-year limitation on all programs and you would re-evaluate them every three years.

Sen. BROCK. That's correct. That's the whole purpose of the bill.

Mr. VAN DER LINDEN. Do you have strong support for this proposal from the Nixon Administration?

Sen. BROCK. Well, we haven't even discussed it with them at this point. It's brand new, but I would hope and believe that the Administration could very much support something like this. They know the problem.

Mr. BOOTH. And again, I would like to say that whatever support the Senator needs, we're going to do our humble, but honest best, to get it for him because this program is long overdue. Nobody's ever thought of it before, but something of this kind is necessary.

McGOVERN BUSING

Mr. GURNEY. Mr. President, Senator GEORGE MCGOVERN is a man who says he cares. We all know that, because he has told us he does so many times. He has told us that he is a man who cares about all the people, those on welfare, and those who work, those who want, and those who have—and even those who have just enough to make ends meet. But I fear his vision is limited.

Nowhere can we see more clearly the true depth of his concern than in his many slightly different responses to the issue of busing. Senator MCGOVERN began as an out-and-out foe of busing to achieve racial balance. Last February in a brunch he attended in Washington he showed the extent of his understanding of this issue quite clearly. He showed how much he cared about those whose children are bused. He showed how well he understood their resistance to busing. He commented:

> Suppose your kids have to ride the bus? What the hell difference does it make?

I suppose his cavalier approach stems from the fact that he probably has not been beseiged by constituents unfortunate enough to be caught in the numbers game imposed by some Federal courts not in the pursuit of educational excellence but rather in the pursuit of some arbitrary arithmetic racial percentage.

Mr. President, I have been, for Florida has borne an untoward and unfair burden in this regard.

For example, during the past 2 weeks, Mr. President, the offices of many of my Senate colleagues were visited by parents from the Jacksonville, Fla., area who came up here, many of them for the first time, and at their own expense, to talk about forced busing. They did not come here to march, to picket, or to threaten, but to tell their story, ask questions, and seek help. For those Senators who did not have the opportunity to meet with the citizens of Duval County, I should like to talk a little bit on just what is happening down there.

Since June of 1971, the Duval County school system has been under a court order requiring massive forced busing. Since that time, the school system has more than doubled its number of buses, from 200 to 420, to accommodate the 12,000 additional schoolchildren who are being shuffled around by HEW and judicial whim.

In the Tampa, Fla., area, approximately 23,000 youngsters had their school assignments altered by Federal court order last school year. The school board had to borrow $1 million from local banks, increase the county school tax, and cut expenditures for improvements in areas more directly connected with improving educational opportunity.

Situations like this explain the vote in the recent Florida presidential primary which indicated that over 75 percent of Floridians supported an end to forced busing. Parenthetically, it also helps to explain Senator MCGOVERN's poor showing in the Florida primary.

By March of this year, however, Senator MCGOVERN was trying to sidestep the issue just a bit. In Florida, he called busing a "phony issue" and a "red herring to divert our attention from the real issues today."

By April, his understanding reached new levels of excellence. So much so that he could respond in Philadelphia:

> I sympathize with the inconvenience it causes to both the student and the parent if they happen to be one of that very small percentage that is involved with changing schools.

And by May, with the whiff of the Democratic presidential nomination, he went so far as to say about the Richmond decision ordering massive city-to-suburb busing:

> I do have some question about it. It is entirely possible that the decision went too far. I'm not ruling that out.

By May he certainly did not sound much like a man who knew his own mind on the issue.

But these doubts were only momentary. By September, having received the nomination of his party, Senator MCGOVERN has returned to the position that busing is a false issue, and he has begun striking out at the President's efforts to produce an equitable compromise fitted to the legitimate concerns of all. In Detroit, he accused the President of using the issue "for cheap political purposes in the most cynical and demagogic way possible." By that I assume he meant the President was attempting to strike a reasonable balance between the extremes of both sides. But the Senator clung to his view that the issue was only one of the President's making.

In fact, by October he had compared the Republican position on race with the Ku Klux Klan's. All this from the man who decries divisive rhetoric—anyone's but his own. All this from the man who wants to heal our wounds—even if he has to open a few old ones and inflict some new ones in the process.

The most interesting and discouraging thing about GEORGE MCGOVERN's campaign rhetoric about race, and particularly about busing, is his continuing unwillingness to ascribe any but the worst motives to anyone with whom he does not happen to agree. Faced with widespread disdain for massive busing solely to achieve some arbitrary balance, he merely tries to find a scapegoat. He says we have to obey the courts and that President Nixon is a mean man trying to churn up an issue and drive blacks and whites apart. There is no compromise. There is only GEORGE MCGOVERN and his own preconceptions—one of which must be the moral baseness of the majority of Americans, black and white, who overwhelmingly disapprove of the busing he applauds.

This self-righteous condemnation of everything that is not of MCGOVERN, for MCGOVERN, and by MCGOVERN is the antithesis of democracy. It is rule by certainty. It is a moral condemnation of

most Americans by default. Yet it is not the worst of GEORGE MCGOVERN'S sins this election year. No, not even his fulminations which drive a wedge between Americans of differing views and different colors—whose only sin is that they want to find a way to avoid busing over such large distances purely to meet some arbitrarily drawn minimum of racial balance, and a way to improve the educational opportunities for all their children.

The Senator's worst sin is his hypocrisy. This man who insists that so many Americans are either immoral or the pawns of someone else's political machinations cannot even bring himself to vote on the issues he delivers tirades about.

In 1971, he missed the rollcall on the Ribicoff equal education opportunities bill.

In February of this year, he missed four key votes on busing and aid to schools in disadvantaged neighborhoods—all the while covering the primary circuit and lecturing Americans from on high about their racism.

In May of this year, he missed the votes on busing and aid to school districts which are desegregating.

And now in the last few days, with nearly 90 percent of the Senate present, he misses the votes on cloture of debate which, if carried, would certainly have brought the President's equal educational opportunity legislation to a vote—the same legislation he fumes against.

Why has GEORGE MCGOVERN failed to participiate here in the Senate on an issue about which he, at least lately, feels so strongly? Perhaps a better question to be asked is, "What does the public think about GEORGE MCGOVERN and his positions?" Judging from public opinion polls, next month's election will answer that question decisively.

McGOVERN SILENCE OVER HANOI SUPPORT FOR MUNICH MASSACRE

Mr. GURNEY. Mr. President, the failure of Senator GEORGE MCGOVERN to condemn North Vietnam's endorsement of the massacre by Arab terrorists in Munich is yet another example of his lack of concern about Israeli security and his oversolicitous attitude toward the ruthless leaders of Hanoi. Every nation—including the Soviet Union and the People's Republic of China—condemned the maniacal terrorists for their mindless murder of the Israeli Olympians, everyone, that is, except North Vietnam. I ask unanimous consent that copies of official North Vietnamese statements on this atrocity be printed in the RECORD at the end of my remarks.

These statements attest to the warm feelings the Communists in Hanoi have for the actions of the Black September Arab murderers. Why does Senator MCGOVERN persist in believing that we are dealing with rational men when he tries to rationalize his easy "solution" to the Vietnam conflict? Indeed his facile "solution" has been described by James Reston, the New York Times columnist, as one of running up a white flag in the hope that Hanoi will salute it.

The Senator's silence is consistent with his past treatment of the North Vietnamese. He has never once condemned them for their ruthless murder of innocent men, women, and children in cities by rocket fire. He has never condemned their flagrant invasion of the South or their blatant tactics in the rest of Indochina. This is a shameful omission from a man who almost weekly condemns the President of the United States as a latter-day Adolph Hitler.

The American people are wise to the North Vietnamese and their inhumane ways. They have been since 1954 when France left Indochina and Hanoi began its callous disregard for the Geneva Convention rights bestowed on prisoners of war which we are all too familiar with today. North Vietnam has never accounted for tens of thousands of French Union and Vietnamese men. Today they continue to refuse to comply with international requirements of basic human dignities. It is high time for Senator MCGOVERN to wake up to Hanoi's atrocities and to its callous disregard for human life and human rights.

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

NORTH VIETNAMESE STATEMENTS ON THE ARAB TERRORISTS

North Vietnamese Army Newspaper—Quan Doi Nhan Dan—Text broadcast on Hanoi Radio in English—February 29, 1972:

"In the Mideast, the universally supported fight by the Arab people in Palestine and other countries for independence and freedom, despite its present difficulties, has proved to be an irresistable process . . . The Vietnamese people, giving full support to the just cause pursued by the Arab people in Palestine and other countries in the Middle East, strongly condemn the new aggressive acts taken by the Israeli reactionaries against Lebanon and Syria. We demand the U.S. imperialists and their Israeli quislings to stop plotting against and wrecking peace and the national liberation movement in that region."

North Vietnamese Army Newspaper—Quan Doi Nhan Dan—Text broadcast on Hanoi Radio—March 2, 1972:

"Quan Doi Nhan, organ of the Vietnam People's Army, today warmly hailed Palestinian guerrillas and the Lebanon Army for driving the Israeli Aggressors out of the Southern part of Lebanon describing this as a 'due punishment' to the enemy . . .

The Vietnamese people give all their sympathy and support to the just struggle waged by the Arab people in Palestine and other countries in the Middle East against U.S. imperialism and its Israeli flunkeys, and for the independence and freedom of their nations."

North Vietnamese Army Newspaper—Quan Doi Nhan Dan—Text broadcast on Hanoi Radio in English—March 29, 1972:

"The underlying cause of the tension in the Mideast is the policy of war and aggression of Imperialism and its Israeli flunkeys. Strong with this knowledge, the Arab people will certainly step up their struggle to foil any design of the enemy in defense of their sacred national sovereignty, the paper stressed in conclusion."

Hanoi Daily Newspaper—Nhan Dan—Text broadcast on Hanoi Radio in English—May 15, 1972:

"On the occasion of the international day of solidarity with the Palestine people, the daily paper Nhan Dan today reiterated the Vietnamese people's full support for the Palestinian people's struggle for their sacred national rights."

The paper said: "The struggle of the Palestinian people for their fundamental and sacred national rights is the most direct struggle of the Arab people against the aggressive and expansionist ambitions of the U.S. imperialists and Israel in the Middle East . . . To identify themselves with the cause of the Palestinian people and support their resistance war is both the interest and duty of all the anti-imperialist forces . . . The just cause they are upholding is part of the present great revolutionary trend which is the national liberation tide that is surging ll over the world . . ."

Hanoi Daily—Nhan Dan—Text broadcast on Hanoi Radio in English—June 5, 1972:

"One of the most dangerous schemes of the U.S., Israel and their acolytes against the struggle of the Arab people is to divide, isolate and finally to stamp out, the resistance war of the Palestine people. The staunch fight being carried on by the Palestine patriots is such a difficult situation as at present, as well as the movement of solidarity with the Palestine people in Arab countries, show that the flame of revolutionary ardor, far from dying, is alive in their hearts . . .

"Proceeding along the only correct path of unity in struggle against the U.S. and its henchmen for full independence and freedom, the Vietnamese people believe that the Palestinian people and other peoples of the Arab world, their comrades-in-arms, have enough strength and determination to fight till their sacred fundamental national rights are really respected. The dauntless Arab people will certainly foil the 'Nixon Doctrine' in the Middle East. Final victory belongs to the Arab people . . ."

Hanoi Daily—Nhan Dan—As reported in broadcast on Hanoi Radio in English—September 12, 1972:

"The articles recalled the bloody event that occurred in Munich on September 5 and said: This bloodshed, which could have been avoided, resulted, as pointed out by the Algiers Radio, from the fact that the Israeli and West German authorities had chosen the path of treachery and betrayal.'

"The paper noted that at the present international juncture, the recent Munich bloody incident once again laid bare the schemes of the U.S. and Israeli aggressors and the dark design of the Nixon Administration and their flunkeys to wreck peace under the hypocritical label of humanity and peace'. . .

"They are whipping up a chauvinistic hysteria in Israel and a 'protest' movement within the so-called 'civilized world' to vilify the just struggle of the Palestinian people and threaten to split the Arab countries. They plot to isolate the Palestinian patriotic movement . . . This U.S., Israeli scheme . . . is aimed at putting a cloak of 'justice' on the aggressors and the blame for 'injustice and barbarity' on a small nation (Lebanon) whose only crime is to fight and make sacrifices for its own survival."

SOVIET JEWS

Mr. GURNEY. Mr. President, I should like to direct a few remarks to a problem which has concerned me personally for some time. That problem is the persecution in the Soviet Union of Soviet citizens of the Jewish faith. This persecution is not a new policy; it is perhaps as old as the Russian nation itself. It has, however, reached a new level of refinement in the recent imposition of excessive exit visa taxes upon all who wish to leave that persecution behind them.

Mr. President, on September 27 I joined with the distinguished Senator from Washington (Mr. JACKSON) and eight other Senators in sponsoring an amendment to S. 2620, the East-West Trade Relations Act. By the time that amendment was offered on October 4, 72 other Senators had joined in cosponsorship. On that same day, the Washing-

ton Star published a story on negotiations for future United States-Soviet trade agreements which indicated that the Russians were retreating from their oppressive position on this head tax matter.

I think, Mr. President, that the change in the Soviet position was brought about by the realization that the private pressures being brought to bear by the Nixon administration to assist these Soviet citizens was beyond any doubt solidly supported by Congress.

Mr. President, last month's edition of the New Statesman contained an excellent article setting out the present anti-Semitic policies of the Soviet Union. I ask unanimous consent that a copy of that article, entitled "The Price of a Jew," be printed in the RECORD at the conclusion of these remarks.

Mr. President, this is a matter which has nothing to do with the internal policies of any sovereign nation. What this group of people is asking for is permission to leave a society which discriminates against them, in order to make a new life for themselves elsewhere. This they are prohibited from doing by this oppressive head tax—or ransom, if you will—which flies in the face of basic human rights. These people, Soviet Jews, are being placed in a position whereby they are made painfully aware that they are not welcome to remain in the Soviet Union and yet are prevented from leaving the place of their persecution. They are being compelled to remain prisoners in a society which does not want them to remain and will not permit them to leave. This has to be one of the paramount historical displays of societal sadism, and I am proud of the Senate—I am proud of the Nixon administration—for the forceful positions that both have taken.

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

THE PRICE OF A JEW

(By Philip Blair)

On 3 August the Council of Ministers of the Supreme Soviet of the USSR passed a resolution to levy a 'diploma tax' on all Jews who wished to go to Israel. This meant basically that all qualified Jews have to pay back the cost of their education to the Soviet government before emigrating. The tax scales run from 4,500 roubles (£2,250) for an ordinary teacher up to 32,000 roubles (£16,000) for an eminent professor. Vladimir Zaslavsky, a candidate in biological sciences (equivalent to a master's degree) is priced at 15,000 roubles (£7,500). Professor Benjamin Levich, an internationally known leading electrochemist, who has been refused permission to take up a research post at Oxford, must find £41,100 for his six-member family.

This tax does not apply just to scientists. For example, Victor Perelman, a Moscow journalist who was recently dismissed from *Literaturnaya Gazeta* after applying for an exit permit for Israel, must pay the cost of his law degree, journalist's diploma and his wife's medical degree in order to leave. This comes in total to 17,000 roubles (£8,500).

For most Soviet citizens these sums are an impossible ransom. Further, many Jews who wish to go to Israel are currently unemployed, having been dismissed from their jobs because they want to emigrate, and are therefore unable to earn any money at all. A number of Jews who have received exit permits are in fact unable to leave because they cannot raise the required sums. Another turn of the screw is that Soviet Jews with exit permits may be asked to pay up in a specified time limit or lose their right to emigrate. Jewish communities have reacted strongly to fight the 'Jews for sale' mentality of the Soviet authorities, have refused to pay one rouble.

This latest attempt to liquidate the Jewish exodus movement in the USSR is the peak of a campaign which started just before Nixon's visit in May. Since then there has been a sharp intensification of the general repression directed against those Jews who want to go to Israel. In the past five weeks there have been no fewer than six trials of Soviet Jews. Four of these were on charges of evading military service. The simultaneous conscription of Jewish activists into the Red Army was another tactic utilised to silence the Jews. One Odessa Jew who did not want to serve in the army, 22-year-old Yuri Pokh, was given three-and-a-half years' imprisonment at the end of July. In the cases of Ilya Glezer and Vladimir Markham, only a few hours' notice was given to their relatives before the start of the trials. This and the barring of Western journalists from the proceedings were clear indications that the accused were to be sentenced as soon as possible without demonstrative repercussions in the West.

This new policy of harassment manifested itself 24 hours before Nixon's visit when the telephone lines of many Jewish activists were disconnected. In June the 'Voice of Israel' radio transmission to the USSR were jammed in an attempt to stop news about Israel and Jewish communities at large reaching Soviet listeners. There has also been a clamp-down on the teaching of Hebrew in private *ulpanim*. This has been carried out by the refusal of local financial authorities to register these *ulpanim* officially as tax-paying bodies. In the words of one Pristavkin, a senior member of the Moscow municipal council on 20 June: 'There will be no registration. Soviet citizens do not need Hebrew—the teaching of Hebrew is forbidden.'

There have also been attempts to implicate leading Moscow Jews in other trials. Vladimir Slepak, for example, was mentioned in an article about the Glezer trial in last week's *Pravda*. He was said to be one of a sad band of 'amoral monsters' who were passing information over the telephone. On another occasion Victor Polsky was accused of 'giving instructions' to the Jews of Sverdlovsk during the investigation of Vladimir Markham, who was sentenced at the beginning of this month to three years' strict regime in a Soviet labour camp. This week Androsov, the man in charge of the Lubarsky affair, has been questioning other Moscow Jews about such basic things as why they write open letters to Soviet and world leaders demanding to go to Israel.

The diploma tax is, by far, the harshest of these repressive and reactionary measures. It is estimated that it will affect at least 30 per cent of emigrants awaiting exit permits. Although reaction to the tax has been vigorous, significantly no mention of it has appeared in the Soviet press. The decision to levy the tax, therefore still has to be officially ratified. In the interim comparisons with anti-semitic legislation of Czarist times are understandably being drawn.

WHEAT SALES TO RUSSIA

Mr. YOUNG. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial published in the Christian Science Monitor of October 14 under title of "Mirror of Opinion: Wheat Sales Are Good."

I am proud that the Christian Science Monitor based this article on a fine editorial appearing in the Record Herald of Cando, N. Dak., one of our very best weekly newspapers. The commonsense expressed in this editorial is so typical of this weekly newspaper.

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

MIRROR OF OPINION—WHEAT SALES ARE GOOD

We are glad they sold the wheat to Russia and we think everyone in rural America should be glad. We grow wheat for food. It is not feeding people while it is stored in government warehouses for years on end. In fact, to meet the first export commitment, government grain that had been in storage since 1968 was loaded.

The export houses that have handled these sales are the same ones, and the same method that has been used, under Democrat or Republican administrations for the past 100 years. The government is not equipped to load and sell wheat exports. They never have been and the first delivery had to be now.

There may be merit in looking into the possibility of government handling of grain exports in the future as hopefully the export market expands. However, it would mean setting up another bureau, another set of government employees and another possibility for graft. We are not well enough informed on export subsidies to judge if this would be a savings or not. . . .

Certainly the expected good prices for the future in farm products is what is the most important thing now. This could never happen with bulging farm and government granaries and with tax monies being eaten up in storage.

North Dakota farmers are able to grow more wheat if they are allowed to do so and still get a decent price with a decent market. Efficiency is not our problem. Production, with good weather, could be doubled and think what this would mean in the gross income of our state? . . .

The projected billion dollar sale will be no small gain for the American taxpayer, in the stability of foreign balance of payments. In addition, payback on grain loans already sealed by the government, which farmers can redeem and sell at 30 cents to 40 cents more a bushel will help both the farmer and the national treasury.

If wheat goes into hungry people's stomachs it is certainly better than lying in granaries. For years we considered it good business to give millions of bushels to India just to get it out of the country and no one griped. Now when it is being sold everyone is grumbling that the other guy might get a bigger piece of the pie.—Record Herald (Cando, N. Dak.)

MARITIME AGREEMENT

Mr. DOLE. Mr. President, this morning, Secretary of Commerce Peter G. Peterson and Russian Minister of Merchant Marine T. B. Gouzhenko signed a major maritime agreement between Russia and the United States.

The President's trip to Russia initiated talks between our two nations which have resulted in the agreement.

The recent sales of wheat and feed grains to Russia will be facilitated by this agreement. Movement of such a huge quantity of grain—about 400 million bushels of wheat—will be accomplished much easier now that U.S. vessels will have access to Russian ports and Russian vessels access to our ports. I ask unanimous consent that the summary presented at this morning's White House press briefing be printed in the RECORD to facilitate wider distribu-

tion of information on this vital agreement.

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

FACT SHEET
OFFICE OF THE WHITE HOUSE
PRESS SECRETARY,
Washington, D.C., October, 14, 1972.

A major maritime agreement with the Soviet Union was signed today by U.S. Secretary of Commerce Peter G. Peterson and the Minister of Merchant Marine of the Union of Soviet Socialist Republics T. B. Gouzhenko. This Agreement represents another necessary link in the establishment of an expanding commercial relationship with the Soviet Union.

The negotiations which culminated in this Agreement were initiated in the latter part of 1971, and have been the subject of a series of meetings in Washington and Moscow throughout 1972.

By providing a broad framework and a clear set of ground rules for maritime activities between the two countries, this Agreement is an important step toward normalizing and expanding maritime relationships between the United States and the Soviet Union.

OBJECTIVES

The Agreement has two basic objectives; first, to open the channels of maritime commerce between the two nations by opening major U.S. and Soviet commercial ports to calls by specified kinds of U.S. flag and Soviet-flag vessels; and, secondly, to afford to U.S.-flag vessels and Soviet-flag vessels the opportunity to participate equally and substantially in the carriage of all cargoes moving by sea between the two nations.

SALIENT POINTS OF THE AGREEMENT

Port Access. The Agreement provides access to specified Soviet and United States ports to flag vessels of both countries engaged in commercial maritime shipping and merchant marine training activities. Under the Agreement, 40 ports in each nation are open to access by vessels of the other nation upon four days' advance notice to the appropriate authorities. The selection of the ports was based on commercial considerations, reasonable reciprocity and protection of national security interests. The U.S. ports open to access by Soviet vessels are:

Astoria, Oregon.
Baltimore, Maryland.
Baton Rouge, Louisiana.
Bay City, Michigan.
Beaumont, Texas.
Bellingham, Washington.
Brownsville, Texas.
Burnside, Louisiana.
Chicago, Illinois.
Cleveland, Ohio.
Coos Bay (including North Bend), Oregon.
Corpus Christi, Texas.
Duluth, Minnesota/Superior, Wisconsin.
Erie, Pennsylvania.
Eureka, California.
Everett, Washington.
Galveston/Texas City, Texas.
Honolulu, Hawaii.
Houston, Texas.
Kenosha, Wisconsin.
Long Beach, California.
Longview, Washington.
Los Angeles (including San Pedro, Wilmington, Terminal Island), California.
Milwaukee, Wisconsin.
Mobile, Alabama.
New Orleans, Louisiana.
New York (New York and New Jersey parts of the Port of New York Authority), New York.
Olympia, Washington.
Philadelphia, Pennsylvania (including Camden, New Jersey).
Ponce, Puerto Rico.
Port Arthur, Texas.
Portland (including Vancouver, Washington), Oregon.
Sacramento, California.
San Francisco (including Alameda, Oakland, Berkeley, Richmond), California.
Savannah, Georgia.
Seattle, Washington.
Skagway, Alaska.
Tacoma, Washington.
Tampa, Florida.
Toledo, Ohio.

While the four-day notice requirement is more than the normal 24-hour notice period applicable to commercial vessels, it is substantially less restrictive than the 14-day advance request requirement now applied by the United States to Soviet vessels and the 30-day advance request required by the U.S.S.R. for U. S. vessels. Entry of vessels to ports not specified in the Agreement will continue to be permitted in accordance with existing rules and regulations, i..e, the 14 and 30 day prior request provisions will still apply. Requests for entry by Soviet vessels to U. S. ports not specified in the Agreement must be made of the Department of State, Washington, D. C., and must be accompanied by an itinerary complete with ports of call and dates. Maritime training vessels and hydrographic and other research vessels may enter the ports only for purposes of resupply, rest, crew changes, minor repairs and other services normally provided in such ports.

The Agreement does not involve any concessions in the policy of the United States with respect to ships which have called on Cuban, North Vietnam or North Korean ports. Soviet vessels which have called or will call on Cuba, North Vietnam, or North Korea will not be permitted to bunker in U. S. ports and Soviet vessels which have called on Cuba or North Vietnam will not be permitted to load or unload in U. S. ports government-financed cargoes such as grains sold on Commodity Credit Corporation credit terms.

In addition, the Agreement contemplates the access of initially 81 U. S. and 50 Soviet vessels engaged in hydrographic, oceanographic, meteorological or terrestrial magnetic field research of a civilian nature. The Agreement does not include vessels engaged in fishing or related activities since these matters are covered by separate agreements; nor does it include warships or vessels carrying out state functions other than those mentioned above. It is not intended to cover any liquefied natural gas trade which may develop between the nations.

TONNAGE DUTIES

Under the Agreement, neither nation shall charge vessels of the other tonnage duties which exceed duties charged to vessels of other nations in like situations.

EQUAL AND SUBSTANTIAL SHARING

The Agreement sets forth the intention of both governments that the national-flag vessels of each country will each carry equal and substantial shares of the ocean-borne commerce between the two nations. At the same time the Agreement recognizes the policy of both the United States and the Soviet Union with respect to participation in its trade by third-flag vessels.

The intention that a substantial share of the trade between the two nations will be carried by each national-flag merchant marine is defined as meaning that the national-flag vessels of each nation will have the opportunity to carry not less than one-third of all cargoes moving in whole or in part by sea between the two nations, whether by direct movement or by transshipment through third countries. In the case of grain shipments, the one-third requirement is to be applied retroactively to all shipments since July 1, 1972.

Equal share of the trade between the two nations is measured on the basis of U.S. dollar freight value of cargo carryings by the national-flag vessels of each party during each calendar year accounting period. Special accounting procedures are established to determine on a uniform basis the U.S. dollar freight value of cargo carryings and to protect against the possibility of disparities caused by the undervaluing of freight rates to increase the volume of cargo carried. These procedures are also designed to permit continuous monitoring so as to maintain parity of carriage throughout the accounting period. Cargoes carried in liner vessels and bulk cargoes carried in nonliner service are accounted for separately under the Agreement due to the difference in the methods of establishing freight rates.

The opportunity for carriage of equal and substantial shares of the trade between the two nations by national-flag ships is to be assured by the routing of controlled cargoes; i.e., cargoes with respect to which entities of either government have the power to designate the carriage. On the U.S. side, this includes only those cargoes which are subject to U.S. government control under our cargo preference laws. On the Soviet side, all exports and imports for which entities of the U.S.S.R. have or could have the power at any time to designate the carrier are included.

Recognition has been given to the practical commercial consideration that vessels of either nation may not be available to carry the amount of cargo to which they are entitled under the principles of the Agreement. Under such circumstances, a limited variance from the equal and substantial sharing rules is provided. Such variance is permitted where the cargo was offered on reasonable terms and conditions and where the unavailability of national-flag carriers is certified by a representative of the U.S. Maritime Administration or U.S.S.R. Ministry of Merchant Marine, as the case may be. Even though unavailability has been certified by the appropriate representative, there is still an obligation to continue to offer controlled cargo to restore the one-third share if possible within the same calendar year.

Freight Rates. The matter of freight rates to be paid to U.S. vessels is an important provision of the Agreement. With respect to liner service, U.S.-flag carriers should face no significant problems because U.S. vessels can participate in this trade under the conference-rate system with the assistance of the U.S. operating subsidy program. Rates for shipment of bulk cargo, such as grain, however, present a different situation. Bulk cargo is shipped in world trade under charter rates which are set in competition with ships of nations with far lower costs than American ships. The United States has never before had a subsidy system which permit its vessels to compete in the bulk grain trade, although such a subsidy system was legislatively authorized in 1970. In lieu of a subsidy system for bulk cargo, there were regulations which required shipments of grain to the Soviet Union to move 50% in U.S.-flag vessels. This, however, never resulted in significant carriage for U.S. vessels. Freight rates are a substantial part of the cost of grain and without subsidy the rates charged by U.S. flag carriers increased the cost of grain beyond the level buyers were willing to pay.

Under the Agreement, the two governments have worked out rate provisions for two categories of bulk cargo to be carried by U.S. vessels.

For nonagricultural bulk cargoes, the agreement in essence provides that American vessels shall be paid in each year the average of the freight rate for that category of cargo

on the route in question over the prior three calendar years.

The other and far more important category of charter rates is for agricultural commodities and products. With respect to these cargoes the Soviet Union will offer to United States vessels the *higher of*:

1. a rate computed on the 3-year average formula described above for the years 1969, 1970, and 1971. This rate for the route most expected to be used for the current grain sales is $8.05 per ton for wheat and other heavy grains, or

2. 110 per cent of the current market rates for the shipment involved.

In addition to these provisions, for agricultural cargo the Soviet Union has also agreed to terms relating to unloading ships in the Soviet Union which are more favorable to United States vessels than would otherwise apply in this trade. Our maritime experts estimate these special terms represent a reduction from typical rates of at least $1.75 per ton.

These special provisions for rates on agricultural cargo apply through June 30, 1973, by which time the parties will negotiate future rates. This will permit review of the actual workings of this rate system near the close of the current unusual grain shipment season.

TERM OF AGREEMENT

The Agreement remains in force through 1975, subject to earlier termination by either party on 90 days' notice.

U.S. SUBSIDY

Although not part of the agreement, a necessary part of achieving its objectives is that the United States pay a subsidy to its own vessels in the carriage of agricultural cargo. This is not a financial advantage to the Soviet Union since it could carry all this cargo in its own vessels or third-flag vessels at lower costs than it will pay United States vessels. The combination of higher than market charter rates, and favorable terms for unloading, afforded U.S.-flag vessels reduces the subsidy costs.

The subsidy system, to be published shortly, is authorized under the Merchant Marine Act of 1970. Because the ships which will be involved in this trade, unlike U.S.-flag vessels carrying freight in the liner trade, have not received United States construction subsidies, the subsidy to be provided will take into account the amount by which U.S. construction costs exceed foreign construction costs. In order to keep the subsidy at a minimum, it has basically been designed to create no more than a break even situation at $8.05 for most ships which will be likely to participate. The estimated subsidy paid to vessels carrying agricultural cargo under the Agreement will be in the range of $8.00 to $10.00 a ton, if market rates stay in the range of $9.00 to $11.00 a ton, which compares to the current subsidy of about $19.00 per ton on PL-480 grain shipments.

Among provisions limiting the subsidy paid for movements under the Agreement will be the following:

1. Where market rates exceed the $8.05, all of the excess paid by the Soviet Union over market (i.e. 10% premium) is used to reduce the subsidy;

2. When the market rate is $9.00 or more, a substantial part of the amount over $9.00 will be used to reduce the subsidy;

3. Each subsidy contract will have a renegotiation clause to ensure that no excess profits are made.

The exact amount of subsidy which will be involved with respect to carrying the American share of the grain cargo is difficult to predict with precision because it depends on factors such as: (1) the volume of the Soviet grain trade actually carried by U.S. ships (which will be reduced to the extent that more attractive carriage is available (such as PL-480 or oil); (2) the level of market rates, since the U.S. subsidy paid will be substantially reduced as market rates go up.

PUBLIC AVAILABILITY OF THE AGREEMENT

A copy of the Agreement, Annexes, and the exchange of letters with respect to the bulk commodity rates is publicly available through the Department of Commerce.

A MODEL FOR THE NATION: BALTIMORE'S EARLY CHILDHOOD LEARNING PROGRAM

Mr. MATHIAS. Mr. President, the first article of the American faith holds that all men should have an equal chance to make as much of themselves as they can, to go as far as their innate abilities and energies and interests can take them. Every man, we have believed, should be the arbiter of his own fate and the architect of his own future; every man should be free to find and fulfill himself.

We have relied, more than anything else, upon education to overcome the effects of economic privation and poverty of environment and put people on a more or less equal footing.

We have believed that, whatever handicaps a child may suffer because of his economic and social and cultural background, the schools would give him the support and the skills he needs to "catch up" to children from more advantaged backgrounds and to compete with them on more even terms.

We have believed, with Horace Mann—often called the father of the American public school—that—

> Education . . . beyond all other devices of human origin, is the great equalizer of the conditions of men—the balance wheel of the social machinery.

But that faith, over the past few years, has become far less firm—that belief far less certain. They have, in fact, been all but shattered by increasing evidence that our public investment in education as a means of equalizing opportunities for the disadvantaged has had very little result.

Compensatory education, we are told, has not worked: programs funded under title I of the Elementary and Secondary Education Act have produced no measurable improvement in the academic performance of disadvantaged youngsters. Others argue that title I was never adequately funded to begin with, and that the funds that have been spent have been spread far too thin. Compensatory education, they insist, has never really been tried and cannot, therefore, be found wanting.

A number of authoritative studies—most notably the so-called Coleman report—have concluded that integrated education, under the proper conditions, raises the academic performance of disadvantaged youngsters without reducing that of more advantaged ones. But other, more recent studies take sharp issue with this conclusion, arguing instead that the disadvantaged reap no significant educational gains from integration.

In a forthcoming book that has already received considerable publicity, Christopher Jencks presents the results of 4 years of intensive research and analysis of all the available data on the impact of schools upon children. His conclusion in brief, is that—

> The character of a school's output depends largely on a single input, the characteristics of the entering children. Everything else—the school budget, its policies, the characteristics of teachers—is either secondary or completely irrelevant . . .

In other words, no matter what the so-called "quality" of a school, children are said to leave it with the same relative advantages and disadvantages they had when they entered it. The school, it is contended, makes no difference at all.

Several years ago, the distinguished educator Dr. John Fischer, the former superintendent of schools of the city of Baltimore, observed that:

> There is substantial evidence that the level of intellectual capability young people will achieve at seventeen is already half-determined by the age of four, and that another 30 per cent is predictable at seven years. This is no ground for believing that a child's academic fate is sealed by his seventh birthday, but it means that a community that seriously wants to improve its children's opportunities will start them to school early. In terms of sheer economy, it can be shown that the earlier the investment in systematic intellectual development is begun, the greater will be the rate of return.

Now Christopher Jencks seems to tell us that our educational programs have accomplished little in providing for the educational advancement of children from disadvantaged backgrounds. But that observation does not enlighten us on whether the task is impossible of fulfillment or whether it is merely difficult and we have not as yet developed the right techniques. Could it be that we have not done enough with very young children who come from deprived circumstances? Were some Headstart programs too short in duration? Were the teachers inadequately prepared? Was the program content insufficiently thought through? All these questions and many others must still be answered.

That the task of improving the intellectual abilities of children from deprived circumstances through a school program may be difficult but not impossible to fulfill is suggested by a demonstration project in my home State.

I had the opportunity, recently, of visiting a school and observing a program in Baltimore that has, in fact, made a marked difference in the academic performance of the children in it. Funded largely under title III of the Elementary and Secondary Education Act, the model early childhood learning program is now in its third year of operation in five Baltimore schools in which a high percentage of the children are both educationally and economically disadvantaged. Although the program stresses cognitive performance, it does not neglect the child's social, emotional and physical development. In the words of the on-site evaluation report at the end of the first year:

> The balance between structure and freedom has reached a "golden mean" in the program. There is time for both during the day and the time can be determined by the individual needs of the child. Neither self-direction nor creativity is destroyed. To the contrary, their development occurs both with spontaneity and with encouragement in a

milieu where parents, teachers, and children take pride in what each other is doing.

After 2 years of operation, the mean IQ of the children in the program rose by what an outside evaluator called a "phenomenal" 16.06 points. In contrast, the mean IQ of a "control" group of children, who were not exposed to preschool, dropped by 3.24.

Earlier this year, this program won a Federal citation as one of the Nation's few outstanding preschool projects.

I call this program to the attention of the Senate because it demonstrates that "quality" education can make a dramatic difference in the academic performance of educationally and economically disadvantaged youngsters—because it strongly suggests that, in our efforts to insure "quality" education for those to whom it is most denied—the poor and the racial minorities—we should turn far more of our attention and our resources and our funds to the preschool years and to the early grades.

There is, in fact, enough evidence to suggest we might well consider turning the present educational system upside down by putting our best teachers and pouring most of our efforts and resources, not into the later years of school, but into the early years where they can really make a difference.

Concern has been expressed that an early childhood education program which places 3-year-olds in a school setting can do more harm than good by separating the child from the parents. The organizers of the Baltimore program shared that concern and placed major emphasis on giving parents an important role in the school. Their efforts were indeed crowned with success, as more than 80 percent of the parents participated in the work of the school in one way or another. To the extent to which it was feasible, parents actually worked in the schools, some as volunteers, others as paid aides. Those who did not join in the day-to-day operations of the school would visit on evenings and weekends and would frequently meet with school staff.

What we must realize when we weigh the relative roles of parents and schools in early childhood education is that an increasing number of mothers are now working full time away from home. Specifically, a recent U.S. Department of Labor study of the participation of mothers in the labor force tells us that the percentage of participation has increased from 9 percent in 1940 to 22 percent in 1950, to 30 percent in 1960, to 42 percent in 1970. Early childhood education programs did not play a significant role in encouraging this trend. As the recent Brookings Institution report on the 1973 budget tells us:

> The most striking fact is that most children of working mothers are cared for in their own homes or someone else's; only a small proportion are in day-care centers.

Whether they are at home or in a day-care center, the arrangement for the care of the children is far too often one of mere baby-sitting, providing no or only little stimulation for the children's minds.

We must also keep in mind that ours is a culture in which great stress is placed on one's ability in verbal expression. The scope of a child's vocabulary may be a crucial factor in determining educational success as early as third grade.

It will play a major role from then on in determining the child's and ultimately the adult's role in society. And it is obvious that if the parents' facility at verbal expression is severely restricted, so will be the child's, unless, at the time the child is ready for it—usually the age period 3 to 5—stimulation from the outside is provided.

Thus, an early child development program can overcome two problems which we face in contemporary American society: First, it can provide intellectual stimulation for the children of working mothers, many of whom are not receiving such stimulation now, and second, it can encourage the development of verbal skills in children whose parents may not be able to accomplish that result. At the same time the persons responsible for the operation of an early childhood development program must recognize that parents will continue to play the single most vital role in the child's growth, that the program should not only not drive a wedge between parents and children but should, to be truly successful, bring them closer together, by improving the parents' ability to play a role in the children's education.

We know that most schooling begins too late. We also know that too often schooling that begins early attempts too little.

And we know that ground lost during these early years can never be regained. For the children of less affluent families, early education is absolutely essential if they are not to fall further and further behind their peers as they grow older.

If schools have, in fact, done little to improve the academic performance of the disadvantaged, it may well be because they do not reach them early enough with an intensive effort to build up their basic learning capabilities and to interest their parents in this educational effort. Because schools do not reach these youngsters early enough, they now spend—perhaps squander is a better word—vast amounts of energy and money in what appears to be a futile attempt to undo the damage done by early neglect.

I am convinced that the promise of equality of opportunity for every American can and must be fulfilled. I am also convinced that the schools can contribute far more than they have to the realization of that promise for the poor and the racial minorities if we put a far greater share of our money and other resources into the early childhood years and into programs that really work—like the model early childhood learning program in Baltimore.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the Baltimore Sun and two articles concerning this early childhood program, one by Dr. Louis T. DiLorenzo in American Education magazine, and one prepared by the Maryland State Department of Education.

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

[From the Baltimore Sun, April 3, 1972]

HIGHER IQ'S BRING BALTIMORE ACCLAIM

A Baltimore experimental education program is about to receive a federal citation this week as one of the nation's few outstanding pre-school projects. Known as the Model Early Childhood Learning Program, the five-school experiment last year was successful in raising the average I.Q. test score of 181 poor, mostly black 4-year-olds by 16 points. The MECLP program has been expanded this year to include 554 children, ages 3 to 5.

An outside evaluator called the I.Q. gains here last year "phenomenal," outclassing any other comparable test results in this country during the past 10 years, and said the program benefits represented "a functional reclassification of these children from below average to average." The results were all the more significant in that a control group of children who did not have the benefits of pre-school training registered an actual decline in I.Q. levels as they remained at home without a challenge to develop their cognitive abilities.

The MECLP originated in the offices of Dr. Percy V. Williams, a black administrator in the state Department of Education, who believes firmly that time is too precious for the ghetto child to warrant the conventional nursery-school concentration on games and social graces. Under MECLP a 3 or 4-year-old child has an individualized regime of learning tasks for each day, week and month as he works his way upward in a hierarchy of 269 cognitive skills. The staff attention to each child's progress requires three adults for each 20-child classrooms and large amounts of staff planning and paperwork. but it seems to produce excellent results: enough to give Baltimore national acclaim.

Now that MECLP is to receive a "pace-setter's award" a pertinent question is whether this federally funded project is to remain just another experiment, small and localized, or become in fact the forerunner of large-scale efforts to catch learning deficiencies early and erase in pre-school years the demoralizing difference between the below-average and average pupils. MECLP costs money: more money than the big cities of this country can muster. But if the Nixon administration is serious about providing equal educational opportunity for all, MECLP strongly suggests a good place to start.

WHICH WAY FOR PRE-K: WISHES OR REALITY?

(By Louis T. Dilorenzo)

"We must stop letting wishes color our judgments about the educational effectiveness of many special compensatory programs . . ." The words are those of President Richard M. Nixon in his Message on Educational Reform, delivered to the Congress last March. His admonition can have no better or more accurate application than when it is applied to preschool programs for the disadvantaged.

No one likes to be the bearer of bad news, as the President's words suggest, and no one likes to play "the heavy" in education. But the fact is that we only delay the resolution of our educational problems by letting aspirations—what we wish to achieve—color the actual results, which are, after all, the test of whether or not we have put forth the right efforts to make wishes come true.

Maintaining the distinction between expectations and actual results was a fundamental principal in our four-year study of prekindergarten programs for the disadvantaged in New York State. In that study, funded by the U.S. Office of Education, the New York State Education Department, and eight school districts, we reviewed the prog-

ress of more than a thousand disadvantaged children. Half of them attended year-long preschool programs before they entered kindergarten; they were compared with a nearly equal number of similarly disadvantaged children who had not had the prekindergarten experience. The project followed an experimental design with new children in each of three years, 1965–66, 1966–67, and 1967–68. The children were pretested on IQ and language development, matched on IQ, age, sex, race, and parental occupation, and randomly assigned to experimental and control groups in each district. The three successive groups were posttested at the end of preschool, and, through 1968–69, were followed into kindergarten, first, and second grades with readiness and achievement measures.

The goals of the prekindergarten programs in all eight districts were the same: increased capacity to learn, improved social development, better self-concept, increased motor development, and more positive attitudes toward school. Furthermore, the physical settings and the equipment used were very similar. However, the programs varied according to district choice, and ranged from traditional nursery school programs designed for general enrichment to innovative, structured programs with a cognitive orientation. This distinction was apparent in the teachers' priorities as well. Some made free play paramount; others gave language instruction first place.

The goals of the programs were a statement of the wishes, the hopes, and the expectations of the program planners, the teachers, and, yes, the researchers, too. Unfortunately, not all of the aspirations were realized. These are some of the outcomes in which wishes conflicted with reality:

The Wish: All types of programs would be effective in furthering language development and the capacity to learn.

The Reality: Cognitively oriented programs produced significantly greater results than traditional nursery education programs in developing language skills and increasing IQ scores. (It should not be surprising that cognitively oriented programs were more effective than noncognitive programs in achieving cognitive goals.)

The Wish: All programs would be effective in producing greater physical development and better self-concepts.

The Reality: None of the programs produced differences between the experimental and control children in physical development or self-concept. The physical gains of the prekindergarten participants were equaled by those of the children who had not participated in any form of prekindergarten program. (This outcome was least expected and most disappointing in the traditional nursery school programs which stress physical and affective goals.)

The Wish: All children would benefit equally from prekindergarten regardless of race, sex, or socioeconomic status.

The Reality: Although black disadvantaged children made significant gains in language and cognitive development, the gains of the white disadvantaged children were even greater.

The Wish: The compensatory preschool programs would close the gap between disadvantaged and nondisadvantaged children so that they would begin kindergarten on an equal basis.

The Reality: In even the most successful cognitive program, the gap between the disadvantaged and nondisadvantaged children at entry into kindergarten was narrowed by only half.

The Wish: Mixing children from low socioeconomic and middle income families in the same prekindergarten classes would provide a special stimulus for the disadvantaged children to improve their language and cognitive skills.

The Reality: Disadvantaged children who were mixed with middle class children in equal numbers showed no significant gain in language and cognitive development as a result of this exposure.

The Wish: The results of prekindergarten experience would be evident in the readiness of the children at the end of kindergarten and in reading achievement at the end the first and second grades.

The Reality: Only the cognitive programs produced effects that showed up in kindergarten and first grade.

The most successful of the cognitive programs used an approach with highly skilled social group activities for language development. In this program, disadvantaged children gained an average of 10 points IQ over the course of the year and changed from below average to average IQ scores. In a traditional nursery school setting the disadvantaged children lost, on the average, one-half point in IQ score.

The realities that faced us at the conclusion of our four-year study are the same realities that have confronted others who have taken a hard look at prekindergarten programs for the disadvantaged. In terms of the ultimate goal of Head Start and other early intervention programs to prepare deprived children for school achievement, it appears that the academic-structured-cognitive programs have been the most successful.

During the last two decades, the kindergarten has served as a battleground where nursery educators with the whole child approach which fosters a free and unstructured environment vied with primary school educators who emphasized the academic. The former attempted to make kindergarten an upward extension of nursery school, while the latter attempted to extend the formal first-grade program downward. These two camps have regarded the recent research on compensatory prekindergartens and the creation of academic-structural-cognitive prekindergarten programs as an attempt to extend the formal school program still further downward into the nursery level.

EFFECTIVE PROGRAMS

This interpretation fails to make the distinction between what is desirable for all children and what is needed particularly by disadvantaged children. There is little to criticize in the whole child philosophy and the nursery education programs when viewed from the perspective of the middle class child. However, for the past five years, the intent of compensatory programs has been to make the disadvantaged successful in school. At the lowest level, success means learning to read; later on, it means academic achievement, and still later, high school graduation with capabilities for employment or higher education. The compensatory preschool has been directly charged to contribute to success at the earliest level. The research has shown that the cognitively focused prekindergarten programs have been the most effective in this. Because cognitive programs have rejected the whole child concept as inapplicable for their special task, many nursery educative programs and the research.

The research findings, however, are being recognized and put to use. One instance is in the Model Early Childhood Learning Centers of the Baltimore City Public Schools, funded through title III of the Elementary and Secondary Education Act. Under the leadership of Thomas Sheldon, superintendent of schools, Baltimore has committed itself to the development of a preschool program that will reflect the reseach and recognize the cognitive-language needs of the disadvantaged child. This developmental effort comes after eight years experience with the Early Admissions Program, a program for deprived inner-city children begun in 1962 and still continuing.

PRIMARY GOALS

In the Model Early Childhood Learning Center, cognitive-language goals are of primary concern; social, emotional, and physical goals are subordinate. Baltimore's proposal for the project is quite explicit in establishing this order. "School failure and retardation among disadvantaged as well as nondisadvantaged children is a judgment made regarding the child's academic or cognitive performance. Although education is also concerned with the child's social, emotional, and physical development, it is the cognitive performance that is critical.

If a child is satisfactorily performing on the school's criteria for academic-cognitive achievement and is not up to the norm in physical, social, and emotional development, he is rarely dubbed a failure. It is by the very definition of failure and school retardation that the objectives for the Model Early Childhood Learning Program must be derived primarily from the cognitive area.

Behavioral objectives are a key element in the Baltimore program. They express the instructional goals of the program in highly specific terms that describe some performance to be achieved by an individual child. A working committee has produced 709 performance objectives in five cognitive areas: concept formation, perceptual-motor development, language, classification, and reading comprehension. For example, given a variety of objects, a child will be able to group them by size, color, material, and form. Or given one stationary object and one moveable object whose relative position is changed (near, far, under, over, and so forth), the child will state the term of relative position. The curriculum is being selected piece by piece rather than as a package, so that all activities will match specific objectives.

A second key element is individualized instruction. Each of the 300 three- and four-year-olds attending the model center will spend at least one-half of his time each day in some mode of individualized instruction. A select staff of teachers and paraprofessionals has been trained to work with individual children and to use new methods of monitoring their performance in relation to individual objectives on a day-to-day basis. The teacher designates a unique set of objectives—average of six—for each child each day. This list is based on pretesting, or the success a child made with his list the previous day, or his standing within the sequentially ordered objectives. The staff, having spent many months in developing the objectives, curriculum, and evaluation exercises, is readily able to shift gears from one child to another, from one objective to another, and from instruction to evaluation in very briefs spans of time. The instructional program has been conceived as a team effort, and in some instances the visitor is unable to distinguish between teacher, teacher assistant, and volunteer parent.

INFLUENTIAL STUDY

The results of a recent study of prekindergarten programs by the National Institute of Child Health and Human Development at Harvard may also have some influence in establishing the cognitive emphasis. This study re-examined all prior research that had been designed to compare relative effectiveness of different kinds of preschool programs with support from both the Carnegie Corporation and the Ford Foundation. It was able to secure the original data from these studies and conduct an independent analysis. It concluded:

"Preschool programs with general objectives of fostering cognitive growth, with specific emphasis on language development, and with teacher-directed strategies that provide highly structured experiences for disadvantaged children are more effective in producing cognitive gains than programs lacking these characteristics."

BALTIMORE'S MODEL EARLY CHILDHOOD CENTER

When you organize a pre-school program for disadvantaged children, you had better give some special thought to the involvement of parents, to teacher training, and to individualized instruction.

The Model Early Childhood Learning Center in Baltimore comes down hard on these concepts. At the price of omitting a number of other key features of this exciting new program, these are the ones this article will examine.

To involve parents turns out to be a simple matter in the Baltimore program. It begins with a genuine belief that they have something of value to offer. That such a principle is practical, administrable, and useful in achieving the goals for children is demonstrated almost every day in the Baltimore program.

But simple doesn't mean easy!

How do you apply the principle to militant mothers? "We think of militancy as concern," says Betty Showell, director of the Baltimore center, "and that's something we can build on." Practical experience has demonstrated that the idea works, even where real friction exists. Miss Showell adds that the "indifferent parent" is another label they don't use in the center. "There are some parents we haven't reached yet, she says, but in some cases we're trying to reverse habits of a lifetime. There are lots of ways we haven't tried yet."

"Educators don't own the magic formula to learning," Miss Showell says. "We welcome parents as partners. Parents have as much right to work with their children as teachers do. We're training parents to use the tools that teachers use. Parents are now helping design curriculum activities. I see the day when they will actually write curriculum." Parents are involved in practically everything at the center. Is there a training session? Yes, and it includes everybody. Is there a summer program for teachers and aides? There's one for parents and parents' counselors too. The 1971 summer program was itself unusual. They used it to revamp the whole curriculum. Miss Showell explains: "Last year we hadn't met the children. As it turned out, we grossly underestimated their ability and receptivity to formal learning. Our children will tell you in a minute how smart they are because they believe it and they are."

Parenthetically, Miss Showell adds that she is almost reluctant to see curriculum written down. "We want a dynamic program," she says, "and you know how people tend to stick to the book."

During the six week summer program the staff, with parents' help, scrapped last year's "task boxes," salvaged the useful parts, and made up new ones to support the new curriculum.

About as big as a cigar box, each task box contains learning materials, mostly homemade. One may contain a set of different length sticks which a child is asked to arrange according to size, another, variously shaped pieces of wood, aluminum, and glass, which the children separate according to material. Then there are surprise contents, like soldiers and boats, that help keep interest high. No lesson is repeated. There are no failures.

The whole staff, with parents assisting, made and duplicated most of the contents of the task boxes. They suggested alternate materials. They assembled the boxes and understood the educational purpose behind each lesson. Parents are also encouraged to make similar learning materials for their children to use at home.

During the summer program, besides their work with the task boxes, parents evaluated their own performance of the preceding year. They investigated new possibilities for field trips and planned trips and other experiences for the children.

During the regular term, parents really help teachers with the instructional program. More than once according to Mrs. Olivia Butler, teaching assistant, she has seen parents get the class started in the morning when teachers were involved in other problems, "as though it was the most natural thing in the world." They help with breakfast and lunch routine, serve on parent advisory committees and on staff interview teams. A typical interview team for a teacher applicant will include a teacher, a program assistant, a professional from the school to be served, and two parents.

But the total is really more than the sum of the mechanical parts. Parents know, for example, that their suggestions are welcomed and frequently adopted.

The most dynamic thing about the teachers' role in the model early childhood program is that they write the curriculum. Miss Charlene Cooper, formerly a teacher and now a program assistant, speaks of her personal reaction, "If you helped make it, you're more interested in making it effective. You're sensitive to weaknesses. You can say it wasn't right and why. You want to correct it and you can."

Miss Georgia Kopp, a teacher, says the same thing, "You know more what has to be done."

Miss Cooper goes a little further, "I feel here that I'm in on the ground floor of things; things I didn't even know went on when I taught in other places. The project administration seems to think well of its teachers. It makes teachers seem significant."

Along with the curriculum involvement, teachers in the Baltimore program tell of another significant element in their work experience . . . a strong professional development program. Last summer's program was packed with "Characteristics of Pre-School Learning." "Behavior Modification," consultants, films, discussions, role playing, microteaching, and the like. Miss Showell thinks it was as strong a program as any six-week professional development program in a good university.

Behind the Balitimore City program is a firm emphasis on simple and measurable objectives—instructional goals come first. Physical, emotional, and social development of children are not ignored, but they are distinctly secondary. Says Miss Showell, "If a child does well academically and doesn't come up to norms in these other areas, we rarely think of him as a failure."

As to individualized instruction, each of the 460 three- and four-year-olds in the program spends at least half his time each day in some kind of individualized instruction. Example: Each child's progress is monitored daily in relation to individual objectives for that child. Objectives for each day are based on pretesting, on his performance the previous day, or his standing within sequentially arranged objectives. The teacher designates about six objectives for each child every day.

Victoria, a bright-eyed five-year-old, is being tested by an aide, who reads from a set of prepared directions. "Raise your hand." "Close your eyes." "Nod your head." Asked why she is directing Victoria to do these things, the aide explains that she is testing to find out how well the child can follow directions.

At another little table close by an aide is tutoring another little girl who had been having difficulty with tall and short. "Which of these three books is the tallest?" And then, both standing, "Which of the two of us is shorter?"

Daily testing and tutoring reports, together with a group lesson report and a report on today's performance with the task boxes, all go into tomorrow's prescription with fresh objectives for the child and a new list of task boxes. Needless to say, teachers in the model early childhood center are often at the desks long after regular teachers have gone home.

Baltimore's Model Early Childhood Center, now in its second year, was initiated after the State Board of Education evidenced strong interest in a program for three-year-olds as a project under Title III of the Elementary and Secondary Education Act. A number of people helped shape the proposal, but its principal contributors were Mrs. Frances S. Meginnis and Mrs. Catherine Brunner of the State Department of Education's Division of Compensatory, Urban, and Supplementary Programs. At the time Mrs. Brunner was supervisor of early childhood education for the Baltimore City Schools.

Is the Model Early Childhood Program making headway? The figures say yes. In pre-tests, pupils averaged 86.08 on the Stanford-Binet Intelligence Test. A posttest at the end of a year showed their average had climbed to 102.14—a 16 point rise! No known program of this type anywhere in the country has accounted for more than a ten point rise.

ANNOUNCEMENT OF POSITIONS ON VOTES

Mr. GAMBRELL. Mr. President, I was necessarily absent when several votes were taken Thursday, October 12, and Friday, October 13, 1972. I ask unanimous consent that the permanent RECORD reflect that had I been present, I would have voted as follows:

First. I would have voted "yea" on Legislative No. 551, Senator CRANSTON'S amendment to H.R. 17034 to appropriate $40 million for programs establishing veterans' health facilities.

Second. I would have voted "yea" on Legislative No. 552, final passage of H.R. 17034, the supplemental appropriations bill.

Third. I would have voted "nay" on the Bellmon amendment to the debt ceiling bill which would have added a new title to provide that Congress prescribe annual ceilings on expenditures and new obligational authority, and requiring two-thirds vote of the House and Senate to change such limitations.

Fourth. I would have voted "nay" on the Packwood amendment to the debt ceiling bill which would have stricken title II, limiting to $250 billion Federal expenditures for fiscal year 1973.

Fifth. I would have voted "yea" on the motion to table the Magnuson amendment to the debt ceiling bill which would have extended for 13 additional weeks unemployment insurance benefits to those workers who have exhausted their regular 26 weeks of benefits.

Sixth. I would have voted "nay" on the motion to table the Packwood amendment No. 1687 to the debt ceiling bill to give equitable tax treatment to unmarried individuals.

LETTER FROM SENATOR GAMBRELL TO SENATOR McGOVERN

Mr. GAMBRELL. Mr. President, Senator GEORGE MCGOVERN, who is the Democratic Party's candidate for the Presidency, has written me seeking my assistance in his campaign. Because of the importance to the American people of this year's presidential campaign, and for whatever use my comments on this subject might be in the public domain,

I ask unanimous consent that my response to Senator McGOVERN be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C. October 14, 1972.

Hon. GEORGE MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR GEORGE: This will acknowledge your letter of October 3 asking whether I can give time for speaking engagements between now and November 7.

Frankly, I am sure that your inquiry was addressed to me in error as I have publicly stated on a number of occasions that I could not support your candidacy for President of the United States. There is no need for me to belabor this point, but your letter does afford me the opportunity of giving you my views on the requirements which the people of this country are making of candidates for the Presidency, and why I think your campaigned for the Democratic nomination, and

I have expressed those views on many occasions, and they are summarized in a speech which I placed in the Congressional Record on May 3 of this year. A copy of my remarks is enclosed.

Certainly the platform on which you campaigns for the Democratic nomination, and the Democratic Party platform adopted at the convention in Miami under your domination, differ widely from the public sentiment which I have tried to express.

The modifications which you have made in your platform since the Miami convention bring you closer to the views of a majority of Democrats, but still not near enough to suit me. And even if they were identical, I would still have some doubt concerning the credibility of your platform, in view of the mixed messages which you have been sending out.

As a lifelong Democrat, and as one who came to Washington with the hope of helping to pull the Party together, I regret having to completely repudiate the Party's candidates for the White House. However, I believe that what took place during the Spring, and at the Convention, amounted to a repudiation of me, and an overwhelming body of sentiment among Democrats throughout the country. My loyalty to the Democratic Party will not justify my supporting it in a program which is intolerant of the views of many longstanding Democrats, which is contrary to the best interests of the country, and which has crippled the Party as an effective political institution in the country.

This letter will serve as a reply to correspondence which I have received from several others seeking my support in this year's campaign.

Sincerely,

DAVID H. GAMBRELL.

[From the CONGRESSIONAL RECORD, Wednesday, May 3, 1972]

WORKINGMAN'S BILL OF RIGHTS

Mr. GAMBRELL. Mr. President, on Thursday, April 20, of this year, I proposed and published in Washington a bill of rights for the American workingman. In an appearance before the Atlanta Legal Secretaries Association on April 29, I elaborated on the bill of rights. I ask unanimous consent to have printed in the RECORD the text of my remarks to this group as well as my workingman's bill of rights.

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

THE ATLANTA LEGAL SECRETARIES ASSOCIATION

On Thursday, April 20 of this year, I proposed and published in Washington a bill of rights for the American working man.

The working man's bill of rights expresses in common sense terms the rights of American working people who have supported and defended the American system. The bill of rights demands respect for their labor, and respect for the things they believe in, such as patriotism, equal opportunity, equal taxation, law and order, and the right to be heard. The working man's rights are expressed in terms of the responsibilities of citizenship, rather than in terms of the privileges.

This statement of the rights of working men and women has been formulated from my experiences, and from listening to disappointed and frustrated citizens on my "listening tours" throughout Georgia and in other parts of the country.

In publishing this statement of the working man's rights, I am seeking to focus attention on average Americans and their concerns. By their support of the American system, they have earned the right to receive special attention from those who serve them.

During the upcoming senatorial campaign in Georgia, I expect to talk about the working man's rights and to propose specific solutions for the problems that concern them most. I will challenge other candidates in this campaign to join me in giving American working people the recognition they deserve.

I have sent copies of the working man's bill of rights to each of the major candidates for the Democratic presidential nomination, as well as to President Nixon, urging them to support this proposal as a means of recognition and national commitment to American working people. If this Nation is to survive, and in fact if any of these candidates are to be elected, it will only be through the support and efforts of the American working man.

The Democratic Party's presidential primary campaigns in Florida, Wisconsin, Pennsylvania and elsewhere have dramatically displayed a confidence gap between American working people on one hand, and American political leaders and the press on the other. The results of these campaigns demonstrate that the so-called "leading candidates" have been out of touch with the people on the issues that concern the people most. Candidates such as George Wallace and George McGovern, whom the press and political experts discounted, have become the men to beat.

Specific issues may vary from State to State, but it is clear that the public has no use for established politicians, and that a feeling of being used and abused is prevalent among average Americans.

The political analysts, and the public opinion experts, like to refer to working people as the "silent majority." It has been (stylish) (with) the national press to think they are Democrats who are "liberal", and anxious for changes. This is because most of the Democrats with whom the press feels comfortable enjoy tinkering with society and the economy. But make no mistake about it, the working people of this country, even the poor ones, are "conservative." They look for strong governmental action to protect their status and their opportunities. But, as a group in society, they are not interested in radical changes, economically, morally, politically, or socially. In fact, they take pride and comfort in the security of the status which they have. Threats to undermine what they have fought, sweated, and died to hold on to are not welcome.

For some time, the American working man has blindly trusted his leaders to serve him, and he has fallen for the myth about progress for the average American working man.

But what had been only a "pinch", has now become a throbbing pain, and the pain has become too great for him to ignore.

His pocket book has been eroded by taxes and inflation, his moral values have been eroded by permissiveness, his communities have been destroyed by social manipulation, and his sons have been killed and maimed in misdirected warfare.

At the same time, he gets court-martialed while the generals get more medals. His children are bused, while the snobs who support busing send their children to private schools. He lives on take-home pay while the rich have subsidies and tax-free income, and on top of all of that, the smut peddlers, dope peddlers, and rapists are set free on his children by courts that he has paid for.

Talk about pollution of the air and water!

And what is more, he can see that the leaders, political, intellectual, business, military, and trade union, who have conducted this fiasco are still in place, rich, comfortable, and established, full of new so-called "programs" for more of the same, and not only do the bosses keep driving him for more work, blood, and taxes, but they want to exclude him from their participation in the political life of the country. It is popular with the elite commentators to contemptuously refer to him as "Archie Bunker", a face on "the Civic Club Circuit", a hard hat, a blue collar, a redneck (an ethnic) or even a racist.

When a spokeman comes along who begins to express some of his deeply felt views, the top leaders he helped elect to head the Democratic party tell him he is not welcome at the National Convention. He can sleep on the beach. He is not invited to the fundraising banquet. There is no room at the inn. Why, he is so maligned by the established powers, that no so-called respectible politician wants to be identified with him. Well, the feeling is mutual.

He is tired of establishment leadership, He wants one of his own boys, who has sweated and bled a little with him, lately, one who knows how to get the hay down where the goats are.

Politically, he is out for the best deal he can get. Many life-long Democrats among this group no longer see the Republican party as the only enemy of the American working man. They feel as unwelcome among the "intellectual snobs." as they would among the "robber barons." They may even cast a protest vote for a candidate who supposedly "can't win." They are becoming more and more the "independents" of today's political spectrum.

In substance, American working people are fed up with established leadership.

They know that the sweat of American working men and women has supported the American system, and that their blood has defended it. In this political year, they are entitled to have those running for office recognize their concerns, and to commit themselves to protect their interest.

It is for this purpose that I have proposed a bill of rights for the American working man. It is a commitment by me, and any others who will join me, to honor America's working people and the things they believe in.

The working man's bill of rights states that the American system should guarantee to the working man who supports it the following rights:

First, the right to have a voice in running, the system—that is the right to speak out, to be heard, and to get action.

Second, the right to be free of abuse and neglect by those in power—bureaucrats entrusted by the people with power over their lives should not be arrogant or insensitive, and should not manipulate working people for political purposes.

Third, the right to have others share in supporting the system—a favored few should not be exempted from taxation and military service, which the working man and his earnings are heavily burdened with supporting the American system.

Fourth, the right to live and work in dignity—the working man should be respected

for supporting himself, his family and his government through honest labor, and his economic security should be protected.

Fifth, the right to equal opportunity—equal access to education, employment and business opportunities should be available under free enterprise and freedom of choice.

Sixth, the right to have law and order—the freedoms and opportunities of the American people are based on equal justice under law.

Seventh, the right to be protected in religious and moral values—community morality is a cornerstone of the American system and it should be protected against those who have no moral values.

Eighth, the right to be respected for their patriotism—American working people do not hesitate to stand up for America, and they should be honored for doing their patriotic duty.

Ninth, the right to be free of free-loading—the earnings of working people should not be squandered through subsidies, give-aways, extravagance and waste, either at home or abroad.

Tenth, the right to be free of brainwashing by the national press—the press should see that the working man's voice is heard, along with those of self-styled "experts" whose views the press prefer. Freedom of the press is a responsibility, as well as a privilege.

These are the concerns of average American people, and this is "the message" which they want to send to Washington.

Now you might ask, who are the American working people who have these rights?

They are a broad mixture of American citizens of all ages, who, because of their station in life, their opportunities, and their education have little opportunity for shaping the political, economic or social directions of the country. Yet, they are concerned about our country. They are concerned about its future as a place in which they and their children can live and work. They are black as well as white, urban as well as rural, many relatively wealthy, as well as the relatively poor. They include men and women, white collar and blue collar, young and old.

Characteristically, they work for a living; They are patriotic; They believe in fair treatment for others; They have a sense of community; They believe in personal responsibility; And they have a strong religious faith.

In summary, they are hardworking, God-fearing, patriotic, tax paying, self-reliant Americans who have been taught to do their duty, and to be respectful of authority, and they expect those entrusted with power to run things right.

These are the working people whose concerns I have sought to express in the "working man's Bill of Rights". I am telling them that I have heard their message, and that I am passing it on at the national level.

I expect to keep talking about the working man and his rights, during the political campaigns this summer and fall. Hopefully, this discussion will develop a positive program for the solution of many of the problems which have been troubling our country. The themes which run through the working man's Bill of Rights are "All-American". They are themes upon which American working people from all sections of the country can agree. They are the themes upon which this great Nation was built, and upon which we can rebuild for the future.

THE WORKING MAN'S BILL OF RIGHTS

The American system should guarantee to the working man who supports it the following rights:

The right to have a voice in running the system—American working people should not be excluded from managing the system. They have the right to speak out and be heard. The working man of this country supports and defends the system, and is entitled to control it, because institutions which exist under the system are the servants of the people. Remedies for the concerns of the working man should be convenient and prompt, and reforms of the system should be easy.

The right to be free of abuse and neglect by those in power—persons entrusted with power have special responsibilities to the working people. They must protect working people, as wel as leave them alone. Bureaucrats should avoid treating working people as statistics to be manipulated for political purposes. They should handle the people's business with clean hands. Those who are arrogant or insensitive to the people they serve should be quickly removed from office.

The right to have others share in supporting the system—neither tax dodging nor draft dodging sould be permitted. People with accumulated wealth should not be favored and exempted, while the working man and his earnings are heavily burdened with supporting the system. Every citizen has an obligation to serve in the defense of the country and to pay his fair share in taxes.

The right to live and work in dignity—the American working man should be respected for supporting himself, his family and his government through honest labor. His personal worth as a contributing citizen should be recognized and his security both now and in future years should not be degraded by economic mismanagement.

The right to equal opportunity—the American working man is entitled to share in the prosperity produced by a fair economic system. A productive economy will be the result of free enterprise and freedom of choice by the working man. Access to opportunities in education, employment and business should be available on an equal basis without arbitrary interference by monopolies, unfair economic controls or discrimination.

The right to have law and order—Law and order must be preserved. This is the foundation upon which the freedoms and opportunities of the working man are based. The system should provide for one standard of justice to be applied without regard to class, race, or station in life among those who support the system. Laws and the officers who enforce them are entitled to respect, and legal technicalities should not be permitted to cripple effective law enforcement.

The right to be protected in religious and moral values—Personal and family morality should be protected against permissiveness and disrespect. Every American community is sustained by the religious and moral values of its people. Religious worship should not only be tolerated, but should be respected and upheld.

The right to be respected for their patriotism—Honor should be the reward of working people who have tried to do their patriotic duty. They are committed to a strong national defense system and are prepared to stand up for America. They have every reason to be proud of themselves and their country, and should not be ridiculed for their patriotism or made scapegoats for mismanagement by higher-ups.

The right to be free of free loading—The earnings of working people should not be squandered through subsidies, give-a-ways, extravagance and waste. The American working man is compassionate, but his generosity should not be taken for granted by those capable of supporting themselves. Charity should not be extended to free-loaders . . . at home or abroad.

The right to be free of brainwashing by the national press—The press should not scorn or ignore the concerns of the working people and should see that the working man's voice is heard. Freedom of the press, air waves, and mail service obligates the media to serve the working people and not cater to special interest groups and power structures. The press is obligated to publish the truth. The American working man does not need to be spoon fed by self-styled "experts" who feed him only what they want him to know.

VOTING BY NONRESIDENT DOMICILIARIES

Mr. ROTH. Mr. President, I join the distinguished senior Senator from Maryland (Mr. MATHIAS) in cosponsoring S. 4082, a bill to amend the Voting Rights Act of 1970 to establish, as Federal law, the principle that a nonresident domiciliary of a State residing abroad may not be denied the right to vote in a Federal election merely because he has relinquished his physical place of abode in his domiciliary State.

The past 10 years have been marked by significant legislative developments in the voting rights field. The Voting Rights Act of 1965, the 1970 amendments to that act, and the 26th amendment to the Constitution have been major breakthroughs in providing effective instruments to meet the problem of discrimination against millions of American voters previously disenfranchised by race, age, or residence. None of these landmark pieces of legislation, however, has clearly resolved the problem of American citizens residing abroad. For this reason, I believe that S. 4082 should be enacted.

At present, there are over three-quarters of a million American civilians residing abroad who are effectively barred from voting in Federal elections by complex and restrictive State laws applicable to voting by nonresidents. These civilians include thousands of businessmen, as well as teachers, lawyers, accountants, engineers, and other professional persons, serving the interests of their country abroad and subject to U.S. tax laws and other obligations of American citizenship. For the most part, these civilians in the Nation's service abroad maintain contact with affairs at home through correspondence, television and radio, and American newspapers and magazines. It seems to me that these individuals and their families should not be denied the right to vote for the presidential candidate of their choice because of restrictive provisions of certain State laws which in terms or effect require physical presence in the State for the exercise of the ballot.

Although Congress, through the Voting Rights Act of 1970, established the requirement that each State provide for absentee registration for persons otherwise qualified to vote in a Presidential election, only citizens of a minority of States are clearly entitled and enabled to register and vote in Federal elections while residing abroad. Some States require a voter to be physically present at the time of voting; others require him to maintain a home in the State. Another State allows temporary absentees to vote for 3 years but no longer. Several States disenfranchise civilians abroad by failing to provide absentee registration or absentee ballots. In each of these instances, overseas domiciliaries are effectively rendered ineligible to vote despite the congressional mandate of 1970.

Recognizing the inequity that may exist under current Federal law, the

Delaware General Assembly recently amended the election laws of my State to insure that civilians temporarily living outside the United States, who are otherwise eligible to vote, would not be denied sufferage.

By enacting S. 4082, Congress will merely extend to all U.S. citizens residing abroad—who otherwise qualify to vote under the election laws of their State—the same protection afforded nonresident domiciliaries of Delaware.

Various American leaders, including distinguished public officials representing both political parties, have stated on many occasions, the importance of the reenfranchisement of Americans residing abroad. President Eisenhower, in submitting his proposal for the Federal Voting Assistance Act of 1955, stressed the importance of legislation to preserve the voting rights of citizens in the Nation's service overseas.

I hope the next Congress will carefully consider this former President's message and to enact the legislation proposed by the distinguished Senator from Maryland (Mr. MATHIAS) to extend to 750,000 Americans the fundamental right of suffrage.

RETIREMENT OF SENATOR KARL E. MUNDT, OF SOUTH DAKOTA

Mr. SCOTT. Mr. President, after 34 years in Congress, KARL MUNDT returns to his beloved State of South Dakota and to earned retirement. We wish him well and we know that his beloved wife, Mary, and he will be happy living among their dear friends and taking up again with old acquaintances.

The senior Senator from South Dakota has left his mark in the Senate after four terms. He has spoken out long and loud for a strong defense and at all times has supported efforts to maintain the strength of our international relations with the rest of the world. We will miss Senator KARL MUNDT; we will miss his sage advice and his wise counsel, and most importantly his friendship.

DEFICIENCIES IN AMERICAN GOVERNMENT

Mr. GAMBRELL. Mr. President, in my view, last evening's debate concerning the proposed spending limit legislation, and the question of legislative authority and responsibility which was involved, brought to the surface one of the most fundamental deficiencies in our American Government today.

I certainly wish to join other Members of the Senate in congratulating the distinguished Senator from Oregon (Mr. PACKWOOD) on the outstanding address which he delivered on this subject during the proceedings. He placed the implications of what we were doing in majestic perspective, not only in terms of the historical development of legislative power and responsibility, but also in terms of the near-complete abdication of it in modern times in this Congress.

However, as I advised Senator PACKWOOD, I differed with him in his conclusion that the adoption of a spending limit would be wrong; in fact, I consider its adoption to have been imminently correct. In fact, to adopt such a spending limit applicable only to the balance of the current fiscal year is in truth only a very minor abdication, and might simply be viewed as a technical adjustment, something which might have been done on the first day of the legislative session rather than the last.

As compared with the unlimited authority delegated by Congress to the President under the Tonkin resolution, to enter into and conduct warfare in Southeast Asia, and the sweeping authority given to the President under the Economic Stabilization Acts, to take control of the national economy, the setting of a 7-month spending limit pales into insignificance.

As Senator PROXMIRE pointed out during the debate, the spending limit is actually a limit on the Executive department in regard to spending, rather than a restriction of the power of Congress to fix governmental policy. The realities of the President's power under the spending limitation passed by the House of Representatives are such that the President's power is more a matter of trimming the congressional budget, rather than fixing priorities and destroying programs.

And to the extent that the Congress has delegated some of its constitutional powers to the President, it is simply a corner into which Congress has painted itself. If the Congress truly believes in a $250 billion spending limit, it has no realistic way of implementing it at this late hour, other than to give the President the discretion.

In my mind, passage of the spending limit legislation is simply a recognition that Congress has spent years in creating a condition of legislative bankruptcy, and by enacting this measure has simply declared the conditions that exist, and has asked the President to act temporarily as its trustee.

That may be a repugnant conclusion to reach, but the sooner that it is acknowledged, in my judgment, the quicker Congress will direct its attention toward fiscal responsibility. Hopefully, the next session of Congress will begin with a spending limit to which it will adhere throughout, thereby avoiding the necessity of an 11th-hour delegation of its authority whether technical or otherwise, to the President.

Hopefully, the amendment added to the bill by Senator MCCLELLAN, seeking the establishment of a joint committee to provide budgetary management for Congress, will result in some fiscal self-discipline in future sessions of Congress. Unless some such self-discipline is instituted, the time will come when it will be more dangerous for Congress to convene, than for Congress not to meet at all.

While dealing with the question of spending limits, might I express my regret that Senator PROXMIRE withdrew from consideration his proposal to reduce the spending limit to $245 billion, instead of $250 billion. I had planned to vote for that amendment, had it come to a vote, either by voice or by record vote.

TRIBUTE TO B. EVERETT JORDAN

Mr. WILLIAMS. Mr. President, our distinguished colleague and friend, B. EVERETT JORDAN, will retire upon adjournment after 15 years of devoted service to America and the State of North Carolina as a U.S. Senator.

On my many visits to the beautiful State of North Carolina, I always try to visit the Outer Banks near Nags Head and Cape Hatteras. In that area stand a few sand dunes several hundred feet high towering over the others. The largest of the sand dunes is made of one grain of sand atop another grain of sand. Over the years, the grains of sand persist and they continue to accumulate until they become mountains, defying age and the selfish and destructive winds.

Mr. President, this allusion to nature and the building of a mammoth sand dune is a fitting analogy to the legislative record of EVERETT JORDAN in the U.S. Senate.

North Carolina is an agricultural State and as such her people and industry are vitally dependent upon flood control, irrigation, water supply, price supports and rural development. For nearly 15 years, EVERETT JORDAN has worked tirelessly to put the grains of sand together to make the sturdy mountains. He has worked for the authorizations and completion of the Scott Reservior, the New Hope Dam, the Falls of the Neuse Reservoir and many other water control projects. He has fought for the interests of farmers and agricultural processors and enabled his State's farmers and farmworkers to recognize some gain from their hard labor on the fields.

North Carolina is quickly developing as a leader in our Nation's maritime industry, but the mountains of jobs and industry created by her maritime development would not have been possible without EVERETT JORDAN combining the grains of sand. EVERETT JORDAN was largely responsible for development of the ports at Wilmington and Morehead City and the improvement of navigation on the Cape Fear River. I concur with Senator ERVIN when he said:

> Surveys and planning for most other flood control, navigation, and beach protection projects now authorized or in progress in the State likewise bear the distinctive Jordan stamp.

The Jordan stamp, the legislative sand dune which will not be blown away by time or the winds of unreasonable partisanship, stands as a monument to 15 years of devoted service to the State and the people of North Carolina he held so dearly.

I am proud that I have served with EVERETT JORDAN and even prouder that I can call him my friend.

CELEBRATING THE 25TH ANNIVERSARY OF ISRAELI INDEPENDENCE

Mr. WILLIAMS. Mr. President, May 1973, will mark the 25th anniversary of the establishment of Israeli statehood. This observance is worthy of worldwide praise and recognition and will be appropriately celebrated by the people of

Israel for an entire year, from September of this year until September 1973.

Since the birth of this country on May 15, 1948, Israel has grown and developed into a proud nation. In only 24 years, Israel has become recognized and respected among the world's powerful nations as an independent and serious member of the world community.

However, these 24 years of existence have also been scattered with bitter hardships. Three major wars within that short time have caused undue and seriout burden on these brave people. Their continuous need for supplies and equipment in order to survive the aggression of the Arab nations has deeply harmed the wealth of that nation. The use of Israeli men and women as soldiers will surely continue to effect the growth and development of the country's sciences and technology.

But the Israeli people have not only survived this economic and social damage, they have developed in spite of it. Products and works of Israel are found throughout the world. Food products are available in markets the world over. Art masterpieces are found in virtually thousands of galleries and museums, and excellent literary works are located in libraries in numerous countries.

In order that Israel be given the opportunity to continue to develop and prosper, I believe it is particularly important that the United States continue to actively and effectively aid and support this young but vital country. It is obvious that the Israeli people wish to maintain international peace, but it is also obvious that her very existence is continuously threatened by outside forces. The Israeli people are brave and determined patriots and are truly worthy of the support and praise of all free men throughout the world.

Mr. President, the next year will be an appropriate tribute to the people of Israel. It will serve as a reminder of the grave and enormous task before those citizens—a task of maintaining independence and struggling for survival.

The year honoring the 25th anniversary of Israel independence will, therefore, be a fitting time for we, in the United States and the free world, to praise and acknowledge their fine achievements and offer our moral encouragement in their quest to remain free.

AMENDMENT OF SECTION 3306, INTERNAL REVENUE CODE OF 1954

The Senate continued with the consideration of the bill (H.R. 7577) to amend section 3306 of the Internal Revenue Code of 1954.

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

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

The amendment is as follows:

At the end of the Act add a new title as follows:

SEC. 2—That this title may be cited as the "Federal Financing Bank Act of 1972".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. The Congress finds that demands for funds through Federal and federally assisted borrowing programs are increasing faster than the total supply of credit and that such borrowings are not adequately coordinated with overall Federal fiscal and debt management policies. The purpose of this Act is to assure coordination of these programs with the overall economic and fiscal policies of the Government, to reduce the costs of Federal and federally assisted borrowings from the public, and to assure that such borrowings are financed in a manner least disruptive of private financial markets and institutions.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) The term "Federal agency" means an executive department, an independent Federal establishment, or a corporation or other entity established by the Congress which is owned in whole or in part by the United States.

(2) The term "obligation" means any note, bond, debenture, or other evidence of indebtedness, but does not include Federal Reserve notes or stock evidencing an ownership interest in the issuing Federal agency.

(3) The term "guarantee" means my guarantee, insurance, or other pledge with respect to the payment of all or part in the principal or interest on any obligation, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions, or any guarantee or pledge arising out of a statutory obligation to insure such deposits, shares, or other withdrawable accounts.

(4) The term "Bank" means the Federal Financing Bank established by section 4 of this Act.

CREATION OF BANK

SEC. 4. There is hereby created a body corporate to be known as the Federal Financing Bank, which shall have succession until dissolved by an Act of Congress. The Bank shall be subject to the general supervision and direction of the Secretary of the Treasury. The Bank shall be an instrumentality of the United States Government and shall maintain such offices as may be necessary or appropriate in the conduct of its business.

BOARD OF DIRECTORS

SEC. 5. (a) The Bank shall have a Board of Directors consisting of five persons, one of whom shall be the Secretary of the Treasury as Chairman of the Board, and four of whom shall be appointed by the President from among the officers or employees of the Bank or of any Federal agency. The Chairman and each other member of the Board may designate some other officer or employee of the Government to serve in his place.

(b) The Board of Directors shall meet at the call of its Chairman. The Board shall determine the general policies which shall govern the operations of the Bank. The Chairman of the Board shall select and effect the appointment of qualified persons to fill such offices as may be provided for in the bylaws, and such persons shall be the executive officers of the Bank and shall discharge such executive functions, powers, and duties as may be provided for in the bylaws or by the Board of Directors. The members of the Board and their designees shall not receive compensation for their services on the Board.

FUNCTIONS

SEC. 6. (a) The Bank is authorized to make commitments to purchase and sell, and to purchase and sell on terms and conditions determined by the Bank, any obligation which is issued, sold, or guaranteed by a Federal agency. Any Federal agency which is authorized to issue, sell, or guarantee any obligation is authorized to issue or sell such obligations directly to the Bank.

(b) Any purchase by the Bank shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration (1) the current average yield on outstanding marketable obligations of the United States of comparable maturity, or (2) whenever the Bank's own obligations outstanding are sufficient, the current average yield on outstanding obligations of the Bank of comparable maturity.

(c) The Bank is authorized to charge fees for its commitments and other services adequate to cover all expenses and to provide for the accumulation of reasonable contingency reserves.

TREASURY APPROVAL

SEC. 7. (a) To ensure the orderly and coordinated marketing of Treasury and Federal agency obligations and appropriate financing planning with respect thereto, and to facilitate the effective financing of programs authorized by law subject to the applicable provisions of such law, the prior approval of the Secretary of the Treasury shall be required with respect to—

(1) the method of financing,

(2) the source of financing,

(3) the timing of financing in relation to market conditions and financing by other Federal agencies, and

(4) the financing terms and conditions, including rates of interest and maturities,

of obligations issued or sold by any Federal agency; except that the approval of the Secretary of the Treasury shall not be required with respect to obligations issued or sold pursuant to an Act of Congress which expressly prohibits any guarantee of such obligations by the United States.

(b) Upon receipt of a request from a Federal agency for his approval under subsection (a) of this section, the Secretary of the Treasury shall act promptly either to grant his approval or to advise the agency of the reasons for withholding his approval. In no case shall the Secretary of the Treasury withhold such approval for a period longer than one hundred and twenty days unless, prior to the end of such period, he submits to the Congress a detailed explanation of his reasons for so doing. Expedited treatment shall be accorded in any case in which the Federal agency advises the Secretary of the Treasury that unusual circumstances require such treatment.

(c) Federal agencies subject to this section shall submit financing plans to the Secretary of the Treasury at such times and in such forms as he shall prescribe.

INITIAL CAPITAL

SEC. 8. The Secretary of the Treasury is authorized to advance the funds necessary to provide initial capital to the Bank. Each such advance shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. Interest payments on such advances may be deferred, at the discretion of the Secretary, but any such deferred payments shall themselves bear interest at the rate specified in this section. There is authorized to be appropriated not to exceed $100,000,000, which shall be available for the purposes of this section without fiscal year limitation.

OBLIGATIONS OF THE BANK

SEC. 9. (a) The Bank is authorized, with the approval of the Secretary of the Treasury, to issue publicly and have outstanding at any one time not in excess of $15,000,000,000

or such additional amounts as may be authorized in appropriations Acts, of obligations having such maturities and bearing such rate or rates of interest as may be determined by the Bank. Such obligations may be redeemable at the option of the Bank before maturity in such manner as may be stipulated therein. So far as is feasible, the debt structure of the Bank shall be commensurate with its asset structure.

(b) The Bank is also authorized to issue its obligations to the Secretary of the Treasury and the Secretary of the Treasury may in his discretion purchase or agree to purchase any such obligations, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All purchases and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

(c) The Bank may require the Secretary of the Treasury to purchase obligations of the Bank issued pursuant to subsection (b) in such amounts as will not cause the holding by the Secretary of the Treasury resulting from such required purchases to exceed $5,000,000,0000 at any one time. This subsection shall not be construed as limiting the authority of the Secretary to purchase obligations of the Bank in excess of such amount.

(d) Obligations of the Bank issued pursuant to this section shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, or any agency or instrumentality of any of the foregoing, or any officer or offices thereof.

GENERAL POWERS

SEC. 10. The Bank shall have power—

(1) to sue and be sued, complain and defend, in its corporate name;

(2) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal bylaws, rules, and regulations as may be necessary for the conduct of its business;

(4) to conduct its business, carry on its operations, and have offices and exercise the powers granted by this Act in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of proprety, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Bank;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to define their duties, to fix and to pay such compensation for their services as may be determined, subject to the civil service and classification laws, to require bonds for them and pay the premium thereof;

(9) to enter into contracts, to execute instruments to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct to its business;

(10) to act through any corporate or other agency or instrumentality of the United States, and to utilize the services thereof on a reimbursable basis, and any such agency or instrumentality is authorized to provide services as requested by the Bank; and

(11) to determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations.

EXEMPTIONS

SEC. 11. (a) The Bank, its property, its franchise, capital, reserves, surplus, security holdings, and other funds, and its income shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority; except that (1) any real property and any tangible personal property of the Bank shall be subject to Federal, State, and local taxation to the same extent according to its value as other such property is taxed, and (2) any obligation issued by the Bank shall be subject to Federal taxation to the same extent as obligations of private corporations are taxed.

(b) All obligations issued by the Bank pursuant to this Act shall be deemed to be exempted securities within the meaning of section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)), of section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)), and of section 304(a)(4) of the Trust Indenture Act of 1939 (15 U.S.C. 77ddd(a)(4)).

(c) Nothing herein shall affect the budget status of the Federal agencies selling obligations to the Bank under section 6(a) of this Act, or the method of budget accounting for their transactions. The receipts and disbursements of the Bank in the discharge of its functions shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute or expenditures and net lending (budget outlays) of the United States.

PREPARATION OF OBLIGATIONS

SEC. 12. In order to furnish obligations for delivery by the Bank, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Bank may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Bank. The engraved plates, dies, bed pieces, and other material, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Bank shall reimburse the Secretary of the Treasury for any expenditures made in preparation, custody, and delivery of such obligations.

ANNUAL REPORT

SEC. 13. The Bank shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress an annual report of its operations and activities.

OBLIGATIONS ELIGIBLE FOR PURCHASE BY NATIONAL BANKS

SEC. 14. The sixth sentence of the seventh paragraph of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by inserting "or obligations of the Federal Financing Bank" immediately after "or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association,".

GOVERNMENT CORPORATION CONTROL ACT

SEC. 15. The budget and audit provisions of the Government Corporation Control Act (31 U.S.C. 841 et seq.) shall be applicable to the Federal Financing Bank in the same manner as they are applied to the wholly owned Government corporations named in section 101 of such Act (31 U.S.C. 846).

PAYMENTS ON BEHALF OF PUBLIC BODIES

SEC. 16. (a) Notwithstanding any other provision of this Act, the purchase by the Bank of the obligations of any local public body or agency within the United States shall be made upon such terms and conditions as may be necessary to avoid an increase in borrowing costs to such local public body or agency as a result of the purchase by the Bank of its obligations. The head of the Federal agency guaranteeing such obligations, in consultation with the Secretary of the Treasury, shall estimate the borrowing costs that would be incurred by the local public body or agency if its obligations were not sold to the Bank.

(b) The Federal agency guaranteeing obligations purchased by the Bank may contract to make periodic payments to the Bank which shall be sufficient to offset the costs to the Bank of purchasing obligations of local public bodies or agencies upon terms and conditions as prescribed in this section rather than as prescribed by section 6. Such contracts may be made in advance of appropriations therefor, and appropriations for making payments under such contracts are hereby authorized.

NO IMPAIRMENT

SEC. 17. Nothing in this Act shall be construed as impairing any authority or responsibility of the President or the Secretary of the Treasury under any other provision of law, nor shall anything in this Act affect in any manner any provision of law concerning the right of any Federal agency to sell obligations to the Secretary of the Treasury or the authority or responsibility of the Secretary of the Treasury to purchase such obligations.

SEPARABILITY

SEC. 18. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Act, and the application of such provisions to other persons or circumstances, shall not be affected.

EFFECTIVE DATE

SEC. 19. This Act becomes effective upon the date of its enactment, except that section 7 becomes effective upon the expiration of thirty days after such date.

Mr. PROXMIRE. Mr. President, on June 22, the Senate passed a Federal financing bank bill and sent it to the House. That bill was reported out of our committee unanimously. It is a bill which the Treasury wants very much. It is a bill which, because of the parliamentary situation in the House, has been hard to move. The Ways and Means Committee has reported the Senate bill with amendments but is unable to consider the bill or the floor.

The chairman of the Ways and Means Committee says one way to get this bill enacted is to put it as an amendment on the pending measure.

Mr. PROXMIRE. Mr. President, this legislation would provide for a more efficient financing of Federal and federally assisted borrowings from the public. The House of Representatives has just approved the Senate version of the bill with

three amendments. These amendments have been discussed with majority and minority members of the Senate Banking Committee and are acceptable.

The House amendments will not in any way affect the authority or operations of the Federal Financing Bank. As in the Senate version, each Federal agency would be authorized but not required by the House to issue or sell its obligations to the bank and thus reduce the cost of financing its programs.

The House amendments affect only those provisions of the bill dealing with the tax status of the bank's obligations and the authority of the President and the Secretary of the Treasury over the financing of Federal agency programs eligible to be financed through the bank.

First, the House amended section 7 of the bill so that the approval of the Secretary of the Treasury would not be required with respect to the marketing of obligations issued or sold pursuant to an act of Congress which expressly prohibits any guarantee of such obligations by the United States. This amendment would have the effect of exempting the obligations of the Tennessee Valley Authority from the requirement in section 7 that the Secretary of the Treasury approve the marketing terms and conditions of obligations issued or sold by Federal agencies.

TVA is in a unique position among Federal agencies in that the Congress has expressly prohibited any guarantee of its obligations by the United States. The Congress has specifically limited the Treasury's authority over TVA borrowings, and the House amendment would in effect preserve the status quo. TVA would, however, be authorized to borrow from the Federal Financing Bank on a voluntary basis.

Second, the House deleted section 16 which would have authorized the President to limit Federal agency loan guarantee programs when, in view of the overall fiscal requirement and demands for credit, he finds such limitations necessary. This provision went beyond the question of financing efficiency, which is the purpose of the Federal Financing Bank. While I believe that the Congress should provide for a better system of overall review of loan guarantee activities, I do not believe that the establishment of the Federal Financing Bank should be delayed pending the resolution of this broader issue.

Finally, the House amended section 11 of the bill to exempt the obligations of the Federal Financing Bank from State and local taxation. The House bill would thus preserve the status quo, since the obligations of other Federal agencies are also exempt from State and local taxation.

All three of the House amendments are thus for the purpose of deleting from this legislation provisions which do not affect the functions of the Federal Financing Bank itself.

Under the circumstances, I hope the distinguished manager of the bill will be able to accept this amendment.

Mr. HARTKE. Is this the proposal which has been advanced, also, by the chairman of the Ways and Means Committee, Mr. MILLS?

Mr. PROXMIRE. That is correct.

Mr. HARTKE. As I understand the intention of this amendment, it is to coordinate all the activities on Federal financing in order to eliminate the duplication of financial experts and other people who are marketing the securities, and to provide for a more uniform method of securing a lower interest rate.

Mr. PROXMIRE. That is correct; and, in addition to time the issues in such a way that the market will not be disrupted.

Mr. HARTKE. I have no objection to the amendment. I think it is a worthy step forward in trying to eliminate some of the duplication and inequities in the present law.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant clerk proceeded to call the roll.

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

The PRESIDING OFFICER Without objection, it is so ordered.

Mr. HARTKE. Mr. President, may I have the attention of the Senator from New Jersey (Mr. WILLIAMS).

Mr. WILLIAMS. Yes. Mr. President, I want to make the observation that the bill provides for the collection of municipal taxes by Federal tax collection procedures. In one situation, I think this is grossly unjust because I think the tax levied is unjust. I am speaking specifically of the situation where Federal employees work in a Federal establishment in a State other than their residence and are not served in any way by the municipal services of the city that is levying the tax specifically.

As for the residents of New Jersey, many of them go by water, on a ferryboat, to the Philadelphia Navy Yard and they never even go on the streets of Philadelphia; yet this tax is levied. It is rubbing salt in the wounds, in my judgment, for them to have this automatic Federal tax collection in a situation where I think the tax is grossly unjust. Certainly they are being taxed without representation. They do not live there. They do not even travel through Philadelphia.

Mr. HARTKE. Let me say to the Senator from New Jersey that this amendment was inserted on the floor at a time when I was not here and prior to this time this amendment was considered in connection with the revenue sharing bill. The Senator from Ohio (Mr. TAFT) raised this question and the manager of the bill indicated that he would accept the amendment at a later time. It was adopted by the Finance Committee and then adopted here on the floor of the Senate.

At that time there was nothing I could do about it.

I understand the concern that the Senator from New Jersey has expressed and I certainly will have that relayed to the conferees of the committee.

Mr. WILLIAMS. I certaily appreciate that.

The PRESIDING OFFICER. The bill is open to further amendment.

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk proceeded to state the amendment.

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

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

The amendment is as follows:

TITLE I—WILDLIFE RESTORATION FUND

SEC. 101. (a) The sentence of section 3 of the Federal Aid in Wildlife Restoration Act of September 2, 1937 (16 U.S.C. 669b), is amended to read as follows: "An amount equal to all revenues accruing each fiscal year (beginning with the fiscal year 1975) from any tax imposed on specified articles by sections 4161(b) and 4181 of the Internal Revenue Code of 1954 (26 U.S.C. 4161(b), 4181) shall, subject to the exemptions in section 4182 of such Code, be covered into the Federal aid to wildlife restoration fund in the Treasury (hereinafter referred to as the 'fund') and is authorized to be appropriated and made available until expended to carry out the purposes of this Act."

(b) That part of section 4(b) of such Act of September 2, 1937 (16 U.S.C. 669c–(b)), which precedes the proviso is amended to read as follows: "One-half of the revenues accruing to the fund under this Act each fiscal year (beginning with the fiscal year 1975) from any tax imposed on pistols, revolvers, bows, and arrows shall be apportioned among the States in proportion to the ratio that the population of each State bears to the population of all the States:".

(c) The amendments made by subsections (a) and (b) of this section shall take effect July 1, 1974.

SEC. 102. (a) Section 8(b) of the Federal Aid in Wildlife Restoration Act of September 2, 1937 (16 U.S.C. 669g–(b)), is amended by striking out "outdoor" each place it appears therein.

(b) The amendments made by subsection (a) of this section shall take effect on the date of the enactment of this Act.

TITLE II—TAX ON SALE OF BOWS AND ARROWS

SEC. 201. (a) Section 4161 of the Internal Revenue Code of 1954 (relating to the imposition of tax on the sale of certain articles) is amended—

(1) by striking out "There is" and inserting in lieu thereof the following:

"(a) RODS, REELS, ETC.—There is";

and

(2) by adding at the end thereof the following new subsection:

"(b) BOWS AND ARROWS, ETC.—

"(1) BOWS AND ARROWS.—There is hereby imposed upon the sale by the manufacturer, producer, or importer—

"(A) of any bow which has a draw weight of 10 pounds or more, and

"(B) of any arrow which measure 18 inches overall or more in length,

a tax equivalent to 11 percent of the price for which so sold.

"(2) PARTS AND ACCESSORIES.—There is hereby imposed upon the sale by the manufacturer, producer, or importer—

"(A) of any part or accessory (other than a fishing reel) suitable for inclusion in or attachment to a bow or arrow described in paragraph (1), and

"(B) of any quiver suitable for use with arrows described in paragraph (1),

a tax equivalent to 11 percent of the price for which so sold."

(b) The amendments made by subsection (a) of this section shall apply with respect to articles sold by the manufacturer, producer, or importer thereof on or after July 1, 1974.

Mr. FANNIN. Mr. President, this is a revenue measure that provides that the funds from the sale of archery equipment will be paid into this wildlife restoration fund, the same as is done on other equipment, other firearms, or anything that is used in hunting and fishing. Archery equipment would be the same as other sporting arms and ammunition.

It is a provision that provides for an 11 percent tax and it is, as I say, one that will produce revenue for a very just cause.

I ask the distinguished manager of the bill if he would be willing to accept this measure.

Mr. HARTKE. Mr. President, this measure was inserted in the Finance Committee and was ready to be reported by the Finance Committee and it was only through inadvertence that it was not reported.

It would provide for 11 percent excise tax on certain bows and arrows and the money itself would be put into a fund, which would be used for restoration of wildlife and the acquisition of property for archery purposes.

Mr. FANNIN. That is correct.

Mr. HARTKE. It is a new form of taxation, which is comparable to the present taxation on firearms. It goes for the same general purpose, formerly enacted by the Congress under two different tax acts.

Mr. FANNIN. That is correct. It is in the same category as firearms, shells, and cartridges. And there is a different tax for rifles and pistols, but that is only 10 percent.

Mr HARTKE. As I understand, this applies to the limitation on the size of bows for the purpose of excluding from the tax those bows and arrows not used for hunting purposes.

Mr. FANNIN. That is right.

Mr. PROXMIRE. Would the Senator yield?

Mr. HARTKE. I yield.

Mr. PROXMIRE. Is this a new tax, an 11-percent excise tax?

Mr. FANNIN. This is a tax that will be placed on archery equipment on the same basis as now on other hunting equipment.

Mr. PROXMIRE. So there is no tax at the present time on archery equipment. This would impose a new tax?

Mr. FANNIN. This would impose a new tax.

Mr. PROXMIRE. This tax would be in a special segregated fund?

Mr. FANNIN. To go to wildlife restoration, that is right.

Mr. PROXMIRE. What is the amount involved?

Mr. FANNIN. Eleven percent.

Mr. PROXMIRE. What does that mean? Is there any estimate?

Mr. FANNIN. I do not have an estimate. It is approximately $3.5 million annually. I do have that estimate.

Mr. HARTKE. For the information of the Senator, the best estimate that we have at the present time is that it would raise about $2 million.

Mr. PROXMIRE. Has the sporting goods industry had an opportunity to make recommendations?

Mr. FANNIN. Yes. It has the endorsement of the Department of the Interior; International Association of Game, Fish, and Conservation Commissioners; Archery Manufacturers' Association; Wildlife Management Institute; Citizens Commitee for Natural Resources; and the National Wildlife Federation, among others.

Mr. PROXMIRE. How about the Treasury Department?

Mr. FANNIN. Yes.

Mr. HARTKE. The Treasury Department has endorsed this and hearings have been held on the House side.

Mr. PROXMIRE. Has the House acted on this?

Mr. HARTKE. The House has acted on this.

Mr. PROXMIRE. They have acted favorable?

Mr. HARTKE. They have acted favorably.

Mr. PROXMIRE. Has the Senate committee considered this measure?

Mr. HARTKE. The Senate committee has considered this measure. Frankly, I think the Senator from Arizona was under the impression it had been reported.

I think it was just an inadvertence by someone, otherwise it would have been reported.

Mr. FANNIN. I did mention this to the Senator from Wisconsin.

Mr. PROXMIRE. Yes.

Mr. FANNIN. Because I thought it had been reported. I think it was an oversight.

Mr. HART. I hope very much the able acting manager of the bill can take this amendment. I should add that included among those who endorse it is Representative JOHN DINGELL, the able Congressman from Michigan.

Mr. HARTKE. Mr. President, we are prepared to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of H.R. 640, the tariff bill.

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

AMENDMENT OF TARIFF SCHEDULES REGARDING UPHOLSTERY

The Senate continued with the consideration of the bill (H.R. 640) 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.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. WILLIAMS. Mr. President, I call up my amendment No. 1628.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

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

The amendment, ordered to be printed in the RECORD is as follows:

H.R. 640

On page , line , insert the following:

That (a) item 168.15 of the Tariff Schedules of the United States is amended by striking out "94c per gal." in rate column numbered 1 and inserting in lieu thereof "Free".

(b) The rate of duty in rate column numbered 1 of item 168.15 of the Tariff Schedules of the United States (as amended by subsection (a)) shall be treated as not having the status of a statutory provision enacted by the Congress, but as having been proclaimed by the President as being required or appropriate to carry out foreign trade agreements to which the United States is a party.

Mr. WILLIAMS. Mr. President, this amendment was discussed earlier. It deals with duty on Angostura bitters. This is a company not in competition with others on this product. The removal of the duty would not in any way affect any other company. I have discussed this with the manager of the bill. Earlier we had a debate. I hope the amendment can be accepted.

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

Mr. WILLIAMS. I yield.

Mr. PROXMIRE. I understand this would reduce the present tariff on the importation of bitters and in doing so it would mean a reduction in costs for the company that imports it and also a reduction probably in the cost to the consumer of $100,000 and a loss to the Treasury of about $100,000. It offers no threat to any American industry, because Angostura bitters are not produced in this country.

Mr. WILLIAMS. The Senator is correct. This duty is not there for the protection for domestic business.

The savings to this company if this were taken off could flow to the benefit of the consumer.

Mr. PROXMIRE. The Treasury has no objection to this because they do not

deem the customs as a significant revenue raising source. Is that correct?

Mr. WILLIAMS. There is no objection.

Mr. PROXMIRE. Earlier I had been very concerned about this proposal, but I have had a chance to discuss it with the Senator from New Jersey. It seems to me to be in the public interest. This is a company that has been in some little difficulty. It does seem to be in the interest of the consumer and a little help in counteracting inflation.

Mr. WILLIAMS. I appreciate the statement of the Senator. I agree with the Senator. I am glad he views it that way.

Mr. HARTKE. Mr. President, will the Senator explain whether the net effect is about $100,000 on the Federal revenue?

Mr. WILLIAMS. The Senator is correct.

Mr. HARTKE. At the same time it offers no protection to American industry because there is no American industry of this kind.

Mr. WILLIAMS. That is correct.

Mr. HARTKE. It is not designed to deal with trade, but is only a revenue producer at this time.

Mr. WILLIAMS. That is correct. It is an anachronism. I understand tariffs as a means of raising revenue have not been employed since the time of the income tax.

Mr. HARTKE. As far as I understand it there is no objection on the part of the committee. We are prepared to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

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

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

At the end of the bill add a new section as follows:

SEC. —. Section 591(g) of title 18, United States Code, is amended by striking out the semicolon immediately after "persons" and inserting in lieu thereof a comma followed by *"Provided,* That with respect to section 611 this definition shall not include a corporation or labor organization."

Mr. CANNON. Mr. President, for a number of years prior to the enactment of the Federal Election Campaign Act of 1971, Public Law 92–225, the language of section 610 of title 18, United States Code, contained an outright ban on contributions and expenditures by corporations and labor organizations in connection with Federal elections.

These prohibitions, however, were modified by various court decisions based on the free speech guarantee of the first amendment, which had the effect of allowing certain political activities by labor organizations and corporations. These judicial interpretations of section 610 were codified into law in Public Law 92–225 by what is known as the Hansen amendment.

The act thus amended section 610 to provide that the prohibition against corporations or labor organizations making contributions or expenditures in connection with Federal elections does not include: first, communications by corporations to their stockholders and their families or by labor organizations to their members and their families; second, nonpartisan registration and get-out-the-vote campaigns by corporations aimed at their stockholders and their families or by labor organizations aimed at their members and their families; or third, the establishment, administration, and solicitation of contributions to a separate segregated fund to be used for political purposes by a corporation or labor organization, provided that such contributions are entirely voluntary.

From the debate and other legislative background to this legislation, it seems quite clear that section 610 as amended was intended to apply generally to corporations and labor organizations and was intended to set forth the definitive law concerning allowable political contributions, expenditures, and related activities by all such entities.

The difficulty that has arisen is because under another part of Public Law 92–25 the constraints of section 611, which prohibits political contributions by Government contractors, may have been made applicable to corporations and labor organizations.

Section 611 was enacted originally on the theory that individuals and organizations engaged in contractual relations with the Federal Government should be under the same type of restrictions as were placed on corporations, and later extended to labor unions, by section 610. Extension of those prohibitions to corporations at the time of the enactment of section 611 was expressly rejected on the basis that there was no need to do so since corporations were already prevented from making political contributions or expenditures by virtue of section 610.

Corporations and labor organizations were placed under the prohibitions of section 611 by the Federal Election Campaign Act through being included within the coverage of the definition section of title 18 applying to elections. Under the act reference to several sections of title 18 was added to that definition section, section 611 being among them, to conform the definition of terms among more sections of the code concerning elections.

The legislative history does not reveal any indication that any real substantive change or impact was intended by this change, much less a change of the magnitude as would result if corporations and labor organizations who happened to contract with the Government were summarily prevented from being allowed the right to engage in even such limited political activities as were carefully spelled out in section 610 by the act. And certainly no attention was given to the constitutional issues that would arise under an outright prohibition against corporate and union political activities for their employees and members of their families such as codified in 611.

As a result, there is ambiguity and a serious inconsistency in the law. To remedy the situation, H.R. 15276 amends section 591(g) of title 18, United States Code, adding a proviso to specify that the words "person" and "whoever" do not mean a corporation or a labor organization with respect to section 611.

I might say that H.R. 15276 has been reported by the Committee on Rules and Administration and is on the calendar, and this amendment is identical to that bill.

Congressional intent in the enactment of section 610 of the Federal Election Campaign Act of 1971 was to authorize unions and corporations to establish, administer, and solicit voluntary contributions from their members and employees for a separate segregated fund to be utilized for political purposes. However, much confusion has arisen over the interpretation of section 611 of the same act, which it is argued by some, appears to prevent unions or corporations having any government contracts from establishing such funds. It is the purpose of this amendment to remove corporations and labor organizations from the prohibitions of section 611 by amending the definitions of section 591(g) of title 18, United States Code.

I may say, Mr. President, that it does not, contrary to the belief of many people, liberalize the law with respect to contributions from labor unions or corporations to political campaigns. That prohibition still remains in the law.

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

Mr. CANNON. I am happy to yield.

Mr. PROXMIRE. The Senator from Nevada feels very strongly in favor of this amendment, and he was chairman of the committee that held hearings on it, and I am sure it has a great deal of merit, but this is something that many of us are concerned about. Some Senators who cannot be here have indicated they are strongly opposed to it and would very much like to have an opportunity to come back and discuss it, if necessary. I understand that Common Cause has indicated very strong opposition to it. Under those circumstances, in view of the fact that it is now 8:30 p.m. on, we hope, our last night in session, and that we are going to have difficulty if we continue to Monday and Tuesday in getting a quorum, I hope the Senator will not insist on pressing this amendment. Otherwise the tax bill that is now pending will be in serious jeopardy, because some of us are determined to oppose this amendment in every way we can for as long as necessary.

Mr. CANNON. I deeply regret that some of the Senators who are not here to discuss it or hear the argument are those who are blocking passage of this legislation. I also regret that Common Cause has taken a position against it, because they are complaining about someone else having exactly the same right to do the things they do. They solicit voluntary political contributions from their members who sign up and they use them in political campaigns and for political purposes. I am very disappointed that they would take a dog-in-the-manger attitude and say it is wrong for somebody else to do that, because it happens to be a labor union which has a contract with the Federal Government.

As I said, I am truly sorry indeed that Senators who apparently oppose this sort of proposal have never listened to the

arguments, and I doubt if they have read the committee report, because it is quite obvious that, in all fairness, it is not fair to say that a corporation which is a Government contractor cannot do those things that a corporation which is not a Government contractor can do.

My opinion is that the prohibition is not constitutional, and I think the courts, given time to act on it, will probably so hold, as they have in parallel cases which resulted in our removing that very restriction from section 610 when we passed the Campaign Act. But we did not recognize this was a problem at that time. I am sure my colleagues would agree that we would have removed that restriction in the Campaign Act we passed earlier.

Mr. PROXMIRE. It is not only a matter of opposition on the part of Senators who are not here. This Senator opposes it. I am sure there are other Senators on the floor who are against it. There may be some Senators who enthusiastically favor it.

What this amendment would mean is that political activity which is not now possible would be permitted on the part of both labor unions and contractors that have Government contracts. If we permitted that, it seems to me we could be going down a very unfortunate and dangerous road. It could mean that we are going to get terrific political pressure—indirect, it is true, but political pressure—for more Government spending, especially in the military area and other areas.

Government contracts are now so enormous and the number of people employed in them so great that recent estimates indicate that one American worker out of ten is now directly or indirectly employed in our Military Establishment. With that colossal potential political power, it seems to me we would be wise to have some method of circumscribing political activity or the political impact this could have on our system could be overwhelming.

Mr. CANNON. As I said earlier to the Senate, this is, in all fairness, a measure that ought to be enacted, because a person who happened to be an employee of a Government contractor should not be deprived of rights that an employee of some other contractor has to make voluntary contributions to their own political funds and use them for political purposes.

The Senator said this would result in more pressure on the Senate. I seriously doubt that. If we could get more pressure than we get at the present time, it would be quite difficult. I do not think we would get any more.

I do think, in fairness, that corporations and unions that are in this position should not be deprived of their constitutional rights.

As I said, I feel that such a prohibition is unconstitutional, as the courts have held on the cases they have ruled on so far.

I do not want to hold the Senate up. I do not know if there are other Senators who want to speak on the measure.

Mr. PROXMIRE. If the Senator feels that it is unconstitutional and the courts are going to act on it, it would accomplish what the amendment would do. It is too late to have any effect on the 1972 election, which is only a few days away.

Mr. CANNON. No, I do not think it is too late. The 1972 elections can be affected right up to the very day of the election. I think these people are being deprived of a very important right in this election.

I may say that I believe this amendment has the support of both political parties, so it cannot be stated to be in favor of one or the other of the political parties, but is something that, in all fairness, ought to be accomplished.

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

Mr. CANNON. I yield.

Mr. DOLE. I cannot speak for the other party, but I think, generally, the Republican Party supports it on the basis outlined by the Senator from Nevada. I think both political parties support it. I think it is a distinction which should not have been made, and probably would not have been made if we had known about it, but it has been made, and now, because of the criticism of John Gardner and Common Cause—the only common cause they have ever had has been to defeat Richard Nixon; at any rate, they are called Common Cause—I assume questions have been raised.

I assume Senators are opposed to it for good reason, but I cannot disagree with the Senator from Nevada. I wish we could pass it tonight. It seems impossible to do that. A live quorum, for example, would end the ball game. I have heard rumors that that might happen. I support the Senator from Nevada. If we cannot do it this evening, maybe we can do it next week.

Mr. AIKEN. Mr. President, if the Senator will yield, it seems to me this is a rather important amendment which is being offered. It is so important that I am sure every Senator would want the folks back home to know how he voted on it in a yea-and-nay vote.

Mr. CANNON. Mr. President, I would be delighted to have a yea-and-nay vote. I could not think of anything better. But I understand that some Senators would expect to talk at length on it before it could come to a yea-and-nay vote. If there were a possibility of getting a yea-and-nay vote right now, or later tonight, I would be for it. I would do it this very minute if my colleagues would permit us to do it.

Mr. PROXMIRE. Mr. President, may I say there is no chance of getting a yea-and-nay vote tonight or Monday or Tuesday or Wednesday. I expect to discuss this amendment for a long time. I think it is very important that we discuss it at considerable length. I can assure the Senate that there will not be a yea-and-nay vote on it tonight or next week, unless cloture is invoked.

Mr. HARTKE. Mr. President, I understand the deep conviction the Senator from Nevada has in this amendment. I understand, with all due respect, that he is entitled to offer his amendment. The measure before us at this time is a tax measure. I point out that his amendment would be subject to a point of order in the House of Representatives even if it went to conference.

So even if we added it on this matter, it certainly would be doomed as soon as it hit the conference under their new rules of germaneness. I would hope the Senator from Nevada could see his way clear to withdraw this amendment and permit us to go ahead and deal with what I consider mostly housekeeping procedures here. I understand that this measure is not veto proof if it reaches the White House, so what we are dealing with is really just an opportunity to take care of items which we normally find it very difficult to get on the calendar.

Mr. CANNON. I thank my colleague. I must have been mistaken; I thought this was a tariff measure rather than a tax measure, because had it been a tax measure I knew it would be subject to a point of order in the House of Representatives. But I thought it was a tariff measure, and therefore the amendment would be appropriate on this particular bill.

But in the light of the sentiment of the Senate, obviously we cannot pass it tonight, and I hope we can adjourn tonight. I certainly am not willing to hold the Senate up in an effort to try to work my will on this particular bill, even though I am sure that a majority of Senators, if they had the opportunity to vote, would vote for it—a majority of both political parties, I might add. This has strong support from both parties and from many different contractors, because they feel that their employees are being deprived of a right granted to other contractors and other corporations, and it has the support of almost all the labor unions, at least all I know of, and I have heard from an awful lot of them, who feel that the labor unions on Government contracts are being discriminated against.

This is a valid provision, but with all respect to the Senator from Wisconsin, on behalf of some other Senators who are not here, I feel I should withdraw the amendment. I certainly do not want to hold up other important legislation.

I deeply regret it. I think it is something we ought to act on, and I can assure the Senate that we will be back here next year with similar legislation again, when we have ample time to give the Senate to make up its mind and work its decision, despite Common Cause or whoever it may be that is opposed to it.

Mr. President, I withdraw the amendment.

Mr. HARTKE. Mr. President, I would like to pay tribute to the Senator from Nevada for being so kind and generous on this matter, as he always is. I know of no man who has done more in the field of trying to make sure the election process in the United States is one of which we can be proud. I congratulate him for his efforts. I am certain he will be back with a measure next year, but I want to express personal appreciation for his action tonight.

Mr. AIKEN. Mr. President, I want to tell the Senator from Nevada that I appreciate his willingness to not get us into another wrangle at this time of night and at this time of year, and I want to assure all my colleagues here that my insistence that we have more Senators here before acting on this important issue is not to be interpreted as indicating that I am satisfied with the so-called clean

election law. I voted for that bill about a year ago, as I recall, and the very next morning I looked in the mirror and my face was quite red, because I felt we had enacted legislation that would be difficult if not impossible to administer, and would not correct the things we were trying to correct.

I appreciate the Senator's efforts, but I appreciate even more his not insisting on taking that proposal up at this time.

Mr. HARTKE. Mr. President, I ask for third reading.

Mr. MANSFIELD. Mr. President, will the Senator withhold that?

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. MANSFIELD. Hold it! Hold it!

Mr. ALLEN. 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. Without objection, it is so ordered.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 640) was read the third time, and passed.

The title was amended so as to read: "An Act 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; and for other purposes."

Mr. MANSFIELD. Mr. President, this is a bill having to do with the importation of upholstery regulators, upholsterer's regulating needles, and upholsterer's pins free of duty. Those items were not even mentioned.

AMENDMENT OF SECTION 3306, INTERNAL REVENUE CODE OF 1954

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of the tax bill.

The PRESIDING OFFICER. The Chair lays before the Senate H.R. 7577, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 7577) to amend Section 3306 of the Internal Revenue Code of 1954.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate resumed the consideration of the bill.

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

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily and that the Senate proceed to the consideration of Calendar No. 1050, H.R. 3786, and Calendar No. 1240, H.R. 4678, both having to do with free entry of carillons, the first one for the use of Marquette University, Milwaukee, Wis., and the second for the use of the University of California at Santa Barbara. These measures were being held on a tariff basis for possible amendments, but those amendments have been taken care of in the bill just passed.

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

DUTY-FREE ENTRY OF CARILLON FOR MARQUETTE UNIVERSITY

The bill (H.R. 3786) to provide for the free entry of a four-octave carillon for the use of Marquette University, Milwaukee, Wis., was considered, ordered to a third reading, read the third time, and passed.

PROVIDING FOR FREE ENTRY OF A CARILLON FOR USE OF THE UNIVERSITY OF CALIFORNIA

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1240, H.R. 4678.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

H.R. 4678. To provide for the free entry of a carillon for the use of the University of California at Santa Barbara.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Finance with amendments on page 1, line 7, after the word "this", strike out "bill" and insert "Act"; after line 9, insert a new section, as follows:

SEC. 3. (a) Subpart B of part 1 of the appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting immediately after item 907.45 the following new item:

" 907.50	Caprolactam monomer in water solution (provided for in item 403.70, part 1B, schedule 4).	Free	No change.	On or before June 30, 1973. ."

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or before the date of the enactment of this Act.

(c) Upon request therefor filed with the customs officer concerned on or before the ninetieth day after the date of the enactment of this Act, the entry or withdrawal of any article—

(1) which was made after August 15, 1972, and before the date of the enactment of this Act, and

(2) with respect to which there would have been no duty if the amendment made by subsection (a) applied to such entry or withdrawal,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

And, on page 2, after line 18, insert a new section, as follows:

SEC. 4. (a) Paragraph (a) of general headnote 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "Except as provided in headnote 6 of schedule 7, part 2, subpart E, except as provided in headnote 4 of schedule 7, part 7, subpart A," and inserting in lieu thereof "Except as provided in headnote 1 of schedule 3, part 3, subpart C, in headnote 6 of schedule 7, part 2, subpart E, and in headnote 4 of schedule 7, part 7, subpart A,".

(b) Schedule 3, part 3, subpart C of the Tariff Schedules of the United States is amended by inserting the following headnote after the subpart caption:

"Subpart C headnote:

"1. Products of Insular Possessions.—(a) Except as provided in subparagraph (b) of this headnote, any fabric of a kind provided for in item 336.50, 336.55, or 336.60, which is the product of an insular possession of the United States outside the customs territory of the United States and which was imported into such insular possession as a fabric for further processing, shall be subject to duty at the rate applicable thereto under item 336.50, 336.55, or 336.60 with respect to the country producing the fabric which was imported into the insular possession.

"(b) If the requirements for free entry set forth in general headnote 3(a) are complied with, fabrics, not exceeding 60 inches in width, provided for in items 336.50, 336.55, and 336.60, which are the product of an insular possession of the United States outside the customs territory of the United States and which were imported into such insular possessions as a fabric for further processing may be admitted free of duty, but the total quantity of such articles entered free of duty during each calendar year shall not exceed the quantities specified below:

"Calendar year:	*Quantity (linear yards)*
1972	2,500,000 (or, if greater, the quantity entered during 1972 before the effective date of this headnote).
1973	2,000,000.
1974	1,500,000.
1975 and each subsequent calendar year	1,000,000."

(c) The amendments made by this section shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, the amendments are considered and agreed to en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that an explanation of the amendments be printed in the RECORD.

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

EXPLANATION OF AMENDMENTS

This amendment is designed to grant temporary relief from duty for caprolactam monomer in water solution until June 30, 1973. This chemical, which is temporarily in short supply in the United States, is widely used by manufacturers of nylon fiber. These fiber manufacturers cannot obtain adequate caprolactam supplies from domestic sources at this time.

The necessity for importing the partially processed material results from a failure of a chemical manufacturing facility at Augusta, Georgia to come on-stream as planned. One stage in the process has been redesigned and equipment is on order. The caprolactam monomer in water solution which the Augusta manufacturer receives will be further processed in units that are operational to produce finished product caprolactam.

Only Allied Chemical Company and Dow-Badische in the U.S. manufacture caprolactam and they have no product available to supply other than that which is required by their regular customers. As a matter of fact, Allied Chemical Company is also a purchaser of this material from the Augusta concern.

For the benefit of establishing legislative intent for the technicians, the caprolactam monomer in water solution requires further purification (including extraction, hydrogenation, ion exchange, evaporation and distillation) to produce caprolactam suitable for polymerization.

Virgin Island-Processed Wool: This amendment closes the last remaining loophole in our tariff schedules on processed wool. The Congress has on three previous occasions in 1963, 1965 and 1968 attempted to prevent foreign producers of processed wool from manipulating the wool to evade the intended tariff rates. However, in recent years these foreign wool producers have shipped their wool into the Virgin Islands where it was further processed by "showerproofing" and reshipped into the United States duty free. This practice threatened to destroy the New England wool industry. The committee amendment would apply the statutory rates to imports from the Virgin Islands above certain levels of importation.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended, so as to read: "An act to provide for the free entry of a carillon for the use of the University of California at Santa Barbara, and for other purposes."

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the joint resolution (H.J. Res. 1331) making further continuing appropriations for the fiscal year 1973, and for other purposes, in which it requests the concurrence of the Senate.

AMENDMENT OF SECTION 3306, INTERNAL REVENUE CODE OF 1954

The PRESIDING OFFICER (Mr. CANNON). The Chair lays before the Senate the pending business, which the clerk will state.

The assistant legislative clerk read as follows:

H.R. 7577, to amend section 3306 of the Internal Revenue Code of 1954.

The Senate resumed the consideration of the bill.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

SENATOR RANDOLPH FEELS FUNDING FOR HOUSE JOINT RESOLUTION 748 SHOULD HAVE AFFIRMATIVE ACTION

Mr. RANDOLPH. Mr. President, I comment briefly on one issue involving the Supplemental Appropriations Conference Report which passed the Senate earlier today. As Senators know, the Conference Committee agreed to eliminate the $40 million approved by the Senate on Thursday evening by a vote of 32 to 28 to begin implementation of the Veterans' Administration Medical School Assistance and Health Manpower Training Act of 1972. I am genuinely disappointed that this limited amount of funding for this innovative, far-sighted, and far-reaching program to allow the Veterans' Administration to utilize its resources in the establishment of new medical schools and in the training of health manpower, was not accepted by the Conference Committee.

As Senators will recall the $40 million funding proposal was sponsored by the able Senator from California (Mr. CRANSTON). I actively joined him in sponsoring and presenting this amendment to the Senate. We both worked diligently together with many other Senators subsequent to passage of the Supplemental Appropriations bill in the effort to obtain an agreement on the Senate amendment. The Senator from California who is not here today shares my disappointment that funds will not be available to begin immediate planning and implementation of this unique program. As we indicated to the Senate on Thursday evening during debate, the unparalleled opportunity involved in House Joint Resolution 748 and the urgency of securing more and better trained and educated health care personnel in this country, constituted a strong and convincing case for the inclusion of the funds to initiate this program.

We understand and sympathize with the difficult task of the membership of the Appropriations Committee in bringing this supplemental appropriations bill or any supplemental appropriations bill to the floor with such a short time remaining. However, we trust that the Appropriations Committee will give careful attention to the funding of the Veterans' Administration Medical School Assistance and Health Manpower Training Act of 1972 at the earliest possible time in the next Congress and will act affirmatively in providing adequate funds for this innovative and urgently needed program.

FURTHER CONTINUING APPROPRIATIONS, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Joint Resolution 1331.

The PRESIDING OFFICER laid before the Senate House Joint Resolution 1331, a joint resolution making continuing appropriations for fiscal year 1973, and for other purposes, which was read twice by title.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to its consideration.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. INOUYE. Mr. President, this resolution was passed by the House a few minutes ago and extends the existing continuing resolution which expires October 14, 1972, until February 28, 1973. This continuing resolution is necessary to provide authority for the activities carried in the foreign assistance and related agencies appropriation bill. This bill has been deferred for lack of authorization for several programs.

In the original continuing resolution, Public Law 92–334, which was approved July 1, 1972, the activities for the foreign assistance appropriations bill were continued at the rate provided in the budget estimate for fiscal year 1973 or the rate in fiscal year 1972, whichever was lower. Subsequent to that time, the House of Representatives has passed a foreign assistance appropriation bill, and the Senate has approved a foreign assistance appropriation bill. The Senate appropriations bill omitted those items which were not authorized by law.

In the pending House joint resolution, the House committee in its report said in order to be more responsive to more current actions by the Congress, has inserted a new section 108 providing that obligations could continue at the lower of the two rates provided in the Senate and House appropriations bills. With reference to the items not included in the bill in the Senate for lack of authorization, including refugee relief assistance—Bangladesh—security supporting assistance, military assistance, regional naval training, and foreign military credit sales, under the new section 108 the rate for obligation until February 28, 1973, would be not to exceed the rate permitted under the authorization bill, H.R. 16029, as it passed the Senate.

The budget estimates for the entire bill amount to $5,163,024,000. The Committee on Appropriations of the House of Representatives reports that, under this proposed continuing resolution, the rate of obligation on an annual basis for the entire bill would be $4,010,155,000, or at a rate $1,152,869,000 under the budget estimate.

Mr. President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 3, line 4, before the period insert the following: ": *Provided further*, Notwithstanding the preceding provisions of this joint resolution, the rate for operations for Foreign Assistance Act Activities and Foreign Military Credit Sales as provided herein shall not exceed the annual rate of new obligational authority provided for fiscal year 1972".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. JAVITS. Mr. President, I think we should know a little more about this. What is actually being done?

Mr. INOUYE. This amendment sets the operations for the Foreign Assistance Act and the foreign military credit sales at the rate provided in fiscal year 1972.

Mr. JAVITS. I know. But what does it do in money? We have not even gotten a copy of the bill. It is at the desk. I have browsed through it, but it is very hard to figure it out from a brief reading.

Mr. INOUYE. In terms of what it will do, it will mean a reduction of the House figure by a sum amounting to $355,954,000.

Mr. JAVITS. Why should we do that? What is the reason why we should reduce the House figure?

Mr. INOUYE. Because at this moment we do not have the authorization law.

Mr. JAVITS. I know, but the House had none either and they saw fit to give $355 million more. Why should we reduce it in the Senate?

Mr. INOUYE. Well, ordinarily, as the Senator is well aware, on continuing resolutions Congress has traditionally continued at the rate found in the prior fiscal year. This time the House decided to take the lesser of two figures adopted by either House, but not both.

Mr. JAVITS. If I heard correctly, and one has to rely solely on one's hearing around here, the House applied, apparently, a certain standard to a number of items and certain other standards to certain other items.

As I remember the Senator's amendment, it only applied to two items, credit sales, and one other item, if I heard correctly.

Why should we, in the middle of the night, on a continuing resolution, cut this $355 million below the House?

Mr. INOUYE. We are just continuing the same rates that is presently existing at the moment. As the Senator knows, we are operating under a continuing resolution which expires at midnight on October 14. We are applying the same rate that applies in that resolution.

Mr. JAVITS. Has the House increased it over the present rate?

Mr. INOUYE. The House did.

Mr. JAVITS. In what way?

Mr. INOUYE. By providing a new section which indicated that obligations could continue at the lower of two rates provided in the Senate and House appropriation bills.

Mr. JAVITS. Then the Senator admits that the Senate is unusually low because it did not have appropriations for items which were not authorized. Therefore, should we not take into account the House figure which did deal with items that were not authorized? The Senator said the Senate omitted them. Are we going to blank that out and forget about it? I gather that is what is being done. The Senator is simply accepting the fact that the Senate failed to appropriate for a given number of items because there was no authorization and, therefore, we are accepting not a lower figure but a figure that is false because it did not include certain items included in the House. Am I right?

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

Mr. INOUYE. I yield.

Mr. FULBRIGHT. This was not authorized. I thought the Senate had taken a position on all appropriation bills that they should be authorized. If one follows the Senator's reasoning it would circumvent the authorization process from here on. The conference on the authorization broke down over an amendment by the Senator from New Jersey with regard to the so-called treaty clause, with which the Senator is familiar.

If one accepts the Senator's view as he expressed it, it means you need no authorization bill. It is true the Senate did not have the provision entered in the military hearings because it had not been authorized. There was nothing in it for that. So this is substantially above since it is zero—what the Senate had approved for the military.

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

Mr. INOUYE. I yield.

Mr. BROOKE. We did not do anything in military assistance.

Mr. FULBRIGHT. That is right.

Mr. BROOKE. Or security deployment.

Mr. FULBRIGHT. So we are authorizing at last year's level.

Mr. JAVITS. Why do we not go across the board and take the whole thing at last year's level?

Mr. FULBRIGHT. That is exactly what we did do; for foreign assistance activities that is what we did do.

Mr. JAVITS. If the Senator will yield, what is puzzling me is this: Is the Senator contending that we are continuing just what expires October 14, exactly as it is up to October 14?

Mr. FULBRIGHT. It is my understanding that this amendment applies to foreign assistance activities, credit sales, but it does not affect the International Bank.

Mr. INOUYE. It does not affect title III. It does not affect the Peace Corps. It does not affect assistance to refugees in the United States, migration and refugee assistance, Inter-American Development Bank, Asian Development Bank——

Mr. JAVITS. We got nothing from the Senate on that, so are we giving it nothing in the continuing resolution?

Mr. INOUYE. There is nothing for it in the continuing resolution.

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

Mr. JAVITS. Yes.

Mr. BROOKE. They cannot get anything because that was a new program and there was never any authorization.

Mr. JAVITS. I understand that. I am trying to see what is being carried over and what is not being carried over. I still have not got an answer to the question as to whether we would carry on with exactly as we were up to October 14 or whether we would not. The Senator has not answered that question.

Mr. INOUYE. This amendment would carry it as we have up to October 14 for obligations under title I, Foreign Assistance Act activities, and title II, Foreign Military Credit Sales.

Mr. JAVITS. What does it not carry on as we were up to October 14?

Mr. INOUYE. Title III, foreign assistance, such as those I have listed.

Mr. JAVITS. So it does not sustain the same rate as the continuing resolution for title III. What is title III?

Mr. INOUYE. Title III contains activities such as Peace Corps, assistance to refugees in the United States, the Cuban program, migration and refugee assistance, Inter-American Development Bank at the House level, the International Bank for Reconstruction and Development, and the International Development Association.

Mr. JAVITS. How much is that being cut as compared to what it was up to October 14?

Mr. INOUYE. It is less than the House level.

Mr. JAVITS. How much is it being cut from what the House did? The Senator says the cut made by his amendment relates to title III. So all I would like to know is, on title III, how much does the Senator's amendment cut as distinguished from what the House did?

Mr. INOUYE. The cut appears in the first two titles, title I, Foreign Assistance Act activities, and title II, Foreign Military Credit Sales.

Mr. JAVITS. How much is that cut as contrasted with what the House did, compared to the time up to October 14? In other words, as I understand it, titles I and II are the same as the amount carried up to October 14. Now he says that is not so, that the cut is being made in titles I and II and in III.

Mr. INOUYE. Because the House has applied a new formula in continuing titles I and II. Instead of continuing the rate in the fiscal year 1973, they have a new formula.

Mr. JAVITS. If the House formula were applied to everything, titles I, II, and III, what would happen? Why are we swapping formulas on I, II, and III?

Mr. INOUYE. If the Senator wishes to go below the House figure for international activities, I would be very happy to support the amendment, sir.

Mr. JAVITS. I find it very difficult to hear the Senator. What was that?

Mr. INOUYE. Title I and II were treated by the House under a new formula.

Mr. JAVITS. That is right.

Mr. INOUYE. My amendment would establish the rate which is presently in effect.

Mr. JAVITS. That is, it would leave the rate which is presently in effect?

Mr. INOUYE. Yes.

Mr. JAVITS. And the new formula resulted in what increase?

Mr. INOUYE. The new formula resulted in an increase in title I and in title II of $55,952,000.

Mr. JAVITS. Now we will be spending at the rate of what?

Mr. INOUYE. The overall sum as it appears in the House joint resolution is $4,010,155,000.

Mr. JAVITS. And that would be reduced by $355 million, according to the Senator's amendment. Is that correct?

Mr. INOUYE. The Senator is correct.

Mr. JAVITS. So it would be $3 billion—some $700 million?

Mr. INOUYE. $3,654,201,000.

Mr. JAVITS. And how does that compare with last year for the same titles which the Senator is now cutting by $355 million?

Mr. BROOKE. Last year it was $3,190,896,000.

Mr. JAVITS. For the same two titles?

Mr. BROOKE. For the whole bill.

Mr. INOUYE. This is an increase.

Mr. BROOKE. Last year it was $3,190,896,000 for the whole bill.

Mr. JAVITS. Are we now spending at the rate of $3.6 billion or $3.1 billion as of October 14?

Mr. INOUYE. $3,190,896,000.

Mr. JAVITS. Up to October 1?

Mr. INOUYE. October 14.

Mr. JAVITS. October 14.

In the reductions the Senator is making, are those reductions for titles I and II below last year?

Mr. INOUYE. It is exactly at last year's rate.

Mr. JAVITS. Exactly last year's rate, and the House has sought to put that up by $355 million.

Mr. INOUYE. The Senator is correct.

Mr. JAVITS. What is the Senator's reason for reducing it below the House figure, and what items will be affected if he reduces them?

Mr. INOUYE. It affects all of the economic assistance, military assistance, security supporting assistance, Inter-American Foundation, and military credit sales.

Mr. JAVITS. How much for each? Does the Senator allocate them at all or is that going to be up to the President again?

Mr. INOUYE. This is fixed at last year's rates.

Mr. BROOKE. We are cutting those figures, are we not?

Mr. INOUYE. For example, if the Senator would like to have comparisons——

Mr. BROOKE. That is what he wants.

Mr. INOUYE. In worldwide technical assistance, under the authority granted in fiscal year 1972, the amount and the rate is $160 million. Under the continuing resolution it is $155 million.

Mr. JAVITS. That is, under the continuing resolution as amended by the Senator from Hawaii?

Mr. INOUYE. No; as it stands.

Mr. JAVITS. As it stands; right.

Mr. INOUYE. The Alliance for Progress.

Mr. JAVITS. What did the House do in that $155 million?

Mr. INOUYE. Their continuing resolution would set it at $155 million.

Mr. JAVITS. What does the Senator's amendment do?

Mr. INOUYE. $160 million.

Mr. JAVITS. I do not follow the Senator. If the Senator is cutting, how can it be more rather than less?

Mr. BROOKE. There are other areas.

Mr. JAVITS. That is what we would like to find out. We would like to find out what the Senator is cutting.

Mr. BROOKE. He is going down the list. In that particular area he is increasing, but in other areas he is cutting.

Mr. JAVITS. Let us find out what he is cutting.

Mr. INOUYE. In 1972, development loans, $200 million.

Mr. JAVITS. Right.

Mr. INOUYE. Under the continuing resolution, it is $350 million. Administrative expenses——

Mr. JAVITS. What is the Senator cutting that $350 million to? Back to $200 million?

Mr. INOUYE. Back to $200 million, which is the 1972 rate.

Mr. JAVITS. Now I have the picture.

What does a Senator do who does not want the overall cut? Suppose he wants to be selective. Suppose he wants to provide only $75 million for development loans or no cut for development loans? How does he go about that, the way the Senator has proposed it?

Mr. INOUYE. A substitute can be submitted.

Mr. JAVITS. A substitute amendment?

Mr. INOUYE. Yes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

COMMISSION ON MULTIPLE SCLEROSIS

Mr. SCHWEIKER. Mr. President, I submit a report of the committee of conference on H.R. 15475, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. CANNON). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15475) to provide for the establishment of a national advisory commission to determine the most effective means of finding the cause of and cures and treatments for multiple sclerosis having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15475) to provide for the establishment of a national advisory commission to determine the most effective means of finding the cause of and cures and treatments for multiple sclerosis, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "National Advisory Commission on Multiple Sclerosis Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) multiple sclerosis is a disease characterized by degeneration within the brain and spinal cord and by loss of motor and sensory functions;

(2) this disease, known as the "great crippler of young adults", generally makes its first appearance in the very prime of life, between the ages of twenty and forty, already affects great numbers of Americans, and will begin to afflict an even greater number as our young adult population expands;

(3) the cause of multiple sclerosis is unknown and there is neither a preventive nor a cure for the disease; and

(4) the determination of the most effective program for discovering the cause of and cures and treatments for the disease deserves the highest priority.

NATIONAL ADVISORY COMMISSION

SEC. 3. (a)(1) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary"), after consultation with the advisory council to the National Institute on Neurological Diseases and Stroke appointed under section 342 of the Public Health Service Act, shall appoint a national advisory commission to determine the most effective means of finding the cause of and cures and treatments for multiple sclerosis. Such study and investigation shall give particular emphasis to the need for additional financial support by the Federal Government and the means by which the Federal Government can best participate in the effort to find the cause of and cures and treatments for multiple sclerosis.

(2) The Secretary shall appoint to the commission (A) four members of the advisory council referred to in paragraph (1), and (B) five other individuals from the public who are particularly qualified to participate in the work of the commission. The members of the commission shall select a chairman from among the members appointed under clause (B) of the preceding sentence. Members of the commission shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the commission. While away from their homes or regular places of business in the performance of services for the commission, members of the commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(3) The Secretary shall provide such administrative support services for the commission as it may request.

(b) Each department, agency, and instrumentality of the executive branch of the Federal Government, including independent agencies, shall furnish to the commission, upon the request of its chairman, such information, services, personnel, and facilities as the commission deems necessary to carry out the purposes of this section.

(c) The commission shall transmit to the Secretary for transmittal to the President and the Congress a final report (which shall

include recommendations for such legislation as the commission determines is necessary) not later than one year after the date of enactment of this Act, and the commission shall cease to exist thirty days after submitting its report.

And the Senate agree to the same.

HARRISON WILLIAMS,
EDWARD M. KENNEDY,
GAYLORD NELSON,
THOMAS F. EAGLETON,
ALAN CRANSTON,
HAROLD E. HUGHES,
CLAIBORNE PELL,
WALTER F. MONDALE,
RICHARD S. SCHWEIKER,
JACOB K. JAVITS,
PETER DOMINICK,
BOB PACKWOOD,
J. GLENN BEALL, JR.,
ROBERT TAFT, JR.,
Managers on the Part of the Senate.

HARLEY O. STAGGERS,
PAUL G. ROGERS,
DAVID SATTERFIELD,
ANCHER NELSEN,
TIM LEE CARTER,
Managers on the Part of the House.

Mr. WILLIAMS. The purpose of this bill, as agreed to by the conferees, is to establish a Commission to conduct a 1-year study to determine the most effective means of finding the cause of and cures and treatments for multiple sclerosis. The Commission's study and investigation is to give particular emphasis to the need for the Federal Government to provide additional financial support to multiple sclerosis research, and to the means by which the Federal Government can best participate in the effort to overcome multiple sclerosis.

This disease, known as the "great crippler of young adults," is a chronic, usually progressive disease of the nervous system, which generally strikes adults in the prime of life between the ages of 20 and 40. It is estimated that approximately 250,000 individuals in the United States are afflicted. The cause of multiple sclerosis is unknown, and there presently is neither a preventive nor a cure for the disease. However, of all the major neurological diseases, there is none with more promising leads for meaningful research than multiple sclerosis.

Since its incidence varies with geographical areas, it is believed there is an environmental factor associated with the disease. Certain immune responses of the body during various stages of the disease also suggest the presence of a bodily agent which could form the basis of the development of an effective preventive or cure. In addition, there are substantial indications that a virus may be the cause of this disease. Very recently, for example, three medical research teams, operating in different parts of the world, have independently reported having isolated a virus from the brains of multiple sclerosis victims.

It is our hope that one of the additional effects of establishing this Commission will also be to stimulate the interest of both the scientific and lay communities—leading to more creative and scientific efforts in this regard and bringing more investigators into this field.

The Commission established by H.R. 15475, as approved by the conferees, would be appointed by the Secretary of Health, Education, and Welfare. At the request of the National Multiple Sclerosis Society, I had previously introduced a comparable bill, S. 3659, which was cosponsored by Senators RANDOLPH, SCHWEIKER, HOLLINGS, MANSFIELD, CRANSTON, and KENNEDY. That bill, which provided that the Commission would be appointed by the President, was adopted by the Senate as its amendment to H.R. 15475.

The conference agreement, however, places the appointment of the Commission with Secretary of Health, Education, and Welfare, as did the House-passed bill. I am advised by the National Multiple Sclerosis Society that the conference agreement has its full support since it meets two conditions which the society felt to be most important, but which were not met by the House-passed bill. One is that a majority of the members of the Commission will be drawn from the general public. There will be five such members, who, as provided by the conference agreement, must be particularly qualified to perform the work of the Commission. The remaining four members will be drawn from the membership of the existing advisory council of the Institute of Neurological Diseases and Stroke. The other condition which the society believes to be important is that the chairman of the Commission will be one of the public members.

Mr. President, I am pleased to move the adoption of this conference agreement, and I am hopeful that promptly upon its enactment, the Secretary will appoint members of the highest qualifications. I hope, too, that the Secretary will give the Commission the fullest possible support of the resources of his Department, including making available appropriate staff from both within and outside the Department.

The Commission has desperately important work to do, and the conquest of this dread disease is surely a most urgent priority.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

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

Mr. JAVITS. Mr. President, reserving the right to object, and I do not expect to object——

Mr. MANSFIELD. Wait a minute. We want to bring up a conference report.

Mr. JAVITS. Very well.

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

FEASIBILITY STUDIES OF CERTAIN WATER RESOURCE DEVELOPMENTS

Mr. MOSS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3959.

The PRESIDING OFFICER (Mr. CANNON) laid before the Senate the amendment of the House of Representatives to the bill (S. 3959) to authorize the Secretary of the Interior to engage in feasibility investigations of certain potential water resource developments, which was to strike out all after the enacting clause, and insert:

That the Secretary of the Interior is hereby authorized to engage in feasibility studies of the following potential water resource developments:

1. Cache Creek project in Comanche, Cotton, Tillman, Jackson, and Kiowa Counties in southwestern Oklahoma.

2. Garrison diversion unit, M&L water facilities, Pick-Sloan Missouri Basin program, in central North Dakota.

3. Oahe unit, M&I water facilities, Pick-Sloan Missouri Basin program in east-central South Dakota.

4. Ventura County Water Management project, California.

5. Tucumcari project in San Miguel County in east-central New Mexico.

6. Uncompahgre project improvement in Montrose and Delta Counties in the vicinity of Montrose and Delta, Colorado.

7. Dominguez Reservoir project in Mesa and Delta Counties, Colorado.

8. Lower James-Fort Randall water diversion proposal of the Pick-Sloan Missouri River Basin program, South Dakota.

Mr. MOSS. Mr. President, the purpose of the measure is to authorize the Secretary of the Interior to undertake feasibility investigations of six Federal reclamation projects. This authority is required to permit the orderly continuation of the Bureau of Reclamation's program of investigations leading to recommendations for authorization of water resource development projects.

As passed by the Senate on October 2, 1972, S. 3959 included the authorization of six studies which had been requested by the Secretary of the Interior. The House amended the measure as follows:

First, the study of the Three Forks division, Pick-Sloan Missouri Basin program, Montana, which was included in the Senate measure was deleted.

Second, the study of the Uncompahgre Project Improvement and Extension in Colorado was amended to become two studies, one of which would deal with the modifications of the existing Uncompahgre project and another, the "Dominguez Reservoir project," to cover a potential new storage reservoir on the Gunnison River.

Third, two additional studies were added to the measure as follows:

The Ventura County Water Management Study, California, would be a management study of alternative plans for meeting the multiple purpose water demands of a critically water-short area in the central California coastal area.

Lower James-Fort Randall water diversion proposal of the Pick-Sloan Missouri River Basin program, South Dakota, would be a study of a number of potential developments in the James, Big Sioux and Vermillion River basins.

Although this project does not meet the usual criteria demanded by the Senate Interior Committee that a proposed feasibility study has been the subject of a reconnaissance survey, and that the

survey indicates a very strong possibility of a favorable feasibility study, the Interior Committee believes that the Secretary can carefully examine the merits of this authorization when he requests funds for carrying it out. Therefore, the committee will not object to it.

However, Mr. President the House deleted one Montana project recommended by the committee and supported by the administration. The junior Senator from Montana (Mr. METCALF) in whose State this project lies, has requested that it be reinserted in the authorization.

Therefore, Mr. President, I move that the Senate concur in the amendment of the House with an amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

At the bottom of page 2 add a new paragraph as follows:

"9. Three Forks Division, Pick-Sloan Missouri Basin program, in Gallatin and Madison Counties, northwest Montana."

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Utah to concur in the House amendment with an amendment.

The motion was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PISCATAWAY PARK, MD.

Mr. MANSFIELD. Mr. President, I move that the Committee on Interior and Insular Affairs be discharged from further consideration of H.R. 15597 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, the committee is discharged from the further consideration of the bill. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 15597) to authorize additional funds for acquisition of interests in land within the area known as Piscataway Park in the State of Maryland.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, the purpose of H.R. 15597 is to authorize the appropriation of additional funds for the acquisition of interests in land within the area known as Piscataway Park in the State of Maryland. In 1961, Congress authorized the Secretary of the Interior to acquire and administer lands and interests in lands along the Potomac River in Prince Georges and Charles Counties, Md., in order to preserve scenic lands which provide the principal overview from Mount Vernon and Fort Washington. Although the Senate Interior Committee had hoped that no additional funds would be necessary for this particular project as far as land and scenic easement acquisitions are concerned, the result of controversy and litigation over the past several years makes it necessary to provide the Secretary of Interior with the means to acquire additional scenic easement on the balance of some 89 tracts within the scenic protection area. H.R. 15597 will provide this authority by the appropriation of $1,525,000.

Mr. President, this area, so close to metropolitan Washington, offers a wonderful recreational opportunity for the citizens of this area as well as protecting the view from Mount Vernon. It is the hope and expectation of the Senate Interior Committee that appropriate studies will be made by the Department of the Interior to determine what development can be accomplished to maximize the utilization of the area by our citizens for such activities as picnicking, hiking, camping, and other recreational pursuits which will be compatible with the overall preservation of the character of this area. I have been assured that the Representative from Pennsylvania and the author of H.R. 15597, Mr. SAYLOR, intend to pursue the recreational development aspects of this area in the next Congress. With that assurance, I can recommend the bill be passed.

The Senate Interior Committee has also been urged to act on this measure by the very esteemed conservationist, Dr. Spencer Smith, Jr., secretary of the Citizens Committee on Natural Resources. Dr. Smith's judgment is highly valued by the members of our committee on this and other matters relating to conservation measures. Therefore, Mr. President, I move passage of H.R. 15597.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the amendment of the Senate to the bill (H.R. 16071) to amend the Public Works and Economic Development Act of 1965, with an amendment in which it requests the concurrence of the Senate.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RECESS TO 10:30 P.M. TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until 10:30 p.m. today.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. JAVITS. Mr. President, reserving the right to object, may I ask the leader this—we are trying to straighten this out——

Mr. MANSFIELD. This will give everyone more time—10:30 p.m.

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

Whereupon, at 10:06 p.m. the Senate took a recess until 10:30 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. GAMBRELL).

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

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

REFERRAL OF HOUSE JOINT RESOLUTION 1331 TO COMMITTEE ON APPROPRIATIONS

Mr. INOUYE. Mr. President, I ask unanimous consent that House Joint Resolution 1331, making further continuing appropriations, and the amendment thereto be referred to the Committee on Appropriations.

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

Mr. McCLELLAN. Mr. President, then, as chairman of the Appropriations Committee, I announce a meeting of the full committee to consider this bill at 10 o'clock Monday morning. We are going over until Monday. I guess we are going over to next week.

Mr. MANSFIELD. I guess it is out of our hands, may I say to the distinguished Senator. Unfortunately, we are going over until Monday.

ORDER FOR ADJOURNMENT TO MONDAY, OCTOBER 16, 1972, AT 10 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business this evening, it stand in adjournment until the hour of 10 o'clock Monday morning next.

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

RECESS TO 11 P.M. TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 11 o'clock p.m.

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

At 10:38 p.m. the Senate took a recess until 11 p.m.; whereupon the Senate re-

assembled when called to order by the Presiding Officer (Mr. ALLEN).

H.R. 13895—TO AMEND TITLE 5, UNITED STATES CODE, TO REVISE THE PAY STRUCTURE FOR NONSUPERVISORY POSITIONS OF DEUPTY U.S. MARSHALS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 13895, and ask unanimous consent that the bill be considered as having been read the first and second time, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER (Mr. ALLEN). The Chair lays before the Senate the message from the House which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 13895) to amend title 5, United States Code, to revise the pay structure for nonsupervisory positions of Deputy United States Marshals, and for other purposes.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read the first and second time, and the Senate will proceed to its consideration.

Mr. ROBERT C. BYRD. Mr. President, I want to commend the distinguished Senator from Alaska (Mr. STEVENS) for his efforts this evening in contacting Members of the Senate on both sides of the aisle in the successful attempt to get the bill cleared; otherwise, it could not have been called up this evening.

Mr. STEVENS. Mr. President, I thank the Senator from West Virginia. This is a minor bill but it affects 1,300 nonsupervisory deputy U.S. Marshals presently classified in grades 6, 7, 8, and 9 of the General Schedule. This bill will upgrade them and give them responsibilities and give them a classification more closely alined with their duties which are similar to law enforcement officers in other services, such as State police, and various other police forces of the country.

The Senator from West Virginia is correct, we have cleared the bill with the ranking minority member of the Post Office and Civil Service Committee, with the chairman, and with the Senator from Nebraska (Mr. HRUSKA), and it now has their approval to move.

Mr. President, I move adoption of the bill.

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

Mr. STEVENS. Mr. President, I move to reconsider the vote by which H.R. 13895 passed the Senate.

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

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

The motion was agreed to.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY, OCTOBER 16, 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next, after the two leaders have been recognized under the standing order, there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 3 minutes.

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

THE CONFERENCE WITH THE HOUSE ON THE FEDERAL-AID HIGHWAY ACT

Mr. RANDOLPH. Mr. President, I have an announcement to make with reference to the conference on S. 3939, the Federal-Aid Highway Act of 1972.

The members of the conference have given more than 30 hours to this conference over a period of 4 days in the continuing attempt to report the work of the conference to our respective bodies—with, hopefully, an agreement.

We have met with the House conferees, and report that we are in disagreement with the matter contained in the bill, S. 3939.

Mr. President, the failure of the Senate and the House conferees to reach any agreement on the highway bill must be attributed directly to those who were determined to seize this opportunity to make a fundamental change in Federal transportation programs.

I was greatly disappointed by the intransigence of those Members whose only apparent goal was to make the resources of the highway trust fund available for nonhighway related transportation purposes. Their unwillingness to negotiate realistically at this late hour in the 92d Congress led the conference to an impasse from which there was no escape.

It is unfortunate, but both the highway and the mass transit programs were damaged by our inability to agree on a bill. The House conferees and a number of Senators were willing to approve urgently needed operating subsidies and additional construction for mass transit systems. The opportunity to provide this assistance died with the ending of the conference in disagreement a few minutes ago. Programs to accelerate rural highway development and to strengthen bus transit systems, both of which I sponsored in the Senate, also were abandoned in the wreckage of this conference.

On several occasions, Representative JOHN C. KLUCZYNSKI and his colleagues on the House Roads Subcommittee, offered to modify the provision about which they felt most strongly, that of establishing a priority primary highway system. They asked that we accept similar modifications in the Senate provisions relating to mass transit.

The distinguished Senator from New Jersey (Mr. WILLIAMS), who is now in the Chamber as I make these remarks, an acknowledged authority and vigorous supporter of mass transit, was willing to arrive at the accommodations that would have permitted us to report a bill. The continued refusal of some Members to modify their positions, however, prevented us from reaching an agreement.

It was hoped by some that the highway program could be continued substantially as now authorized so that we could consider mass transit funding early next year. The total failure of the conference not only will disrupt the highway program, but I fear that it also will make the task of expanding mass transit programs in the 93d Congress a very difficult task.

Mr. President, I ask unanimous consent that a table showing the amount of funds presently remaining for obligation by the States, in effect what is left after our failure to authorize new spending, be printed in the RECORD.

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

FISCAL YEAR 1973 OBLIGATION LIMITATION

FISCAL YEAR 1974 APPORTIONMENT REQUIRED TO FULLY OBLIGATE FISCAL YEAR 1973 LIMITATION

[Thousands of dollars]

State	Urban area funds					Total
	Interstate funds	Topics	Urban C and urban systems	Subtotal	All other funds	
Alabama			$2,545	$2,545	$3,250	$5,795
Alaska		$149	263	412		412
Arizona		1,580		1,580	7,321	8,901
Arkansas	$2,126	1,150	1,610	2,760	657	5,543
California	64,590		25,056	25,056	10,096	99,742
Colorado		2,308	807	3,115		3,115
Connecticut			930	930		930
Delaware	1,395					1,395
Florida	18,948	1,970		1,970		20,918
Georgia						
Hawaii						
Idaho		33		33	1,411	1,444
Illinois			2,275	2,275	6,439	8,714
Indiana					382	382
Iowa						
Kansas	$8,768					$8,768
Kentucky	36,255					36,255
Louisiana						
Maine		$481	$120	$601		601
Maryland						
Massachusetts			3,455	3,455	$1,806	5,261
Michigan	8,051		3,786	3,786		11,837
Minnesota			2,616	2,616		2,616
Mississippi	664					664
Missouri	6,677				2,323	9,000
Montana						
Nebraska						
Nevada	340	220		220		560

State	Urban area funds					
	Interstate funds	Urban C and urban Topics	systems	Subtotal	All other funds	Total
New Hampshire						
New Jersey						
New Mexico	$7,170					$7,170
New York						
North Carolina						
North Dakota		$95		$95		95
Ohio						
Oklahoma	10,500					10,500
Oregon		89		89		89
Pennsylvania						
Rhode Island			844	844		844
South Carolina			1,153	1,153		1,153
South Dakota		105		105	$78	183
Tennessee	$27,941					$27,941
Texas	12,251		$11,212	$11,212	$26,953	50,416
Utah		$246		246		246
Vermont						
Virginia	69,078	911	2,536	3,447	11,023	83,548
Washington			2,530	2,530	7,209	9,739
West Virginia			6	6		6
Wisconsin						
Wyoming		220		220	5,988	6,208
District of Columbia		492		492		492
Puerto Rico						
Total	274,754	10,049	61,744	71,793	84,936	431,483

Mr. RANDOLPH. Mr. President, the conferees representing both the Senate and the House were diligent in their conscientious attention to the task before them. While there were occasions when we disagreed, all were responsive to the questions we faced and all approached their work with a full realization of the importance of transportation of all types to the continued social and economic well-being of the United States. I call particular attention to the role of Senator JOHN SHERMAN COOPER, the ranking minority member of the Senate Committee on Public Works. Senator COOPER, as always, argued his position with great vigor and persuasion. He brought to this conference the knowledge and conviction that has been such a valuable asset to our committee during the years he has been a member. The other Senate conferees, Senators MUSKIE, MONTOYA, GRAVEL, BENTSEN, BOGGS, BAKER, BUCKLEY, WILLIAMS, PROXMIRE, and BROOKE, all participated actively and constructively in the deliberations.

The conferees of the House of Representatives, under the leadership of Representative JOHN C. KLUCZYNSKI, approached their assignments with strength and skill. Each of the others, Representatives JIM WRIGHT, HAROLD JOHNSON, JAMES HOWARD, WILLIAM HARSHA, JAMES C. CLEVELAND, and DON H. CLAUSEN, were active and able participants in our discussions.

I must also express my personal thanks and gratitude for the excellent support provided by the staffs of both committees during this conference. From the Senate committee staff we were greatly aided by M. Barry Meyer, Bailey Guard, Clark F. Norton, John W. Yago, Harold Brayman, Leon G. Billings, Philip T. Cummings, Kathy Cudlipp, Polly Medlin, Margie Powell, and Paul Chimes. The conduct of the conference also was facilitated by members of the House committee staff, Richard J. Sullivan, Lloyd A. Rivard, Lester Edelman, Clifton W. Enfield, Richard C. Peet, Dorothy A. Beam, Erla S. Youmans, and Ludie DeCourcy.

Mr. WILLIAMS. Mr. President, I am glad to have this opportunity to follow the most esteemed chairman of the Public Works Committee in this last review of the failure of the conference. It was more than a conference on the highway program, Mr. President, it was a conference that—for the first time—had an opportunity to respond to metropolitan transportation needs with a balanced program of highways and urban mass transportation giving metropolitan communities the option to arrive at their own decision as to what type of program would best meet their transportation needs.

So I am extremely disappointed that a majority of the Senate conferees on the Federal Aid Highway Act have turned down the most generous compromise which the esteemed Senator from West Virginia (Mr. RANDOLPH), chairman of the Senate Public Works Committee and chairman of the conference committee and the Senate conferees has received from our opposite Members on the House side.

Under this plan which the House conferees approved, the big winner would have been mass transit. In other words, our nation's cities and the tens of millions of citizens who inhabit them. Their lives would have been made better. Traffic congestion and air pollution would have been reduced and of course, transit systems improved.

This is what the majority of the conferees turned down; an additional $3 billion in contract authority for capital grants to urban mass transit systems. This was the exact figure contained in the Senate-passed bill.

Also rejected was the proposal which we in the Senate had advanced for an increase in the Federal contributions to mass transit capital grant projects from the current discretionary two-thirds to a mandatory 80 percent; and, most important of all, a program of operating subsidies almost identical to that which was passed in the Senate earlier in the year by a more than 2-to-1 margin.

In addition, the House agreed to accept all of the Cooper-Muskie amendments, except rather than having the money come directly out of the trust fund for bus or rail transportation, if the local governing bodies so elected, the funds would come from general revenues, via contract authority.

The acceptance of this program would have meant $4.4 billion. I emphasize that, $4.4 billion for urban mass transit. There is not anybody familiar with the problems of our cities in terms of transportation who does not know that this money is urgently needed.

We would have for the first time provided, after over 8 years of effort, a realistic and workable program of operating assistance to the 100 urban mass transit systems which are now operating in the red at a total rate of $360 million a year.

This is a program which both the American Transit Association and the National League of Cities and the Conference of Mayors—the groups which know America's transit needs at the grassroots level—considered the most important and essential transit program now before the Congress—transit's No. 1 priority legislative proposal.

I therefore can only say that the Senate members of the conference who rejected this proposal in my judgment were sadly misguided. I would suggest soul searching on the question of whether the effort was to aid mass transit or to break up the highway trust fund.

Sadly, it seems to me the majority of the Senate conferees chose the latter course.

This course of action undoubtedly will allow the Cooper-Muskie amendment to be considered by the Congress next year, but it also puts off additional Federal aid to urban mass transit—aid which should not be delayed. It defeats a package which is fully endorsed by the great organizations I have mentioned, the National League of Cities, the Conference of Mayors, and the American Transit Association.

Mr. President, I agree with the Senator from West Virginia, who suggested that this rejection makes our job a great deal harder next year.

Finally, I want to say that I came from another committee to this conference, the Committee on Banking, Housing and Urban Affairs. It was that committee's proposals which, through the legislative processes, were added by the Senate to the highway bill.

It was an experience that I will never forget, particularly the wisdom, the patience, and just plain greatness of the chairman of our conference committee, the Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, I wish to thank the distinguished Senator from New Jersey, the respected leader in the legislative achievements we have wrought to date for mass transit. Would the Senator repeat to the Senate the sum of money which, if we could have had agree-

ment as we proposed, would have brought to this effort?

Mr. WILLIAMS. I am happy to do so. The total figure under the Senate bill and the total figure in the House conference proposal came to $4.4 billion for mass transportation. This was broken down into these compartments of transportation needs

First, $3 billion of contract authority under the ongoing Urban Mass Transit Assistance Act program.

In addition, for that transfusion that is so desperately needed now to keep mass transit systems going until that capital contribution can take hold and bring transit to a self-supporting level, $600 million in operating subsidies; and in addition to all of that there was the $800 million contained in the Cooper-Muskie proposal, which was also part of the House conferees' offer advanced to us for our acceptance.

In other words, the money that we had voted for in the Senate was brought to us intact in their proposal.

Mr. RANDOLPH. Would the Senator from New Jersey, who is very knowledgeable in these fields of mass transit, agree with me that the sum of money that we attempted to authorize for mass transit was greater in amount than even the Senate itself had provided?

Mr. WILLIAMS. The $4.4 billion was more; not more than the Senate had originally proposed, but in final form it was more than the Senate took to conference.

Mr. RANDOLPH. I thank my colleague from New Jersey.

Mr. WILLIAMS. As a matter of fact, the figure that we finally agreed on in the Senate was $3.8 billion.

Mr. RANDOLPH. That is correct.

Mr. WILLIAMS. And the House proposal was $4.4 billion and I say they did not have a penny of mass transportation money in the bill that they brought to conference.

Mr. RANDOLPH. Neither did they have hearings on the subject matter.

Mr. WILLIAMS. The Public Works Committee had no hearings. They did have the benefit of another committee's action. They had a favorable vote out of the House Banking and Currency Committee on contract authority; although it was less than the figure the Senate had. They also had a favorable vote out of the House Banking Committee on their own operating subsidies; but that was in the House bill, and the House bill did not clear the Rules Committee. So they were operating under no mandate to give to the Senate a single penny for mass transportation. Yet they did offer us $4.4 billion.

I would like to make one more point. The members of the Senate conference committee who voted down this offer used the excuse that this administration would impound the authorized contract authority funds. I therefore would like to read into the record the part of our committee report which quotes Secretary of Transportation Volpe on this matter, "I did not start this fight until I was given the assurance that every dollar that the Congress authorized and appropriated would be spent, because the needs are there, and I have that assurance."

Mr. RANDOLPH. I thank the Senator from New Jersey, not because we were in agreement on these matters in the conference, but more importantly because he has spoken as he has tonight with forthrightness and courage.

I shall ever be grateful for the contribution he has made following the collapse of the conference and, of course, during the long hours in which the conferees attempted to reach an agreement.

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

Mr. RANDOLPH. I yield.

Mr. WILLIAMS. The Senator from Alaska is in the Chamber. He was at the conference. I have the greatest affection for the Senator from Alaska. Now I have additional reason to value his friendship. At one point during the conference I had to leave the conference to come to the floor of the Senate to present an amendment to a bill that was very important, specifically and particularly to the State of New Jersey, which I have the honor to represent. While I was absent for those 10 minutes or so the Senator from Alaska, a State that does not have a comparable metropolitan transportation problem to the State of New Jersey, advanced the cause of mass transit for me. I appreciate that, and I wish to make that statement for the RECORD.

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

Mr. RANDOLPH. I yield.

Mr. GRAVEL. Mr. President, I wish to thank the Senator from New Jersey because he did, as was indicated by the Senator from West Virginia, stand with us and try to work out a compromise which would be in the interest of the Nation. His patience and tolerance in the course of the conference was laudatory.

I also wish to associate myself with the remarks of both Senators. I would like to be a little more blunt as to what I think really transpired, and that was that it was not a question of whether the conference was going to do something for mass transit as opposed to roads, or at a loss to mass transit, and as stated in detail by the Senator from New Jersey, for the first time in the history of Congress we were taking care of mass transit. The dollars were there. Obviously, the issue did not hinge on whether or not we were appropriating money to meet the needs of the situation in this country.

The issue finally resolved itself into a deadlock over whether the highway trust fund would be inundated. In that regard, no compromise was arrived at. Unfortunately, I think it will not stand us in good stead with respect to a good highway program, but I think Congress will be placed on notice that beginning with the 93d Congress we will have to get to this business, because some States will be painfully hurt until Congress decides to act on this issue.

It is easy for the chairman of a conference to come out feeling, first, good, and second, being highly responsible when the conference wins and something is appropriated; but it is more difficult and discouraging when the chairman comes out and the conference has failed. It is difficult to take that touch of fate that probably came to the Senator from West Virginia, but I would hope to speak to him and to all who value him as a friend and to say that in my opinion just the opposite is the case. The fact that he was able to preside over this conference which was in deadlock almost from its inception, to have a committee where tempers did not flare, where the body was deliberative at all times, is a credit to his leadership and it is the true test as to whether or not the conference succeeded, and this one did not.

Everyone had very strong views of what he felt was in the vital interest, short term or long term. I wish a compromise had been effected because it is with compromise that we can make progress.

I assure my colleagues that next year when we take up this legislation we will still be faced with the same problem and that is to effect a compromise through the committees and come back to the floor.

Again, I thank the Senator from New Jersey for his very fine and able leadership, and the chairman of the committee, the Senator from West Virginia (Mr. RANDOLPH), who did justice to the cause of transportation in America for the last 30 hours.

Mr. COOPER. Mr. President, I was not here when the distinguished senior Senator from West Virginia (Mr. RANDOLPH) spoke on this subject. I am glad I heard the comments of the distinguished Senator from Alaska, and I understand the distinguished Senator from New Jersey spoke also.

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

Mr. COOPER. I yield.

Mr. WILLIAMS. It was the same statement I read following the conference, which the Senator did hear.

Mr. COOPER. It is correct that the Senate conferees and the House conferees on the Federal Highway Act did not come to an agreement.

I would like to join my colleagues in expressing my admiration and regard for the chairman of the conference and the chairman of the Committee on Public Works, Senator JENNINGS RANDOLPH. I have served on that committee for many years, and in recent years have been the ranking Republican member of the committee. The Senator from West Virginia (Mr. RANDOLPH) is a great chairman. He is fair and impartial, he is not partisan on matters which do not relate to politics, and those are usually the kinds of issues we have before our committee.

I wish to say that on the matter of Federal aid highway programs the Senator from West Virginia has been innovative and creative. He has been a leader in finding ways to approach problems of urban areas, moving into that field in the early stages for bus lanes and parking facilities, and in many other ways he has tried to help with the problems of the cities. He has advocated and tried to secure the support of the Committee on Public Works for a provision which would provide funds from the highway trust fund for the purchase of buses for public transportation.

Mr. President, it was hoped that in this conference, with the greatest care and patience, and with determination on

the part of the conferees, we would be able to secure a bill on which we could reach an agreement between the Senate and the House.

On the floor of the Senate the entire Senate, by a vote of 48 to 26, adopted a provision, offered by the Senator from Maine (Mr. MUSKIE) and me, providing that only that amount of money apportioned to urbanized areas—areas of 50,000 or more—$800,000 annually, in the Senate bill, could be used by those areas, as local authorities determined under a plan of self-government, in any way they wanted to for public transportation systems, whether it was for highways, buses, or rail transit.

We went to conference on it. It was obvious from the beginning the House would not accept any provision which would provide for the use of any highway trust funds for any purpose except highway construction.

The House conferees offered a proposal which, in effect, was that urban system funds could be assigned to mass transit purposes, provided that it was so determined by the local authorities, and approved by the Secretary of Transportation. Upon approval, these funds would be set aside or locked up in the Highway Trust Fund for later disposition by the Congress, and an equivalent amount would become a contractual obligation against the general funds of the Treasury of the United States.

But it had two points in it which we must look at very carefully. The first is the problem of the contractual obligation upon the Federal Government when we have an overwhelming deficit, and the second is that it provided it should be paid for out of general revenues. When we realize that we have just been laboring here in the Senate over the problem of raising the debt ceiling, and of attempting to place a $250 billion limit upon spending, this proposal really had no meaning. It seemed to me it was unrealistic, and an illusion to think that the administration, whether this administration under the same President or the next President—who I hope will be the same President, but whoever—would increase spending from general revenues.

I say this with high regard for the Senator from New Jersey (Mr. WILLIAMS), because he has been a leader in the field of mass transportation. Those on the committee who, other than myself, come from rural areas, and those who come from urban areas, other than the Senator from New Jersey, did not believe the House proposal had any content at all, and voted against it, and I agreed with them.

It seemed we came to an impasse for other reasons.

There were fine provisions in the Senate bill, which we owe largely to the Senator from West Virginia (Mr. RANDOLPH), but it also had some provisions which were questionable. For one, there was a provision in there which provided, essentially, that when a State submitted to the Secretary of Transportation its program for construction of roads, that became a contractual obligation upon the U.S. Government. That raised a constitutional question. I do not know what would have happened to it.

But I want the Senate to know this. On the House side, in a situation where the Interstate Highway program is proclaimed as very essential to complete, and I agree with that, and when the Interstate System is only 81 percent completed, they put a provision in their bill and in all their proposals creating a new highway system, which they called the "priority primary system" of some 10,000 miles of roads which could be built to interstate standards. Part of the determination was to be made by the States, and a part was to be made by the Secretary of Transportation, as to where those 10,000 miles of highway would go. Under the influence and pressures of those in the U.S. Government, and in the State governments, areas might have been able to secure at least 25 percent of that. There were no hearings on that in the House. They said so. It was never even discussed in the Senate Committee on Public Works.

I asked for a report from the Secretary of Transportation on this problem, and he said that the minimum estimated cost of the so-called priority primary system would be $10 billion. That was the minimum. We all know that, with advancing costs of construction, it would be more than that.

There was never a proposal that the House conferees put before us which did not contain that provision for the 10,000 miles of roads which could be built up to interstate standards, at a time when the interstate system is only 81 percent completed. They would never relinquish that proposal. That was their chief interest, in my view.

The Senate conferees—and I mean all of them, including Senator RANDOLPH, Senator GRAVEL, Senator MONTOYA, Senator BENTSEN, Senator MUSKIE, Senator WILLIAMS, and Senator PROXMIRE on the majority side, and all those on the Republican side—proposed to the House conferees this matter when it seemed we had reached an impasse: It was stated that what we wanted to do was to see that there was no break in the continuity of the Federal-Aid highway programs, I want to make clear what happened at that time, so no one can misunderstand this. In our proposal, we receded from the Cooper-Muskie amendment, adopted by the Senate. We left out that provision. We proposed to the House an authorization for the interstate system for 2 years, that is the usual biennial proposal. Second, we proposed also that all provisions identical in both the Senate and House bills should be accepted; that means that in every case where we were in agreement, we would include those provisions. Third, we proposed that title III of the Senate bill, authorizing $3 billion in mass transit appropriations from the general funds, plus operating expenses, should be approved; that was the proposal made by the Department of Transportation, less the question of operating expenses. It had already been proposed by the House.

In addition to these three parts of our proposal, this was the proposal we made which became, unfortunately I think, controversial: We said that there shall be a 1-year authorization for every other existing Federal aid highway construction program, including primary and secondary roads, rural and urban, public domain, and others. Public domain means Forest Service and Park Service roads. Our proposal included every type of Federal road construction in the United States. That was for 1 year.

The House rejected it.

Now, why did we propose 1 year? Because that would give an opportunity to consider these matters during the next year, before we reach the same situation we have reached this year—in an election year, when one-third of the Members of the Senate are running for reelection and all the House Members are running for reelection, and when we are faced in the last few days of the Congress with proposals which we cannot, in justice, rationally determine, and we come to some new provision such as the 10,000 mile proposal. I recall in 1968 the Congress added 1,500 miles to the interstate system, when it had not even been completed. I recall other examples, time after time.

We have been at their mercy.

Our proposal was that we should give only a 1-year authorization, which would enable both Houses to begin next year, with time to consult and consider and hold hearings on these issues—not in an atmosphere or climate of haste, which we have been facing this past week, but with time to consider them.

They absolutely refused to do it.

To show the Senate the logic of their position, at one point the House argued that we cannot do that because both sides had 2-year authorizations, and a point of order would be made in the House. Later, they proposed an 18-month period, which was absolutely inconsistent with their earlier argument that other periods would be subject to a point of order.

On a study of that proposal, it appeared that if we went to the 18-month period, the program would continue under existing law until January 1, 1975, so they would really have a 2-year bill.

That is where we ended.

Our proposal was presented several times, and every time the House rejected it.

They proposed matters such as I have discussed. One was the so-called mass transit proposal, which would be a drain on the general revenues. The Senator from New Jersey (Mr. WILLIAMS) felt it was a fine proposal. The Senator from Alaska (Mr. GRAVEL) said so also, but I believe has no urban areas. The other Members who were from urban areas, said it did not amount to anything.

We both thought we should get a bill to continue our programs, and I will leave it to the judgment of the people who read the RECORD, and who read the proposal we made, as to whether ours was a reasonable proposal: that every Federal-aid highway program should continue—the usual 2-year funding for Interstate, with all others the 1 year—the mass transits at $3 billion program which the House had already agreed to, and all items in agreement. The only modification was 1 year for the others, highway programs other than Interstate, so that we could attempt to work out these very difficult problems.

As I have said, all the Senate conferees voted for that, every one of them. It was turned down by the House of Representatives.

I am not here tonight to speak—well, I do not want to cast any reflection upon the spirit of honor and conscience that I suppose all of us think we have.

But I could not say what was between us, except the difference between 18 months and 12 months. I asked them, "What is the difference between 18 months and 12 months." No response ever came.

My conclusion is that what they really wanted was to take out from the Senate bill the proposal we had made, and attach another kind of a $10 billion program, which would probably have ended up at $15 billion or $20 billion, upon the American people, upon the taxpayers, when we have not even completed the interstate program.

I think we have reported a decision which, unhappy as it is, will enable the committees of the Congress, of the Senate and the House of Representatives, through their able leadership, to address these problems next year, and which will require them, under this pressure, to attempt to solve them instead of postponing them.

I am honored to have served under Senator RANDOLPH, and with Senator GRAVEL and all of you, but I have to give my judgment of the situation we are in.

Mr. COOPER. Mr. President, I ask unanimous consent to have printed in the RECORD a letter dated October 12, 1972, from the Secretary of Transportation, indicating that for the most part there is sufficient remaining contract authority in the various categories of highway programs to carry the total program along at its current level pending congressional action early in the next session, together with a statement:

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

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., October 12, 1972.

Hon. JOHN SHERMAN COOPER
U.S. Senate, Washington, D.C.

DEAR SENATOR COOPER: Per your request we have reviewed the consequences of having no Federal-aid highway legislation enacted during this session of Congress. Quite frankly my first preference is to have a highway bill this year along the lines suggested in my letter of October 10 to the Conference Committee. However, if agreement cannot be reached on a bill along the lines suggested in my letter, our review indicates that if Congress acts with dispatch upon its return next year, and takes one additional action discussed below, there would be no adverse impact to the overall highway program. For the most part there is sufficient remaining contract authority in the various categories of highway programs to carry the total program along at its current level, pending Congressional action early in the next session.

Funding problems in a few individual States during this interim period could be eased if the 1974 Interstate authorization, which is already available under the 1970 Federal-Aid Highway Act, were apportioned to the States by the end of this calendar year. The only action required to enable the Department to make this apportionment is for the Congress to enact simple legislation to permit the use of the 1972 Interstate cost estimate as the basis for the apportionment. The result of this legislative action would be to insure that every State would be able to carry out its highway program at the full funding level anticipated in the President's 1973 budget.

It is, of course, essential that Congress act with dispatch upon its return next session to enact highway legislation so that the 1973 highway program can be carried out as planned.

If you wish to review in more detail the highway funding situation for the various States, my staff is prepared to meet with you at your convenience.

Sincerely,

JOHN A. VOLPE.

STATEMENT OF SENATORS COOPER, MUSKIE, BOGGS, BUCKLEY, BROOKE, PROXMIRE

We have failed to reach agreement on legislation to reform and extend the Federal Aid Highway Program for two years.

When it appeared that agreement might not be reached, the Senate Conferees, by unanimous vote, proposed to the House Conferees the following program to maintain the Federal Aid Highway Program:

1. Authorization of the Interstate System for two years;

2. One-year authorization for every other existing Federal-aid construction program, including primary and secondary roads, rural and urban, public domain and others;

3. All provisions identical in both the Senate and House bills;

4. Title III of the Senate bill, authorizing $3 billion mass transit appropriations from the general fund, plus operating expenses.

The clearly stated purpose of the proposal by the Senate Conferees was to maintain and continue the Federal Aid to Highway programs. It did not change in any way the present use of Highway Trust Funds. It would enable the Committees and the Congress to act next year on the issues dividing the conferees. Principally, these are use by metropolitan areas of highway trust funds apportioned only for the urban system, for alternative transportation modes, including rail transit, if such areas so determined (Cooper-Muskie Amendment); and authorization in the House bill of a new system of up to 10,000 miles of "priority primary" highways, estimated at minimum to cost $10 billion, on which the Senate Committee had not held hearings and the Senate had never considered.

The House Conferees rejected the Senate proposal.

We regret that the House rejected not only the Senate bill, but repeatedly the above proposals by the Senate Conferees to continue the Federal-Aid Highway programs.

The House bill, unlike the Senate bill, did not provide for the use of urban system funds for alternative transportation modes, including rail rapid transit in urbanized areas. The House bill, unlike the Senate bill, did not provide for allocation of urban system funds by population, thus assuring amounts for each urbanized area. And, the House bill, unlike the Senate bill, did not provide for the use and control of urban highway funds by metropolitan area transportation agencies established by State law.

We believe these features of the Senate bill are essential elements to a balanced transportation system in this country. Continuation of present practices will result in continued decay in urban life, and increased deterioration of the environment. We believe that city officials and the people they represent are entitled to choose the best use of their limited transportation resources.

We emphasize again that the bill approved by the Senate—and the proposal of the Senate Conferees—would not diminish in any way funds apportioned to primary, secondary or any other Federal-Aid Highway programs.

The new Congress will again address the Federal-Aid Highway Program. The new Congress will again have an opportunity to determine how urban transportation needs may best be met. We are certain that members of the Congress committed to a balanced transportation program in the United States can and will act expeditiously next year.

Mr. RANDOLPH. Mr. President, I have a personal affection for my colleague from Kentucky, who, through our nearly 14 years together on the Senate Public Works Committee, has addressed himself to the problems of transportation in a very effective way, although we have sometimes disagreed. We have disagreed in connection with the conference and what was done there.

I do not want to continue the comments. We have presented our statements. I do join with the Senator from Kentucky in saying I hope that the members of the Senate will read very carefully, because they are not in the Chamber at this hour, what has been said as a result of this collapse of the conference.

I only add this: I think that in doing what even Senator COOPER would expect me to do, I must reiterate that both bills called for 2-year programs, as he will remember. The House Parliamentarian indicated, and so reported to the conference, that any change of the 2-year period would be subject to a point of order in the House of Representatives. That is a factual statement, for whatever it is worth. Again I thank the Senator from Kentucky. I appreciate as always his participation and his attention to the duties of the conference.

Mr. COOPER. Mr. President, let me say one more thing. The Senator is right, that they said there would be a point of order raised if we varied from 2 years. But it is a very curious fact that they themselves suggested 18 months. So there is some illogic to what they said. I think, even at this late hour of the night of what may be the last day of the 92d Congress, that if we had been able to come out with a conference report which would have done what we suggested, the Members of the House as well as the Senate would all have been most happy to adopt it. In my judgment even they would have been happy.

I must say I come from a rural area, and I live in a State which is primarily agricultural still—I think half its income is derived from agriculture. I live in a county which is agricultural; I live in a town of about 12,000 people; I grew up in a town of about 3,000 people. I was a county judge where one of my duties was to try to administer a road program practically nonexistent because of the lack of funds in the early days, and I have traveled over them, I know what they are.

Nevertheless, on this committee, with all my belief in the rural areas of this country—and I must say I believe in them more than any other areas—I do; I may be prejudiced because I come from them and know the necessity in rural areas for roads, because without them they cannot survive, and I am sure that is truer in the western parts of the United States, the plains, than it is in my own State—in all fairness, 50 percent of the highway trust fund is derived from the people in urban areas, and we know, with all their problems of traffic, congestion and all their problems of air pol-

lution and all those environmental problems, something has got to be done about it.

The records show that for this vast number of automobiles that come into Washington every day, the average load is one and one-third persons. I do not know how they divide them, but I suppose in the total that is the way it comes out.

We have to face this problem.

The House refuses to face it, and they want to put it off for 2 years.

Senator WILLIAMS disagreed with me because of that proposal they made, which all others who are from urban areas on the committee thought had no meaning—and I agreed, because it would be paid out of the general revenues. The point of our 1-year program was to have a situation which would require the Senate and the House of Representatives to consider this problem of urban mass transportation beginning next year, as well as these other difficult problems, so that we would not be forced, 2 years from now, to be where we are tonight—either agreeing upon a program which was not good for the United States of America, or not agreeing at all.

That is my final statement.

Mr. RANDOLPH. Mr. President, I do not know how long Senator COOPER and I will continue——

Mr. COOPER. I am through.

Mr. RANDOLPH. I feel constrained to say that the House conferees even went out to the Parliamentarian of that body when the 18 months were discussed, which has been mentioned by my able colleague from the Commonwealth of Kentucky. They were told that a point of order would be raised against the 18 months. So whatever modification they made of the 2 years' stipulation in both bills would have received a series of objections. We have every reason to believe they were correct, from our knowledge of the rules of the other body.

This final word: Mr. President, I have been conscious of the problems of the cities, of the metropolitan areas of the country. I do not want to be misunderstood, but I am not sure that we shall ever solve the problems of the cities by piling more people on more people on more people, continuing to attempt, by one means or another, to attract people to the metropolitan areas of this country. Today the five largest cities of the United States have 1,700,000 unemployed workers living within their jurisdictions. These five largest cities of the United States have 20 percent of their total population on welfare rolls.

Mr. President, wherever people are in trouble, we, of course, want to attempt to help them. That is the responsibility of the Members of Congress and other legislative as well as administrative bodies. But I hazard the guess tonight that we are causing in this country today an imbalance in our economy, because the large metropolitan areas are sapping the very strength of the country as a whole.

I wish the Senator from Kentucky would be here next January and February and in the years ahead to help us solve these problems. But more and more people moving into the cities, by whatever means of transportation, will not improve the situation in this country.

I hope that sometime—I do not know when it will happen—States like Kentucky, West Virginia, 35 or 40 States in this country, will somehow be able to attract the people who will want to come back to the land, to the smaller cities, to the rural communities, and there have the opportunity to have gainful employment, to have family life, to provide for themselves with cultural strength.

PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT AMENDMENTS, 1972

Mr. GRAVEL. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 16071.

The PRESIDING OFFICER (Mr. WILLIAMS) laid before the Senate the amendment of the House of Representatives to the bill (H.R. 16071) to amend the Public Works and Economic Development Act of 1965, which was in lieu of the matter proposed to be inserted by the amendment of the Senate, to insert:

SEC. 2. Section 2 of the Public Works and Economic Development Act of 1965, as amended, is amended by inserting at the end thereof the following sentence: "Congress further declares that substantial outmigration from rural to urban areas is aggravating the economic and social conditions of areas of outmigration as well as central cities. National economy policy should anticipate and take into account the dislocation of jobs due to technological change, shifting trade patterns, environmental adjustments, and the continuing need to make geographical adaptations to economic problems."

SEC. 3. (a) Section 101 of the Public Works and Economic Development Act of 1965, as amended, is amended

(1) by striking in subsection (a)(1)(D) the words "a redevelopment" and inserting in lieu thereof "an", and by striking "401 (a)(6)" and inserting in lieu thereof "107"; and

(2) by striking in subsection (c) "a project in a redevelopment area designated as such under section 401(a)(6)" and inserting in lieu thereof "any project, including projects in an area designated as such under section 107".

(b) Section 104 of the Public Works and Economic Development Act of 1965, as amended, is amended by inserting after the words "pursuant to" the words "section 105 of".

(c) Section 105 of the Public Works and Economic Development Act of 1965, as amended, is amended (1) by inserting after the word "title" the words "(except as provided in section 107)"; (2) by striking the words "$800,000,000 per fiscal year for the fiscal years ending June 30, 1972, and June 30, 1973.", and inserting in lieu thereof the words "$800,000,000 for the fiscal year ending June 30, 1972, and $550,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974."; (3) by striking in the third sentence the words "years ending June 30, 1972, and June 30, 1973," and inserting in lieu thereof the words "year ending June 30, 1972."; (4) by striking in the third sentence the words "redevelopment" and "as such"; and (5) by striking in the third sentence "401(a)(6)" and inserting in lieu thereof "107".

(d) Title I of the Public Works and Economic Development Act of 1965, as amended, is amended by adding at the end of such title the following new section:

"PUBLIC WORKS IMPACT PROGRAM

"SEC. 107. (a) The Secretary is authorized to designate those communities or neighborhoods (defined without regard to political or other subdivisions or boundaries) which he determines have one of the following conditions:

"(1) a large concentration of low-income persons;

"(2) rural areas having substantial outmigration;

"(3) substantial unemployment; or

"(4) an actual or threatened abrupt rise of unemployment due to the closing or curtailment of a major source of employment.

No area designated under this section shall be subject to the requirements of subparagraphs (A) and (C) of paragraph (1) of subsection (a) of section 101 of this title. No area designated under this section shall be eligible to meet the requirements of section 403(a)(1)(B) of this Act. Each area designated under this section shall be known as a public works impact area.

"(b) The Secretary is authorized to make grants, in accordance with the provisions of this title, to areas designated under this section.

"(c) Areas designated under this section shall be subject to a periodic review of eligibility (but at least annually) and the Secretary shall terminate the designation of any such area whenever it no longer satisfies the requirements of this section.

"(d) There is hereby authorized to be appropriated to carry out this section not to exceed $250,000 per fiscal year for the fiscal years ending June 30, 1973 and June 30, 1974."

SEC. 4. Subsection (c) of section 201 of the Public Works and Economic Development Act of 1965, as amended, is amended by striking "1973" and inserting in lieu thereof "1974".

SEC. 5. (a) Subsection (b) of section 301 of the Public Works and Economic Development Act of 1965, as amended, is amended—

(1) by inserting immediately after the word "hereof" the following: ", except that in the case of a grant under this subsection to an Indian tribe the Secretary is authorized to defray up to 100 per centum of such expenses"; and

(2) by striking out the words "the Federal-Aid Highway Act of 1962" and inserting in lieu thereof "title 23, United States Code".

(b) Section 302 of the Public Works and Economic Development Act, as amended, is redesignated as section 303 and immediately following section 301 a new section 302 is inserted as follows:

"SEC. 302. In the case of a vocational training facility constructed with a direct grant under title I of this Act, the Secretary is authorized to make grants for the operation of such facility. Such grants may be made for up to 75 per centum of the operating costs of such facility for the initial two years of operation of any such facility constructed after the enactment of this section or for any two-year period during the first five years of operation of any facility constructed previously. Not to exceed $15,000,000 per fiscal year of the funds authorized in section 303 of this title shall be available to carry out this section."

(c) Section 303 of the Public Works and Economic Development Act of 1965, as amended, as redesignated by subsection (b) of this section, is amended by striking "and June 30, 1973.", and inserting in lieu thereof: "June 30, 1973, and June 30, 1974.".

SEC. 6. (a) Section 401(a)(6) of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"(6) those urban and rural communities or neighborhoods (defined without regard to political or other subdivisions or boundaries) which the Secretary determines have one of the following conditions:

"(A) a large concentration of low-income persons;

"(B) substantial unemployment; or

"(C) an actual or threatened abrupt rise of unemployment due to the closing or curtailment of a major source of employment.

No redevelopment area established under this paragraph shall be eligible to meet the requirements of section 403(a)(1)(B) of this Act;".

(b) Section 403(a)(1)(B) of the Public Works and Economic Development Act of 1965 is amended by striking out "two or more redevelopment areas" and inserting in lieu thereof "at least one redevelopment area."

(c) Section 403(a)(1)(D) of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"(D) the proposed district has a district overall economic development program which—

"(i) includes adequate land use and transportation planning;

"(ii) contains a specific program for district cooperation, self-help, and public investment;

"(iii) is approved by each affected State as consistent with the goals and objectives of each applicable State plan and any overall State economic development program;

"(iv) is approved by the Secretary; and

"(v) provides that a copy be furnished to the appropriate regional commission established under title V of this Act if any part of such proposed district is within such a region, or to the Appalachian Regional Commission established under the Appalachian Regional Development Act of 1965 if any part of such proposed district is within the Appalachian region;".

(d) Subparagraph (C) of section 403(a)(2) of the Public Works and Economic Development Act of 1965, as amended, is amended by striking the period at the end thereof and adding the following: "; *Provided*, That no area designated as an economic development center under the provisions of this paragraph shall have such designation terminated or modified due to an increase in population."

(e) Section 403 of the Public Works and Economic Development Act of 1965, as amended, is amended by adding at the end thereof the following new subsections:

"(i) The Secretary is authorized to provide, in accordance with the applicable requirements of this Act, financial assistance, to those parts of an economic development district which are not within a redevelopment area when such assistance will be of substantial direct benefit to a redevelopment area within such district. Such financial assistance shall be provided in the same manner and to the same extent as is provided in this Act for a redevelopment area, except that nothing in this subsection shall be construed to permit such parts to receive the increase in the amount of grant assistance authorized in paragraph (4) of subsection (a) of this section.

"(j) In addition to technical assistance under section 301(a) of this Act, the Secretary is authorized to make grants to an economic development district to pay not to exceed 75 per centum of the administrative expenses, and not to exceed 100 per centum of planning expenses, of such district. In any case where the designation of an economic development district is terminated under subsection (c) of this section before the expiration of the five-year period which begins on the date of designation of such district, grants may be made under this subsection for such additional time as may be necessary to insure that such former district will receive administrative and planning grants during such five-year period. In determining the amount of the non-Federal share of such expenses, the Secretary shall give due consideration of all contributions both in cash and in kind, fairly evaluated, including but not limited to space, equipment, and services. Where practicable, planning grants authorized by this subsection shall be used in conjunction with other available planning grants, such as urban planning grants, authorized under the Housing Act of 1954, as amended, and highway planning and research grants authorized by title 23, United States Code, to assure adequate and effective planning and economical use of funds. For the purposes of this subsection there is hereby authorized to be appropriated not to exceed $20,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974."

(f) Subsection (g) of section 403 of the Public Works and Economic Development Act of 1965, as amended, is amended by striking "1973" and inserting in lieu thereof "1974".

SEC. 7. (a) Subsection (c) of section 505 of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"(c) In carrying out subsection (a)(1) and subsection (b) of this section there may be expended in any fiscal year out of funds appropriated under authority of section 509 (d) of this title, such sums as are necessary up to a maximum of 10 per centum of the funds appropriated for each regional commission."

(b)(1) Subsection (d) of section 509 of the Public Works and Economic Development Act of 1965, as amended, is redesignated as paragraph (d)(1).

(2) Redesignated paragraph (d)(1) of section 509 of the Public Works and Economic Development Act of 1965, as amended, is amended by striking out in the first sentence the words "two-fiscal-year period ending June 30, 1973, to be available until expended, not to exceed $305,000,000." and inserting in lieu thereof "fiscal year ending June 30, 1972, to remain available until expended, $152,500,000."; and by striking out in the third sentence the word "authorization" and inserting in lieu thereof "paragraph".

(3) Subsection (d) of section 509 of the Public Works and Economic Development Act of 1965, as amended, is amended by adding at the end thereof the following new paragraph:

"(2) There is authorized to be appropriated to the Secretary to carry out this title, for the fiscal years ending June 30, 1973, and June 30, 1974, not to exceed $100,000,000 per fiscal year for the Coastal Plains Regional Commission, not to exceed $100,000,000 per fiscal year for the Four Corners Regional Commission, not to exceed $100,000,000 per fiscal year for the New England Regional Commission, not to exceed $100,000,000 per fiscal year for the Ozarks Regional Commission, not to exceed $100,000,000 per fiscal year for the Upper Great Lakes Regional Commission, and not to exceed $20,000,000 per fiscal year for each regional commission which does not have a comprehensive long-range economic plan approved under section 503(a)(2) of this Act."

SEC. 8. Section 2 of the Act of July 6, 1970, as amended, (Public Law 91-304), is amended by striking out "1972" and inserting in lieu thereof "1974".

SEC. 9. That the Appalachian Regional Hospitals, Incorporated (hereinafter referred to as the "corporation"), a nonprofit, nonsectarian corporation organized under the laws of the State of Kentucky, is hereby relieved of all liability for repayment to the United States of the sum of $3,607,590, together with all interest accrued thereon, representing the amount owed by the corporation to the United States under the terms of a loan made to the corporation by the Area Redevelopment Administration on June 26, 1964, the forgiveness of such loan being necessary to the provision of needed hospital facilities in the Appalachian region of Kentucky, West Virginia, and Virginia.

SEC. 10. The Public Works and Economic Development Act of 1965 is amended by adding at the end thereof the following new title:

"TITLE VIII—ENVIRONMENTAL EFFECTS

"SEC. 801. (a)(1) The Administrator of the Environmental Protection Agency shall on his own motion or not later than thirty days from the date he receives a written request of an employee of an affected plant or industry, or his representative, initiate an investigation of any employment loss or alleged employment loss which results or may result from the issuance of a standard or order under the Federal Water Pollution Control Act, the Clean Air Act, or any other Federal law having for its primary purpose the improvement of environmental quality.

"(2) Such an investigation shall include an evaluation of the action necessary for compliance, the costs of compliance, the social or external costs of noncompliance, the extent to which the community would be dislocated by such an employment loss, possible alternatives to the employment loss and the economic circumstances of the particular facility involved and its owner or operator, including present profitability or marginal economic position.

"(3) Whenever feasible, such investigation shall commence six months in advance of any anticipated employment loss, or at the earliest possible time. In any event, such investigation shall begin within ten days of any allegation of employment loss due to the enforcement of an order or standard for the protection of environmental quality which the Administrator is requested to investigate by any person.

"(4) For the purpose of assisting in any investigation under this section, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this section, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(5) The owner or operator of any commercial or industrial facility seeking assistance under section 802 of this Act or alleging that an employment loss at any facility under his control will result from the enforcement of an order or standard for the protection of environmental quality, shall submit to the Administrator within thirty days a report disclosing:

"(A) the nature of the enforcement action;

"(B) his plans to comply, including a description of the technology necessary for compliance and its cost;

"(C) the extent of potential employment loss;

"(D) alternatives to the potential employment loss;

"(E) his plans to alleviate the effect of the potential employment loss on the individuals and communities involved;

"(F) the economic circumstances of the affected facility, including present profitability or marginality, and future investment plans in the absence of such enforcement; and

"(G) the economic circumstances of his including present profitability, market (and foreign subsidiaries or parent corporations), including present profitability, market (and any changes in market patterns), the effect

of foreign competition, changes in the availability of transportation, opportunity for transfer personnel, capitalization, and capital availability, and future investment plans in the absence of such enforcement.

"(6) Such investigation shall be completed and a report of employment loss submitted to the Secretary of Labor not later than the sixtieth day after the date of initiation of investigation. The Secretary of Labor, upon receipt of such report, shall certify as unemployed as a result of such standard or order all employees who are unemployed as a result of such standard or order with respect to which the Administrator has conducted an investigation under this subsection. An individual to be eligible for certification for assistance under this section shall have had in the seventy-eight weeks immediately preceding his unemployment at least twenty-six weeks of employment in the plant or industry affected.

"(b) The Secretary is authorized to provide to any individual certified as unemployed under subsection (a) unemployment compensation. Such unemployment compensation shall equal 60 per centum of the individual's former weekly wage or the maximum payable to him under the unemployment compensation law of the State in which his employment loss occurs, whichever is the greater amount, except that no such individual shall be paid more than the highest amount of unemployment compensation payable to any individual by any State under any unemployment compensation law other than this section. Such unemployment compensation shall be paid so long as such individual is unemployed or until he retires from the labor force, whichever period is the lesser, except that no unemployment compensation shall be paid to any individual under this subsection for a period of more than seventy-eight weeks.

"(c) The Secretary is authorized to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of an individual certified under this section as unemployed who, as a result of financial hardship caused by such unemployment has received written notice of dispossession or eviction from his principal place of residence by reason of foreclosure of any mortgage or lien, cancellation of any contract or sale, or termination of any lease, entered into prior to such unemployment. Such assistance shall be provided for a period not to exceed one year or for the duration of the period of financial hardship, whichever is lesser.

"(d) The Secretary is authorized to provide reemployment assistance services under other laws to individuals who are certified under this section as unemployed.

"(e) The Secretary is authorized to pay the actual reasonable moving expenses of any individual (including his family and his household effects) certified under this section as unemployed who is unable to find employment at reasonable distance from his principal place of residence at the time of such unemployment and who finds employment beyond such distance.

"(f) There is authorized to be appropriated, not to exceed $100,000,000 for carrying out this section.

"(g)(1) No person shall discharge or in any other way discriminate against or cause to be discharged or discriminated against any employee or any authorized representative of employees of any commercial or industrial facility at which employment may be reduced due to, or alleged to be due to, the enforcement of an order of standard for the protection of environmental quality, (1) by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this title, has provided information concerning any matter within the scope of this title, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions in this title, or (2) in any case where the Administrator has determined an employment loss to be unjustified.

"(2) Any employee or a representative of employees who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) of this subsection may, within thirty days after such violation occurs, apply to the Secretary of Labor for a review of such alleged discharge or discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to enable the parties to present information relating to such violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact, If he finds that such violation did occur, he shall issue a decision, incorporating an order therein, requiring the person committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subsection shall be subject to judicial review. Violations by any person of paragraph (1) of this subsection or such an order shall be subject to a fine of $10,000 per day of violation.

"(3) Whenever an order is issued under this section, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary of Labor to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing the violation.

"POLLUTION CONTROL FACILITIES LOANS

"SEC. 802. (a) The Secretary is authorized to make loans (which for purposes of this section shall include participations in loans) to aid in financing any project in the United States for the acquisition, construction, or alteration of pollution control facilities (including machinery and equipment) for industrial or commercial usage.

"(b) Financial assistance under this section shall be on such terms and conditions as the Secretary determines, subject, however, to the following restrictions and limitations:

"(1) Such financial assistance shall not be extended to assist establishments relocating from one part of the United States to another or to assist subcontractors whose purpose is to divest, or whose economic success is dependent upon divesting, other contractors or subcontractors of contracts theretofore customarily performed by them; except that such limitations shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary finds that the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment of the area of original location or in any other area where such entity conducts business operations, unless the Secretary has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

"(2) Such assistance shall be extended only to applicants both private and public (including Indian tribes), which have been approved for such assistance by an agency or instrumentality of the State or political subdivision thereof in which the project to be financed is located, and which agency or instrumentality is directly concerned with problems of economic development in such State or subdivision, and which have been certified by such agency or instrumentality as requiring the loan successfully to remain in operation.

"(3) No loan shall be made under this section unless the financial assistance applied for is not otherwise available from private lenders or from other Federal agencies on terms which in the judgment of the Administrator will permit compliance with such an order or standard, and unless the Administrator finds that funds necessary for compliance are not available from within the corporate structure of the owner or operator of the affected facility, or from any domestic or foreign subsidiary or parent corporation and unless it is determined that there is reasonable assurance of repayment.

"(4) Subject to section 701(5) of this Act, no loan, including renewals or extension thereof, may be made hereunder for a period exceeding thirty years.

"(5) Loans made shall bear interest at a rate determined by the Secretary of the Treasury but not more than 3 per centum per annum.

"(6) Loans shall not exceed the aggregate cost to the applicant (excluding all other Federal aid in connection with such pollution control facilities) of acquiring, constructing, or altering the pollution control facility.

"(7) The pollution control facility for which a loan is requested must be—

"(A) a facility or equipment used, or

"(B) a modification of methods, processes, or operations where the primary purpose of such modification is to abate or control water or atmospheric pollution or contamination by removing, altering, recycling, disposing, or storing of pollutants, contaminants, wastes, or heat and which—

"(i) the State certifying authority having jurisdiction with respect to such facility has certified to the Administrator of the Environmental Protection Agency as having been acquired, constructed, or altered in conformity with State requirements for abatement or control of water or atmospheric pollution or contamination; or

"(ii) the Administrator of the Environmental Protection Agency has certified to the Secretary—

"(aa) as being in compliance with the applicable regulations of the Environmental Protection Agency and of all other Federal agencies, and

"(bb) as being in furtherance of the general policy of the United States for cooperation with the States in the prevention and abatement of water pollution under the Federal Water Pollution Control Act, or in the prevention and abatement of atmospheric pollution and contamination under the Clean Air Act.

"(c) As used in this section, the term 'State certifying authority' means, in the case of water pollution, the State water pollution control agency as defined in the Federal Water Pollution Control Act and, in the case of air pollution, the air pollution control agency as defined in the Clean Air Act. The term 'State certifying authority' includes any interstate agency authorized to act in place of a certifying authority of the State.

"(d) There is hereby authorized to be appropriated not to exceed $100,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974, to carry out this section."

Mr. GRAVEL. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Senator from Arkansas (Mr. MCCLELLAN) to the Senator from West Virginia (Mr. RANDOLPH) on this subject.

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

U.S. SENATE,
October 14, 1972.

HON. JENNINGS RANDOLPH,
Chairman, Committee on Public Works, U.S. Senate.

DEAR MR. CHAIRMAN: After conferring with other Members of the Arkansas Congressional Delegation in the House, it is my understanding that the House will today take up H.R. 16071, the Public Works and Economic Development Act amendments of 1972, as passed by the Senate, Thursday, October 12. In order to avoid the necessity of a House-Senate Conference on this important legislation, an effort will be made to amend the Senate bill to reinsert two provisions which the House believes are most important to strengthen the continued existence of Economic Development District programs.

The language contained in the House bill beginning on page 9, line 24, and continuing through line 2 on page 10, provides for the establishment of an Economic Development District to include only one redevelopment area where present legislation requires two redevelopment counties for the creation of an EDD. This amendment, if accepted, would allow the creation of greatly needed local economic development planning and assistance to pockets of poverty or underdeveloped counties that are surrounded by counties not otherwise qualifying for assistance under basic EDA public facilities legislation.

The second amendment which the House is expected to make is the reinstatement of language found on page 13, line 9, and continuing through line 9 on page 13. Acceptance of this amendment would assure specific legislative authorization of the Economic Development District program—where it is now only authorized under Title III of FDA's planning and technical assistance authority—by authorizing $20 million annually for planning and administration of Economic Development District programs for a minimum of five years.

I know that you are aware of the significant contribution which the Economic Development Districts have made to Arkansas' economy. The EDDs and Economic Development Administration program have, in my judgment, provided the most effective delivery system which the Federal Government has to assist local communities in the planning and implementation of a well designed economic development program.

I urge your support of these two amendments should the House, as is expected, return the bill to the Senate for action today.

With all good wishes, I am
Sincerely yours,
JOHN L. MCCLELLAN.

Mr. GRAVEL. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

ADDITIONAL INTRODUCTION OF A BILL

The following bill was introduced, read the first time, and, by unanimous consent, the second time, and referred as indicated:

By Mr. COOPER (for himself and Mr. BAKER):

S. 4125. A bill to amend the Federal Coal Mine Health and Safety Act of 1969. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COOPER (for himself and Mr. BAKER):

S. 4125. A bill to amend the Federal Coal Mine Health and Safety Act of 1969. Referred to the Committee on Labor and Public Welfare.

Mr. COOPER. Mr. President, the Federal Coal Mine Health and Safety Act of 1969, which became effective March 31, 1970, has been in operation now for over 2½ years. Experience with the administration of the act's provisions by the Bureau of Mines during this 2½-year period indicates the need for Congress to consider amendments. Some of the act's provisions are neither workable nor effective and many, rather than contributing to safety, have increased the hazards of working in underground coal mines. In fact, the safety record of all underground mines since the passage of this law has not improved, but has worsened. I think it most important and urgent that these problems receive a hearing and consideration by the Senate Labor and Public Welfare Committee, and that all parties involved, including coal mine operators, miners, union representatives, Bureau of Mine officials and State mine officials have an opportunity to testify and present their comments and recommendations.

With this in view, Senator BAKER and I are introducing today a series of amendments to the Federal Coal Mine Health and Safety Act of 1969. These amendments can be categorized under our headings.

First, amendments to restore the gassy and nongassy classifications in effect prior to the 1969 act, by relieving those mines located above the water table, that have been tested and found free from gas, from the "permissible equipment" provisions of the bill that were originally designed for the large "gassy" mines.

Second, we are proposing an amendment to strike out the mandatory civil penalties' section 109(a)(1) of the present law, which provision requires the mandatory assessment of the civil penalties by the Secretary against an operator for each and every violation of a health and safety standard.

Fines are now assessed almost automatically in flat amounts without consideration for the criteria set forth in section 109(a)(1) which requires the Secretary to take into account the operator's history of previous violations, the appropriateness of the penalty to the size of the business of the operator charged, whether the operator was negligent, the effect on the operator's ability to continue in business, the gravity of the violation and the demonstrated good faith of the operator to achieve compliance after notified of the violation.

Experience has shown that the assessment officers of the Bureau of Mines have established assessment procedures which are arbitrary and do not comply with the criteria as required by this section.

It should also be pointed out that appeals from these fines are limited to the sizes of the fine and not to the merits of the charge of the alleged violation. The notice of assessment procedures deter operators, for if they appeal a particular fine they are subject to the risk of having such fine increased to a maximum of $10,000.

This arbitrary assessment and collection of fines by the Bureau has not only caused confusion and economic hardship among the operators but has tended to focus a great deal of the time and attention of operators and Bureau officials on these procedures rather than on matters directly related to furthering the safety of the nation's coal miners, which is the chief purpose for Congress enacting the legislation.

On September 5, 1972, Mr. Elburt F. Osborn, Director of the Bureau of Mines, appeared before the Senate Subcommittee on Labor to review the procedures that the Bureau had adopted with respect to the civil penalty provisions of the 1969 act. I read his prepared statement with interest, but I failed to find any reference as to how the administration of these civil penalty procedures as established by the Bureau are designed to advance health and safety. Under the present law, many operators are fined substantial sums for numerous violations that have little or nothing to do with the health and safety of our miners.

In another connection I would like to note that when the Senate considered recently environmental legislation—the air quality bill, the water pollution control bill and the noise abatement bill—efforts were made to incorporate into these bills mandatory civil penalties for violation of the regulatory requirement of these measures. As the ranking member of the Public Works Committee which considered these bills, I moved either in committee to strike the civil penalty provision, and my amendments were approved by the Public Works Committee.

In this connection when the Senate considered amendments to the Public Works and Economic Development Act of 1965, on October 12, I made the comment that, when the Public Works Committee considered the mandatory civil penalties provision of various environmental bills, that the committee struck out these provisions for, as I stated:

> There was not due process and no chance of hearings before the imposition of penalties.

I then went on to point out the same lack of due process in similar civil penalty provisions found in the Coal Mine Health and Safety Act of 1969, and the need for the Committee on Labor and Public Welfare to review and consider amendments to these provisions. I received the assurance of the ranking minority member of the committee (Mr. JAVITS) that he would urge the committee, through the exercise of its powers of legislative oversight, to review and consider the problems raised by the mandatory civil penalties provision of the act in the next session of Congress.

Mr. President, I ask unanimous consent that our colloquy appearing on page 35361 of the RECORD of October 12 be inserted at this point in my remarks.

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

Mr. COOPER. I am going to return to a subject which has been very much on my mind and that is the Mine Safety Act. In that act are a number of provisions for the mandatory imposition of fines without any hearing at all, with no due process of law. It is left to the arbitrary judgment of an inspector to impose fines, unequally, as they would have to be, and perhaps arbitrarily among different operations—and I may say coercive, too—because in some cases, when the size of the fine has been objected to, the suggestion was made, "If you don't take this, a larger fine can be imposed upon you."

I will not be here next year, but I hope the Senator will follow the principle he has just spoken of in this amendment, that there should be a consultation; and if there is a situation of imminent danger, then the mine should be closed down.

I do contend that this is a situation in which there is no due process of law. Knowing the Senator as well as I do and knowing his judicial temperament, I appeal to him to think of this next year. It is an awful situation.

Mr. JAVITS. I will consider myself, with deep feeling, a trustee of the great principles for which this very distinguished and famous Kentuckian has stood.

There are many explanations about coal mine safety. They can get a jury trial, and so forth. I will insert those in the RECORD immediately after what we have discussed.

I assure the Senator that I hold these principles very dear, that I fought for them in my committee, that I will continue to fight for them, and that I will make every effort to use legislative oversight in that process.

Mr. COOPER. Mr. President, third, we are proposing amendments to make certain changes in the law relating to operating efficiency and the use of certain types of equipment.

Last, we are proposing an amendment to provide for improved administrative practices by requiring the Bureau of Mines to hold public hearings on all proposed regulations or revisions, and to provide operators and miners with appropriate information concerning the background for the regulations and thus to provide everyone an opportunity to make counterproposals and suggestions for improvements.

In conclusion, Mr. President, I would point out that in the 2 years since the enactment of the Coal Mine Health and Safety Act, deep mining in Kentucky has decreased by over 10 million tons per year—about one-sixth of the production in 1969—while surface mining for coal has increased by over 22 million tons per year. The environmental blight of strip mining has reached intolerable proportions. And in that same period the safety and health record of deep mining has failed to improve.

These facts alone point up to pressing need for Congress to conduct a searching review of the 1969 act, the Bureau of Mines' policies in connection with this act and the changes that are needed if we are to bring to reality the safety and health goal for which the act was designed.

I had hoped to attach these amendments to the strip mine control legislation when it came before the Senate. I feel that the two form a logical connection in that they both reflect concern for a more sound approach to the impact of coal production on the human environment. However, it appears at this time that the Senate will not have time before adjournment to take up the several surface mining bills before it. I deeply regret that this is the case. Both the problems of coal surface mining and the Coal Mine Health and Safety Act have a major impact on my home State of Kentucky. I had hoped to see some progress toward their solution before I left the Senate. I hope that my activities will prove to have assisted this body in meeting these problems when they come up in the future.

Mr. President, I ask unanimous consent that the text of the amendments I introduce today be printed in the RECORD together with a memorandum explaining their provisions.

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

S. 4125

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Coal Mine Health and Safety Act of 1969 is amended as follows:

(1) Subsection (b) of section 101 of such Act is amended by adding at the end thereof the following new sentence: "Such standards (including revisions thereof) shall not become effective until proven by suitable testing and experience that they will improve or contribute to the health or safety of the miner.".

(2) Subsection (e) of section 101 of such Act is amended by adding at the end thereof the following new sentence: "In connection with the publication of proposed mandatory health or safety standards, the Secretary of Health, Education, and Welfare, in the case of health standards, and the Secretary, in the case of safety standards, shall provide supporting information or data to justify the adoption of such standards.".

(3) Subsection (g) of section 101 of such Act is amended by inserting immediately before the period at the end of the second sentence thereof a comma and the following: "and he shall reply specifically to any relevant objections to the proposed standards raised in such hearing".

(4) Subsection (h) of section 101 of such Act is amended by inserting immediately after the word "section", a comma and the following: "after compliance with subsections (e), (f), and (g) of this section,".

(5) Subsection (j) of section 101 of such Act is amended by adding at the end thereof the following: "The Secretary shall, as soon as practicable following the effective date of this Act, but in no event later than March 31, 1973, make a comparison of the effectiveness of health and safety standards and regulations in effect immediately prior to the effective date of this Act, with the effectiveness of health and safety standards and regulations provided by or pursuant to the provisions of this Act. In making such comparison, the Secretary shall analyze the effectiveness of such standards and regulations in advancing health and safety of miners and shall report, as soon as practicable, his findings and conclusions to the Congress.".

(6) Subsection (k) of section 101 of such Act is amended by adding at the end thereof the following: "Such copy, including copies of any proposed regulation or notice of hearings, shall be sent by certified mail to each such operator. Notwithstanding the foregoing provisions of this subsection, the failure of the Secretary to notify any such operator by certified mail as prescribed by this subsection shall excuse such operator from any penalty or fine imposed in connection with a violation of any such standard or regulation with respect to which he was not so notified, except that the provisions of this sentence shall apply only in the case that such violation was an initial violation and where such violation did not involve an imminent danger as provided in section 104(a), 104(c)(1) and elsewhere in the Act.

(7) Subsection (a)(2) of section 102 of such Act is amended by adding at the end thereof the following new sentence: "No funds appropriated pursuant to this Act shall be expended to carry out any such research, make any such grant or enter into any such contract unless, with respect thereto, the Secretary has consulted with, and considered the recommendations of, such Committee."

(8) Subsection (g) of section 103 of such Act is amended by adding immediately after the second sentence thereof, the following new sentence: "Immediately upon receiving such complaint, the Secretary shall notify the affected operator of the nature of such complaint and shall state that the complaint was received from a representative of the miners employed by such operator.".

(9) Subsection (a) of section 104 of such Act is amended by inserting immediately after the word "shall" the following: "immediately notify the operator or his representative of the fact that an imminent danger exists. Such notification shall state the specific conditions or practices resulting in such danger. If the representative of the Secretary determines that such conditions or practices are such that they could be reasonably expected to cause death, physical harm or impairment of health before they can be abated, he shall".

(10) Subsection (b) of section 104 of such Act is amended by inserting immediately after "operator or his agent" the following: "specifying the particular health or safety standard violated and".

(11) Subsection (c)(1) of section 104 of such Act is amended (1) by deleting "significantly and substantially contribute to the cause and effect of a mine safety or health hazard, and if he finds such violation to be caused by an unwarrantable failure of such operator to comply with such mandatory health or safety standards," and inserting in lieu thereof "directly and seriously affect mine health or safety, and if he finds such violation is a flagrant disregard by the operator for compliance with the law or a disregard of the health or safety of the miners,", and (2) by deleting in the second sentence thereof the words "and unwarrantable failure of such operator to so comply." and inserting in lieu thereof "such a flagrant disregard for the law or his miners,".

(12)(A) Subsection (a)(1) of section 109 of such Act is repealed.

(B) Subsection (a)(2), (a)(3), and (a)(4) are hereby renumbered as subsections (a)(1), (a)(2), and (a)(3) respectively.

(C) Subsection (b) of section 109 of such Act is amended by deleting "subsection (a) of this section or".

(D) Subsection (c) of section 109 of such Act is amended (i) by deleting "subsection (a) of this section or"; (ii) by deleting "civil penalties, fines, and" and inserting in lieu thereof "fines and"; and (iii) by deleting "subsections (a) and (b)" and inserting in lieu thereof "subsection (a)".

(E) Subsection (e) of section 109 of such Act is amended by deleting "subsection (d)" and inserting in lieu thereof "subsection (c)".

(13) The second sentence of subsection (h) of section 202 of such Act is amended by inserting immediately before the period at the end thereof a coma and the following: "except that the use of approved respirators shall be permitted on a temporary basis where it is impossible or impractical to reduce the level of respirable dust to the standard required by law for the purpose of correcting the situation creating such hazard.".

(14) Section 302 of such Act is amended

by adding at the end thereof the following new subsection:

"(g) The Secretary shall provide adequate training programs for each individual underground miner in the proper method of testing roof, rib, and face for dangerous conditions and the proper method of preventing accidents from the fall of roof, rib and face.".

(16) Subsection (1) of section 303 of such Act is amended by deleting the words "The Secretary" where they first appear therein and inserting in lieu thereof "In mines located below the water table or in which methane has been detected as prescribed in subsection (b) of this section, the Secretary."

(17) Subsection (z)(2) of section 303 of such Act is amended (A) by deleting "or be sealed,"; (B) by inserting immediately before the last sentence thereof "If the above air cannot be held below 2 per centum methane, the area shall be sealed."; and (C) by deleting "with explosion-proof bulkheads."

(18) Subsection (a) of section 304 of such Act is amended to read as follows: "(a) Coal dust, including float coal dust deposited on rock-dusted surfaces, loose coal, and other combustible materials, shall not be permitted to accumulate in active workings. Electric equipment shall be kept reasonably clean."

(19) Subsection (b) of section 304 of such Act is amended by inserting immediately before the period at the end of the second sentence a comma and the following: "if necessary for health and safety."

(20) Section 305 of such Act is amended by adding at the end thereof the following new subsection:

"(s) Paragraphs (1), (2), (3) and (12) of subsection (a), and subsection (d), of this section shall be applicable only with respect to mines located below the water table or in which methane has been detected as prescribed in section 303(b)."

EXPLANATION OF PROPOSED AMENDMENTS TO COAL MINE HEALTH AND SAFETY ACT OF 1969

A. Present law: Sec. 101:

Although Section 101(b) requires that no improved mandatory health or safety standards promulgated under this Title shall reduce the protection afforded miners, there are a number of occasions where the Secretary proposed new regulations which were not sufficiently tested by prior experience and which have created in several cases additional risks or hazards to health and safety.

For example, in 1970, the Bureau prescribed by regulation certain fire suppression devices as required equipment. Many operators purchased these devices at considerable expense only to be advised by the Secretary 8 months after the regulation had been put into effect that the Secretary would no longer require this equipment on the grounds that it was not effective for the purposes specified. I am informed, for example, that two operators in Harlan County each spent in excess of $20,000 for this unneeded equipment.

In proposing additional equipment or procedures to improve health and safety, the Secretary should have the burden of demonstrating by testing or prior experience that such equipment or procedures would in fact improve safety.

In support of the requirement for testing, it should be noted that Section 101(c) requires that the "development and revision of mandatory safety standards shall be based upon research, demonstrations, experiments, and such other information as may be appropriate". Section 101(d) requires similar testing and experimentation by the Secretary of HEW with respect to proposed changes in mandatory health standards.

The Secretary, in proposing changes in health or safety standards, is not required to provide supporting scientific data on the question of desirability or effectiveness of the proposed or revised standards. The result has been that operators do not have knowledge of the assumptions or bases upon which the Secretary's standards are proposed and are in no position to offer informed objections or counter proposals.

In addition, under Section 101(f), the Secretary is not required to reply to, to reconsider, or to rebut objections made by interested parties concerning the proposed changes in regulations.

Section 101(h) provides that a mandatory health or safety standard promulgated under this Section shall become effective upon publication in the Federal Register unless the Secretary specifies a later date, even though there is no compliance with the requirement for public hearings as provided in Sections 101(f) and (g).

There is no provision in the existing law requiring the Secretary to review the effectiveness of coal mine health and safety standards in effect prior to the effective date of the 1969 Act, and to compare such effectiveness of such health and safety standards with the effectiveness of the standards established by the 1969 Act and regulations promulgated thereunder.

Under Section 101(k) operators are assumed to have received notices of new regulations and, on many occasions, Federal inspectors upon entering a mine will charge them for violations of such regulations, when the operator has not received notice of nor had prior knowledge of such regulations.

B. Proposed Amendments to Section 101:

In Section 101(b) after "safety standards" add the following: "Such standards (including revisions) thereof shall not become effective until proven by suitable testing and experience that they will improve or contribute to the health and safety of the miner".

In Section 101(e) at the end of the last sentence, add the following new sentence: "In connection with the publication of proposed mandatory health or safety standards, the Secretary of Health, Education, and Welfare, in the case of health standards, and the Secretary, in the case of safety standards, shall provide supporting information or data to justify the adoption of such standards.".

In Section 101(g), at the end of the second sentence after "shall be public" add "and he shall reply specifically to any relevant objections to the proposed regulations raised in such hearing".

In Section 101(h), insert after the word "section' a comma and the following: "after compliance with subsections (e), (f) and (g) of this section,".

In Section 101(j), at the end of the last sentence, add the following: "The Secretary shall, as soon as practicable following the effective date of this Act, but in no event later than March 31, 1974, make a comparison of the effectiveness of health and safety standards and regulations in effect immediately prior to the effective date of this Act, with the effectiveness of health and safety standards and regulations provided by or pursuant to the provisions of this Act. In making such comparison, the Secretary shall analyze the effectiveness of such standards and regulations in advancing health and safety of miners and shall report, as soon as practicable, his findings and conclusions to the Congress.".

In Section 101(k), after the last sentence, add the following:

"Such copy, including copies of any proposed regulation or notice of hearings, shall be sent by certified mail to each such operator. Notwithstanding the foregoing provisions of this subsection, the failure of the Secretary to notify any such operator by certified mail as prescribed by this subsection shall excuse such operator from any penalty or fine imposed in connection with a violation of any such standard or regulation with respect to which he was not so notified, except that the provisions of this sentence shall apply only in the case that such violation was an initial violation, and where such violation did not involve an imminent danger as provided in Sec. 104(a), 104(c)(1), and elsewhere in the Act."

A. Present law: Sec. 102:

Section 102 authorizes the Secretary to appoint an Advisory Committee on coal mine safety research, and requires the Committee to "consult with, and make recommendations to, the Secretary on matters involving or relating to coal mine safety research".

I am informed that the Secretary's Advisory Committee on Coal Mine Safety Research has not been consulted by the Secretary on the Department's decisions relating to coal mine safety research projects nor have their suggestions and recommendations for future projects been sought.

B. Proposed Amendment:

1. In Section 102(a)(2), after the first sentence, add the following new sentence: "No funds appropriated pursuant to this Act shall be expended to carry out any such research, make any such grant or enter into any such contract unless, with respect thereto, the Secretary has consulted with, and considered the recommendations of, such Committee.".

A. Present law: Section 103(g):

Section 103(g) provides that where miners or union representatives have reasonable grounds to believe that a violation of a mandatory or safety standard exists or a situation involving "imminent danger" exists, then he "shall have a right to obtain an immediate inspection by giving a notice to the Secretary or his authorized representative of such violation or danger". However, there is no provision in Section 103(g) requiring the miner or his representative to also notify the operator at the same time and to give the operator an opportunity to correct the purported violation and protect his men from serious injury. Experience has shown that some irresponsible complaints originate from individuals not connected with the mine, or employed in the mine.

B. Proposed Amendment:

In Section 103(g), after the second sentence, add the following new sentence: "Immediately upon receiving such complaint, the Secretary shall notify the affected operator of the nature of such complaint and shall state that the complaint was received from a representative of the miners employed by such operator.".

A. Present law: Section 104:

Section 104(a) authorizes the Secretary's representative to issue a withdrawal order where that representative upon inspection of a coal mine finds that an imminent danger exists.

On many occasions an operator is cited for a condition of "imminent danger" and a withdrawal order issued without the operator being advised by the Federal inspector of the nature of the "imminent danger" or the particular condition or conditions constituting such "imminent danger" and thus enable the operator to take steps immediately to correct the condition and to protect the safety of the miners. Experience has shown that many of the conditions cited as violations of this Section are not of a serious nature involving "imminent danger" to the health and safety of the miners.

Closure orders have been issued for violations of standards which do not immediately expose men in the particular mine to physical harm or injury and which should not properly be characterized by the inspector as involving conditions of "imminent danger". A closure order, if unneeded, results in serious economic hardship for the small mines and, under present practices, subjects the operator to a basic fine of $5,000.

B. Proposed Amendment:

Subsection (a) of section 104 of such Act is amended by inserting immediately after the word "shall" the following: "immediately notify the operator or his representative of the fact that an imminent danger exists. Such notification shall state the specific conditions or practices resulting in such danger. If the representative of the Secretary deter-

mines that such conditions or practices are such that they could be reasonably expected to cause death, physical harm, or impairment of health before they can be abated, he shall.".

A. Present law: Section 104(b):

Section 104(b) requires a Federal inspector who has found "a violation of any mandatory health or safety standard but the violation has not created an "imminent danger"—to issue a notice to the operator or his agent fixing a reasonable time for the abatement of the violation". I am informed that on many occasions the Federal inspector does not specify the particular health or safety standard violated.

B. Proposed Amendment:

In Section 104(b) in the first sentence, after the words "operator or his agent" insert the following: "specifying the particular health or safety standard violated and".

A. Present law: Section 104(c):

It is my view that in writing this section of the law Congress intended to cover those flagrant violators of the health and safety standards who persistently are cited for violations of the law but which violations were not sufficient to be classified as an "imminent danger" requiring a closure order. I am informed that on occasions when a Federal inspector has found a violation or has found a series of non-serious violations that he characterizes such violation or series of violations as constituting "an unwarrantable failure" under Section 104(c)(1), and issues a closure order. Furthermore, the most recent violation or any violation may have no causal relationship to the health and safety of the men in the mine, e.g., failure to record in writing one of many daily reports for the Bureau of Mines.

B. Proposed Amendment:

Subsection (c)(1) of section 104 of such Act is amended (1) by deleting "significantly and substantially contribute to the cause and effect of a mine safety or health hazard, and if he finds such violation to be "caused by an unwarrantable failure of such operator to comply with such mandatory health or safety standards," and inserting in lieu thereof "directly and seriously affect mine health or safety, and if he finds such a violation is a flagrant disregard by the operator for compliance with the law or a disregard for the health or safety of the miners,"; and (2) by deleting in the second sentence thereof the words "an unwarrantable failure of such operator to so comply," and inserting in lieu thereof "such a flagrant disregard for the law or the safety of his miners,".

A. Present law: Sections 105–108:

No changes recommended.

A. Present law: Section 109:

Section 109(a)(1) requires the mandatory assessment of a civil penalty by the Secretary for each and every violation of a health and safety standard.

Fines are now assessed almost automatically in flat amounts without consideration for the criteria set forth in Section 109(a)(1) which require the Secretary to take into account the operator's history of previous violations, the appropriateness of the penalty to the size of the business of the operator charged, whether the operator was negligent, the effect on the operator's ability to continue in business, the gravity of the violation and the demonstrated good faith of the operator to achieve compliance after notified of the violation.

Experience has shown that the assessment officers of the Bureau of Mines have established assessment procedures which are arbitrary and do not comply with the criteria as required by this Section.

It should also be pointed out that appeals from these fines are limited to the size of the fine and not to the merits of the charge of the alleged violation. The notice of assessment procedures deter operators, for if they appeal a particular fine they are subject to the risk of having such fine increased to a maximum of $10,000.

This arbitrary assessment and collection of fines by the Bureau has not only caused confusion and economic hardship among the operators but has tended to focus a great deal of the time and attention of operators and Bureau officials on these procedures rather than on matters directly related to furthering the safety of the nation's coal miners, which is the chief purpose for Congress enacting the legislation. In my view this section violates "due process," sought to be assured by our system of justice.

B. Proposed Amendment:

1. The proposed amendment would delete Section 109(a)(1), the mandatory civil penalties section of the Act. The proposed amendment, however, would not affect other provisions of Section 109(b) through Section 109(e), which prescribe criminal penalties of fines or imprisonment for any operator who willfully violates the health or safety standards of the Act.

A. Present law: Section 202:

Section 202(h) requires that "respirators shall not be substituted for environmental control measures in the active workings".

I am informed that at times it is impossible to reduce the dust level due to a change in ventilation, roof falls, accidents or where excessive dust results from climactic conditions.

B. Proposed Amendment:

1. In Section 202(h) in the second sentence, add the following: "except that the use of approved respirators shall be permitted on a temporary basis where it is impossible or impractical to reduce the level of respirable dust to the standard required by law for the purpose of correcting the situation creating such hazard."

A. Present law: Section 302:

Section 302(a) requires each operator to carry out on a continuing basis programs to improve the roof-control system of each mine. Experience has shown that many of the small operators are either not in a position or do not have the facilities to provide adequate training programs for their men with respect to roof control systems.

B. Proposed Amendment:

At the end of Section 302, add a new subsection (g) as follows:

"(g) The Secretary shall provide adequate training programs for each individual underground miner in the proper method of testing roof, rib, and face for dangerous conditions and the proper method of preventing accidents from the fall of roof, rib and face.".

A. Present law: Section 303(h):

Recent experience has indicated that the provisions of the 1969 Act, classifying all mines as "gassy" whether or not these mines be gassy in fact, do not contribute to safety in those mines located above the water table determined to be free of gas and, in addition, impose unnecessary economic and financial hardship on those mines which will be required in 1974 to purchase at substantial cost the "permissible" equipment formerly required only in the large gassy mines.

B. Proposed Amendments:

Subsection (L) of section 303 of such Act is amended by deleting the words "The Secretary" where they first appear therein and inserting in lieu thereof "In mines located below the water table or in which methane has been detected as prescribed in subsection (b) of this section, the Secretary".

A. Present law: Section 303(z)(2):

This provision requires the sealing of abandoned workings under certain types of situations. A better way to handle gas in these types of abandoned areas would be to ventilate it rather than sealing off the area as required under Section 303(z)(2). Experience would indicate that sealings in these circumstances create an additional hazard of trapping the gas and resulting in explosions.

B. Proposed Amendments:

Subsection (z)(2) of section 303 is amended (A) by deleting "or be sealed,"; (B) by inserting immediately before the last sentence thereof "If the above air cannot be held below 2 per centum methane, the area shall be sealed."; and (C) by deleting "with explosion-proof bulkheads".

A. Present law: Section 304(a):

This provision requires that coal dust shall "not be permitted to accumulate in active workings or on electric equipment wherein". Experience has indicated that it is impractical to keep equipment continuously clean as required by the law and this provision has been interpreted arbitrarily in many instances by Federal inspectors.

B. Proposed amendment:

Section 304(a) is amended to read as follows: "(a) Coal dust, including float coal dust deposited on rock-dusted surfaces, loose coal, and other combustible materials, shall not be permitted to accumulate in active workings. Electric equipment shall be kept reasonably clean."

A. Present law: Section 304(b):

This section provides for the watering and the wetting of areas around the face for the purpose of reducing the amount of coal dust. In certain situations and with certain types of coal the watering required by section 304 (b) is not only not needed but creates a health problem of pneumonia and a safety problem of slippery floors and possible electrical shocks.

B. Proposed amendment:

1. In section 304 (b), add the words "if necessary for health and safety" at the end of the second sentence.

A. Present law: Section 304(d) and Section 305:

As commented on in Proposed Amendments to Section 303(h), (see above), the classification of all mines as "gassy" when in fact many are not "gassy" has not contributed to safety and, in addition, will require unnecessarily the purchase of expensive "permissible" equipment that is not needed in mines located above the water table in which methane has not been detected.

B. Proposed Amendments:

Section 305 of such Act is amended by adding at the end thereof the following new subsection: "(s) Paragraphs (1), (2), (3) and (12) of subsection (a), and subsection (d), of this section shall be applicable only with respect to mines located below the water table or in which methane has been detected as prescribed in section 303 (b)."

ADDITIONAL STATEMENTS

ANNOUNCEMENT OF POSITIONS ON VOTES

Mr. MILLER. Mr. President, because of commitments in my home State, I recently missed several rollcall votes. I ask unanimous consent that the permanent RECORD reflect my positions on the following votes:

One. September 30, Leg. No. 488—Byrd amendment to H.R. 1 to lower age at which an individual may draw social security benefits—"yea."

Two. October 12, Leg. No. 546—final passage of H.R. 16071, Public Works and Economic Development Act Amendments of 1972—"yea."

Three. October 12, Leg. No. 551—Cranston amendment to supplemental appropriation bill to appropriate $40 million for programs establishing veterans' health facilities—"nay."

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

NEW HANCHER CENTER FOR PERFORMING ARTS AT UNIVERSITY OF IOWA

Mr. MILLER. Mr. President, the Des Moines Register for October 8 contains an article written by Byron Belt, a New York critic, which gives high praise to the new center for the performing arts at the University of Iowa, in Iowa City. Named after the late Virgil Hancher, longtime president of the university, the center is one of the finest in the world. It was my privilege to attend its premiere opening recently with an outstanding performance by the University's symphony orchestra and chorus. I stated afterward that people would no longer have to travel to the East in order to obtain the finest in cultural entertainment. Mr. Belt's article confirms my statement.

I ask unanimous consent that the article be printed in the RECORD.

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

(Note.—Byron Belt is critic of music, dance, architecture and fine arts for the Newhouse newspapers. He has been an art and music teacher at Kendall College, Evanston, Ill., and serves as artistic director of the Long Island Arts Center, New York City. He writes a weekly "critic-at-large" column.)

(By Byron Belt)

IOWA CITY, IOWA.—Here, where the Iowa River bisects the town and University of Iowa campus, students move easily from the new Hancher Auditorium or art museum to fish and idle along the riverbank.

Hancher Auditorium is the newest and last major addition to an arts complex that provides college facilities second to none in the United States. The new 2,680-seat concert, opera, dance and theater building was designed by Harrison and Abramovitz of New York City who were also responsible for the superb art museum opened three years ago, and the school of music, which has been in use just over a year.

The inaugural season of Hancher Auditorium (named for the late Virgil M. Hancher, whose tenure as U of I president from 1940 to 1964 was the longest in the school's history) began with a three-day festival which set the style for a busy year ahead.

The opening concert was by the university chorus and orchestra, under the compellingly authoritative direction of James Dixon, a former protege of Dimitri Mitropoluos. The enormous orchestra and choir rose to the challenges of the Mahler "Resurrection" symphony with thrilling impact.

That Hancher Auditorium possesses among the finest acoustics in the world was thoroughly demonstrated by the Mahler, and the world premiere of a spikey, attractive work which composer Charles Wuorinen calls "Grand Bamboula for String Orchestra," as well as the requisite Brahms "Academic Festival" overture.

RARE COOPERATION

From the breathless silences of the Mahler through its most stentorian climaxes, the sound was clarity itself, beautifully balanced and with a warmth totally unexpected in today's era of strident sonics. The success may be credited to rare co-operation between acoustician Paul S. Veneklasen and architect Max Abramovitz.

The campus setting provided ample time for leisurely visits with both Veneklasen and Abramovitz, and the talk threatened to become something of a love-in. Neither gentleman is easily self-satisfied, but each was clearly more than proud of his achievement—as well he may be!

"Saratoga Performing Arts Center and the Portland Auditorium were my most satisfactory solutions to earlier sound problems," Veneklasen commented, "but Hancher should prove the best of all, for Max (Abramovitz) took the sonic needs into consideration first, and solved his sculptural problems around the need for an authentic, quality, multipurpose auditorium."

Designing a hall for recitals, concerts, staged drama, musicals, opera and ballet has caused more than one such facility to end up being suitable for nothing in particular. Only drama will require use of Veneklasen's always subtle sound reinforcement system. The concert shell provided a magnificent setting for Dixon and his superlative student forces.

Abramovitz, who has followed extraordinary acclaim for his University of Illinois Krannert Center for the Performing Arts with an even finer accomplishment on a second Big Ten campus, is a quiet-spoken, thoughtful artist who has changed the course of his own life from that of a potential sculptor to accomplished architect.

CLEAN DESIGN

The geometrical severity of the music center buildings seems to emerge naturally from the edge of the Iowa River. The clean design is warmed by the traditional red plush interior and a striking collection of oversize canvases by American artists in the grand foyer.

Hancher Auditorium fulfills one of the architect's strongest convictions that "theaters must be scaled, lit and ornamented with people and night in mind." The pleasure and pride of the audience that jammed the hall on opening night, and for Van Cliburn's recital the next evening, confirmed the triumph of the achievement.

Here, amidst cornfields and a town-campus of some 50,000 people is an auditorium worthy of the greatest cultural center anywhere.

Abramovitz and Veneklasen also provided the new music building with its rich resources of studios, equipment and recital and study facilities. Among its special joys are outstanding studio organs built by Schlicker and Moller, and a new organ designed by Sasavant for 720-seat Clapp Hall, named for long-time music head Philip Greeley Clapp.

The excellent Casavant organ has the mechanical key action favored by Department Chairman Gerhard Krapf. A hearing of Bach, Clapp and Franck did convince this skeptical listener of Dr. Krapf's contention that the new organ has the tonal resources and flexibility to serve the Baroque sounds he clearly prefers, as well as meet the demands of romantic literature.

Performers and audiences in Iowa City are clearly blessed with more than an abundance of means to create and enjoy much in the years to come.

While music begins belatedly to lay a major claim to enhance the Hawkeye State's reputation, other areas of the arts have been more firmly established in the public mind.

A pioneering program in radio and television production has made the university's School of Speech and Dramatic Art a long-admired division. The School of Letters' celebrated writer workshops are among the most important anywhere. And, thanks to a Legislature impressed by the celebrity of painters as Grant Wood, Iowa has long had funding and support for its visual arts programs.

As part of its teaching and public resources, U of I has one of the finest art museums on any university campus, directed by painter Ulfert Wilke.

Wilke is a man whose boundless enthusiasm is contagious. His concepts of what a collection should be, center on only one word—quality. "While other curators look first at the signature of the artist," Max Abramovitz noted, "Wilke looks first at the work itself. The result is evident—each piece is chosen and mounted with loving attention."

C. R. BENEFACTORS

The curator did not select all the splendid Iowa collection, for its chief benefactors were Owen and Leone Elliott of nearby Cedar Rapids. Thanks to Peggy Guggenheim, Jackson Pollack is represented by one of his largest and finest works.

The Iowa Museum is designed to avoid that boxed-in feeling of many little rooms. The spacious mountings permit careful study and enjoyment for the more than 100,000 persons who visited it this past year.

For excellence, imagination, encouragement of scholarly accomplishment and public participation alike, the Iowa Center for the Arts ranks as one of America's outstanding achievements.

NATIONAL HEALTH INSURANCE LEGISLATION SHOULD BE GIVEN TOP PRIORITY BY THE CONGRESS

Mr. ROTH. Mr. President, I am convinced that our Nation is today faced with a crisis in health care. Recent letters and meetings with constituents have given this problem an urgency never communicated to me by statistical tables. Many Americans justifiably feel that they are forced to go without needed medical care because its cost is too dear or it is not readily available. Similarly, those who receive treatment often must sacrifice other necessities to pay for these services.

I am not, Mr. President, speaking just of the poor. Rather, high medical costs seriously burden the great majority of middle-class Americans, too. This crisis is felt in the suburbs, small towns, cities, and on the farms. I certainly know this to be the case in my own State of Delaware. All Americans have a right to demand adequate medical attention at reasonable costs to themselves. The relative abundance of our Nation and our traditional concern for human welfare dictate that we respond to this demand.

Good health care is primarily justified as a way of giving long lives free of physical and mental anguish to Americans. Yet, we should not overlook the fact that healthy citizens are also more productive citizens. Healthy workers provide the muscle and brainpower which makes up the human capital of our economy. If as much as one-fourth of our economic growth depends on such human capital, as some economists maintain, we certainly cannot afford to waste these vital resources.

Besides providing sufficient health care in the present, we must adequately fund research in improved medical treatments. This is a part of the overall research and development effort which a growing, vital society must maintain. While I am one of those who are attempting to slow the rate at which Federal spending is growing, research and development is too essential to our future to be shortchanged in the allocation of our always scarce resources.

At the end of 1971 I introduced Senate Joint Resolution 180, authorizing the President to proclaim May "National Arthritis Month." This resolution, in the form introduced by Representative DAVID PRYOR in the House, has since passed both Houses of the Congress and received the approval of President Nixon. Improved arthritis research and treatment is of great importance to me because it would increase the well-being and productiveness of at least 17 million Americans.

Among these 17 million citizens are many older Americans. It is a first-order priority that we make it possible for the elderly to participate more fully in the national life. It goes without saying that better and less costly health care is a matter of day-to-day concern for older Americans more than any other group in the United States. Retired or disabled people, even when they have earned good wages and salaries during their working years, are usually at a disadvantage in paying for the expensive medical treatment they so often require.

Why is it that so many Americans in the past few years have come to feel that there is truly a crisis in health care? The most obvious way in which Americans have experienced this growing crisis is in the rapid rise in medical costs. The Department of Health, Education, and Welfare has reported that in fiscal year 1970 (U.S. Department of Health, Education, and Welfare, Towards a Comprehensive Health Policy for the 1970's (A White Paper), May 1971) our Nation spent $67 billion on health care. These expenditures leaped from $38.9 billion in 1965, increasing as a percentage of GNP from 5.9 percent to 7 percent. During the decade of the 1960's hospital charges rose four times as fast as other prices on the Consumer Price Index, and physicians' fees twice as fast. After accounting for payments by Government, private insurance plans, and philanthropy, our citizens still must pay 40 percent of these huge medical expenses out of their own pockets.

While inflation explains over 70 percent of this phenomenal growth in medical costs, poor utilization of resources; incentives to use highest cost facilities; lack of cost control measures; legal barriers in some States to efficient use of medical manpower; and productivity which does not match that of other industries also contribute to the increase in costs. A number of these inefficiencies result from the often unavoidable fact that the market for health services does not operate in the same fashion as markets for goods and other services.

It certainly cannot be argued that the overall health of our Nation as a whole has not greatly improved in recent years. Yet, one could question why the United States ranks below the top 10 nations of the world in life expectancy and infant mortality rates. While there may be many complicated explanations of our poor showing in these statistics, they run contrary to the fact that we are the wealthiest society in the world and one which has normally maximized the well-being of the average citizen.

We should also take note, Mr. President, of the fact that the poor, nonwhite, and rural portions of our population do not receive the same, generally good medical attention enjoyed by the majority of Americans. The high cost of low-income citizens to maintain good of treatment especially limits the ability health. The tendency of doctors and medical facilities to concentrate in metropolitan areas puts rural and small-town people at a disadvantge. Similarly, the availability of health care to all American families, and especially to the groups I have been discussing, suffers from the decline in the number of primary care physicians, as opposed to specialists.

Just what can we in the Congress do to provide all Americans with the quality health care they deserve? I think that, among other things, we must adequately fund medical research; contribute to the search for more creative ways of organizing health services, including improved allocation of our existing health manpower; provide adequate support to medical and dental education; continue to support the construction of medical facilities; and enact new national health insurance. I am pleased to point out that my own State of Delaware has recently set up the Delaware Health Service Authority, to coordinate and improve the delivery of health care services in the States. This sort of State initiative is essential to our national effort to improve health care.

The fact that something like 40 percent of the ever-increasing costs of health services must be met by the average American family earlier led me to conclude that national health insurance should be a high priority matter for the current session of Congress. The same HEW White Paper to which I refered earlier makes it clear that, while governmental and private health plans cover a very considerable portion of medical costs, important groups in the population, as well as significant medical costs, are not adequately covered.

At the very least Congress must soon provide protection against catastrophic illnesses which can without warning destroy a family's financial well-being. The able senior Senator from Delaware (Mr. BOGGS) has offered one of the bills intended to accomplish this end—S. 191, the National Catastrophic Illness Protection Act. This proposal would provide for reinsurance by the Federal Government of private health insurance policies which would provide extended coverage against catastrophic illnesses. I have been pleased to add my name as a cosponsor to S. 191.

In conclusion, Mr. President, I will again express my hope that the appropriate committees and the two Houses of Congress make national health insurance top priority legislation for enactment during the 93d Congress. I for one am convinced that the people, from all walks of life, demand this of us. We cannot reasonably countenance the personal suffering, financial burden, and loss of vital human resources which the failure to act would continue to impose on our Nation.

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

AUTHORIZATION FOR CONFERENCE COMMITTEES TO FILE CONFERENCE REPORTS FOR PRINTING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the adjournment of the Senate over until 10 a.m. on Monday next, conference committees be authorized to file conference reports for printing.

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

ADJOURNMENT TO 10 A.M., MONDAY, OCTOBER 16, 1972

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 10 a.m., on Monday.

The motion was agreed to, and at 12:02 a.m., October 15, 1972, the Senate adjourned until Monday, October 16, 1972, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate October 14, 1972:

IN THE AIR FORCE

The following-named officers for promotion in the Air Force Reserve, under the appropriate provisions of chapter 837, Title 10, United States Code, as amended, and Public Law 92–129.

Lieutenant colonel to colonel

LINE OF THE AIR FORCE

Aasen, John C., xxx-xx-xxxx
Abbuhl, Forest E., xxx-xx-xxxx
Altman, Gerald G., Jr., xxx-xx-xxxx
Anderson, Harry A., xxx-xx-xxxx
Baker, Harvey B., xxx-xx-xxxx
Bennett, James T., Jr., xxx-xx-xxxx
Benyunes, Charles B., xxx-xx-xxxx
Bianco, Sam, xxxx
Blalack, Ronald R., xxx-xx-xxxx
Bolt, Jack L., xxx-xx-xxxx
Botti, John L., xxx-xx-xxxx
Bourassa, Joseph W., xxx-xx-xxxx
Brown, John P., xxx-xx-xxxx
Bukamier, Walter J., xxx-xx-xxxx
Burford, Thomas E., xxx-xx-xxxx
Burney, Ernest L., Jr., xxx-xx-xxxx

Cabitt, Gerald, xxx-xx-xxxx.
Christensen, Stanley M., xxx-xx-xxxx.
Clements, Evan E., xxx-xx-xxxx.
Costello, David S., xxx-xx-xxxx.
Dancy, Edward D., Jr., xxx-xx-xxxx.
Davidson, James A., xxx-xx-xxxx.
Dejarnette, Thomas L., xxx-xx-xxxx.
Denuccio, William J., xxx-xx-xxxx.
Dobbins, Jackson W., xxx-xx-xxxx.
Doneghy, Herbert H., Jr., xxx-xx-xxxx.
Eberle, Milton J., xxx-xx-xxxx.
Enmon, William G., xxx-xx-xxxx.
Feeney, James J., xxx-xx-xxxx.
French, Stuart P., xxx-xx-xxxx.
Fried, Abraham S., xxx-xx-xxxx.
George, Robert R., xxx-xx-xxxx.
Glaze, Lester K., xxx-xx-xxxx.
Graf, Vernon F., xxx-xx-xxxx.
Grant, August B., xxx-xx-xxxx.
Gyerman, Elmer M., xxx-xx-xxxx.
Hamilton, Frank R., xxx-xx-xxxx.
Hauer, Leslie J., xxx-xx-xxxx.
Hepner, Edmund G., xxx-xx-xxxx.
Hilton, Wayne A., xxx-xx-xxxx.
Hollingshead, Roy G., Jr., xxx-xx-xxxx.
Hood, Stobart K., Jr., xxx-xx-xxxx.
Howard, William T., xxx-xx-xxxx.
Humpert, Frank E., xxx-xx-xxxx.
Jacobsen, Ford K., xxx-xx-xxxx.
Johnson, Arden J., xxx-xx-xxxx.
Jordan, William O., xxx-xx-xxxx.
Joyce, Rodger W., xxx-xx-xxxx.
Kaczmarek, Edward A., xxx-xx-xxxx.
Kahler, Harold, xxx-xx-xxxx.
Kathrens, Leroy A., xxx-xx-xxxx.
Knickerbocker, Harry C. J., xxx-xx-xxxx.
Kovarick, Joseph W., xxx-xx-xxxx.
Kozik, Eugene, xxx-xx-xxxx.
Krey, Paul G., xxx-xx-xxxx.
Landau, Howard B., xxx-xx-xxxx.
Laney, John D., xxx-xx-xxxx.
Lapanna, Joseph J., xxx-xx-xxxx.
Lawrence, Clifford J., xxx-xx-xxxx.
Leadlay, Dan L., xxx-xx-xxxx.
Lessey, Samuel K., Jr., xxx-xx-xxxx.
Letchworth, Troy, Jr., xxx-xx-xxxx.
Linehan, Richard W., xxx-xx-xxxx.
MacDuff, Robert W., xxx-xx-xxxx.
Manson, Jamec P., xxx-xx-xxxx.
McAdoo, James E., xxx-xx-xxxx.
Merka, Walter J., Jr., xxx-xx-xxxx.
Morrissey, William J., Jr., xxx-xx-xxxx.
Myers, Richard E., xxx-xx-xxxx.
Nolte, Reginald G., xxx-xx-xxxx.
Ostrow, Martin M., xxx-xx-xxxx.
Page, William E., Jr., xxx-xx-xxxx.
Pohle, Jack D., xxx-xx-xxxx.
Pohmajevich, Francis, xxx-xx-xxxx.
Polstra, Ryan M., xxx-xx-xxxx.
Popik, Selig R., xxx-xx-xxxx.
Rice, Charles N., xxx-xx-xxxx.
Rose, Conrad F., xxx-xx-xxxx.
Roth, Everett L., xxx-xx-xxxx.
Ruffner, Harold E., xxx-xx-xxxx.
Rutledge, Donald R., xxx-xx-xxxx.
Ryan, John C., xxx-xx-xxxx.
Schell, William C., xxx-xx-xxxx.
Schissel, John A., xxx-xx-xxxx.
Schweers, Albin H., xxx-xx-xxxx.
Seanor, Joseph C., Jr., xxx-xx-xxxx.
Sherck, David E., xxx-xx-xxxx.
Shook, Elden G., xxx-xx-xxxx.
Smith, Dean E., xxx-xx-xxxx.
Smith, Rodney H., xxx-xx-xxxx.
Soboslay, Walter J., xxx-xx-xxxx.
Stanford, David L., xxx-xx-xxxx.
Thompson, Victor H., Jr., xxx-xx-xxxx.
Thurmond, James D., xxx-xx-xxxx.
Tinkoff, Paysoff, Jr., xxx-xx-xxxx.
Wade, James L., xxx-xx-xxxx.
Watkins, Harry C., xxx-xx-xxxx.
West, George R., xxx-xx-xxxx.
Wilburn, Woodrow, H., xxx-xx-xxxx.
Williams, Bob M., xxx-xx-xxxx.
Williamson, Wilburn L., xxx-xx-xxxx.
Wilson, John M., xxx-xx-xxxx.
Wilt, Marlyn H., xxx-xx-xxxx.

CHAPLAIN CORPS

Betzen, Justin H., xxx-xx-xxxx.
Brown, Hiram L., xxx-xx-xxxx.
Burns, Bradley B., xxx-xx-xxxx.
Cornellier, Edmond, xxx-xx-xxxx.
Keohane, John J., xxx-xx-xxxx.
Reuter, Arnold F., xxx-xx-xxxx.

DENTAL CORPS

Krumnow, William E., xxx-xx-xxxx.
Nelson, Curtis L., xxx-xx-xxxx.
Spiegel, Eugene H., xxx-xx-xxxx.
Yanosy, William M., xxx-xx-xxxx.

MEDICAL CORPS

Baker, Everett B., xxx-xx-xxxx.
Erickson, Clark A., xxx-xx-xxxx.
Harter, Alan C., xxx-xx-xxxx.
Kostas, Constantine I., xxx-xx-xxxx.
Lynch, Richard V., Jr., xxx-xx-xxxx.
Mullan, Paul A., xxx-xx-xxxx.
Tennant, Edward E., xxx-xx-xxxx.
Thicksten, Jack N., xxx-xx-xxxx.

NURSE CORPS

Greene, Erna, xxx-xx-xxxx.
Leary, Marion G., xxx-xx-xxxx.
Metschl, Lyla L., xxx-xx-xxxx.

MEDICAL SERVICE CORPS

Jenkins, James H., xxx-xx-xxxx.
Martinez, Ralph T., Jr., xxx-xx-xxxx.
Nelson, Philip B., xxx-xx-xxxx.
Pleasonton, Alfred, xxx-xx-xxxx.

VETERINARY CORPS

Andres, Martin Y., xxx-xx-xxxx.
Husted, Paul W., xxx-xx-xxxx.

The following officers for promotion in the Air Force Reserve, under the provisions of section 8376, title 10, United States Code and Public Law 92–129.

Major to lieutenant colonel

LINE OF THE AIR FORCE

Appling, Charleigh D., Jr., xxx-xx-xxxx.
Armbrust, Robert E., xxx-xx-xxxx.
Barker, Edward R., Jr., xxx-xx-xxxx.
Berlekamp, Leland H., xxx-xx-xxxx.
Brennan, Bruce J., xxx-xx-xxxx.
Chisholm, Kenneth L., xxx-xx-xxxx.
Comine, Frank A., Jr., xxx-xx-xxxx.
Crawford, Marcus E., xxx-xx-xxxx.
Firman, Donald J., xxx-xx-xxxx.
Hamilton, Raymond F., xxx-xx-xxxx.
Hauck, Samuel M., III, xxx-xx-xxxx.
Hill, Delton W., xxx-xx-xxxx.
Hurtienne, Robert W., xxx-xx-xxxx.
Jones, Edwin C. Jr., xxx-xx-xxxx.
Kueber, Nickolaus A., xxx-xx-xxxx.
Pigg, James C., xxx-xx-xxxx.
Powell, Leslie A. Jr., xxx-xx-xxxx.
Richards, Eldon E., xxx-xx-xxxx.
Thieme, Roger E., xxx-xx-xxxx.

Chaplain Corps

Fox, James L., xxx-xx-xxxx.

Medical Corps

Bornefieth, Leslie R., xxx-xx-xxxx.
George, Harold C., xxx-xx-xxxx.
James, Louis F., xxx-xx-xxxx.
Lohr, David C., xxx-xx-xxxx.

The following officers for appointment in the Reserve of the Air Force (Medical Corps), in the grade of lieutenant colonel, under the provisions of section 593, title 10, United States Code and Public Law 92–129, with a view to designation as medical officers under the provisions of section 8067, title 10, United States Code.

Bauer, Charles R., XXXX
Cook, James H., xxx-xx-xxxx.
Gawecki, Frederick M., xxx-xx-xxxx.

The following officer for appointment as a Reserve of the Air Force in grade of lieutenant colonel, Line of the Air Force, under the provisions of section 593, title 10, United States Code and Public Law 92–129.

Grasso, Frank A., xxx-xx-xxxx.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Subject to qualifications provided by law, the following for permanent appointment to the grades indicated in the National Oceanic and Atmospheric Administration:

To be lieutenant

Robert D. Hopkins

To be lieutenants (junior grade)

Michael A. Graber
Frederick J. Jones
Jan W. McCabe
Carl F. Peters
Lawrence E. Keister
Eddie N. Bernard
Michael R. Johnson
Max M. Ethridge
Gary L. Sundin
Carl V. Ullman
Keith G. Baldwin
Stephen L. Wood
Robert H. Qualset
Gary M. Adair
Alan P. Vonderohe
David B. McLean
David B. MacFarland, Jr.
Kurt J. Schnebele
Emerson G. Wood
Richard T. Beaupre
Nelson M. Franklin
David W. Yeager
Wayne F. Turnacliff
Kurt D. Coon
Robert K. Norris
William M. Rivers, Jr.
Glenn E. Freirich
William L. Adams

To be ensigns

John F. Cussigh
Jonathan M. Altenhofen
Michael S. Bohle
Pamela R. Chelgren
Kurt X. Gores
Patrick D. Harman
Thomas W. Jackson, III
Robert E. Losey
Michael C. McMillan
Mark A. Miller
Ronald C. Pate
Ronald D. Polvi
Charles L. Rives
Bruce E. Shimano
Hugh H. Sprunt, Jr.
Dirk R. Taylor
H. Bruce Thelen
Stuart H. Thorson
Robin D. Wells
William E. George

NATIONAL INSTITUTE OF EDUCATION

Thomas K. Glennan, Jr., of Virginia, to be Director, National Institute of Education.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 14, 1972:

RAILROAD RETIREMENT BOARD

James L. Cowen, of Illinois, to be a member of the Railroad Retirement Board for the term of 5 years from August 29, 1972.

PUBLIC HEALTH SERVICE

The following-named person to be a Member of the Board of Regents, National Library of Medicine, Public Health Service, for a term of 4 years from August 3, 1972:

William N. Hubbard, Jr., of Michigan.

FEDERAL METAL AND NONMETALLIC MINE SAFETY BOARD OF REVIEW

Peter J. Bensoni, of Minnesota, to be a Member of the Federal Metal and Nonmetallic Mine Safety Board of Review for the term expiring September 15, 1977.

ACTION

Charles W. Ervin, of California, to be an Associate Director of ACTION, to which office he was appointed during the last recess of the Senate.

U.S. COAST GUARD

The following rear admirals of the U.S. Coast Guard to be commander, Pacific area and commander, Atlantic area, U.S. Coast Guard with the rank of vice admiral, while so serving:

Rear Adm. Mark A. Whalen, Pacific area.
Rear Adm. Benjamin F. Engel, Atlantic area.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Sidney P. Marland, Jr., of New York, to be Assistant Secretary for Education in the Department of Health, Education, and Welfare.