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PROCEEDINGS AND DEBATES OF THE 92^d CONGRESS, SECOND SESSION

SENATE—Monday, October 16, 1972

The Senate met at 10 a.m. and was called to order by Hon. FRANK E. MOSS, a Senator from the State of Utah.

PRAYER

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

Blessed art Thou, O God, Creator and Ruler of the universe, who at the beginning guided our Founding Fathers to put over their first instrument of government the words "In the name of God, Amen," help us who follow to keep Thy name above all that we think and say and do. May the motto "In God we trust" be the witness of our lives and our institutions. Keep us aflame for righteousness, justice, and peace.

We thank Thee for the high and holy privilege of walking and working together in service to God, country, and humanity. When our work is done in this Chamber may we commit our Nation, its leaders, and especially our colleagues and assistants to Thy gracious care.

Through Him who is the way, the truth, and the life. 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 16, 1972.
To the Senate:

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

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Saturday, October 14, 1972, be dispensed with.

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

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the

legislative calendar, under rule VIII, be dispensed with.

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

DECLARATION OF NONNAVIGABILITY FOR PENNSYLVANIA'S LAND-ING DEVELOPMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1242, S. 1971.

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

The assistant legislative clerk read as follows:

S. 1971, to declare a portion of the Delaware River in Philadelphia County, Pa., non-navigable.

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

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce with an amendment, on page 3, line 13, after the word "United", strike out "States" and insert "States, and the consent of Congress is hereby given, for the filling or erection of permanent structures in all or any part of the described area"; and, after line 16, insert a new section, as follows:

SEC. 2. This declaration shall apply only to portions of the above-described area which are filled or occupied by permanent structures. No such filling or erection of structures in the above-described area shall be commenced until the plans therefor have been approved by the Secretary of the Army who shall, prior to granting such approval, give consideration to all factors affecting the general public interest and the impact of the proposed work on the environment.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That portion of the Delaware River in Philadelphia County, Commonwealth of Pennsylvania, lying between all that certain lot or piece of ground situate in the second and fifth wards of the city of Philadelphia described as follows:

Beginning at a point on the easterly side of Delaware Avenue (variable width) said side being the bulkhead line of the Delaware River (approved by the Secretary of War on September 10, 1940), at the distance of 1,833.-652 feet from an angle point on the easterly side of said Delaware Avenue south of Washington Avenue;

thence extending along the easterly side of said Delaware Avenue the following courses and distances, (1) north 0 degree 45 minutes 33.2 seconds west 2,524.698 feet to a point; (2) north 9 degrees 36 minutes 25 seconds east, 2,168.160 feet to a point; (3) north 13 degrees 26 minutes 45.8 sec-

onds east, 2,039.270 feet to a point; (4) north 20 degrees 12 minutes 52.4 seconds east, 35.180 feet to an angle point in Delaware Avenue;

thence continuing north 20 degrees 12 minutes 52.4 seconds east along the said bulkhead line, the distance of 574.970 feet to a point on the south house line of Callowhill Street produced;

thence extending along the south house line of Callowhill Street produced south 80 degrees 47 minutes 30.6 seconds east, the distance of 523.908 feet to a point on the pierhead line of the Delaware River (approved by the Secretary of War on September 10, 1940);

thence extending along the said pierhead line the following courses and distances, (1) south 17 degrees 52 minutes 48.5 seconds west, 605.262 feet to a point; (2) south 14 degrees 14 minutes 14.7 seconds west, 1,372.-530 feet to a point; (3) south 10 degrees 37 minutes 35.3 seconds west, 1,252.160 feet to a point; (4) south 8 degrees 23 minutes 50.4 seconds west, 1,450.250 feet to a point; (5) south 2 degrees 22 minutes 45.9 seconds west, 1,221.670 feet to a point; (6) south 1 degree 4 minutes 36 seconds east, 1,468.775 feet to a point on the north house line of Catherine Street extended, thence extending north 76 degrees 56 minutes 29.2 seconds west, the distance of 555.911 feet to the first mentioned point and place of beginning is hereby declared not to be a navigable water of the United States within the meaning of the Constitution and laws of the United States, and the consent of Congress is hereby given, for the filling or erection of permanent structures in all or any part of the described area.

SEC. 2. This declaration shall apply only to portions of the above-described area which are filled or occupied by permanent structures. No such filling or erection of structures in the above-described area shall be commenced until the plans therefor have been approved by the Secretary of the Army who shall, prior to granting such approval, give consideration to all factors affecting the general public interest and the impact of the proposed work on the environment.

The amendment was agreed to.

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

A LETTER TO THE SUPREME COURT

Mr. MANSFIELD. Mr. President, in the National Observer of October 7, 1972, there is "A Letter to the Court" signed by Nina Totenberg. Miss Totenberg is one of the very best reporters covering the Supreme Court, and she has said what needed to be said and what has been said in the Senate by Senator SAM ERVIN of North Carolina on a number of occasions.

The Supreme Court, I think, has gone a long way to damage the rights of all

Americans, because of its decisions in the Gravel-Brewster case covering legislative immunity, the Caldwell case taking away the protection of a newsman guaranteed under the first amendment, and the Tatum case which approved what the Army had done in spying on peaceful Americans, likewise a guarantee under the first amendment.

It is my hope that the damage done in these three cases will be rectified in the near future, and it is my further hope, in addition, that the cases on which Supreme Court Justices sit will, in the future, not conflict with any possible previous business, governmental, or other interests.

I ask unanimous consent that the letter written by Nina Totenberg and covering the area of individual rights be printed in the RECORD.

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

[From the National Observer, Oct. 7, 1972]
A LETTER TO THE COURT

DEAR JUSTICES: This week marks the opening of a new Court term. Before you begin rendering decisions, consider a few points.

Last term you ruled against individual rights in three cases that one-by-one may not have seemed to strike a great blow against freedom but taken as a whole seriously threaten our whole system of checks and balances on Government power.

You ruled that a newsman, if subpoenaed, must testify before a grand jury conducting a criminal investigation and that a newsman has no right to withhold the identity of his sources of information.

You ruled that a member of Congress or his aides may be questioned about their sources of information. Specifically, you said that Alaska Sen. Mike Gravel and his aides had no immunity and must tell a grand jury about their sources for the Pentagon Papers and arrangements they made for publishing the papers.

You ruled that peaceful protesters who are spied upon by military agents may not challenge the practice in court unless they can show they have been specifically harmed. The case grew out of revelations that some 1,000 Army intelligence agents in 300 offices across the country had kept tabs and field dossiers in computer banks on thousands of citizens (including senators and Supreme Court Justices) involved in activities such as Earth Day, church and community action, labor-union action, and civil-rights and anti-war protests.

The net effect of these three decisions is twofold: It severely limits the availability of information that shows the government in power in an unfavorable light; and it gives the government broad new powers to investigate those who speak against its policies.

It's not unusual, for example, for a newspaper to crusade against the local, state, or Federal government with articles about corruption or Mafia connections. Stories such as these usually begin with tips from courageous citizens whose jobs, earnings, even lives would be jeopardized if their identities became known.

The first thing a corrupt government does when threatened with exposure is to find the sources of the leak and shut them up. And what is the easiest and most legal way to find out who those sources are? It is to convene a grand jury to investigate the newspaper's charges and force the reporters to reveal the identity of their sources. Then corrupt government operatives dig up some piece of dirt about the source, or they threaten his life or his children's lives, or they fire him from his job, or sometimes they just arrange an auto accident.

Another important way that information is

discovered about hanky panky in government is through Congress. Desperate citizens often write to their congressmen about wrongdoing. That is how Gen. John Lavelle's unauthorized bombing in Vietnam came to light.

The young man who spilled the beans about Lavelle to his senator did so because the same chain of command he was supposed to report wrongdoing to was also falsifying documents about the bombings. The young man didn't mind seeing his identity revealed. But suppose the source had been a general with his career at stake. The Founding Fathers gave members of Congress immunity from prosecution for speeches made on the floor, presumably to insulate them from the punitive actions of those they criticized.

The Court decisions in the press-subpoena and Gravel cases thus make it exceedingly difficult to gain adverse information about the executive branch of Government. At the same time, the executive branch has all kinds of special tools to protect itself. President Nixon has significantly expanded this doctrine of executive privilege—a doctrine originally meant to guarantee the confidentiality of the President's communications with his aides.

But Nixon has invoked this doctrine for all manner of self-protection. Henry Kissinger has refused to testify about foreign policy before Congress; when the President ordered a scientific study of the SST and the study concluded that the project was a bad one, the President refused to release the study because by then he was pushing the SST. White House aides refused to answer questions from a congressional committee about their involvement in getting a favorable settlement of the antitrust case against ITT after that corporation made a large campaign contribution to the GOP.

It is almost impossible to break the back of executive privilege. The only way to challenge it is through the Justice Department, and that is also part of the executive branch. Any maverick U.S. attorney who thought to challenge Government secrecy with a grand jury investigation would be fired by the President before he could say "your honor."

Now you, the members of the U.S. Supreme Court, give the executive branch new tools. You, in effect, have said to the executive branch: "You can interrogate your critics before a grand jury, you can find out who is squealing. And if people want to hold meetings to protest what you are doing, you can spy on them and keep dossiers on them."

Think about it this way, your honors. How would you regard your decisions if a President Edward M. Kennedy were to order investigations into congressional and press leaks accusing him of weakening our national defense or of playing footsie with some union? Would you like it, Warren Burger, if some Democratic President were to order surveillances conducted on you and Richard Nixon—and you had no legal recourse to stop it?

NINA TOTENBERG.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished Republican leader wish to be recognized?

Mr. SCOTT. Mr. President, I yield back my time.

TRANSACTION OF ROUTINE MORNING BUSINESS

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

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Better Management Needed Over Decisions To Start Full-Scale Development of Minor Weapons Systems", Department of Defense, dated October 6, 1972 (with an accompanying report); to the Committee on Government Operations.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

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

A telegram, in the nature of a petition, from A. Freeman, Washington, D.C., praying for a redress of grievances; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FANNIN (for Mr. LONG) from the Committee on Finance, without amendment; H.R. 11091. An act to provide additional funds for certain wildlife restoration projects, and for other purposes (Rept. No. 92-1305).

By Mr. INOUE, from the Committee on Appropriations, with amendments:

H.J. Res. 1331. Joint resolution making further continuing appropriations for the fiscal year 1973, and for other purposes.

PERSONAL EXEMPTIONS IN CASE OF AMERICAN SAMOANS—REPORT OF A COMMITTEE (S. REPT. NO. 92-1306)

Mr. LONG, from the committee of conference on the disagreeing votes of the two Houses on 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, submitted a report thereon, which was ordered to be printed.

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that today, October 16, 1972, he presented to the President of the United States the following enrolled bills and joint resolutions:

S. 216. An act to permit suits to adjudicate certain real property quiet 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 Act by designating a segment of the Saint Croix River Minnesota and Wisconsin, 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. 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;

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;

S.J. Res. 199. Joint resolution to recognize Thomas Jefferson University, Philadelphia, Pa. as the first university in the United States to bear the full name of the third President of the United States;

S.J. Res. 204. Joint resolution to authorize the preparation of a history of public works in the United States;

S.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"; and

S.J. Res. 251. Joint resolution to designate the week which begins on the first Sunday in March 1973 as "National Beta Club Week".

ADDITIONAL STATEMENTS

INDECISION ON WELFARE REFORM

Mr. ROTH. Mr. President, I stand here numb at the thought of what the Senate may do if title IV of H.R. 1 becomes a total casualty of conference, as it now appears. All we will have to do is turn the clock back 2 years to December 1970, and we will be repeating the tragic story of indecision on welfare reform. For if this title dies, we will leave the 92d Congress having turned our backs for the second time on one of our Nation's most urgent social and economic problems.

Senators well know that I was the sponsor of the so-called pilot test approach to welfare reform. It seemed to me that only through large-scale testing could Congress really learn how proposed programs would affect the millions of people trapped in poverty. I urged the Senate to adopt this approach and was certainly heartened by the votes which sustained me.

But now this body is presented with the hollow option of deferring, once again, until next year, or some later time, the plans and programs which have been aired and debated in months of congressional proceedings. How many postponements will it take to impress

upon us the need for adequate testing as the best means to a well-studied and reasoned end?

ISRAEL

Mr. CHURCH. Mr. President, earlier this month I made public a report to the Senate Foreign Relations Committee on a study mission I made to Israel on the committee's behalf in August.

I must say that I have found the reaction to my report heartening.

Two examples appear in two newspapers serving the Jewish communities of Philadelphia and Pittsburgh: the Jewish Exponent, of Philadelphia, and the Jewish Chronicle, of Pittsburgh.

I ask unanimous consent that the news accounts of my report appearing in the two newspapers be printed at this point in the RECORD, together with a separate editorial which appeared in the Exponent.

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

[From the Jewish Chronicle of Pittsburgh, Oct. 5, 1972]

PEOPLE & ISSUES: NO WOOING OF "JEWISH VOTE" IN IDAHO—SENATE AND THE NEW ME REALITY

(By Albert W. Bloom)

In view of the unseemly national political wooing of the so-called "Jewish vote"—at a level unprecedented in American Jewish history—it is refreshing to note that Idaho Senator Frank Church, of the powerful Senate Foreign Relations Committee, takes a stand based on simple, direct logic.

With support of freedom in the world being a vital sector of the strategic interests of the United States!

No Arab propagandist or "psy-war" type can charge Senator Church with buttering up to a "Jewish vote" in his home state. There are only some 500 Jews in the entire state of Idaho.

Idaho's total population of all shapes, sizes, religions and other varieties is 703,000.

All this is a new dimension interjected into the American foreign policy debate to determine its posture in the 1970's—and beyond!

Senator Church has declared flatly—and officially—that if peace is to come to the Middle East, "it must be based on acceptance of the fact that Israel won the Six-Day War."

A senior member of the Senate Foreign Relations Committee, young (48) Senator Church assessed the situation after a fact-finding mission in the summer, which the Senate released to newsmen this week in a 24-page report.

Senator Church's office called the new stand "a major break with Administration policy", which phrase news agencies leaped upon and set "major breaks" in quotes when filing news dispatches.

Whatever national political swat Senator Church's forthright statement is likely to make, it won't cut much political ice out in Boise or in the rest of the vastness of Idaho.

In other words, the open-secret of Senator Church's statement is that he wants to sew a new thread into American foreign relations—a bipartisan approach that equates (at the least) the support of freedom with our national economic and strategic interests.

This has strong overtones outside of US Middle East policy—especially at a time when America and Russia were getting cozy over the prospect of vast billions in future trade relations, "most favored nation" slashes US tariffs on Soviet imports.

All this, at the same time USSR is shackling the already frightfully harassed Soviet Jewry with huge ransom "tariffs" when they

seek to "export" themselves to freedom in Israel.

The Church report is bound to stir pressures both in Congress and the country at large to infuse an element of freedom-and-justice into foreign policy, elements too often lacking under the hard crunch of global power pragmatics.

But the formal Church report is not the full story of this impact.

Almost unnoticed in the report are the appendices in the back—including the remarks of Senator Church at a dinner tendered by Foreign Minister Abba Eban in the King David Hotel, Jerusalem.

Said Senator Church there:

"Although most of you might not know my hometown of which the Foreign Minister spoke, I have known Jerusalem from the time that I first began to learn at my mother's knee.

"I probably knew the name Jerusalem before I knew the name of Boise, Idaho. . ."

He called for United States to move the embassy from Tel Aviv to Jerusalem.

We sometimes forget the immense historic tug, the magnetism of Jerusalem and the whole Jewish historical experience on the world—probably because we are so often caught up in fighting the negative aspects of this same history—the social disease of anti-semitism.

So it is well worthwhile to focus on the positive aspects, especially when underscored by a vigorous member of the Senate Foreign Relations Committee on an issue of continuing vital concern to both US and to Israel, though not on the front burner of the diplomatic stove at this instant.

But the issue is a boiling one, nonetheless, especially with the UN debates underway again, though it is momentarily overshadowed (only momentarily) by Arab terrorism in the skies, in the malls, at the Olympics in Munich, as well as by the wrenching cruelty of the Soviet slave-brain tax on Jews who want their freedom to emigrate.

Focusing on "Prospects for Peace in the Middle East: The View from Israel", the Idaho Senator declared:

"The (Secretary of State) Rogers plan keeps alive the hopes of the Arab world that the results of the (Six Day) war can somehow be set aside.

"It cannot be done, and US policy should not continue to foster such illusions.

"As long as US policy holds out the hope that the United Nations or outside powers can induce Israel to sacrifice what she considers to be her vital interests, namely, secure borders, the Arab nations will refuse to face up to the realities of the situation."

Israel's requirement for a peace settlement can be summed up in four words, the Idaho Senator said:

"Secure and recognized boundaries."

Senator Church then added:

"It is an illusion that the clock can be turned back and Israel made to accept former boundaries which, in her view, offer insufficient security.

"The Arabs cannot regain at the bargaining table what they could not hold on the battlefield. And with the withdrawal of the Soviet forces from Egypt no great power is prepared to lend its military might to forcing Israel to retreat to her 1967 frontiers.

"Nor," said Senator Church, "does the United Nations possess the means to enforce the Security Council resolution, if it is interpreted to require complete withdrawal by Israel.

"Israel remembers that, after the 1956 war, it withdrew to its pre-war borders on the understanding that they would be protected from armed attacks.

"But the international guarantees evaporated at the moment of truth, a lesson the Israelis will not soon forget."

Senator Church castigated the UN's one-sided demands:

"A double standard seems to apply," he

said, "one to the Middle East and another to the rest of the world."

"This is not to say that territorial expansion by force can be justified under the UN Charter. The hard fact remains, however, that borders are normally shifted afterwards to reflect results on the battlefield."

"The effort to induce Israel to withdraw to her pre-war borders is an anomaly."

"For the second time under the auspices of the United Nations, the attempt is being made to erase the results of a victorious war."

Neither of which, by the way, was of Israel's causing.

Senator Church condemned strongly the Soviet Union for its harsh policy aimed at cutting emigration of Soviet Jews to Israel.

"The Soviet policy, like the Berlin Wall," he said, "acts as a barrier to the immigration of people and deserves the condemnation by the international community. President Nixon should strongly protest this attempt to prohibit emigration, a long recognized basic human right among civilized nations. Only the President can bring the full weight of public opinion to bear on the issue. He should especially use his office to stimulate protest from the scientific community in the United States against Soviet policy."

Senator Church summed up his findings; US policy should be "founded on the reality that Israel will not retreat to its pre-1967 borders, and that any attempt by the big powers or the United Nations to induce her to do so would be futile."

"No peace settlement from without will be accepted by Israel. Face to face negotiations between Israel and her neighbors are essential to movement toward a settlement and the United States should do everything it can to encourage direct talks between Egypt and Israel, and Jordan and Israel."

The United States should continue to supply Israel with needed military equipment necessary "to deter attacks."

The US should provide supporting aid as long as Israel is forced to bear "such a heavy financial burden for defense."

The United States "should explore the possibilities for aiding in the permanent resettlement of refugees. The refugee syndrome is perhaps the major single obstacle to peace in the Middle East."

"Every effort should be made to encourage cooperation between Jordan and Israel on economic development and other programs to increase contacts and day-to-day collaboration between Arabs and Israelis."

President Nixon should use the "prestige of his office" to bring the pressure of world opinion to bear on the Soviet Union to change its policy of extracting exorbitant fees from Soviet scientists and intellectuals who seek to emigrate to Israel.

Congress should appropriate the full \$85-million authorized for aid in the resettlement of Soviet Jews in Israel.

The United States should move its embassy from Tel Aviv to Jerusalem.

The United States should "be receptive to the restoration of formal diplomatic relations with Egypt. The Soviet departure may result in renewed Egyptian interest in establishing normal contacts with the United States."

In his informal dinner remarks, Senator Church paid high compliment to Israeli diplomacy and awareness the world over.

When President Kennedy was elected, Senator Church visited Africa with a delegation.

Each time he was formally briefed by our own US Embassy. But Senator Church noted that when he chatted at receptions with the Israeli ambassador in each country, he increased his knowledge and understanding of the host country broadly, no matter which it was.

Thereafter, he made it his business to seek

out and chat with Israeli ambassadors all along his route.

[From the Jewish Exponent, Oct. 6, 1972]

ISRAEL BOUNDARIES MUST BE SECURE, SENATOR CHURCH SAYS

WASHINGTON.—U.S. Sen. Frank Church (D., Idaho) said that if peace is to come to the Middle East, "it must be based on the acceptance of the fact that Israel won the Six-Day War." Church, a senior member of the Senate Foreign Relations Committee, made the assessment in a report to the committee on his fact-finding mission to Israel Aug. 22 to 27.

In a major break with administration policy, Church charged that "the Rogers plan keeps alive the hopes of the Arab world that the results of the war can somehow be set aside. It cannot be done, and U.S. policy should not continue to foster such illusions."

"FACE THE REALITIES"

"As long as U.S. policy holds out the hope that the United Nations or outside powers can induce Israel to sacrifice what she considers to be her vital interests, namely, secure borders, the Arab nations will refuse to face up to the realities of the situation."

Noting that Israel's requirement for a peace settlement can be summarized in the four words, "secure and recognized boundaries," the senator said, "It is an illusion that the clock can be turned back and Israel made to accept former boundaries which, in her view, offer insufficient security. The Arabs cannot regain at the bargaining table what they could not hold on the battlefield. And, with the withdrawal of the Soviet forces from Egypt, no great power is prepared to lend its military might to force Israel to retreat to her 1967 frontiers."

"Nor," Church continued, "does the United Nations possess the means to enforce the Security Council resolution, if it is interpreted to require complete withdrawal by Israel. Israel remembers that, after the 1956 war, it withdrew to its pre-war borders on the understanding that they would be protected from armed attack. But the international guarantees evaporated at the moment of truth, a lesson the Israelis will not soon forget."

DOUBLE STANDARD

Commenting on the UN demand for a restoration of the pre-war boundaries, Church said, "A double standard seems to apply, one to the Middle East and another to the rest of the world. This is not to say that territorial expansion by force can be justified under the UN Charter."

"The hard fact remains, however, that borders normally are shifted after wars to reflect results on the battlefield. The effort to induce Israel to withdraw to her pre-war borders is an anomaly. For a second time under the auspices of the United Nations, the attempt is being made to erase the results of a victorious war."

Church made these recommendations:

U.S. policy should be "founded on the reality that Israel will not retreat to its pre-1967 borders and that any attempt by the big powers or the United Nations to induce her to do so would be futile."

"No peace settlement from without will be accepted by Israel. Face-to-face negotiations between Israel and her neighbors are essential to movement toward a settlement, and the U.S. should do everything it can to encourage direct talks between Egypt and Israel, and Jordan and Israel."

ARMS SHIPMENT

The U.S. should continue to supply Israel with needed military equipment necessary "to deter attacks."

The U.S. should provide supporting aid as long as Israel is forced to bear "such a heavy financial burden for defense."

The U.S. "should explore possibilities for

aiding in the permanent resettlement of refugees. The refugee syndrome is perhaps the major single obstacle to peace in the Middle East."

"Every effort should be made to encourage cooperation between Jordan and Israel on economic development and other programs to increase contacts and day-to-day collaboration between Arabs and Israelis."

President Nixon should use the "prestige of his office" to bring the pressure of world opinion to bear on the Soviet Union to change its policy of extracting exorbitant fees from Soviet scientists and intellectuals who seek to emigrate to Israel.

CONGRESSIONAL AID

Congress should appropriate the full \$85 million authorized for aid in the resettlement of Soviet Jews in Israel.

The U.S. should move its embassy from Tel Aviv to Jerusalem.

The U.S. should "be receptive to the restoration of formal diplomatic relations with Egypt. The Soviet departure may result in renewed Egyptian interest in reestablishing normal contacts with the United States."

[From the Jewish Exponent, Oct. 6, 1972]

TRUE STATE OF THE MIDEAST

More and more congressional leaders are questioning or breaking with administration policy in the Middle East and with regard to the question of Soviet Jewry. One of the latest is Sen. Frank Church (D., Idaho), who said this week that if peace is to come to the Middle East, "it must be based on the acceptance of the fact that Israel won the Six-Day War." Sen. Church, a senior member of the Senate Foreign Relations Committee, made the assessment after a fact-finding mission to Israel in August. He charged that Secretary of State William P. Rogers' plan "keeps alive the hopes of the Arab world that the results of the war can somehow be set aside. It cannot be done, and U.S. policy should not continue to foster such illusions. As long as U.S. policy holds out the hope that the United Nations or outside powers can induce Israel to sacrifice what she considers to be her vital interests, namely, secure borders, the Arab nations will refuse to face up to the realities of the situation."

Church is telling it like it is. He is laying it on the line for the Nixon Administration and for the State Department. We no longer can fool ourselves into thinking that without full American support, peace will be achieved in the Middle East. "It is an illusion," Sen. Church said, "that the clock can be turned back and Israel made to accept former boundaries, which, in her view, offer insufficient security. The Arabs cannot regain at the bargaining table what they could not hold on the battlefield." These are the hard facts. This is the situation in the Middle East today, and the sooner our government realizes this, the swifter peace can be achieved. It must come at the bargaining table, but it must be preceded by firm and realistic policy from Washington.

A SOLDIER'S DEVOTION TO THE ARMY

Mrs. SMITH. Mr. President, too often we have heard only criticism of the military authorities. This criticism has given them an unfair image with many people, especially in connection with the war in Vietnam.

I recently received a letter from the father of a deceased young man in the U.S. Army. He sent me a copy of his letter to the Commanding General at Fort Devens, Mass.

I ask unanimous consent that the text of the letter be printed in the Record.

There being no objection, the letter

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

OCTOBER 9, 1972.

COMMANDING GENERAL,
Fort Devens, Mass.

DEAR SIR: My wife and I would like to express our sincere appreciation for the assistance rendered by the United States Army during the funeral services and interment of our son, Pvt. Arnold L. Cooper II, 005-60-9971. It is requested that the personnel that participated be informed of our gratitude.

The military policeman that provided transportation for us in Boston the evening of 14 September 1972, showed the utmost concern and understanding. The following day Captain Drake and the NCO that accompanied him, provided transportation, advice and assisted us in every way possible. We are especially grateful for the help of Major Peter Mihai, Survivor Assistance Officer. We requested that he direct and supervise the entire arrangements which he accomplished in an outstanding manner. He complied with our every request. The escort, SP6 Paul McDonald [XXXXXXXXXX] 382d Pers Svc Co., Fort Devens, MA 01433, offered his personal assistance and gave the family moral support especially to our younger son.

The funeral detail from Fort Devens contributed greatly to the dignity of the services. Their military bearing and meticulous uniforms were indicative of their training and professionalism.

Our son intended to be a career soldier. Although his service to his country was very brief he expressed his deep devotion to the United States Army and we feel that the Army in turn proved their devotion and fidelity to him.

Sincerely,

ARNOLD L. COOPER.

TOWARD A BALANCED NATIONAL GROWTH AND DEVELOPMENT POLICY—ADDRESS BY SENATOR HUMPHREY

Mr. RIBICOFF. Mr. President, in the past, people have considered "planning" a little known science dealing with abstract ideas of how the future should be organized. A planner was someone who drew fanciful glass skyscrapers in the desert for the year 2000 and showed little concern for the year 1973.

Planning is, however, a science that can greatly benefit America if properly used. If we are to conserve our rapidly disappearing natural resources and yet still maintain a viable economy, we need to develop a national growth policy based on the world as it is and the forces that exist rather than the world as we wish it were and forces that we would conjure up if we could.

In an October 11, 1972, address before the American Institute of Planners, the distinguished Senator from Minnesota (Mr. HUMPHREY) outlined his ideas for developing such a policy. Because of his long interest in the problems of urban and rural America, I believe that Senators will find his remarks most interesting.

I ask unanimous consent that Senator HUMPHREY's remarks be printed in the RECORD.

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

TOWARD A BALANCED NATIONAL GROWTH AND DEVELOPMENT POLICY

Shall we design or resign ourselves to our nation's future?

That is the basic question underlying de-

cisions we make today in determining what kind of nation we want to create or leave for future generations.

For what we do—or fail to do—today clearly commits and fixes future patterns of life in this nation as well as on this planet earth.

We can no longer afford the luxury of approaching the future of our nation—and its relationship to the rest of the world—haphazardly.

A few years back, we learned almost overnight that the world we live in had shrunk to such a size that men on one side of the earth could completely destroy men on the opposite side within 30 minutes through new and devastating means of modern warfare.

More recently we have come to realize that even the natural resources of this earth and of our nation are indeed finite, and in many cases threatened with total depletion.

And today we are approaching a new realization, one which was stated so eloquently by Barbara Ward and Rene Dubos in their recently published book, "Only One Earth."

I quote:

"The establishment of a desirable human environment implies more than the maintenance of ecological equilibrium, the economical management of natural resources, and the control of the forces that threaten biological and mental health. Ideally, it requires also that social groups and individuals be provided with the opportunity to develop ways of life and surroundings of their own choice. Man not only survives and functions in his environment, he shapes it and he is shaped by it."

As members of the planning profession of our nation you have a major role to play in helping the people of this nation shape their own future, "to provide them with the opportunity" as Lady Jackson and Dr. Dubos say, "to develop ways of life and surroundings of their own choice."

Your role is not one of merely providing a method for state and local governments to carry out projects such as urban renewal, water and sewer or transportation systems.

You must also play a leading role in national policy planning and development as it relates to all levels and branches of government—as it relates to all combinations of political, economical, social and environmental concerns.

In addition to being one of our major policy sciences, planning also is an art, demanding of you all the sensitivities that are required in assessing and responding to the myriad of subtle changes and developments that our complex world of technological advancement thrusts upon us daily.

You must lend your talent, genius, and insight to helping people to "design" their own future—not in the form of any master plan or blueprint, but rather in helping them create the processes and mechanisms to make it possible for them to understand, anticipate, and to bring about orderly change. You must help them to avoid and minimize what Mr. Alvin Toffler so aptly refers to as "future shock."

As of today, our nation still lacks those processes and mechanisms needed by government at all levels and by individual citizens to develop and choose alternative futures.

As we approach our nation's bicentennial, it is not only appropriate, but essential that we look anew at the question of what kind of future we are now creating for ourselves and future generations by our decisions—or lack of decisions—as opposed to what we should be doing to move toward a goal of human relationships based upon the Greek idea of "balance," of moderation, of "nothing too much."

Growth is seen by many as the opposite of stability, yet both are desired. Novelty is prized, but man is overwhelmed by too much change. Technology is both feared and indispensable.

Liberty versus tranquility, defense versus

welfare, present versus future, are dichotomous terms that have expressed American goals since the beginning of our Republic.

Our challenge then is to reach out for the "balance" in human relationships that many of us believe to be attainable between conflict and cooperation, between growth and stability, between individual free choice and common good, between technology and social responsibility, between economic needs and environmental protection, between urban and rural, between the old and new, and between national policy and state and local policy planning and development.

But "how" and through what "means" can we reach out for that "balance"?

What mechanisms and processes do we now have that will permit and encourage us to develop the policies and plans that will be needed if we are to "create," to "design" and to "shape" our nation's future human environment?

I suggest to you that there are none, at least not any explicitly designed to deal with our nation's long range future.

We have no institution, process or mechanism today that is dedicated to or concerned with the consequences of the rapid and potent changes in opportunities resulting from the onrush of science and technology.

We have no national effort today concerned with the need for better techniques or measurement to help our society answer for itself the classic questions posed by Abraham Lincoln in his House Divided speech, which I wish to quote:

"If we could first know where we are, and whither we are tending, we could then better judge what to do and how to do it."

At this critical stage in our national development we must provide the means and processes required to answer such questions, to identify at an early point the vital questions likely to confront our nation as the future unfolds, so that accommodation to change can be a deliberate, conscious and rational process instead of a violent reaction.

And it is precisely for this reason that I will be dedicating much of my future energies in the United States Senate to the task of forging legislation that will provide these needed processes, mechanisms and institutions, which will begin to help us "design" our nation's future and achieve and reach that "balance" I referred to earlier.

On May 26 of this year in San Francisco before the Commonwealth Club, I unveiled the general provisions of what I call my "Balanced National Growth and Development Act," a proposed piece of legislation which I consider to be the most important of my 25 years of public service.

This bill provides for the establishment of an Office of Balanced National Growth and Development within the Office of the President to "develop specific national policies relating to future population settlement and distribution patterns, economic growth, environmental protection, income distribution, energy and fuels, transportation, education, health care, food and fiber production, employment, housing, recreation and cultural opportunities, communications, land use, welfare, technology assessment and transfer, and monetary and fiscal policy."

This new Office also will provide the means to develop these individual national policies in such a way as to reflect the appropriate inter relationships that obviously exist between and among such policies.

This new Office will tie together and coordinate the work of the Council of Economic Advisors, the Office of Management and Budget, and the Environmental Quality Council.

This new Office will be empowered to bring about more uniform and workable federal assistance programs, to streamline the federal delivery system now involving hundreds of categorical programs that so bewilder and confuse many state and local officials.

The bill also establishes new uniform planning requirements for federal grants-in-aid and transfers to the new Office the comprehensive planning assistance Program authorized by Section 701 of the Housing Act and administered by HUD.

The bill creates a national system of multi-state regional planning and development commissions, involving both governors and state legislatures, to help link-up and facilitate proper coordination among federal, state, and local units of governments. This nationwide regional commission structure would be directly tied to the new Office within the Office of the President, rather than to a Department.

In addition, this bill would create a Joint Congressional Committee on Balanced Growth and Development. This Committee would be supported by a new Congressional Office of Policy and Planning within the Library of Congress, staffed by professionals and experts on national policy matters.

New requirements pertaining to the location impact of federal facilities, activities and procurement are specified in the bill. We are the only developed nation in the world that totally ignores this critical question in our private and public decision-making.

This bill creates a new national research institution to monitor, measure and forecast developments and happenings in all the major sciences—soft and hard—and to report its findings, with possible alternatives that might be pursued.

It also provides for more detailed and continuous analysis of population and demographic trends, within the U.S. Bureau of Census.

And, finally it provides for the development of an annual report by the Executive Branch detailing "where we are," and "whither we are tending" in our pursuit of developing and implementing national policies. That report will be made available to and assessed by Congress and the people of this nation.

It will become a national working document for the entire nation to reflect its concerns and desires concerning national goals priorities and policies.

A draft of this bill will be made available to you and many others throughout the nation between the end of this session of Congress and next January.

I hope you review and study it in the spirit that I have drafted it, namely, as a beginning toward building a better America and a start toward a "Balanced National Growth and Development policy" to help our nation guide and prepare itself for tomorrow.

Let me close by saying that whatever may be the outcome of the travail of the present and our hopes and fears for the future, it also is well to be mindful of the sober and powerful injunction of the poet, Walt Whitman, who wrote:

"Now understand me well—it is provided in the essence of things that from any fruition of success, no matter what, shall come forth something to make a greater struggle necessary."

DELAWARE TASK FORCE ON MARINE AND COASTAL AFFAIRS

Mr. ROTH. Mr. President, at the request of my senior colleague from Delaware (Mr. Boggs), I ask unanimous consent to have printed in the RECORD a statement by him and a report by the special Task Force on Marine and Coastal Affairs of the State of Delaware.

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

STATEMENT BY SENATOR BOGGS

The Governor of Delaware's special Task Force on Marine and Coastal Affairs recently submitted its report after more than 2 years of study.

SUMMARY

Early in 1970, Governor Russell W. Peterson appointed a Task Force on Marine and Coastal Affairs "to develop a master plan for our coastal and bay areas." Since its first meeting on 28 April 1970, the Task Force has been analyzing the diverse facets of Delaware's problems in the Coastal Zone. It was early recognized that many of the factors essential to a sensible master plan were either unavailable or were incompletely understood. Accordingly, the approach the Task Force took was to define as its major objective the preparation of policy guidelines and certain key recommendations for the management and conduct of marine and coastal affairs for the State of Delaware.

Today Delaware is faced with two phenomena existing simultaneously—an accelerating scarcity of desirable coastal lands and a burgeoning market supported by financially strong industry eager to buy the property it needs. In the past, the traditional pressures of the marketplace have prevailed. The destiny of Delaware's Coastal Zone could be wholly determined by the buyers and sellers of the lands within its bounds without regard to public benefit. However, new dimensions of environmental awareness now dictate that broader considerations must be recognized.

Accordingly, the Task Force has introduced additional factors to land-use planning for the Coastal Zone which consider the need to preserve and improve the quality of life. Identification of these factors became the principal goal of the Task Force in its 1½ years of active work. The makeup of the Task Force itself guaranteed that a variety of views and backgrounds would be applied to the problem: local, industrial, educational, conservationist, residential, and governmental. Consequently, the planning for multiple use of Delaware's Coastal Zone did include those who could respond to the varied, and often conflicting, pleas of potential industrial developers, conservationists, sportsmen, farmers, marine scientists, engineers, and vacationers.

One of the first responsibilities of the Task Force was defining Delaware's Coastal Zone. The Task Force has recommended that, for government regulatory purposes, the Coastal Zone be defined to include a Primary and a Secondary Coastal Zone. Throughout this report, unless otherwise specified, the term "Coastal Zone" refers to the Primary Coastal Zone.

The Task Force has recommended that the seaward boundary of the Coastal Zone be determined by the jurisdiction of the State of Delaware in the bay and the ocean. The state's jurisdiction in the bay extends to the Delaware-New Jersey state line. In the ocean, Delaware's jurisdiction extends 3 miles offshore, although the possible extension of jurisdiction is before the courts. It was recommended that the Primary Coastal Zone be defined on the landward side as that portion which is subject to submersion by salt water, whether caused by tides or storms, at a frequency of at least once in a hundred years. The territory thus defined is approximated by land at or below the 10-foot contour line; for the portion of the zone south of the Chesapeake and Delaware Canal, it may extend to a distance of 1 mile from the mean sea-level-mark of either the Delaware Estuary or the ocean shore, whichever is the greater distance inland. In 1971 Delaware enacted House bill 300 as amended, called the Coastal Zone Act. (Chapter 175, Volume 58, Laws of Delaware, creating a new Chapter 70, Title 7, Delaware Code) This law established that the landward extent of the Coastal Zone be determined by a series of certain state-maintained coastal roads. Obviously the latter system is somewhat artificial, but it possesses the advantage of better definition to the public.

It is widely believed that the existing

developments along the shores of the upper Delaware River from the Chesapeake and Delaware Canal to Philadelphia exemplify the ultimate fate of substantial portions of the shoreline from the canal to Cape Henlopen, unless a rational program for land and water use is instituted.

Prior to the onset of municipal and industrial pollution in the Delaware River, resorts and beaches along the river and upper bay were popular. They were served by railroads and river boats from Wilmington and Philadelphia, before automobiles provided more convenient transportation. Since the early 20th century, the extent of this recreation potential has decreased because of deteriorating water quality and readily available high-quality alternative recreation. Therefore, subsequent resort development has been primarily confined to the Atlantic Coast and the shores of the Little Bays. However, because of increasing congestion in these areas, attention is now being diverted to desirable locations on the shores of Delaware Bay.

The frontage along the river and bay in Delaware is not much more than 90 miles long. Much of it is taken up by public wildlife-management areas, including the Bombay Hook and Primehook National Wildlife Refuges and the state's Woodland Beach and Little Creek Wildlife Areas, and by the private holdings of Delaware Wild Lands, Inc. Most of the remaining shoreline consists of wetlands, tributaries of the river, and private beaches. The obviously limited extent of this resource requires extreme measures for its preservation and wise use.

Only those people who have directly experienced the wetlands that line the shores of our bay can appreciate their mystic qualities. The beauty of rising mists at dusk, the ebb and flow of the tides, the merging of fresh and salt waters, the turmoil of wind and weather—all unite to create an environment that man has only superficially explored.

The Task Force has unconditionally recommended that the Coastal Zone be dedicated to active and passive recreational use and be compatible with other users of an agricultural, commercial, industrial, or educational nature. It is important to note that compatibility does not, in the last analysis, always depend only on pollution standards; in the judgment of the Task Force, compatibility also depends on other factors such as the acreage required, the nature of the occupancy of the land, the ratio of employees to the land area required, and the number and type of public services needed.

The Task Force preliminary report was issued in February of 1971, at the request of the governor, to provide him and the Delaware Legislature with guidance for a Coastal Zone legislative program. Publication of the report soon led to passage of the Coastal Zone Act by the legislature in June of 1971. While this law differs in some respects from certain specific Task Force recommendations, it is an essential first step in implementing important controls over industrial development in the Coastal Zone.

Meanwhile, work continued on the more detailed final report. This report would present the extensive background information which the Task Force had been developing on a much more deliberate time scale. Input from departments of the state and federal governments, the University of Delaware, and the private sector would be utilized. The magnitude of this information was very substantial, and its preparation and organization would, therefore, take a great deal of detailed effort by many people for more than 18 months.

In its basic choice of priorities the Task Force places great emphasis on outdoor recreation as a fundamental activity in Delaware's Coastal Zone. Although it offers a broad series of recommendations concerning recreation, it also has to enunciate clearly the basic criteria regarding new industry and

other uses. The Task Force recommends the encouragement of compatible new industry while, at the same time, it seeks to discourage the types of industry that are incompatible with a recreation environment. Accordingly, the Task Force recommends exclusion of new petroleum refineries, steel mills, and paper mills within this narrow peripheral Coastal Zone.

The special case concerning the need for a deepwater terminal and the impact of oil transport by supertanker on the environment and the quality of life is particularly controversial. There is no question that the Delaware Bay has been an essential lifeline for the transport of petroleum and petroleum products to the entire Atlantic coast. For a very special reason, the Delaware Bay may have an even more important role in future decades; there extends into the sheltered waters of the central lower bay a deep channel that can accommodate, with some dredging, vessels having drafts of more than 70 feet.

This deep natural channel is unique along the Atlantic coastline from Marine to Florida in that it is the only place for a naturally sheltered, deepwater port (handling vessels of up to 250,000 deadweight tons) so close to industrial markets. From a regional viewpoint, the potential availability of deepwater port transfer facilities in the Delaware Bay is of great significance. Unfortunately, from Delaware's viewpoint, such a development could be harmful in its seemingly inevitable encouragement of the onshore development of an incompatible heavy-industry complex and the potential for catastrophic spills. A full range of alternative solutions to this problem has not yet been formulated.

Consequently, the Task Force recommends against approval at the present time of any deepwater port facility or offshore island in the lower Delaware Bay. It suggests that the feasibility of an offshore oil facility on the Continental Shelf be explored on a cooperative basis with the federal government. A federal government study is now in progress under the sponsorship of the U.S. Department of Commerce as a further contribution to the resolution of this critical problem.

The Delaware Legislature, in response to the Task Force's concern, passed House Joint Resolution 18 (July 1971) calling for the governor to appoint a Delaware Bay Oil Transport Committee to study the logistics of transport of oil to and from Delaware River and Bay port facilities. In this resolution it was noted that the committee should work as closely as possible with the U.S. Department of Commerce in fulfilling its task, and that it should report its findings within 1 year. Thus the solution to the problem of rapidly growing demands for oil transportation in the Delaware Bay must await a further detailed study of the various options available in the light of their economic and environmental significance. The examination of the problem must involve state, regional, and federal perspectives.

The Task Force recommends that an important responsibility of the State of Delaware should be to assess the total outdoor recreational activities in the Coastal Zone, including swimming, boating, sport fishing, diving, camping, hunting, and sightseeing. Recognizing the need for adequate recreation facilities and attending adequately to such factors as housing, commercial services, transportation, utilities, water management, and insect control are unavoidable in optimizing the recreation potentials of the Coastal Zone. Specifically, the state should help local communities develop additional recreation areas and shoreline access in order to provide adequate public facilities for tourists.

The attitude of the Task Force toward the recreation potentials of Delaware stems from the recognition that Delaware's limited amount of shoreline along the ocean and bay

lies in the midst of the most densely populated multi-state region of the nation. Access from this regional population center, whose people have greater proportions of leisure time, has been enhanced by the construction of high-speed highway systems. Thus recreation demands will increase in the future. Certain areas located on the Atlantic coast and the Little Bays are now obviously overpatronized. Hence, the evaluation of the less utilized and more promising portions of the Delaware Bay shores must now be the subject of special planning.

It is now known that about two-thirds of commercial and sport fish spawn and develop in shallow coastal waters. Part of the planning process, therefore, includes provisions for the enhancement of the fisheries resources in Delaware's Coastal Zone. In the future, inshore and marsh areas must be protected from pollution and unwise exploitation. If properly protected, these habitats can provide areas of clean water greater than the critical minimum size needed to support enough pinfish and shellfish for both commercial and sport fishing. Thus, in order to rebuild Delaware's fisheries resources, proper provision must be made for habitat restoration and improvement.

It is apparent, then, that measures must be taken to institute land-use planning of a type that has not been customary in the past. Coastal Zone management must plan land use at a time when the land is still essentially undeveloped. After the first stages of development have taken place, economic commitments are usually irrevocable; for example, those wetlands that have been dredged or filled are not readily subject to restoration. The first step recommended by the Task Force regarding Coastal Zone legislation, therefore, is the postponement of Coastal Zone development until carefully thought-out legislation has been enacted for adequate land- and water-use controls. In the meantime, it is recommended that the governor's moratorium be maintained. The proper management of the Coastal Zone of Delaware presents a statewide problem which is, in many aspects, becoming a regional and national problem. Hence, the political scene must accommodate an overall view; state and national issues must be included in the reviewing processes that will lead to proper allocation of land use.

The Task Force recommends that the state continue its jurisdiction in determining patterns of activity through state zoning for the subaqueous portions of the maritime areas. The state's responsibility must be to set enforceable minimum standards for land-use control in the landward portions of the Coastal Zone. However, such actions should not arbitrarily ignore county and municipal planning and zoning. A maximum opportunity should be offered to local governments to determine future uses for their respective land areas. Nevertheless, the state must have responsibility for an overall plan. This necessitates the power of review and approval of county and municipal actions in the Coastal Zone.

To supplement the zoning or permit regulations, sufficient funds should be made available for the state to acquire certain key areas to prevent environmental damage, to maintain the desired development pattern, and to protect the options on Coastal Zone use by future generations. Accordingly, the Task Force has recommended strong fiscal support for land acquisitions in the Coastal Zone by the state. As an alternative, the Task Force suggests that the state seek and promote private support of such acquisition for public use of strategically located private lands.

To those who have made a study of the Coastal Zone, the lack of knowledge of the technical and socioeconomic aspects of the biota has been tantalizing. For example, in

recent years adverse influences such as pollution and biological infections, compounded by poor management, have decimated Delaware Bay's oyster crop. Although restoration of the oyster beds has started, the question remains as to how one can optimize shellfish and fish cultivation appropriate to the Delaware environment. The University of Delaware has been attracted to this question as one for which research can have profound effects on use of the Coastal Zone.

Accordingly, the Task Force recommends a substantial increase in funding for a Coastal Zone Research Program to furnish the scientific and technical information on which the state will make its Coastal-Zone-management decisions. This research program should include economic, social, and legal considerations, in addition to aspects pertinent to the natural and physical sciences and engineering. The state should recognize the recent efforts of the University of Delaware in expanding its capabilities in marine and coastal research. It is further expected that the University's College of Marine Studies will be called upon by the state for special projects, such as the research elements of the proposed Delaware Estuary baseline study. The creation of a Coastal Zone Technical Services Division by the College of Marine Studies will facilitate services to the state over and above those already provided by the University in its Coastal student-training program.

The Delaware Bay represents a wide variety of coastal conditions typical of a much larger area. Estuarine-environment studies are worthy of much stronger support than the State of Delaware can provide. The Task Force has, therefore, been mindful of the opportunities for the College of Marine Studies to seek substantial support from both federal and regional sources. The attention of the federal government has been directed by the President's Commission on Marine Science, Engineering and Resources (the Stratton Commission) toward coastal-zone management and the underlying data base needed for enlightened decisionmaking. The federal government has implemented its interest through an increasingly well defined program—the Sea Grant Program of the National Oceanic and Atmospheric Administration (NOAA). The Task Force strongly supports the present effort of the College of Marine Studies which has already qualified it as a Sea Grant institution. The Task Force also recommends establishing a Marine Science Center—managed by the College of Marine Studies—which would include a Coastal Zone research laboratory.

As a further step in the development of such a center, it has been suggested that the University of Delaware initiate cooperation with research centers of other states presently concerned with the Delaware Estuary. The Task Force urges that ties with the Delaware River Basin Commission be strengthened because of its key role in coordinating interstate interests.

In order to bring together the considerations of recreation, compatible industrial and commercial development, and conservation into one planned structure, the Task Force recognizes that the state must formulate a strong Coastal-Zone-management structure. The peculiarly tenuous character of the Coastal Zone, the competitive forces at work to modify its nature and its strong influence on the quality of life in Delaware create special responsibilities for the state government. Legislation, regulations, controls, and guidelines must be rigorously applied in order to optimize the use of the Coastal Zone in the interests of Delaware's citizens and, also, her visitors.

At the time the preliminary report was issued, the Department of Natural Resources and Environmental Control (DNREC) was suggested as the state agency having predominant interest in Coastal Zone affairs.

Despite the fact that the Coastal Zone Act of 1971 focuses on the State Planning Office as the agency to control industrial development in the Coastal Zone, the Task Force maintains that the DNREC should be the nucleus of Coastal Zone management in Delaware.

Although some of the regulatory aspects of industrial development of the Coastal Zone have now been established through legislation, there are many other Coastal-Zone-management responsibilities that need continuing implementation. These include the formulation and updating of a plan for other users of coastal and estuarine waters and lands; they also include the continuing development or nondevelopment of these areas in the public interest, according to plan. The provision of such public services as a State of Delaware Port Authority, beaches, marinas, or other waterfront improvements and the leasing of offshore areas are examples. Obviously, delegating these responsibilities to a single department of the state does not eliminate the need for interdepartment coordination. Because many state departments will be involved, the Task Force recommends that the governor establish an interdepartmental group for coordinating state Coastal Zone activities and that he also appoint the group's chairman.

Coastal Zone management is quite complex; it requires the merging of statewide, regional, and federal interests with the interests of citizen's groups, municipalities, and counties. Because of this, a nongovernment mechanism is also vitally needed. Recently the governor established an Advisory Council on Science and Technology which, in effect, was the point of origin of the Task Force. To avoid unnecessary duplication, the Task Force recommends that the governor extend the responsibility of his present Council on Science and Technology so that it can provide guidelines for the management of the Coastal Zone. The scope of this advisory service should include science, technology, law, economics, environmental quality, recreation, conservation, commercial fisheries, water supply and quality, and marine transportation. The Task Force further recommends that the membership of the present council be broadened in order to meet these new responsibilities, and that its name and representation be changed to reflect this expanded scope. In addition, the scope of the membership should represent the interests of county and municipal governments, appropriate private organizations, and the public.

Recognizing the pressures for the many diverse and often conflicting uses of Delaware's Coastal Zone, the Task Force has recommended a course of action that will enhance the quality of life and conserve and improve the natural resources of this area. The nature of many of the recommendations contained in this report is such that their consideration should not be delayed. Moreover, implementation of the recommendations in this report should be regarded only as a first step toward the development of a long-range master plan for the Coastal Zone, a plan which the Task Force considers mandatory. This may well be the last time that such an opportunity is so readily available to the citizens, to the legislature, and to the executive branch of government of Delaware.

AWARD OF HONORARY DEGREE TO GOV. ROBERT W. SCOTT OF NORTH CAROLINA BY FAYETTEVILLE STATE UNIVERSITY

Mr. JORDAN of North Carolina. Mr. President, I consider it a privilege to bring to the attention of the Senate the fact that North Carolina's distinguished Governor, the Honorable Robert W. Scott, has just been awarded the first

honorary degree ever conferred by Fayetteville State University, the second oldest tax-supported 4-year educational institution in the State.

The presentation of the honorary doctor of laws degree highlighted a special convocation at the Cumberland County Memorial Auditorium yesterday afternoon under direction of Dr. Charles A. Lyons, Jr., the university's chancellor.

The award was based on the Governor's successful campaign to restructure higher education in North Carolina and to place all senior public institutions of higher learning under the University of North Carolina system.

Serving on the Fayetteville Board of Trustees voting to confer the degree are: Dr. G. L. Butler, chairman; Mr. G. E. Edgerton, vice chairman; Mrs. James R. Nance, Mrs. H. Clark, Messrs. W. R. Collins, Charles Dawkins, Victor Dawson, C. J. Barber, Phillip Cousins, John H. Cook, Emil Rosenthal, Keith Robertson, and State Senator Stewart Warren. Dr. E. B. Turner served with this group prior to his election to the board of governors, University of North Carolina.

As one deeply interested in the cause of education I recognize the importance of this development and the part he had in it and I am delighted that his contribution has been recognized in this way.

I ask unanimous consent that the text of the citation accompanying the award and the newspaper account of the ceremony, published in today's Raleigh News and Observer, be printed in the RECORD.

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

CITATION TO ROBERT WALTER SCOTT

Serving as Lt. Governor and as Governor of the State of North Carolina and as Chairman of the Southern Regional Education Board, the Educational Commission of the State and the State Board of Higher Education he gained knowledge, insight, and sensitivity to the problems and needs of Higher Education, and as such did go beyond the call of duty and did provide outstanding leadership to the people of this State, the South and the Nation.

Recognizing the need to reorganize state government to make it more responsive to the needs of all the people, and through his dedicated and determined effort on behalf of all students for more equal opportunity for learning, he did by the force of his leadership cause to be established a unified system of higher education.

In recognition of his foresight, courage, leadership, and integrity Fayetteville State University proudly awards its first honorary degree to the Honorable Robert Walter Scott, the degree Doctor of Laws.

[From the News and Observer, Oct. 16, 1972]

SCOTT GETS DEGREE

FAYETTEVILLE.—Fayetteville State University conferred an honorary doctor of laws degree on Gov. Bob Scott Sunday, the first honorary degree ever given by the university.

In accepting it, Scott said he was aware the school was recognizing certain accomplishments of his administration, especially the restructuring of higher education at state-supported institutions.

"I would remind you," Scott said in a prepared talk, "that such accomplishments are the work of many persons, not of one man. So, I gratefully accept this honor, not for myself alone, but on behalf of all who labored with me."

Scott related the developments in reorganization of higher education, including the creation of a Board of Governors to supervise and control the programs at the 16 schools.

"At times," Scott said, "the board will have to be firm in saying 'no' to the ambitions of particular institutions or faculties or chambers of commerce. If we try to fulfill the aspiration of everybody, we will soon learn that we have spread our resources too thinly and we will find ourselves a jack of all trades but master of none."

The governor said "no institution, no faculty and no department will ever get everything it would like to have. But by working together on a well-developed plan, we can all ultimately achieve our objective."

Scott said that in higher education, Fayetteville is "the most under-developed region in North Carolina."

THE IMPORTANCE OF RESEARCH FOR DEFENSE

Mrs. SMITH. Mr. President, on August 6, 1969, when I led the fight in the Senate against the Safeguard ABM system and those of us who opposed it by the record 51 to 50 vote on which we lost, I said, among other things:

Instead, I have greater confidence and faith in the ability of our scientists to develop a far more effective and far less costly system than the proposed ABM system.

I am sure that it is no breach of security when I say that I have great hopes that before too long a sufficiently powerful laser will be developed for the defense not only of our missile sites but as well of our people and our cities.

So it was with great interest that I read the front page editorial of the issue of the Sunday Oklahoman of October 8, 1972, for in reporting that a laser beam shot from the earth had partially melted a rock on the moon, this newspaper rightly stressed the importance of research for defense and the folly and risk of cutting such funds. Finding such support for my prediction of more than 3 years ago and of my warning this year and in past years against cutting research for defense, I ask unanimous consent to have printed in the RECORD pertinent portions of that editorial, and I invite the close and serious attention of everyone to these editorial observations.

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

[From the Sunday Oklahoman, Oct. 8, 1972]

TO DESTROY MISSILES

On the last trip of our astronauts to the moon, they found on a moon mountain a rock which had been partially melted by a laser beam shot at the speed of light by American scientists 240,000 miles away. The mission of the astronauts was to find this rock and bring it back to our research scientists, which they did.

If a laser beam from the earth can melt a rock on the moon, why can't it destroy missiles in silos or missiles launched through the air? The answer is, it can.

About four years ago observers watched a Russian vehicle in space which overtook another Russian vehicle orbiting around the earth and suddenly, without firing a shot or causing an explosion, the target vehicle disintegrated and portions of it fell in Oklahoma and some in Kansas. These were recovered and sent to White Sands for scientists to examine. Many believe the object

was struck down instantaneously by a laser beam.

Laser beams can melt and burn up the hardest steel. They can burn great holes in the thickest and strongest steel vault doors in any bank in America.

The research laboratories of our Department of Defense are known to be working constantly with lasers. Are they up with Russia or two years behind? If Russia can launch satellites or high flying airplanes capable of projecting laser beams, they could destroy missiles in our Minuteman silos or submarines in ports. Laser beams could destroy and knock down and perhaps explode missiles aimed at Russian targets. This includes Polaris missiles from our submarines. They might be destroyed over the Atlantic or fall in England or West Germany, destroying cities and populations with radiation.

For a good many months Russia has been building a much larger launching structure than used heretofore by the twenty-five megaton missiles. Perhaps the new structures are for powerful laser projectors which could knock down missiles long before they reached the Russian border.

Recently a Russian admiral announced to the world that no ship of any foreign country could now be safe in any ocean anywhere in the world. The question is, did he mean that Russian naval ships are now equipped with powerful laser projectors that could destroy any American naval vessel by a flash of laser power that could explode the ammunition of the ship and blow it to smithereens? Nothing would be left except floating fragments. If the American ship was an aircraft carrier and fifty of its planes were in the air, the laser beams could then slap down some of those planes like so many flies.

Research for Defense is vital for the survival of our country.

A TRIBUTE TO THE HONORABLE WILLIAM COLMER

Mr. STENNIS. Mr. President, no person can possibly sum up in one speech the splendid congressional career of my colleague from Mississippi, the Honorable WILLIAM M. COLMER, who is voluntarily retiring as a Member of the House of Representatives at the end of this Congress after 40 continuous years of service.

BILL COLMER came to Washington with the New Deal, which developed into both an economic and legislative revolution of a kind. His 40-year career includes World War II, the Korean and Vietnam wars. This period also includes drastic changes in our economy and totally new and different judicial interpretations of the Constitution which in effect change the basic concepts of our Government. Further, there have been far reaching basic changes in our social order and related matters. In addition thereto, advances in technology, transportation, and communications have not been matched in a like time in all the pages of history.

Through it all, BILL COLMER has been calm, cautious, thorough, always approaching every problem in a thoughtful, deliberate, and constructive way. He held many important legislative positions in the House of Representatives, with increasing degrees of high responsibility, culminating his outstanding chairmanship of the highly important House Rules Committee. Here we found a wise, experienced, dedicated, and skillful legislator who rendered the entire

Nation the highest quality of service that one could perform.

Such a performance could not have been possible without those strong qualities of intelligence, honor, integrity, and what I shall call balance. Those are the very qualities BILL COLMER has in abundance. Added to this was a quiet but deep sense of humor. His jokes and stories were almost always told at his own expense.

During all the years that he and I have been here together, his advice and counsel have been of great value to me and to our State. His wife and helpmate, Ruth, has carried her part of every load and is a very charming lady, indeed. Mrs. Stennis joins me in all the sentiment of these remarks and we wish them many more happy and useful years ahead. Their presence and influence here have been felt and they, of course, will be missed.

The people of BILL COLMER's district, the people of the entire State of Mississippi, and in fact the people of the entire Nation owe BILL and Mrs. Colmer a lasting debt of gratitude, and most fortunately that feeling of gratitude does exist. In fact, I believe it is unanimous.

So, with regret, but with appreciation and the fondest good wishes, I bid them Godspeed.

THE SPENDING CEILING

Mr. ROTH. Mr. President, we here in the Senate have had the most prolonged debate on the problems of Federal spending since my distinguished predecessor John Williams lead the fight for such a measure in 1968.

We have also had the benefit of extended debate in the House and the advantage of analyzing opposing points of view in that body. Senators and Members of the House of Representatives have offered many amendments on the general theme of a legislated spending ceiling.

Some feel that a fixed limit, managed entirely by the President, is the only course that is feasible. Others have urged some degree of congressional veto power over announced Presidential budget cuts. Others still feel that no President should have any authority whatever to make cuts or reservations from congressionally appropriated funds. The Senator from Oregon (Mr. PACKWOOD) on Friday night made an exceptionally fine speech in behalf of this point.

But, Mr. President, I would submit that regardless of each Senator's feelings on the subject, we are acting at this late hour in haste and controversy. It seems to me, though, that the time to act on congressional budgetary control is not at a late date like this, but before Congress has begun its annual review of the President's spending requests.

If Congress really wants to exercise its legitimate authority over spending, then early in each session let it set that spending target. Let Congress tell the President, "This is how much we feel should be spent in the coming fiscal year." And then let Congress work its will within those predetermined guidelines.

We do not have to accede to any Pres-

idential preferences if we will only regain this important budgetary initiative. If we will only exercise our power early in the session, not in its closing hours, we can then determine how Congress feels our Nation will best be served. Then, and only then, can we divide the congressionally mandated pie into guns and butter as we see fit.

Mr. President, I would urge my fellow Senators to adopt this course of action next January, when the 93rd Congress will convene. Early this year on February 4, 1972, I introduced just such a measure (S. 3123), which was cosponsored by 48 Senators, including the distinguished leaders of both the majority and minority parties. This bill languished through the early weeks of the session, and I then attached it as an amendment to the debt ceiling bill in March. That was well before we had passed any of the regular appropriation bills for 1973 or had acted on any of the major legislative bills which have added to fiscal year 1973 outlays. Perhaps if Congress had acted then, these debates now would be unnecessary.

I have been delighted to hear other Senators talking on the need for such early action, and I am very hopeful that the Joint Committee on the Budget—title III of this bill—will make similar recommendations.

Nevertheless, I will certainly continue to work hard for these controls, which will return to the Congress both the power over fiscal policy and the power to direct the Federal outlays in various program areas.

We can set responsible spending limits for ourselves; I am convinced of it. Then, though the process will be difficult, we can decide on the merits of individual spending bills, in relation to this larger total.

Mr. President, I urge Senators to remember that this midnight spending ceiling is no panacea. Our work to regain full control over the Federal budget is only just beginning.

A TRIBUTE TO REPRESENTATIVE TOM ABERNETHY

Mr. STENNIS. Mr. President, the Honorable TOM ABERNETHY is voluntarily retiring from the House of Representatives after 30 years of continuous service. Over those years, in his inimitable way, he has rendered double service. He served the people of the Nation on truly national justice and the people of his district in an outstanding and forceful way, to each always being loyal, and true to his goal of reflecting the needs and interest as well as sentiments of his home people. This was possible because his penetrating mind enabled him to recognize the problems of the Nation and seek solutions consistent with the beliefs and judgment of his people.

Over the 30 years of TOM ABERNETHY's service, wars came and went, the economy rose and fell, and the districts were changed on him; but Tom never lost an election. There were several good reasons for this. One of those reasons was that one always knew where he stood, and knew it early and in unmistakable terms. When anyone men-

tioned this trait to him he would reply, "Well, you know, I am an Abernethy." Everyone at home understood. Those that might not approve of every stand he took would nevertheless trust him, and vote for him too. And he was worthy of every trust.

Tom is a very senior member of the Committee on Agriculture of the House of Representatives, and chairman of the Subcommittee on Cotton. He is known well and favorably in the Senate and the executive branch as well as in the House. In fact, he is a favorite wherever found. His thorough knowledge of agricultural matters and, in particular, his insight into the problems of the cotton farmers have been of great value to the Nation and to the farming community in general.

Mrs. Stennis and I, along with thousands of others in Washington and in Mississippi, have enjoyed Tom and his wonderful wife, Alice, and loved their children from childhood—Gail, Tommy, and Alice Kay, all now grown to adulthood, useful and active, with families of their own. Truly they are a wonderful family, happy as always. Alice is a lady of charm and great talent in her own right, in many respects our sixth member of the Mississippi delegation in the House, our Congresswoman at Large.

Mrs. Stennis and I wish Tom and Alice many more years of happiness, activity, and service to others among their countless friends in Mississippi and throughout the Nation.

A TRIBUTE TO REPRESENTATIVE CHARLES H. GRIFFIN

Mr. STENNIS. Mr. President, Representative CHARLES H. GRIFFIN of the Third District of Mississippi is voluntarily retiring from the House of Representatives. CHARLIE became a Member of Congress in 1968, when in a special election he was selected by the people of his district to fill a vacancy, and he was subsequently reelected to the 91st and 92d Congresses.

CHARLIE GRIFFIN has rendered other valuable service in Washington, however, which predates his election to Congress. For almost 20 years he was assistant to Representative John Bell Williams of Mississippi, so he has been here for a long time, serving the people of Mississippi. He has done a fine job of it. His work on behalf of his constituents has been dedicated and effective and has always been given his first and utmost priority.

He has worked hard also in his committee assignments, serving on the Committees on Banking and Currency and Merchant Marine and Fisheries of the House of Representatives. We need such men as Congressman GRIFFIN in office. As a Mississippian and as a fellow Member of Congress, I regret that he is leaving. Counting his service in the Navy in World War II where he served in his teens, he has been in public service almost continuously since he was a very young man. He has thus doubly earned his retirement.

CHARLIE and his very charming and personable wife Angie will be missed here in Washington, both in legislative and social circles. They are going back to Mis-

issippi, however, and Mrs. Stennis and I will hope to see them often there. We join in wishing them every good fortune in their new endeavors and many more happy and useful years in the decades ahead.

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. 15461) to facilitate compliance with the treaty between the United States of America and the United Mexican States, signed November 23, 1970, and for other purposes.

The message also announced that the House had agreed to the amendments of the Senate to 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.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

- H.R. 6821. An act for the relief of Theodore Barr;
- H.R. 7947. An act for the relief of Jean Albertha Service Gordon;
- H.R. 8307. An act for the relief of Michael A. Korhonen;
- H.R. 8722. An act for the relief of 1st Lt. John P. Dunn, Army of the United States, retired;
- H.R. 10509. An act for the relief of Juan Marcos Cordova-Tampos;
- H.R. 10636. An act for the relief of Mrs. Dominga Pettit;
- H.R. 10638. An act for the relief of John P. Woodson, his heirs, successors in interest or assigns;
- H.R. 10907. An act for the relief of M. Sgt. Eugene J. Mikulanka, U.S. Army (retired);
- H.R. 14923. An act for the relief of Michael Joseph Wendt; and
- H.R. 16179. An act for the relief of certain former employees of the Securities and Exchange Commission.

HOUSE BILLS REFERRED

The following House bills were severally read twice by their titles and referred as indicated:

- H.R. 8063. An act to provide for financing the economic development of Indians and Indian organizations, and for other purposes; to the Committee on Interior and Insular Affairs.
- H.R. 14171. An act to incorporate in the District of Columbia the American Ex-Prisoners of War;
- 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; to the Committee on the Judiciary.

RECESS TO 1 P.M. TODAY

Mr. MANSFIELD. Mr. President, I move that the Senate stand in recess until 1 p.m. today.

The motion was agreed to; and at 10:08 a.m., the Senate took a recess until 1 p.m.; whereupon the Senate reassembled, when called to order by the Presiding Officer (Mr. CHILES).

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CONGRESS IS LETTING ITS POWERS SLIP AWAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a thought-provoking article written by Richard L. Strout entitled "Congress Letting Its Powers Slip Away," published in the Christian Science Monitor on October 14, 1972, be printed in the RECORD.

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

CONGRESS LETTING ITS POWERS SLIP AWAY (By Richard L. Strout)

WASHINGTON.—President Chester A. Arthur in his first message to Congress asked authority to cope with bands of cowboys who were terrorizing the Southwest and Mexican border. Congress ignored him—Congress was systematically extending its power and liked to snub presidents.

Today in Washington the pendulum has swung so far the other way toward executive domination that the effort to adjourn the 92nd Congress is stalled on a debate whether, in effect, to lend the power of the purse to the White House for eight months.

BLANKET AUTHORITY

The House has already voted, 221 to 163, to surrender authority to reduce federal spending to \$250 billion by giving blanket authority to the President to cut expenditures at will, even by setting aside laws previously passed.

"You might as well abolish Congress" if the power is passed, warns Senate majority leader Mike Mansfield.

"You can kiss Democratic control of the Congress good-bye" if you don't pass the bill, declares House Ways and Means chairman Wilbur D. Mills.

The Founding Fathers would rub their eyes.

They thought the President would stay above the battle, and that Congress would be the main source of policy.

Some observers see the United States moving toward executive government and cite the dramatic shift in France where the President dominates Cabinet, Premier, and Parliament.

Few go so far as this, but many agree that the all-but-accomplished blanket transfer of spending authority to Mr. Nixon, albeit of a temporary nature, would set an extraordinary new precedent in the gradual erosion of legislative authority.

They argue that this has been going on for a long time, and some call the congressional highwater mark of this century when the Senate rejected President Wilson's League of Nations treaty.

What has caused the change?

War power:

The United States is fighting the longest war in history. But Congress has never declared war. With only two dissenting votes, Congress willingly transferred its constitutional responsibility to the President in passing the Tonkin Gulf resolution.

Subsequent studies indicate that Congress was given an incomplete story of the Tonkin Gulf attack. Nevertheless, in an age of

nuclear threats many feel that Congress is too slow to act and inadequate in international affairs. In the same way treaties, which require a two-thirds Senate majority vote, are now generally submitted as executive agreements requiring congressional majority vote.

Executive privilege:

Cabinet members previously testified regularly before Congress while their subordinates were protected by so-called executive privilege.

Recently substantial power has moved from the Cabinet to staff members in the White House out of legislative control. What use, for example, does it do to call Secretary of State William P. Rogers when real negotiations are in the hands of Dr. Henry Kissinger, assistant to the President for national security affairs?

DELEGATION OF AUTHORITY

Regulatory agencies:

Congress has delegated authority to regulatory agencies, often called the fourth branch of government with interests ranging from detecting espionage to the price of bread.

These agencies have been regarded as nonpartisan, but heads of several recently have been acting as Mr. Nixon's political "surrogates" in the election. The gravitational pull of the executive seems powerful, as over the whole bureaucracy.

Economics:

Under Keynesian economics, the government moderates the business cycle by utilizing taxes and appropriations and this requires a flexible legislature.

But when President Johnson asked for higher taxes to head off the Vietnam inflation, Congress delayed two years. (Parliamentary countries like Canada respond in a few weeks.) Congressional rigidity constantly tempts the President to bypass it.

FISCAL DRAINAGE

Power of the purse:

Fiscal power has gradually been draining from Congress to President by the system of impounded funds, backlogs, and re-programmings. This is almost unknown to the public.

Tens of billions in backlog balances remain in the pipeline: For FY 1973 they came to \$155 billions. Congress may slash funds but agencies under executive direction often continue to draw on unexpended balances. The President also impounds funds and, to a considerable degree, sets priorities.

Example: Congress boosted housing funds in 1971 and cut back on the military; the Office of Management and Budget impounded almost a third of the housing money and increased the Pentagon's spending \$2 billion above the Pentagon's own estimates.

"Congress has lost power over spending," sighs Sen. William Proxmire (D) of Wisconsin in his new book, "Uncle Sam: The Last of the Bigtime Spenders."

FAILURE TO MODERNIZE

Horse and buggy Congress:

Congress has lost power, most students agree, because it won't put its house in order. It is probably the only democratic legislature that not merely won't harmonize income with outgo, but has no mechanism for doing so. (Rival sets of committees deal with "authorizations" and with actual expenditures.)

Defenders of Congress declare that it was never intended to be efficient, but citizens' groups like the League of Women Voters, Common Cause, and Ralph Nader's organization have implored it to reform.

President Nixon based his grim Oct. 7 demand on Congress for a \$250 billion spending ceiling in his political radio speech, on the grounds of congressional inefficiency and incompetence, although he didn't use those words.

Will the Senate grant Mr. Nixon the sweeping new authority? The Founding Fathers and Chester A. Arthur would rub their eyes.

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

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

AMERICAN SAMOAN TAX EXEMPTIONS—CONFERENCE REPORT

Mr. RIBICOFF. Mr. President, I submit a report of the committee of conference on H.R. 1467, 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 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, 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 (S. REPT. NO. 92-1306)

The committee of conference on the disagreeing votes of the two Houses on 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, having met after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 4 and 7.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, and 3, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

On page 3, line 22, of the Senate engrossed amendments, strike out "4" and insert: "3". And the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

On page 4, line 2, of the Senate engrossed amendments, strike out "5" and insert: "4". And the Senate agree to the same.

RUSSELL B. LONG,
CLINTON ANDERSON,
WALLACE F. BENNETT,

Managers on the Part of the Senate.

W. D. MILLS,
AL ULLMAN,
JAMES A. BURKE,
JOHN W. BYRNES,
JACKSON E. BETTS,

Managers on the Part of the House.

Mr. RIBICOFF. Mr. President, the Senate will recall that the House-passed

bill in this case dealt with the definition of a dependent for purposes of claiming an income tax personal exemption to include "nationals" of the United States who otherwise would qualify as dependents but for the fact that they are not classified as citizens of the United States.

The only change made in this provision by the Senate was to make it apply to taxable years starting after 1971, rather than after 1970. The House conferees agreed to this amendment.

In addition, the Senate added five other amendments to the bill, of which the conferees accepted three.

The House conferees were unwilling to accept an amendment relating to the deduction for nonparticipating contracts. The Senate amendment would have included in this deduction premiums on guaranteed renewable life, health, and accident insurance contracts. In rejecting this amendment, it should be clear that it was not because of any fundamental disagreement with the provision but rather because there was not time for the House conferees to fully explore the technicalities in it.

The other amendment which the conferees were unwilling to accept was the amendment relating to the minimum tax. The members will recall that this concerned whether the minimum tax base should include gains and stock option income attributable to foreign sources. Here the question was whether the provision should be applicable as of the date of the Tax Reform Act of 1969 or as of June 24, 1971. The House conferees were unwilling to move the effective date to this June 24, 1971, date.

Let me turn now to the three amendments which were accepted by the House conferees.

The first relates to the estate tax treatment of annuities in community property States. This amendment removes a discrimination in existing estate tax law against spouses of employees in community property States who die before the employee-spouse.

The second Senate amendment to which the House conferees agreed extends the present tax treatment with respect to accrued vacation pay through the end of this year.

Finally, the third amendment agreed to by the House conferees relates to the deduction of a portion of a State tax on motor vehicles in the case where the tax rate is higher than the general sales tax rate. In this case, the Senate amendment permits a deduction for the portion on motor vehicles which is equal to the general sales tax rate. This amendment is applicable to the State tax on motor vehicles imposed by the States of West Virginia and Vermont.

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

Mr. RIBICOFF. I yield.

Mr. PROXMIRE. Mr. President, I want to commend the conferees on yielding on the minimum tax. It seems to me that was something that could have been troublesome, not that the provision might not be warranted, but there was so much confusion about it.

A part of this conference report that I would like to know more about is the

first amendment which was agreed to, the tax treatment amendment affecting the wives of Americans in community property States.

My question with respect to this is: Does it have any substantial effect on revenues and, if so, how much is it?

As explained to me by the staff of the Finance Committee, it seems acceptable, but I would like to ask the Senator from Connecticut to explain if he would explain what effect it might have.

Mr. RIBICOFF. Mr. President, Mr. Woodworth of the staff of the joint committee says that it only has a minimal effect upon revenue at the outside. He estimates it to be \$500,000. It does not go beyond that. And Mr. Woodworth's estimates, from my experience, are accurate estimates in every way.

Mr. PROXMIRE. Mr. President, this would affect, as I understand it, wives and employees under pension funds and community property estates.

Mr. RIBICOFF. The Senator is correct, and joint survivors.

Mr. PROXMIRE. Mr. President, I thank the Senator. I have no objection to the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to. Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table. The motion to lay on the table was agreed to.

AMENDMENT OF TRANSPORTATION ACT OF 1940, AS AMENDED

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3240.

The PRESIDING OFFICER (Mr. CHILES) laid before the Senate the amendment of the House of Representatives to the bill (S. 3240) to amend the Transportation Act of 1940, as amended, to facilitate the payment of transportation charges, which was to strike out all after the enacting clause, and insert: That section 322 of the Transportation Act of 1940, as amended (49 U.S.C. 66), is hereby further amended as follows:

(a) By inserting after the section designation the letter "(a)"; by changing the first sentence to read: "Subject to such standards as shall be promulgated jointly by the Secretary of the Treasury and the Comptroller General of the United States, payment for transportation of persons or property for or on behalf of the United States by any carrier or forwarder shall be made upon presentation of bills therefor, prior to audit or settlement by the General Accounting Office, but the right is reserved to the United States Government to deduct the amount of any overcharge by any carrier or forwarder from any amount subsequently found to be due such carrier or forwarder."; deleting the portion of the second sentence preceding the colon and substituting therefor the following: "The term 'overcharges' shall be deemed to mean charges for transportation services in excess of those applicable thereto under tariffs lawfully on file with the Interstate Commerce Commission, the Civil Aeronautics Board, the Federal Maritime Commission, and any State trans-

portation regulatory agency, and charges in excess of those applicable thereto under rates, fares, and charges established pursuant to section 22 of the Interstate Commerce Act, as amended, or other equivalent contract, arrangement, or exemption from regulation".

(b) By adding the following new subsections to the section:

"(b) Pursuant to regulations prescribed by the head of a Government agency or his designee and in conformity with such standards as shall be promulgated jointly by the Secretary of the Treasury and the Comptroller General of the United States, bills for passenger or freight transportation services to be furnished the United States by any carrier or forwarder may be paid in advance of completion of the services, without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529): *Provided*, That such carrier or forwarder has issued the usual ticket, receipt, bill of lading, or equivalent document covering the service involved, subject to later recovery by deduction or otherwise of any payments made for any services not received as ordered by the United States.

"(c) The term 'head of a Government agency' means any individual or group of individuals having final decisionmaking responsibility for any department, commission, board, service, Government corporation, instrumentality, or other established or body in the United States Government."

Sec. 2. This Act may be cited as the "Transportation Payment Act of 1972".

Mr. MANSFIELD. 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 Montana.

The motion was agreed to.

ADMINISTRATIVE CONFERENCE ACT AMENDMENT

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3671.

The PRESIDING OFFICER (Mr. CHILES) laid before the Senate the amendments of the House of Representatives to the bill (S. 3671) to amend the Administrative Conference Act, which were on page 2, line 5, strike out "GS-18", and insert: "GS-15".

On page 3, line 9, after "necessary", insert: "not in excess of \$760,000 for the fiscal year ending June 30, 1974, \$805,000 for the fiscal year ending June 30, 1975, \$850,000 for the fiscal year ending June 30, 1976, \$900,000 for the fiscal year ending June 30, 1977, and \$950,000 for the fiscal year ending June 30, 1978, and for each fiscal year thereafter,".

And amend the title so as to read: "An act to amend provisions of law relating to the Administrative Conference of the United States."

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the amendments of the House.

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

The motion was agreed to.

AMENDMENT OF SECTION 3306, INTERNAL REVENUE CODE OF 1954

The PRESIDING OFFICER (Mr. CHILES). The Chair lays before the Sen-

ate the unfinished business which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 7577) to amend section 3306 of the Internal Revenue Code of 1954.

The Senate continued with the consideration of the bill.

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

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

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

The amendment is as follows:

At the end of the bill insert the following new section:

SEC. —. (a) section 170(e) of the Internal Revenue Code of 1954 (relating to certain contributions of ordinary income and capital gain property) is amended—

(1) by inserting after "the amount of gain" in paragraph (1) (A) "(or, in the case of a contribution described in paragraph (3), 50 percent of the amount of gain)"; and

(2) by adding at the end thereof the following new paragraph:

"(3) CERTAIN CONTRIBUTIONS OF ORDINARY INCOME PROPERTY.—For purposes of paragraph (1) (A), 50 per cent of the amount of gain shall apply with respect to a contribution only if the use by the donee of the property contributed is related to the purpose or function constituting the basis for its exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described in subsection (c); and shall not, in any case, apply to—

"(A) a contribution to or for the use of a private foundation (as defined in section 509(a)), other than a private foundation described in subsection (b) (1) (E), or

"(B) a contribution by a taxpayer, described in section 1221(3) of any letter, memorandum, or similar property which was written, prepared, or produced by or for an individual while he held an office under the Government of the United States or of any State or political subdivision thereof, and which was related to, or arose out of, the performance of the duties of such office."

(b) The amendments made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act, but only with respect to contributions of property after such date.

Mr. CHURCH. Mr. President, this amendment has been approved by both the chairman and the ranking minority member of the Senate Finance Committee and has, I understand, the approval of the Department of the Treasury. It is a technical change in the Tax Reform Act of 1969 which will correct what my studies indicate was an inadvertent mistreatment of authors and artists under that law.

As some Members will recall, it was during the consideration of the 1969 Tax Reform Act that it came to light that some political figures, both Democratic and Republican, would reap large tax benefits by donating their public papers to libraries of universities. It was the feeling of the Congress that, inasmuch as the taxpayers had, in a sense, already paid for the making of these papers, they should not once again be asked to subsidize them, via the tax deduction route,

when they were given away by a public office holder at the conclusion of his career.

In an attempt to solve that problem, Congress changed the tax law. However, in so doing, Congress swung too broad an ax. It not only eliminated the deduction allowable for the donation of public papers of public men, but eliminated the deduction, based on fair market value, which had previously been granted to authors and artists.

The result has been that acquisitions by libraries, museums, and art galleries have been seriously harmed. My amendment would partially reinstate the tax treatment given to authors and artists prior to the passage of the Tax Reform Act of 1969 for up to 50 percent of the fair market value of their works. The amendment makes it clear that this tax advantage will not be granted to public officials.

The intent of the Congress will thus be carried out, and the oversight in the original act, in part at least, will be corrected.

I would personally prefer total reinstatement of the prior law as to authors and artists, but have been advised that the Treasury Department will not support that much of a change. Due to the lateness of the session, I feel compelled to accept the half loaf offered rather than have no loaf at all.

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

Mr. CHURCH. Mr. President, I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, as I understand it, this is confined to authors and artists. It does not reform the procedure so that wealthy patrons of the arts who might happen to have a paper or a manuscript could donate it, and by doing so claim a deduction. We would not be doing that under this amendment?

Mr. CHURCH. This amendment is restricted to artists, composers, and writers, those who create. And since the amendment is limited to 50 percent of the market value of any original manuscript they might donate to a nonprofit public library, it is anticipated that it would have no consequential effect upon Federal revenue.

Mr. PROXMIRE. And the reason for the 50 percent, as I understand it, is so that it would not have any substantial effect.

Mr. CHURCH. The Senator is correct, because under the present law if an artist were to sell a manuscript to a collector, he would be liable for the tax on whatever profit he made. If, on the other hand, he donates the manuscript to the Library of Congress, he is entitled to take no deduction at all under the present law except for the cost of the paper and the ink.

This would mean that the situation would be equalized and that the tax consequences would be approximately the same, whether he donates it or sells it.

Mr. PROXMIRE. On that basis, even if he were in the 50 percent bracket he would be quite an artist or writer, and he would break even.

Mr. CHURCH. Yes. Actually the reason for the amendment comes primarily from libraries, like the Library of Con-

gress, and museums and art galleries around the country that found under the previous law that donations are very valuable and portraits and manuscripts have fallen off drastically. Therefore, it is in the public interest of these institutions that I offer the amendment.

Mr. PROXMIRE. I thank the Senator. I support the amendment.

Mr. RIBICOFF. May I ask whether Government officials, past, present, and future, are excluded from the amendment?

Mr. CHURCH. Yes, they are. All public officers, Federal, State and local, are excluded.

Mr. RIBICOFF. On behalf of the Committee on Finance, we will accept the amendment offered by the distinguished Senator from Idaho.

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

The amendment was agreed to.

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 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. TAFT. Mr. President, section II of H.R. 7577 allows cities to enter into agreements with the Federal Government for Federal withholding of city income taxes from compensation paid to Federal employees. I offered this legislation as an amendment to the Revenue Sharing Act. At that time, the distinguished chairman of the Finance Committee asked me to withdraw my amendment, on the condition that it would be included in an upcoming piece of legislation. I am pleased that the chairman has recognized how important this legislation is and, therefore, has taken the initiative to include it in H.R. 7577.

Because city income taxes are not withheld from the wages of Federal employees, these workers are forced to pay the taxes in lump sums on a quarterly or annual basis. The obligation to pay a substantial amount in local taxes at one time presents a serious hardship to many Federal workers. As of last winter, one-third of Cleveland's postal workers had not been able to meet this obligation, and owed the city hundreds of dollars per person in back taxes.

Section II of H.R. 7577 would allow Federal workers to pay their city taxes in the same convenient manner as other workers, by spreading the payments out evenly throughout the year. This would benefit directly about 60,000 of Ohio's workers.

This legislation would also provide some extra money for the cities. Because the cities' tax collection departments will no longer have to devote extra attention to Federal workers, administrative costs will decrease. The cities of Akron, Columbus, and Toledo expect that they could save up to \$35,000 annually in this

manner. The major source of new income however, would occur as a result of a reduction in tax delinquencies and an increase in the cities' ability to collect delinquent taxes. Cleveland's tax department estimates that because of fewer tax losses, the city's income could be increased by \$300,000 to \$400,000. The city of Cincinnati expects the legislation to save its taxpayers about \$100,000. Cities in other States could, of course, expect similar savings.

The major organizations representing groups which my amendment would affect strongly support it. These organizations include the National League of Cities-U.S. Conference of Mayors, the National Postal Union, and other major Federal employees' associations. The National League of Cities-U.S. Conference of Mayors feels so strongly about it that this was the only amendment to revenue sharing upon which they broke their policy of neutrality to support. The Treasury Department has historically supported this type of legislation, and I have been informed that the Department's position has not changed.

I am aware that the constitutionality and desirability of some local income taxes is presently being questioned. This legislation in no way attempts to pass judgment upon the merits of any specific tax. It is simply designed to assure that Federal workers who are already liable for such taxes are afforded the same advantageous tax collection treatment as workers generally.

I hope that the Senate will seize the opportunity provided by section II of H.R. 7577 to provide additional, and needed, assistance for our Federal workers in our cities.

WILDLIFE RESTORATION FUNDS

Mr. MANSFIELD. Mr. President, the Senate will recall that about the middle of last week, the distinguished Senator from Arizona (Mr. FANNIN) proposed an amendment having to do with the wildlife restoration fund and the tax on the sale of bows and arrows. The distinguished Senator from Wisconsin raised some questions. The amendment is in the bill now pending before the Senate. It is anticipated that, in view of the fact that the House took separate action, it might be possible to take separate action on this measure at this time and thereby knock out of the pending bill what the Senate already agreed to unanimously.

Mr. PROXMIRE. That is correct. As I understand it, this is a revenue raiser. It has the approval of the industry. It would go for a conservation fund, and it is one that has been agreed to.

Mr. MANSFIELD. That is correct.

Mr. FANNIN. Mr. President, I call up H.R. 11091 and ask that it be stated.

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

The assistant legislative clerk read as follows:

H.R. 11091. An act to provide additional funds for certain wildlife restoration projects, 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. FANNIN. Mr. President, we took action a few moments ago without having a complete understanding of what was intended when we passed H.R. 11091. We intended not only to pass the bill but likewise to strike that language which was added as an amendment to H.R. 7577 from that bill. Therefore, Mr. President, I ask unanimous consent that the amendment embodying the language of this bill which had been added to H.R. 7577 be deleted as an amendment to that bill.

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

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 a third reading, was read the third time, and passed.

ORDER OF BUSINESS

Mr. HUMPHREY obtained the floor.

Mr. MANSFIELD. Could the Senator give me any idea how long he intends to speak?

Mr. HUMPHREY. About 15 minutes, I think.

Mr. MANSFIELD. Well, when the Senator gets through, would he please move that the Senate stand in recess until 3 p.m. today?

Mr. HUMPHREY. I shall be glad to do so.

THE DEBT CEILING AND THE \$250 BILLION LIMITATION

Mr. HUMPHREY. Mr. President, on returning from the weekend in my home State of Minnesota, I, like other Senators in reading the morning press, found that the conference committee of the House Ways and Means Committee and the Senate Finance Committee had arrived at what is termed a compromise on the so-called debt ceiling bill.

As all of us know, the controversial part of that bill was the authority to be granted by Congress to the President to make substantial budget reductions, so as to keep budget outlays under the \$250 billion budget ceiling.

There are many of us that were opposed to even the concept of a so-called congressional authorized budget ceiling, feeling that the Congress was perfectly capable of managing the fiscal affairs of this country.

We do believe that in the debate, particularly as presented by the distinguished Senator from Oregon (Mr. PACKWOOD), and others of us, we had decided that Congress in the years since 1946 had, indeed, reduced Presidential budget requests.

Mr. President, we in the Senate came to the conclusion that by a very substantial majority the amendment proposed by the distinguished Senator from Idaho (Mr. JORDAN), the present Presiding Officer, represented a reasonable approach to the matter of fiscal responsibility and the maintenance of the constitutional powers of the Congress in areas of appropriation and spending.

I indicated during the debate that my preference was, of course, merely to au-

thorize the increase of the debt ceiling, which I know is necessary, and to have no section in the bill relating to the so-called congressional budget ceiling.

My position on this was dictated by my interpretation of the powers of Congress under the Constitution. However, I am not only a student of government, I am also a realistic practitioner within the Halls of Congress. I came to the conclusion that it would not be possible to strike that section of the bill relating to a spending ceiling, that it would be prudent and sensible on the part of Congress to try to find a formula that would permit Congress, or to try to find a formula designed by Congress, to authorize and direct the President as the agent of Congress in these matters to make proportional cuts across the board with no program to have more than a 10-percent cut.

This, of course, would apply only to those programs that were not excluded from the limitations imposed on the bill. In other words, the Jordan amendment exempted certain categories of programs which were to be untouched by any new congressional authority, directing the President to make budget reductions.

The program and activities from which no reservations were to be made were interest payments, veterans' benefits, and service payments from the social insurance trust fund, that is the social security payments; Medicaid, public assistance maintenance grants, social service grants under title 4 of the Social Security Act; food stamps, military retirement pay, and judicial salaries.

Now, that Senate amendment was designed to exclude those programs from any tampering by the Executive Office of the President, and to leave other programs subject to a proportional cut, with no programs suffering more than 10 percent.

I felt that that amendment did two things this Congress would want to do; No. 1, establish a spending ceiling. People are worried about Government spending. I understand that. The President has made an issue out of spending, indicating that if Congress did not restrain itself, there would have to be a tax increase.

I said very candidly, and felt very strongly that Congress had shown fiscal responsibility, that there was no need for a spending ceiling, and the President had made this a political issue, rather than an issue of fiscal policy.

I also felt that the Jordan amendment preserved intact the prerogatives, the authority, the power, and the responsibility of Congress relating to all matters of appropriation. Getting rid of politics for a while, that is the main issue.

Between now and November, of course, there will be talk about whether or not the President has trapped the Congress into a political battle that we cannot win; namely, that Congress is filled with a group of wastrels and irresponsible people that have no regard for the value of the dollar, no regard for the solvency of the Federal Treasury and therefore, because that is the situation, according to the political overtones, we have to have a spending ceiling. The President is saying that we have to control these irresponsible people. Not only do we

have to have a spending ceiling, but we have to give "Big Brother," in this instance the office of the President, the power to cut wherever he wishes, any program he wishes, in any amount he wishes, in order to come under the \$250 billion spending ceiling.

That issue is the central one. I want to say once again that Congress will be demeaning itself. Congress will be prejudicing its future activities in the field of taxation and appropriation if it yields to the compromise that has been brought from the conference committee and, more significantly, if it were to yield to the original language that came from the other body.

Now, some of us have been in the Senate and in this Government for quite awhile. We have all made our fair share of mistakes. All of us are political or we would not be here. We run on party ballots. We have partisan positions and partisan friends in election years. We join the issue. And there are honest differences of opinions between candidates and parties, as there should be.

The American people have a right to make a choice. And I think that most Members of the Congress take their duties seriously. And the evidence over the years indicates that that is true.

The Congress of the United States, as a parliamentary body, has a very good record in terms of history for responsible political and social action. As a matter of fact, the Congress of the United States has a record of performance that is not excelled by the executive branch. It has a record of performance that is the envy of legislative bodies throughout the world. Oh, we are always the subject of all kinds of cartoons, political jokes, and the daily newspapers and television and radio commentators. And rightly so, because we are very human. We are on display all the time.

I wonder what it would be like if the Office of the President had a constant press gallery observing every move that the President made all day long, or if every Cabinet officer had it. They lock themselves behind closed doors—not just this President, but all of them.

So here we are or here we are not, and the press is observing us either here or not here. [Laughter.]

The PRESIDING OFFICER. The Senator from Minnesota will suspend. There will be no responses from the galleries.

The Senator may proceed.

Mr. HUMPHREY. Mr. President, let us not be too strict on that.

But here we are in the full view of the public. In fact, I think we ought to be in fuller view. We have the printed media up here, and they ought to be here. I am glad they are. We ought to have the electronic media. I think that the public ought to know what we are doing.

There ought to be radio and television representation so that the public would know what we are doing and what we are not doing.

We talk about openness in Government. We talk about prudence and secrecy in political campaigns.

I think there is need for great reform in this assembly. First, we should remember that the 20th century arrived 72 years ago. Another is that we should know that the electronic media are here.

I see that the House the other day installed something that the Minnesota legislature has had for 40 years. They have a way of recording the votes through electrical means. I am glad that we have finally decided that electricity is here to stay. But we have no openness. Those of us in this body did not know what the conference committee was doing until it came out. But I tell the Senate that someone did know what was going on in the conference committee. The Secretary of the Treasury was there in the conference room. The Under Secretary of the Treasury, Mr. Walker, the Budget Director, Mr. Weinberger, the Deputy Budget Director, Mr. Carlucci, and the Deputy Secretary of the Treasury, Mr. Smith were all in the conference room, sitting there.

And let me say that certainly it is not a partisan matter. It has happened with Democratic administrations. We permit ourselves to be had. We act like a group of juveniles. We are supposed to have something called a separation of powers. I believe it is important that there be representatives of the executive branch available so that we can call them when we want them. There are extra rooms in this Capitol. We could have them sitting by at our request. But to have them sitting in a conference committee, looking over the shoulders of the conferees is unpardonable, unnecessary, and, I think, unwarranted.

On the night that the amendment of the Senator from Idaho (Mr. JORDAN), now the Presiding Officer, was on the floor—and I am glad that I had the privilege of cosponsoring that amendment with him, because it was an act of statesmanship on his part to get that amendment through—out in these lobbies were representatives of the executive branch who were going up and down the corridors and saying, "We don't care what they do in there. When we get it in conference, we will get our way."

The Senator from New York (Mr. JAVITS) came in and reported that to us. And others knew it.

So here we find a situation in which the conference committee has capitulated and the executive branch is getting its way.

Oh, they say "not much." But "not much" in this instance is too much.

What the Senator from Idaho (Mr. JORDAN) proposed was as far as we ought to go. And I know that there are Senators who thought that was too far.

I spoke to some of my colleagues here and asked them to support the amendment of the Senator from Idaho because I think it faces up to two realities. It faces up to the need of the public to know, and the public demand that we do something about spending—curb it or limit it. Second, it faces up to the fact that we should protect and preserve our prerogatives in the fields of appropriations.

Also I must add that I think that the Jordan amendment, in having the items that were excluded from the overall cut, demonstrates considerable wisdom in protecting certain governmental activities, functions that are vital to the Nation.

Now what do we get—very clever stuff. I have not had much time. However, one

does not have to be very smart or know very much to know when he is getting it. He can tell. Let us see what we are getting. The morning newspaper gives us a fairly good idea. I will at least read some of it into the RECORD, recognizing that it has been the subject of some argument. What does it say? It reads in part:

The proposed compromise would set the \$250-billion ceiling on Federal spending in the current fiscal year—some \$7-billion less than estimated expenditures—but place broad restrictions on program reductions by the President.

Under the compromise, certain programs, such as military pay, veterans' benefits, Social Security payments including Medicaid and Medicare, public assistance and judicial salaries, could not be cut.

I want to say that at least the present Presiding Officer was able to get that much preserved in his amendment.

I continue to read:

The President, however, would be authorized to cut up to 20 per cent in each of 50 broad functional categories such as national defense, international affairs and finance, pollution control and agriculture.

SOCIAL PROGRAMS

With these categories, no restrictions would be placed on how much he could cut individual programs. However, some Senators are concerned that the President may reduce or eliminate social programs passed by Democratic Congresses and Administrations.

The Senate version had proposed that no program could be cut by more than 10 per cent—a level the Administration had protested was too low if the President was to bring spending down to the \$250-billion level. The compromise also dropped a key Senate provision requiring that the same proportional cut be made in all programs.

The controversy over the spending ceiling now appears to have become linked with the President's action on the water pollution bill.

What happens? When we do look at the conference report, as signed, we will see first of all that it gives the exclusions which I read, veterans compensation, pension benefits, hospital care, benefits from social security payments including medicaid and medicare, public assistance, and judicial salaries.

They cannot be cut.

Then, it says in the report:

Nothing in this paragraph shall preclude the reservation of amounts for administrative costs or construction.

It states, "or construction." It means, in other words, that perhaps some of our veterans hospitals that need funds to treat drug addicts may not get that addition. Construction, out. Administrative costs. What are administrative costs? Hiring of personnel to run a program. There are no restrictions on reducing those. Some of our medical programs are sadly lacking in administrative and professional personnel.

But that part does not bother me as much as language found further down. Under the conference report, under (3) it states:

(3) Under the authority of this Act, no amount of any budgetary outlay for any numerical functional category set forth in table 15 (relating to budget outlays by function and agency) of part 7 of The Budget of the United States Government, 1973, (page 526 and following) may be reduced by more than 20 per centum of the revised budget estimate for such outlay. For purposes of the preceding sentence, the following numerical func-

tional categories may be consolidated and the resulting consolidation may be treated as one numerical functional category.

That is really bureaucratic gobbledygook. I am sure my neighbor back home, Mr. Morris, who is turning the soil for next year's crop, understands that. He is going to ask about this language. Let us look at this language. Categories 603, 604, and 605: those are three groupings of programs that can be put together as a consolidated category and a 20-percent cut can be made. The total for the program can be added up, and the 20 percent taken out of any one of the programs.

For example, there is vocational education. The estimate for expenditures was \$568 million. That is the best money this Congress appropriates. We ought to appropriate more money for vocational education.

What is the next item? Educational revenue sharing, \$110 million. Now, there is no educational revenue-sharing program, but for the purposes of these categories, they cut 20 percent—\$110 million is listed here. That means they can take \$22 million out of a nonexistent program; but they do not have to take it out of that program. They can transfer that \$22 million cut to another program. They could reduce vocational education by another \$22 million, plus whatever the original 20 percent was.

Let me go down the line. There are other programs subject to the reduction such as libraries, arts and humanities, the Smithsonian Institute, public broadcasting, aid to education. The total amount for vocational educational education was \$568 million; for education revenue sharing it is \$110 million. That is as phony as a three-dollar bill. It is not education revenue sharing.

Under table 15 of the budget outlay, by functioning agency, \$745 million. Add them up: \$745 million plus \$110 million is \$855 million, plus \$568 million, is \$1,423 billion. That is the amount put together in one lump sum.

Mr. President, you can take 30 percent of that and 20 percent of that is about \$284 million. They can take \$284 million out of any program under this kind of language. The President can take \$284 million out of the vocational education program. He could abolish the Smithsonian Institute; that is only \$72 million. Close it up. He could do away with public broadcasting; that is \$45 million.

What I am pointing out is that it is not just 20 percent of each program. Mr. President, there are categories that are bunched. Add them up to an aggregate such as \$1,423 billion and out of that he could take a 20-percent reduction under this so-called compromise. That 20-percent reduction is approximately \$285 million. That \$285 million reduction can be taken out of any one line item. He could close up the Smithsonian and public broadcasting, do away with the National Commission on Library and Information Sciences, do away with the National Foundation on Arts and Humanities; do away with all of them under that kind of compromise.

I do not think the President is going to do that. Do not misunderstand me. I do not think the President is going to do

that, but I do not think the Congress of the United States should give the President an item veto, whoever he is.

As I said in this Chamber on Saturday, whether it is President Nixon or President McGovern, I do not think any one man in that office should have that much power. I do not think he should be able to erase the will of this Congress by finagling the budget. I am speaking now of the Office of the President. He has done a great deal in what we call impounding funds. The Senator from Louisiana (Mr. LONG) just noted, as reported in the New York Times:

He would support the compromise which would only make legal what Presidents since Thomas Jefferson have done by usurpation, by impounding and not spending some of the funds appropriated by Congress.

It is a fact that since the time of Thomas Jefferson funds have been impounded and not spent, but we have never given it the badge of legality. We have never said, "This is just fine." We have complained about it, at least.

What is happening now is that the President of the United States in conjunction with Congress is getting us committed legally. I happen to think it is unconstitutional, but he is getting us committed by an act of Congress in the illegal impoundment of funds.

The Senator from North Carolina (Mr. ERVIN), I and others believe that this impoundment of funds is wrong; it violates representative government; it violates separation of powers; it reduces the authority and responsibility of Congress over the purse strings; and just because we have condoned it does not mean we have to accept it.

We know, for example, there is a certain amount of crime on the streets, but do we pass a resolution saying, "There has always been crime on the streets. Let us accept a crime rate of 25 percent or 20 percent."

My goodness, no. Not a Member of Congress would go home and do that. We go home and beat on our chests and say, "Law and order. We have to stop crime. The President said so and GEORGE MCGOVERN said so."

But we have had crime for a long time and we do not pass a resolution in this body saying that we will not hold public officials responsible for crime above a rate of 80 percent and that we will give them a 20-percent reduction. We do not say, "If you have an 80 percent crime rate in your communities you have perfect law and order." We do not do that.

Mr. President, I wish to take a few minutes to let the people know this Congress is likely to be in session for quite a while. I do not have to go campaigning. That was taken care of down in Miami. I have a responsibility to be a Senator and I am going to be a Senator. I happen to believe that Congress is getting itself into a position it will regret for decades to come.

What we ought to be doing is implementing a resolution of impoundment. We ought to demand that the President impound the funds we appropriate.

What makes anybody think that anybody in the Bureau of the Budget is smarter than a Member of Congress? The difference is that we have to stand before the electorate so they can find out how

little we know. I wish that some of them had to stand up before the people and let them know how little they know. I have heard people ask, after they have appeared and made speeches before them. "What did he say?" I think some of them are brilliant. Some of them do a good job.

But I have been over in that executive department. I can remember hearing the President say:

We ought to slow down the spending. We ought to hold back the funds.

I remember that, and I remember the Members of Congress scolding him. I remember their coming over in delegations and saying, "Release those funds, Mr. President." They did not say to that President, "Look, we gave you the authority to withhold them," so we could not even tell him that. Whether it was Franklin Roosevelt, Truman, Eisenhower, Kennedy, Johnson, or Nixon, they all did the same thing—they withheld funds. But every Member of this body has been able to go over there and say, "Look, Mr. President, you are doing it in violation of what we believe is our constitutional prerogative. You are doing it in violation of the Constitution of the United States. We are going to tell our constituents you are withholding these funds when they ought to be made available for the public purposes for which they were appropriated."

At least we had a case. Now what are we going to do? We are going to go home and we are going to have to say, "They are closing a vocational school." I want to warn some of these good Senators that they are going to have to go home and say, "Well, we worked and voted for a vocational school," or this or that, particularly if they come from a rural area, as I do, because one of the programs they will cut the heart out of is the agricultural program. There are not many farmers left. They do not have much to say. They do not even get information from the Government about their own crops. But with 70 percent of the people living on 2 percent of the land, and with the small percentage of our population, less than 10 percent, living on farms, I can just see them looking at the farm programs and saying, "Well, there is one we can cut. We can abolish it. They do not have any political power, much less anything to say. They do not amount to much. There are too few of them."

I think a government is judged not by what it does for the majority, but by what rights for the minority it protects. The greatest responsibility of the President is not whether he uses his power, but how he exercises restraint in the use of power.

Let me make it clear that, as one who has been somewhat of a student of government, every President has wanted power. He believes that he is right. I understand that. A man in that great majestic office believes he has the good of the country at heart; he is the President, so he wants to do things. Every leader does.

But we have a system here that says, "Just a minute. Before you do all you think you ought to do, there is another area of government that has a word and another area of government that is going to set policy."

I am sufficiently mature and realistic to know that Presidents make policy without any acts of Congress. I have studied the Presidency, as the Presiding Officer may know, both as a student and as an aspirant. I was close enough to see how the President operates. I have been here when a President conceived legislative programs and sought to get them through. There has never been a President who did not want just a little more authority. But I did not think I would see the day when Congress would say, "Come and get it. We will just hand it to you. We want you to take it."

Or have we gotten to the point, as the Senator from Oregon (Mr. PACKWOOD) pointed out in a brilliant address here Friday night, that possibly we do not want to face up to the tough decisions? I have heard it said that we just do not have the kind of moral fiber, the kind of character, where we can discipline ourselves to what are the realities of this country and to face up to them, to have any sense of fiscal prudence.

I do not believe that. I believe, and these debates have indicated it, that we can set, ourselves, at the beginning of every year, what we believe to be a budget ceiling. We can do that. We do not need Papa to tell us. If we do, we ought to go home and admit that we are just a bunch of no goods.

We will get the presidential budget. That is a guideline. That is not Holy Writ.

Let me just say to this assembly and for this record that, having studied the General Accounting and Budget Act since 1921, knowing about it, having taught courses about it, having seen budgets prepared, and having helped prepare one, and more than one, the budget of the Government of the United States is not a chapter in the Bible. It is not one of the Dead Sea Scrolls. It has been written by men, many of them sinful, none of them saints, but it is the most secret document that this Government has. There is no Senator or Representative or mayor or labor leader or worker or businessman or football player or young man or woman who has ever had any input in the budget before it comes up here. It is all done, as I said the other day, by people within the Executive branch of Government who "know what you need, Mr. Citizen," and they have a keen insight into what people in Wright County, Minn., need. Baloney. They have never even been there. They do not even know what it is. I live there, and I know more people in that county than most of the Budget Bureau knows in the United States.

I am not going to confess here that anybody in the Bureau of the Budget, in the Office of Management and Budget, knows more about America than I know. I have been around a lot more than they have. I have talked to millions of people collectively and thousands individually, and I have listened, and I have heard, and I have been punished and rewarded—pain and joy—and am I going to sit here and have somebody in the executive branch of government say, "Look out, here. You do not know anything about Minnesota. We have been reading about it in the New York Times. We have

had three new studies." If they want to know about my State, let them go back there and see it, or any other State.

What I am saying, simply, is that that budget comes up here wrapped up in a special kind of paper, wrapped with special kinds of ribbons, with the presidential seal, and it looks like it is the most important document ever conceived by the mind of man or struck off at one time by the pen of man. It is more secret than the Pentagon Papers, and more significant, too.

If I had my way, we would have budget hearings throughout the country. We would have budget projections for the next 3 to 5 years. We would have a long-term look at the country's needs. We would go out and hold field hearings, if not for 1973 for 1974, for fiscal 1977. Let us have an idea where the country is going. The budget is 1 year behind. It tells us where we have been. Half the fiscal year is over. Fiscal 1973 started July 1. If I am not mistaken, we are along in the latter half of October. At last reports, it was the 16th of October. Yet we are talking about fiscal 1973. July, August, September, and half of October—3½ months—are gone. By the time we get all this done, 4 months will be gone.

Of course, the opposition can come back and say, "Why, Senator HUMPHREY, are you so excited? This is going to apply only to the next 8 months." We have had enough debate about that. Once we have established a precedent, it is here for good or bad. It is here.

Once you have broken the line, it is here. Once the first President impounded funds, from that point on they all did it.

The biggest argument any President has had to make about sending troops anywhere he wanted to was when Thomas Jefferson sent the fleet to chastise the Barbary pirates off the coast of North Africa. That was back in 1803. And ever since then, every President has said, "I am Commander in Chief; I can send the fleet"—and now the Air Force, the Marines, or anybody he wants to—"anywhere I wish," and we have ended up with seeing him send half a million men into Vietnam, without a declaration of war, and bombers flying.

One or two Presidents got savvy. The first one—who, to his everlasting credit, was a great soldier and a great man—Dwight Eisenhower, said:

I am not going to take the responsibility for sending American Marines off the coast of Lebanon. I am going to get Congress in on the act.

I am sure he remembered what happened to Harry Truman, when dear Harry Truman acted so courageously in the invasion of South Korea by North Korea, and without any action on the part of Congress, sent American forces in. I remember being in this very Chamber and hearing the then distinguished and famed Senator from Ohio, Mr. Robert Taft, get up and literally cheer President Truman for that act of statesmanship. It is in the record. He complimented him and said he had acted with courage.

Six months later when things went wrong, we were only about two steps away from impeachment proceedings around here. Every Senator, with few exceptions, was getting up and asking,

"What has he done? Why did he do this?"

So from then on out, no President has been willing to send our forces overseas without getting Congress in on the act first. Of course, the classic example is the Gulf of Tonkin resolution. I was here, and I voted for it. I went down to the White House, and I heard the same things that others heard. We all voted for it, except two: Senator Morse and Senator Gruening.

What did it say? It said, "If anything goes wrong, you act for us." We gave him complete blanket authority, a predated declaration of war. And there is no man in this body who can say he was in any way fooled. We did it with our eyes open. I was here when someone asked the question, "Does this mean the President can send U.S. forces into South Vietnam?"

The answer was "yes." We knew what we were doing. We just hoped he would not do it, but he did. And then, after we repealed the Gulf of Tonkin resolution, the President said, "So what?"

This is what I thought was a debt ceiling bill with that spending ceiling rider. I thought it was a domestic Gulf of Tonkin resolution. But at least when we sent it back to the House of Representatives, we put some restraints on it. We protected the constitutional authority and responsibility of this body and of Congress, and we listed out the areas where we said the cuts could be made. We directed the President as to the degree of cuts, and the maximum amount he could take out of any program. That was exercising our legislative responsibility.

Now they come back, and they say, "It is not so bad; we had it 10 percent out of some programs. Under the compromise provision, it is 20 percent." Of course, some programs we had excluded have been placed back in, and then what? They added that little cutie. And what is that? That they can add up numbers of programs into what they call a category.

It says:

The following numerical categories may be consolidated and the resulting consolidation may be treated as one numerical category:

And there they are, listed from A through L, a series of programs. And that means nothing more or less than turning over to the President the item veto. It means turning over to the President the power, if he wishes to exercise it, to cancel a program duly authorized and appropriated for by the Congress of the United States. At least the Jordan amendment said:

You cannot abolish the program; you can reduce it up to 10 percent, but you cannot abolish it.

Again, I do not want to say Mr. Nixon is going to abolish this or that. I do not want to get into a big old political argument about it in this body. I do not think President Nixon is going to abolish these programs, but I am here to tell you that we are laying down a precedent that some President will, and he will have the authority to do it. Maybe Mr. Nixon will. I do not say he will. I will make no such accusations. But I am telling the Senate that what we have done, without telling the American people, is violate the Constitution, at least the constitutional prin-

ciple of separation of powers and checks and balances, and we have given, for the first time in the history of this Republic, a whole new area of authority and power to the presidency—not to the President of 1972, but to the office of the President.

We have given that office the power of the item veto. We have given that office the power to ignore the will of the duly elected representatives in Congress. We have given the President the power to say, "We do not care what the elected Representatives want."

I think differently. There is no reason for it; none whatsoever.

Well, I shall be back at another time. I just wanted to open the debate now. I, am sad. I wanted to stay home today. I wanted to be out in my own State, and I surely need to be there tomorrow. I am supposed to be in Hibbing, Virginia, and Duluth on Wednesday. By the way, Mr. President, I used to get a lot of votes up there. I am not running up there this year, but they have asked me to come up and visit with them. We have problems up there in our steel plants, with our taconite steel. We have pollution problems. I am supposed to be up there.

But, Mr. President, the Senate of the United States should be on the alert that the greatest single constitutional issue that has been before this body since the days before the War Between the States is here now: As to whether or not the Congress of the United States is willing and willfully going to dilute its authority, abrogate its responsibilities, and give away by public law its power and its responsibility over appropriations, or what we call the purse strings.

If we do, we will rue the day. Never again will we be able to come back to a President, no matter who he is, and say, "Mr. President, look what you have done. Look what you have done to the will of the people."

We have already told the people that we really are unworthy of their confidence. I have told the people in Minnesota that I would fight for social security. I told the old people, by the way, just last night, in my city of Minneapolis, that I was coming back here to try to get them what we call the pass through provisions in H.R. 1—the beneficiaries of a 20-percent social security increase who are going to lose a lot of it because of the intricacies of the law, without any regard to justice.

Mr. President, I would be guilty of outright duplicity if, on the one hand, I tell them I am going to fight for their programs—"You elect me, you put your faith and trust in me, and when I go down there I will look out for you"—as we say to our constituents so many times—and "We are going to get you this program; we are going to get you some low and moderate income housing," and we vote for it, and go back and see the folks, and then we have a President—let us put him 6 years from now, so we will not have any argument about names—who says, "Well, my goodness, the Senate and House have thought they ought to have some low income housing, so they have appropriated \$2 billion, or \$4 billion, or \$5 billion for it. Well, I do not think we need that. I just do not want to

spend the money. We will just not spend the money."

Under present law, if he does that, and he can withhold some of the money, at least we can go home to the people and say that we think the President is doing this in violation of the law, or at least that he is impounding the funds, and that I, as a Senator, feel that that is an unconstitutional act. At least, we can come with somewhere near clean hands to our constituents.

Once we have passed this, we will not be able to come home with clean hands, because, as I have noted in one of the tables on housing, there is urban community development, revenue sharing, \$490 million in this budget, for the purposes of these calculations; and low- and moderate-income housing, \$1,941,000,000. Add the two together, and you get approximately \$2.4 billion. But there has not been any \$2.4 billion, because \$490 million of it never was authorized. But for the purpose of the 20 percent reduction, you take 20 percent off the \$2.4 billion, which is \$480 million, which simply means that you are giving the President the authority to knock off approximately a fifth or a sixth of an entire program authorized by Congress.

RECESS UNTIL 3:20 P.M.

Mr. HUMPHREY. Mr. President, I told the majority leader that when I finished my remarks, I would move that the Senate stand in recess. I move that the Senate stand in recess until 3:20 p.m. today.

The motion was agreed to; and at 2:52 p.m. the Senate took a recess until 3:20 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. STEVENS).

PENDING BUSINESS TEMPORARILY LAID ASIDE

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.

FURTHER CONTINUING APPROPRIATIONS, 1973

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of House Joint Resolution 1331.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows: A joint resolution (H.J. Res. 1331) making continuing appropriations for fiscal year 1973, and for other purposes.

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

There being no objection, the Senate proceeded to consider the joint resolution, which had been reported from the Committee on Appropriations with amendments.

Mr. INOUE. Mr. President, the Committee on Appropriations has been prepared to act on the Foreign Assistance Appropriations bill since June 26. Except for five items—Military Assistance, Security Supporting Assistance, Foreign Military Credit Sales, Bangladesh Re-

fugees, and Regional Naval Training, all of the items in the bill have long been authorized.

Because of the lack of authorization of these five items, which were excluded from the bill that passed the Senate, the House was unwilling to go to conference on the remainder of the bill. Thus, unfortunately, we find ourselves again confronted by an 11th hour continuing resolution—which everyone concerned acknowledges is an unsatisfactory way of doing business.

The continuing resolutions as passed by the House is clearly unsatisfactory because it would undercut not only the Senate conferees on the legislative authorization bill, but the Senate conferees on the Appropriations bill as well.

Therefore, it appears that we have three choices:

First. Accept the continuing resolution as passed by the House.

Second. Simply extend the original continuing resolution under which we have been operating since July 1 to and including October 14. This; as you will recall, relates largely to last year's rate and is over \$1 billion—\$1,078,520,000—under the annual rate now proposed by the House for the 4 months between now and February 28.

Third. Amend the continuing resolution presently before us to limit appropriations contained in title I and title II of the bill to the lesser of a. the fiscal year 1972 annual rate, or b. the annual rate now proposed by the House. Mr. President, title I contains the Foreign Assistance Act activities and title II Military Credit Sales. Titles III and IV should be noncontroversial and are continued at the new rate proposed by the House. This version as supported by the Committee on Appropriations would provide a reduction of \$515,454,000 under the House proposal.

A new section is also provided which does not increase the dollar amounts, but would permit the President to provide disaster relief for flood damage in the Philippines.

Mr. President, at this point I submit and ask unanimous consent to have printed in the RECORD a schedule of reductions proposed by the Committee on Appropriations.

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

REDUCTIONS PROPOSED BY SENATE APPROPRIATIONS COMMITTEE

[In thousands of dollars]

Program	House passed amount	Committee recommendation	Difference
American schools and hospitals abroad	25,500	20,000	-5,500
International narcotics control	42,500	0	-42,500
Alliance for Progress, Development loans	165,000	150,000	-15,000
Development loans	350,000	200,000	-150,000
Administrative expenses:			
State	4,775	4,221	-554
Military assistance	600,000	500,600	-99,400
Regional naval training	2,500	0	-2,500
Security supporting assistance	685,000	550,000	-135,000
Overseas Private Investment Corporation, reserves	42,500	12,500	-30,000
Foreign military credit sales	435,000	400,000	-35,000
Total			-515,454

Mr. INOUE. Mr. President, there is another amendment. As Senators know, this continuing resolution is not just for the foreign aid bill. It conceivably could apply to all other agencies. Since there is a fear among some that the Chief Executive might not concur with the HEW appropriation bill, an amendment was submitted in the Committee on Appropriations providing for \$1.526 billion for coal miner black lung problems.

Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc, and that the joint resolution as thus amended be regarded for the purposes of amendment as original text, provided that no point of order shall be considered to have been waived by reason of this order.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. YOUNG. Mr. President, the compromise reached earlier today in the Senate Appropriations Committee on the foreign operations bill, I believe represents the best possible solution at this time.

The total amount of the appropriation is approximately \$300 million over the proposal by this distinguished chairman of this subcommittee Senator INOUE, which was discussed at length on Saturday. The amount in this bill is below both the authorizing legislation and the appropriation bill both of which passed the Senate previously. The bill we are considering now is still \$515 million below the House.

While the total amount is still considerably below what the Secretary of State believes is necessary, I cannot help but feel the differences can be compromised in conference with the House.

The big problem, Mr. President, is that the appropriations committee has had to fund this program for the past 3 years without any authorizing legislation. It would be far better if we had authorizing legislation now to base an appropriation on rather than continue to fund foreign assistance under a continuing resolution.

Mr. President, for nearly 25 years I have voted against foreign assistance bills, all but once. I did so because I felt that most of those appropriations bills represented far more money than was necessary. Even the present bill could well be cut in some categories.

The major reason I am voting for it now is that I believe it represents the best possible compromise and that a considerable amount of this foreign assistance is absolutely essential.

There are some areas in the world where some foreign assistance is necessary. Turkey and Greece are two examples. Southeast Asia, including the Philippines are others.

So long as Russia is increasing—not

decreasing—foreign assistance to their allies such as Cuba, it would not be in our best interest to not give any assistance to any of our needy allies. Russia's assistance to Cuba alone is in excess of \$400 million a year.

There are other provisions in this continuing resolution which are absolutely essential such as funding other agencies of the Government if any appropriation bill should be lost by veto or otherwise.

Mr. President, it is with considerable reluctance that I will be voting for passage of this foreign aid bill. I feel I have no other alternative but to do so.

Mr. TAFT. Mr. President, I rise at this time to address some questions to the Senator from Hawaii, particularly with regard to the population control aspects of this bill.

As I understand it, the bill has a total of only \$100 million earmarked or appropriated for population control programs, whereas the Senate bill had \$125 million. I also understand that the authorization legislation contains \$125 million earmarking, which we succeeded in getting out of the House side, I think, 3 years ago.

My question is, even though this bill contains \$100 million only for population control programs, as I understand it, that would not change the basic legislation with the earmarking provision for the expenditure of \$125 million.

Mr. INOUE. The Senator is correct. Mr. TAFT. I wonder if the Senator could elaborate on that.

Mr. INOUE. The Senator is correct. I have checked it with counsel. Counsel

has advised me that this continuing resolution will not in any way affect the authorizing legislation that earmarked this sum.

Mr. TAFT. I very much appreciate the Senator's reply. I take it, then, that out of other funds appropriated for the foreign aid program the \$25 million would become available under the earmarking provisions, from those funds to take care of those programs which could not be provided by the \$100 million?

Mr. INOUE. That is correct. Furthermore, since we will later be going into conference with the House on the annual bill, this is a matter that could be resolved at that time.

Mr. FULBRIGHT. 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. FULBRIGHT. 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. FULBRIGHT. Mr. President, I just wish to ask a few questions.

First let me say in explanation that I received a telegram this morning from the distinguished leadership which I thought said that nothing would be done today on this matter, that it would go over until tomorrow because there was no quorum. Therefore, I was not aware that the continuing resolution was coming up until just a few minutes ago.

Mr. MANSFIELD. Mr. President, if the

Senator will yield, I do not think he got a telegram saying there was no quorum. I think we raised the possibility of what might happen today because the House was not meeting.

Mr. FULBRIGHT. Did I not get a telegram saying the continuing resolution would come up tomorrow?

Mr. MANSFIELD. No; I did not say that the continuing resolution would not be taken up today. I did raise the possibility that a quorum might not be here.

Mr. FULBRIGHT. Well, I misunderstood it, then. I should have brought it with me.

In any case, I was not prepared for it to come up this afternoon because of a misunderstanding, I guess, on my part as to the program stated in the telegram.

I wanted to ask the Senator from Hawaii about two items. In Alliance for Progress development loans, I note the amount is increased from \$76,700,000 to \$150 million, and development loans, from \$135,554,000 to \$200 million. Why are those items increased?

Mr. INOUE. This represents the lesser of the two amounts as between the House continuing resolution and the fiscal 1972 figure, plus those sums that heretofore have not been reappropriated in the Senate bill—the so-called back-door financing.

Mr. President, I ask unanimous consent that the chart appearing on page 17 of the committee report be printed in the RECORD at this point.

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

ITEMS REQUIRING REAPPROPRIATION

[In thousands of dollars]

Appropriation title	Unobligated balance brought forward (annual accounts)	Estimated receipts (development loans)	Estimated recoveries (annual accounts)	Total	Appropriation title	Unobligated balance brought forward (annual accounts)	Estimated receipts (development loans)	Estimated recoveries (annual accounts)	Total
TITLE I—FOREIGN ASSISTANCE ACTIVITIES					12. Contingency fund.....	1,227	300		1,527
Economic Assistance					13. International narcotics control.....				
1. Worldwide, technical assistance.....	1,563		8,895	10,458	14. Refugee relief assistance (Bangladesh).....	592			592
2. Alliance for Progress, technical assistance.....	31		2,800	2,831	15. Alliance for Progress, development loans.....		76,700		76,700
3. International organizations and programs.....	4			4	16. Development loans.....		135,554		135,554
4. Programs relating to population growth.....	1,728			1,728	17. Administrative expenses:				
5. American schools and hospitals abroad.....	30			30	18. AID.....	2,409		1,000	3,409
6. American schools and hospitals abroad (special foreign currency program).....					19. State.....	66			44
7. Suez Canal (special foreign currency program).....					19. Prototype desalting plant.....	20,000			20,000
8. Indus Basin Development Fund, grants.....					Subtotal, economic assistance.....	27,628	212,254	12,995	252,877
9. Indus Basin Development Fund, loans.....					Military and Supporting Assistance				
United Nations Relief and Works Agency:					20. Military assistance (grants).....	2,307			2,307
10. (Arab refugees).....					21. Regional naval training.....				
11. (Special foreign currency program).....					22. Supporting assistance.....	836		29,832	30,668
					Subtotal, military and supporting assistance.....	3,143		29,832	32,975
					Total, economic and military assistance.....	30,771	212,254	42,827	285,852

¹ As proposed in fiscal year 1973 budget requests. Excludes following nonbudgetary revolving fund accounts since these funds are reserved and are not used for regular program purposes—

acquisition of excess property, housing guaranty fund, and Overseas Private Investment Corporation (OPIC) insurance and guaranty reserves.

Note: Details may not add to totals due to rounding.

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

Mr. FULBRIGHT. I yield.

Mr. MANSFIELD. Mr. President, I wish to apologize to the Senator. His memory was better than mine. His memory about the telegram was correct.

Mr. FULBRIGHT. What I said about the telegram was correct?

Mr. MANSFIELD. Yes.

Mr. FULBRIGHT. Well, I wanted to make it clear that I really thought it was coming up tomorrow, and I had asked the staff to do a little work on this, and just by accident I found out it was up today.

Mr. MANSFIELD. Well, Mr. President, if the Senator will yield, we made a special effort to see that the Senator from Arkansas, the chairman of the commit-

tee, was notified that this was going to come up.

Mr. FULBRIGHT. Well, I learned about it just a few minutes ago.

Mr. MANSFIELD. Yes.

Mr. FULBRIGHT. That was what I meant.

Mr. MANSFIELD. Yes.

Mr. FULBRIGHT. So I was not very well prepared for it.

I might say, by way of background, that the idea of a continuing resolution, I had always thought, was to continue a program in anticipation of some legislation that was about to be passed. They are usually used when normal run-of-the-mill legislation has been delayed, such as the Defense Department appropriation, which is usually quite late; they bring it in quite late because that makes it that much easier to pass; there is no time to discuss it. It always comes in right at the end. But we know there is going to be one.

It is not so certain in this case. Foreign aid is a highly dubious program. It has been defeated in the Senate, and revived, and defeated and revived, and there is very strong sentiment on the part of many Members of the Senate that the existing program ought to be liquidated and a new start made. Certainly it is not the usual case; it is an exceptional program. In the early days, of course, the program was always sold on the idea that it was temporary. The original one, the Marshall plan, was temporary, simply to give Europe an opportunity to revive itself. It was never expected that it would be a permanent program, year after year, such as the Defense Department or the State Department or the Commerce Department. In view of the present situation, there would be real justification, in my mind, to bring in an amendment providing only for salaries and administrative costs and no more money, in order that this program be liquidated in an orderly manner.

This is not a new idea and it has been discussed before. It would be my preference to have a bill that would simply pay the salaries and costs to administer the phaseout of the program, particularly the military part of it. I think that roughly \$1.8 billion is already in the military-aid pipeline. All together, for the economic and the military, there is \$4.430 billion in the pipeline.

I think it would be very wise and prudent for us to do that, at least with respect to those programs which are not authorized. That is what my preference would be, to have such an agreement now. I have not detected any great support for it on the part of the members of the committee. However, I would welcome support for it. But it would simply be that it would be liquidated in an orderly manner. There is enough for the military, certainly, for a year, and for approximately a year of funds overall. Then we would take a new look.

I am not saying that I think we can or should avoid any program whatever in the foreign aid field. I approve of a number of aspects of it, and have said so time and again, what we used to call technical assistance and multilateral programs, the United Nations humanitarian program, and so forth. I think a number of them ought to be continued.

But the major ones, especially in continuing support on a permanent basis of military regimes in places such as Greece and any number of other countries, seem to me to be outrageous. They are very costly and cannot be justified.

They can no longer make a genuine case that the Communists are threatening, because they are not. That is what

they sold us on for many years, but nobody is threatening except their own tyranny. If there are going to be revolutions in most of these places, it will be because their own people have become outraged by the tyrannical rule which has been imposed upon them.

Coming back to this program, I assume that this has been agreed upon. The distinguished Senator from Hawaii has been extremely cordial and considerate of the Committee on Foreign Relations. He has tried to cooperate in the reestablishment of some degree of influence on our foreign policy by the Senate, specifically by the Committee on Foreign Relations. I do not like to contest with him over this matter because of sympathetic treatment in the past and in the present situation.

But I was very hopeful that these repayments—reflows, as they are called—could be eliminated, simply as a means to cut this down gradually. It seems to me more than enough to have \$4.4 billion in the pipeline for this program.

I wonder whether the Senator would mind eliminating the reflows. Was that considered by the committee? Was there any division of opinion about it?

Mr. INOUE. Mr. President, as the Senator may be aware, the proposal originally considered by the committee did away with the reappropriation of repayments, recoveries, and unobligated balances. However, circumstances which existed at the time were such that if the full committee wanted to have this bill reported to the floor, certain concessions had to be made, and one concession was to permit a reappropriation of these carryovers. The bill we are submitting to the Senate this afternoon however is \$515,454,000 less than that which was submitted by the House last Saturday.

Mr. FULBRIGHT. That is overall, not just the military?

Mr. INOUE. That is the overall.

Mr. FULBRIGHT. How is that distributed, roughly? Is it two-thirds economic and one-third military?

Mr. INOUE. I can cite numbers: We have reduced the security supporting assistance by \$135 million, reduced military assistance by \$99,400,000, development loans by \$150 million, foreign military credit sales by \$35 million. These are the large items.

Mr. FULBRIGHT. In connection with my previous remarks, I want to remind the Senate that the former chairman of the Committee on Appropriations, ALLEN ELLENDER—I think it is well to pay him a deserved tribute—who we all cherished, said this just about a year ago, when we found a similar case of continuing resolution. He announced on November 2 his opposition to including unauthorized foreign aid spending in a continuing resolution. He said:

We should have a new bill unless the Senate and the Congress can agree on legislation to authorize a revised form of foreign aid, I do not believe the Senate Appropriations Committee will agree to funding our aid operations by means of a Continuing Resolution.

Senator ELLENDER, the President pro tempore, pointed out that theoretically the extension of funding authority by

means of a continuing resolution is based on the fact that an authorizing bill would be approved by Congress within a reasonable length of time. He added:

We are by no means sure that this is the case here.

Mr. President, I ask unanimous consent that the entire statement be printed in the RECORD.

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

NEWS RELEASE OF U.S. SENATOR ALLEN J. ELLENDER, LOUISIANA

WASHINGTON, Nov. 2, 1971.—Senator Allen J. Ellender, Chairman of the Senate Appropriations Committee, today announced his opposition to including foreign aid spending in a Continuing Resolution which may be needed to carry on other government programs.

"We should have a new bill. Unless the Senate and the Congress can agree on legislation to authorize a revised form of foreign aid, I do not believe the Senate Appropriations Committee will agree to funding our aid operations by means of a Continuing Resolution."

The Senate President Pro Tempore pointed out that theoretically the extension of funding authority by means of a continuing resolution is based on the fact that an authorizing bill will be approved by Congress within a reasonable length of time.

"We are by no means sure that this is the case here," he added.

If a consensus develops within the Foreign Relations Committee, the Senate, and the Congress that a shortened, revised version of our aid operations should be authorized, he said that the Appropriations Committee might agree to including some portions of the program in a Continuing Resolution for a limited period of time.

"In no event should a Continuing Resolution extend spending authority beyond December 1," the Chairman said.

Noting the solid opposition that has developed in the Senate to the current foreign aid program, Senator Ellender expressed the view that any new authorization bill should contain a definite cut-off date for an end to the program, with the stipulation that steps be taken to taper it off.

"Any new bill should state what the Congress wants done in this area in no uncertain terms," he said.

The Chairman of the Appropriations Committee added that he personally would favor allowing the program to die at some date certain, with enough time allowed for an "orderly liquidation of our far-flung operations."

He indicated he might agree to providing a limited amount of technical assistance only, and only to those underdeveloped countries who are willing and able to help themselves.

The Chairman also said he would favor continuing military assistance to Viet Nam, but not in the current quantity. Aid to Cambodia should be cut back, he said.

Senator Ellender said he expected to consult today with members of the Appropriations Committee and Senator Fulbright, Chairman of the Senate Foreign Relations Committee, which is considering the possibility of a new authorization bill.

Mr. FULBRIGHT. That statement by Senator ELLENDER encouraged me to believe that at some point in this recurring crisis every year on the foreign aid program, we would finally, sometime, be able to take action which would phase out the continuation of this old program, a program, as I have said, which ought to be phased out. We could then review the

situation and revive parts of it in a new context which would rid us of the excessive burden of these established programs, such as I mentioned in the case of supporting military dictatorships.

Allied, of course, with the cold war, these are remnants of the cold war that have plagued us for so long and have given us so much trouble since World War II.

Mr. President, in view of the time element and the fact that I had expected the Senate to take up this matter tomorrow, I am somewhat at a loss to understand what I can do, if anything, to reduce the amount of this continuing resolution. I detect, from the looks of my colleagues, that they expect to pass this measure this afternoon and go to conference.

Mr. INOUE. We are hoping to do that.

Mr. FULBRIGHT. I do not like to take it up, although I know of no bill that I would rather be identified with killing than this one. I would be very proud if I could succeed in stopping this bill and phasing it out over the period of the next year.

I am not clear in my own mind what would happen if I should offer an amendment along the lines that I suggested—to provide for administrative expenses, salaries, and so forth, for the liquidation, in a sense, the phasing out of this program. I assume from the attitude of the chairman of the subcommittee that he would not be sympathetic to that procedure.

Mr. INOUE. I would be quite unhappy.

Mr. FULBRIGHT. The Senator will be unhappy with that procedure. I recognize that his responsibilities as chairman of the subcommittee may be somewhat different from mine. I also recognize that he has not been plagued by this program as long as I have, either, so there could be that difference.

Mr. INOUE. As the chairman is well aware, I have been at this job now for about 55 days. I hope that when the next fiscal year budget is presented to us I will be in a better position to concur with the Senator on many of the items he has stated.

Mr. FULBRIGHT. One last question. This still retains the date of February 28?

Mr. INOUE. The Senator is correct. Mr. FULBRIGHT. And this includes economic aid and not just military?

Mr. INOUE. All foreign aid.

Mr. FULBRIGHT. So it is considered a new bill, a new authorizing bill for the military, before February 28, and the economic is already authorized until the end of this fiscal year, if I understand it correctly.

Mr. INOUE. The Senator is correct. Mr. FULBRIGHT. But appropriated only up to February 28.

Mr. INOUE. The Senator is correct.

Mr. FULBRIGHT. Well, is it the purpose of the Senate to pass this without a rollcall vote?

Mr. INOUE. If we have a rollcall vote now, we would be adjourning in 5 minutes. [Laughter.]

Mr. FULBRIGHT. I understood the distinguished majority leader to say "No" a moment ago, that was not the

case. I certainly have difficulty getting my signals straight today.

Mr. INOUE. If we have a rollcall vote, I doubt that—

Mr. FULBRIGHT. Well, if there is a quorum, could the committee be in a position to insist on its position?

Mr. INOUE. The will of the Senate is expressed by those of us present here.

QUORUM CALL

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

The PRESIDING OFFICER (Mr. HANSEN). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside very temporarily.

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

H.R. 10638—FOR THE RELIEF OF JOHN P. WOODSON, HIS HEIRS, SUCCESSORS IN INTEREST OR ASSIGNS

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 10638.

The PRESIDING OFFICER laid before the Senate H.R. 10638, for the relief of John P. Woodson, his heirs, successors in interest or assigns, which was read twice by its title.

Mr. MANSFIELD. Mr. President, I ask unanimous consent for the immediate consideration of the bill.

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

There being no objection, the bill was considered, was read the third time, and passed.

QUORUM CALL

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. Without objection, it is so ordered.

FURTHER CONTINUING APPROPRIATIONS, 1973

The Senate continued with the consideration of the joint resolution (H.J. Res. 1331) making continuing appropriations for fiscal year 1973, and for other purposes.

Mr. FULBRIGHT. Mr. President, after this little colloquy here, on which there appears to be a division, especially as to what the Senate really thinks about foreign aid—privately they are against it

but publicly they are for it, I am told by a very good authority, and I do not disagree with that—it appears that if this goes to conference there is great likelihood, as everyone knows, that there will be a compromise and the amounts will be increased. Here it is at the end of the session, and there is no authorization bill for military assistance and related programs. I want the RECORD to be as clear as I know how to make it that if the amounts for the military programs are substantially increased in conference, I will do everything I possibly can to prevent their being adopted when the continuing resolution is brought back, I assume tomorrow or the next day.

Mr. INOUE. Mr. President, I assure the distinguished chairman of the committee that his message will be clearly submitted to the House conferees.

Mr. FULBRIGHT. Mr. President, as I have already stated, I repeat that I will do all I can to prevent adoption if it is brought back with any substantial increase from that submitted by the committee. I submit that this is a strong position in the committee. It is not unanimous on the bill that is submitted. Is that correct?

Mr. INOUE. The Senator is correct. Mr. FULBRIGHT. Mr. President, if the military aid and related programs are increased, I will do all that I can to see that the conference report is rejected.

I just put in the RECORD a statement by the former chairman of the Appropriations Committee, the late Senator ELLENDER, in which he objected to the use of continuing resolutions to fund a program which has not been authorized and which is not likely to be authorized in the immediate future, a program that has a dubious future, a program that has never been regarded as a permanent program.

We put our reliance upon what I believe to be the assurance of the manager of the bill, and specifically the chairman of the subcommittee, that this amount is the correct amount in the unanimous opinion of the members of the Appropriations Committee and that the chairman of the subcommittee will do his best to hold it in conference and also with my assurance that I shall do everything I can to deny adoption of the conference report if they depart from it. With this understanding I will not continue my objection at this time to the adoption of the joint resolution.

Mr. President, I ask unanimous consent that the telegram which I received this morning be printed in the RECORD. I also ask unanimous consent to have put in the RECORD a memorandum which I had prepared last year in connection with a similar situation concerning the use of continuing resolutions.

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

OCTOBER 16, 1972.

All Democratic Senators:

A quorum is not present in the Senate today. Tomorrow, the Senate will act on the Debt Limit, the continuing resolution on Foreign Aid, HR 1, and possibly a tax bill.

It is imperative that you be here tomorrow in order that we can complete the business of the Senate and the Congress at the earliest moment.

Action by the President on vetoing the

Clean Water Act is as yet undetermined. If he vetoes this bill, there will be a vote on overriding his veto.

I repeat, we do not have a quorum today, and it is imperative that you be here tomorrow.

MIKE MANSFIELD,
Majority Leader.

DECEMBER 13, 1971.

POINTS CONCERNING THE CONTINUING RESOLUTION FOR FOREIGN AID

1. Approval of a continuing resolution that would allow continuation of regular funding of the foreign aid program until March subverts the role of Congress in our Constitutional system. The functions of four committees in shaping foreign aid legislation is being by-passed by this procedure. It denigrates the responsibilities of the Senate Foreign Relations Committee, the Proxmire Foreign Aid Appropriations Subcommittee, the House Foreign Affairs Committee, or the Passman Foreign Aid Appropriations Subcommittee. The Senate, in particular, loses in the process; the Foreign Relations Committee will lose its policy initiatives in the authorization bill and the Senate Appropriations Committee will be denied the opportunity to have any impact on the money items.

2. This approach makes a mockery of the legislative process. If it is followed in the future, it could be used to undermine any conference which is having difficulty in reaching agreement on policy issues. The authorizing committees might as well close up shop if the Executive Branch knows it can count on getting a continuing resolution every time it is trying to kill an item in conference. It is a powerful club for the Executive Branch to hold over the head of all authorizing committees.

3. With a long-term continuing resolution for foreign aid the Executive Branch gets what it wants—money—and Congress gets nothing in the way of new policy restrictions. They will be getting more money than they could normally expect to get through a compromise between the House Appropriation figures and what the Senate Appropriations Committee was likely to allow. And in the process the Executive Branch will avoid policy restrictions such as:

The Mansfield Amendment;
A ceiling on spending and personnel in Cambodia;

Limiting the President's discretionary authority to transfer aid funds from country to country and to waive Congressionally-imposed restrictions;

A requirement for a cutback in military missions abroad;

Annual authorizations for the State Department and USIA to make them more responsive to Congress;

Requirements for release of funds impounded for domestic programs.

With a continuing resolution the Executive Branch can, in effect, have its cake and eat it too. Only Congress loses in the process.

4. There will be little prospect for getting agreement in conference on an authorizing bill after Congress reconvenes if a full-scale continuing resolution goes through. It will, thus, take away vital leverage from the Senate conferees. When the proposed spending authority expires only four months will remain in the fiscal year. The Administration will be pushing for an extension of the continuing resolution for the remainder of the fiscal year, arguing that Congress should turn its attention to an authorization bill for the 1973 fiscal year and look upon the old bill as water over the dam. Both the House conferees and the Administration will be far more amenable to reaching an agreement in January if the continuing resolution is limited to money for salaries only.

5. The position of the Senate conferees has been reasonable. They have not tried to

force the Mansfield amendment on the House, but have asked only that the House conferees agree to a procedure that would allow a clearcut vote in the House on that item in the foreign aid bill. There has never been an up-or-down vote in the House on the Mansfield Amendment. Most other major issues in the bill have been agreed to and no serious problems would remain after an agreement were reached on the Mansfield Amendment.

6. If the continuing resolution is limited to salaries and necessary expenses, but no new program money, the foreign aid program would not come to a halt. There is still \$4.7 billion in the foreign aid pipeline. But we are only talking in terms of a delay of new program authority for approximately 1½ months. It should be possible to reach agreement in conference on the authorization bill and get the regular appropriation bill through in short order after Congress reconvenes in January—if the Executive Branch is denied new program money.

In addition, it must be remembered that military aid (and some economic aid) to South Vietnam, Thailand, and Laos comes out of the Defense Department budget and will not be affected in any way.

7. Section 10 of the Foreign Military Sales Act, enacted into law in January of this year, prohibits the obligation of appropriations for foreign aid or military sales without an authorization. This provision was designed to prohibit exactly the type of situation confronting us now—attempts to circumvent the regular legislative processes. This provision has been waived in earlier continuing resolutions but it should not be waived any longer, except as necessary to pay salaries of employees and other necessary expenses. To allow the foreign aid program to go on indefinitely without authorization violates both the spirit of that provision, and a principle that the Senate has endorsed overwhelmingly on a number of occasions in recent years.

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the joint resolution.

The amendments were ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution (H.J. Res. 1331) was read the third time.

MR. CASE. Mr. President, the reason we are now considering a continuing resolution for foreign military aid is that House and Senate conferees were unable to reach agreement on the AID bill. And the reason they were unable to reach agreement was because no compromise could be found on two amendments of mine concerning executive agreements.

We, the Senate conferees, took these amendments to conference after they had passed the Senate. One of them cut off all funds for the implementation of a \$436 million deal with Portugal for American bases in the Azores until the agreement was submitted to the Senate as a treaty.

The other cutoff funds for future military bases overseas unless the implementing agreements were submitted to the Senate as treaties.

We tried to compromise with the House conferees, but at the same time we were adamant in trying to reassert the Senate's constitutional role in the treaty area. We even offered to drop the Azores amendment and include the

House in giving approval to future military bases overseas. But to no avail.

We believed that there was too much at stake for us to recede completely before the House demands.

The Senate and the Congress as a whole must involve themselves in the foreign policy process. We have already abdicated too much responsibility, and we should go no further.

We failed to include in the bill the two amendments which would take back some of our lost power over Executive agreements, but Mr. President, I can assure you we shall continue the fight.

Mr. President, the Washington Post this morning had an editorial supporting the Senate position and I ask unanimous consent it be printed in the RECORD.

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

THE SENATE TAKES THE AID BILL HOSTAGE

The Senate has taken the military aid bill hostage to an initiative meant to reclaim from the President a congressional prerogative that should never have been allowed to erode in the first place. Mr. Nixon had asked \$2.3 billion in military aid. Both houses authorized lesser sums; the Senate added two Clifford Case amendments, the first requiring the President to submit the rightfully controversial Azores base agreement as a treaty, the second compelling him to submit all future base agreements as treaties. The amendments reflect the modest consensus the Senate has achieved in its years-long efforts to regain some of its war-related constitutional rights from a succession of power-happy Chief Executives.

So determined is President Nixon to clutch every wisp of Executive foreign-policy authority, however, that he enlisted docile Democrats and loyal Republicans in the House to fight the Senate off. The proprietary interest of the House Foreign Affairs Committee in its own aid bill—aid is the only substantive item it handles all year long—may also have firmed up its position. We note that mutual esteem does not exactly flourish between the highly publicized, independent-minded Senate Foreign Relations Committee and the often-overlooked, politically cautious Foreign Affairs Committee of the House.

In conference, the Senate reluctantly compromised, offering to drop the Azores provision altogether and to treat future base agreements not as treaties fit only for Senate ratification but as agreements subject to House as well as Senate majority approval. Appalled at even this limited prospect of exercising independent judgment, House conferees drew back yet another step; in their counter-offer they asked in effect merely that the President obey the existing law requiring him to inform Congress of Executive agreements with foreign states. Senate conferees, evidently not thinking it necessary to pay a price for a presidential pledge to obey the law, turned the counter-offer down. And there, with no agreement on its policy amendments, the aid bill sits.

Mr. Case and the Senate majority supporting him haven't won. But to defeat the Case amendments, the President has been willing to lose or at least to put at severe risk several hundred million dollars worth of foreign military aid. Military aid is a program which Mr. Nixon has repeatedly declared crucial to the "Nixon Doctrine"—the idea that American allies should rely for their defense on their own manpower but American supplies. Unless the deadlock over policy is broken, there will likely be invoked an emergency financing procedure that would make available "only" about \$1.5 billion for

military aid; Mr. Nixon had asked \$2.3 billion. This reduction would be regarded by many of the President's Senate adversaries as something of a compensation for their loss on the policy amendment.

It remains the case that congressional attempts to gain a larger institutional role in foreign policy has fared poorly. The House seems unable to focus on the matter, the Senate to impose its will. The most conceivable changes which the election could make in the composition of Congress might as easily strengthen the Nixon position on this issue as weaken it. If and as the sting of Vietnam goes out of public life, stimulus for a righting of the congressional-executive balance may further fade. The Senate's war powers bill, designed to clarify the guidelines for Executive consultation with Congress on the taking of military action abroad, is practically the last rampart; a characteristically weaker version has gone through the House. It would be a national misfortune if the opportunity were lost to make the necessary institutional changes to reduce the possibilities of presidential actions leading to involvements of the sort that carried us, by a series of seemingly innocuous steps, into the war in Vietnam.

THE PRESIDING OFFICER (Mr. HANSEN). The joint resolution having been read the third time, the question is, Shall it pass? [Putting the question.]

Mr. MANSFIELD. I vote "no."

The joint resolution (H.J. Res. 1331) was passed, as follows:

H.J. Res. 1331

Joint resolution making further continuing appropriations for the fiscal year 1973, and for other purposes

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That clause (c) of section 102 of the joint resolution of July 1, 1972 (Public Law 92-334), as amended, is hereby further amended (a) by striking out "October 14, 1972" and inserting in lieu thereof "February 28, 1973" and (b) by adding the following new subsection and sections:

"(e) Such amounts as may be necessary for continuing activities for special benefits for disabled coal miners but at an annual rate for operations not to exceed \$1,526,500,000.

Sec. 108. Notwithstanding any other provision of this joint resolution, and section 10 of Public Law 91-672 and section 655(c) of the Foreign Assistance Act of 1961, as amended obligations may be incurred hereunder and under prior year balance for the activities hereinafter specified and shall not exceed the annual rates specified herein during the period beginning October 15, 1972, and ending February 28, 1973:

"TITLE I—FOREIGN ASSISTANCE ACT ACTIVITIES

"FUNDS APPROPRIATED TO THE PRESIDENT

"ECONOMIC ASSISTANCE

Worldwide, technical assistance	\$165,458,000
Alliance for Progress, technical assistance	80,331,000
International organizations and programs	105,004,000
Programs relating to population growth	101,728,000
American schools and hospitals abroad	20,030,000
American schools and hospitals abroad (special foreign) currency program	None
Indus Basin Development Fund, grants	10,000,000
Indus Basin Development Fund, loans	12,000,000
Contingency fund	26,507,000
International narcotics control	None

Refugee relief assistance (Bangladesh)	\$100,592,000
Alliance for Progress, development loans	226,700,000
Development loans	335,551,000
Administrative expenses:	
AID	53,409,000
State	4,265,000

Subtotal, economic assistance	1,241,598,000
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"MILITARY ASSISTANCE

Military assistance	502,907,000
Regional naval training	None

"SECURITY SUPPORTING ASSISTANCE

Security supporting assistance	580,663,000
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"OVERSEAS PRIVATE INVESTMENT CORPORATION

Overseas Private Investment Corporation, reserves	12,500,000
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"INTER-AMERICAN FOUNDATION

Inter-American Foundation (limitation on obligations)	(5,000,000)
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Total, title I, new budget (obligational) authority, Foreign Assistance Act Activities	2,337,673,000
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"TITLE II—FOREIGN MILITARY CREDIT SALES

Foreign military credit sales	400,000,000
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Total, titles I and II, new budget (obligational) authority	2,737,673,000
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"TITLE III—FOREIGN ASSISTANCE (OTHER)

"INDEPENDENT AGENCY

"ACTION

Peace Corps, operating expenses	81,000,000
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"DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Assistance to refugees in the United States (Cuban program)	145,000,000
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"DEPARTMENT OF STATE

Migration and refugee assistance	\$8,500,000
Assistance to refugees from the Soviet Union	50,000,000

"FUNDS APPROPRIATED TO THE PRESIDENT

"INTERNATIONAL FINANCIAL INSTITUTIONS

Asian Development Bank (special fund)	None
Inter-American Development Bank:	
Paid-in capital	25,000,000
Callable capital	168,380,000
Funds for special operations	225,000,000

Subtotal, IDB	418,380,000
International Development Association	320,000,000

Total, title III, new budget (obligational) authority, Foreign Assistance (other)	1,022,880,000
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"TITLE IV—EXPORT-IMPORT BANK OF THE UNITED STATES

Limitation on program activity	(7,323,675,000)
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Limitation on administrative expenses	(8,438,000)
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Grand total, new budget (obligational) authority, titles I, II, and III	3,762,553,000
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Provided, That no restrictive provision which is included in the Foreign Assistance and Related Programs Appropriation Act, 1973 (H.R. 16705), as passed during the second session, Ninety-second Congress, but which was not included in the applicable appropriation Act for the fiscal year 1972 shall be applicable to any appropriation fund or authority provided for in this section unless such provision shall have been included in identical form in such Act as passed by both the House and the Senate: *Provided further*, That any provision which is included in such Act as passed by one House and was included in the applicable appropriation Act for the fiscal year 1972 shall be applicable to the appropriations, funds or authorities provided in this section.

"Sec. 109. Notwithstanding the provisions of this joint resolution or any other Act, the President is authorized to provide, on such terms and conditions as he may determine, relief, rehabilitation, and reconstruction assistance in connection with damage caused by floods in the Philippines during 1972. Of the funds provided herein for 'economic assistance', \$50,000,000 shall be available only to carry out this section."

Sec. 2. This joint resolution shall take effect October 15, 1972.

Mr. INOUE. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. INOUE, Mr. PROXMIER, Mr. MAGNUSON, Mr. ROBERT C. BYRD, Mr. YOUNG, Mrs. SMITH, and Mr. HRUSKA conferees on the part of the Senate.

Mr. INOUE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I want to thank the Committee on Appropriations and the distinguished manager of the bill, the Senator from Hawaii (Mr. INOUE) and the distinguished ranking minority member of that committee, the Senator from North Dakota (Mr. YOUNG), for accepting the amendment which I offered during the consideration in committee of the continuing resolution.

I offered an amendment during the consideration of the resolution to provide that such amounts as may be necessary for continuing activities for special benefits for disabled coal miners could be utilized, but at an annual rate for operations not to exceed \$1,526,500,000.

The purpose of the amendment was to provide for the increased benefit payments that are necessary as a result of the passage of legislation this year increasing the amounts of benefit payments and liberalizing the requirements under which miners may qualify for black lung benefit payments.

In the event the President should decide to veto the HEW bill—and nobody knows whether he will and I am not implying that he will, or that I know that he has any such intentions—the amount of moneys on hand for benefit payments would be completely exhausted by November, not a penny would be left, and all of the beneficiaries would then get zero benefits from November until a new

appropriations bill was passed next year. The fiscal year 1972 spending level is only \$559,839,000, which is but one-third of the fiscal year 1973 level for black lung benefits. So, it was thought necessary to add this proviso, just to be insured against the contingency that the President might veto the HEW appropriations bill after Congress has adjourned sine die.

The Government is committed to the higher benefit payments, and I am sure that no one in the legislative branch would want to see a situation arise in which all the beneficiaries would get absolutely no benefits come November, at which time the available money would be exhausted and they would get absolutely no benefits until the new appropriations would be passed next year. So my amendment was to protect those black lung beneficiaries against such a contingency, should it arise, which I hope it will not.

I again thank the manager of the bill, the ranking minority member, and the committee.

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

Mr. GRAVEL. Will the Senator withhold his request?

The PRESIDING OFFICER. The Senator from New Jersey has the floor.

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. CASE. Mr. President, I call up an amendment I have at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. CASE. Mr. President, I ask unanimous consent that further reading of the amendment may 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 2, line 4, strike "Sec. 2." and insert "Sec. 2. (a)".

On page 2, between lines 13 and 14, insert the following:

(b) Section 5517 of such title is further amended by adding at the end of subsection (a) the following sentence: "The agreement may not permit withholding of a city tax from the pay of an employee who is not a resident of the State in which that city is located unless he consents to such withholding."

On page 2, line 14, strike "(b)" and insert "(c)".

On page 2, line 17, strike "(c)" and insert "(d)".

On page 2, line 21, strike "(d)" and insert "(e)".

Mr. CASE. Mr. President, my amendment is quite simple. The bill as amended by the committee provides that the Federal Government shall withhold municipal taxes. It already withholds State taxes from Federal employees. This is a matter of enormous significance and great anguish as far as many residents of my State, and I guess other States,

too, are concerned. But I know that it is true as far as employees of the Federal Government who live in New Jersey and work in Philadelphia are concerned.

The amendment that I have at the desk would limit the effect of the provision inserted by the committee in the bill, so that the Federal Government would only withhold from its employees living outside the State in which the city is located where the employees consented. It would still make it possible for the State to withhold taxes where consents have been obtained, and it may be that consent to a tax thought fair and reasonable would be obtained, because employees, in general, I think, would rather pay as they go along rather than to wait until the end of the year and then be hit by a big lump sum.

This bill would authorize the Federal Government to collect the Philadelphia wage tax from Federal employees who live in New Jersey.

This rider to H.R. 7577, if adopted, will allow the Federal Government to withhold municipal income taxes, in cities of more than 60,000 population, from the salaries and wages paid to Federal employees. No hearings have been held on this proposal, although it deeply affects the residents of my own State, and in no way have I or the citizens of my State been given the opportunity to offer our views on this matter.

I regret we have been bypassed on this matter, because this is an issue of great importance to New Jersey. While residents of New Jersey do not object to paying taxes to out of State municipalities in proportion to the services provided to them, they deeply resent double taxation, both where they work and where they reside, when they have no voice whatever in the utilization of the taxes paid by them, and receive no benefit from the municipality of their workplace.

They also resent an unfair flat tax on income, instead of a graduated tax, which taxes low income wage earners at a rate effectively greater than higher wage earners. And they resent the fact that the Federal Government will, by this amendment, become a party to collecting a regressive and discriminatory flat tax instead of a graduated tax.

These arguments have been tested before in the Congress. On the floor of the House a similar amendment was defeated in the 91st Congress by a vote of 184 to 145.

While nonresidents in New Jersey do not oppose paying their fair share of a graduated tax, they are opposed to the effect of this rider and ask the right of all citizens to be heard by the appropriate legislative committees in the Congress. Are they not entitled to be heard in Congress if the Federal Government is to become a participant as a municipal tax collector? It is right and just that this rider be sent back to committee. I urge my colleagues to vote against this rider.

The objection of New Jersey people to the Philadelphia wage tax is that it is a flat rate, a flat rate on everyone's total income, no matter how large or how small, on people who work in Philadelphia.

Some years ago this matter was before us in another form. There were, and

still are, New Jersey residents who go to Philadelphia by water and take a little ferry from a place called Gloucester to the Navy Yard, and they never set foot on Pennsylvania soil. The Federal Government operates the Navy Yard. At one time they escaped the Philadelphia wage tax because the Federal Government would not allow tax collectors in. It is very fair as far as we are concerned because this is an unfair tax. Nevertheless, that situation has been changed.

I see no reason, and I hope the Senate will agree with me, why we should act as tax collector for these taxes. The tax at a flat rate is unfair and bears no relation and makes no distinction between residents and nonresidents, although nonresidents get much less in the way of services than residents.

Various proposals have been suggested making arrangements for proportionate taxes for services rendered, or a reasonable approximation for progressive taxes, as we have in the Federal Government, and other changes, but I think this is the best solution. The Federal Government should not act as a tax collector unless there is consent to do so.

This amendment has been discussed with the manager and with the ranking minority member. I hope the committee is in a position to accept it.

Mr. RIBICOFF. I believe the Senator from Wisconsin has a question.

Mr. CASE. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, what concerns me about this amendment, and it may be a highly meritorious amendment, and while it has no revenue impact on the Federal Government it could be considered as having a revenue impact on not only Philadelphia and New York, which employ many people from New Jersey, but all over the country.

In our State, people from Illinois work in Wisconsin and people from Wisconsin work in Illinois and that is true all over the country because of the location of our metropolitan areas.

While one might say that those who work in these Federal establishments may not use many of the services in a city in which they work, it seems to me they are no different than any other employees and if we are going to say the Federal Government is not going to act to withhold those taxes, what does that do to all other employees?

Mr. CASE. The Senator makes a very interesting observation. Does that mean that because something may be bad for one person it should be bad for everybody?

Mr. PROXMIRE. No, I am not saying that.

Mr. CASE. I do not think it should be. These are bad taxes, they are not fair, they are not proportionate, and they are not progressive. I do not think that a private employer should be compelled to withhold these taxes. I do not see why we should get in the business of doing so because we do not have the commonsense and a sense of decency to prevent private employees from being subject to this kind of withholding.

Mr. PROXMIRE. Is the Senator saying all taxes imposed by cities on payrolls are automatically bad taxes?

Mr. CASE. I am saying this: All flat

rate taxes are bad, and that taxes in which there is no provision for apportioning the benefits that the municipality is giving residents opposed to nonresidents is bad also. I think they are unfair and we should not be a party to that taxing transaction. We should not add the weight of the Federal Government to the perpetuation of this collection of taxes.

Mr. PROXMIRE. I understand the Senator's objection. The difficulty is that almost every such tax is bad—the sales tax is bad, the property tax is bad; all these have unfortunate regressive elements involved in them. The wage tax has at least some relation to income.

Mr. CASE. Will the Senator yield? It has no more relation to income than the property tax does. I would be the last to urge that we should be a tax collector for local or State governments.

Mr. PROXMIRE. The property tax has no relation to income. For instance, a man owns a little house; that is all he has in the world; he does not work, he is retired. Yet he has to pay property taxes. Payroll taxes are imposed on those earning a living.

Mr. CASE. What I am saying is not to justify property taxes, as such. The courts have begun to take a look at the matter of taxes and I am sure we are in the process of correcting the situation, but I see no reason why, contrary to the trend which is in the right direction, the Federal Government should insist on tax collecting.

Mr. PROXMIRE. The other thing that bothers me is this. New Jersey is in a difficult position. What bothers me is that if we provide for this, we provide that the central cities, where many people work, and, as we all know, which have very serious problems now, will lose tax revenues, and help the relatively wealthy suburbs, where many of the workers live, plus the fact that the Government is not acting as a good citizen in the sense that it is asking employers to act, and help follow the laws passed by the cities.

Mr. CASE. There may be an apparent short range advantage in collecting this tax for the cities, but in the long range it is not an advantage. It tends to drive out employment and businesses, and make the cities even less of a going concern than they are now. I think it is a bad tax.

Mr. PROXMIRE. May I say that I do not intend to delay action on this amendment any further. Frankly I disagree with the Senator on the amendment, but I understand the situation and I will not make any further effort to delay it.

Mr. CASE. I appreciate that, and I hope the committee will accept it. This is not just something I want the committee to take to conference. I feel as strongly about it as the Senator from Arkansas felt when he was addressing himself to the matter in which he has an interest. I hope the chairman would find merit in this amendment.

Mr. RIBICOFF. Mr. President, when the Senator talks about nonresidents, I assume he talks about nonresidents of the State, not nonresidents of the city.

Mr. CASE. That is true.

Mr. RIBICOFF. I have no objection to the amendment and will accept it in behalf of the committee.

Mr. CASE. I am very happy about that

action of the committee, and I appreciate every Senator's consideration.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey. [Putting the question.]

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. STEVENS. Mr. President, I have an amendment at the desk, on behalf of myself and my colleague (Mr. GRAVEL), which I call up.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

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

The amendment is as follows:

At the end of the bill insert the following:

"Sec. (2) (A) If the Secretary determines that, for any calendar quarter before July 1, 1973 (commencing with the first calendar quarter which begins more than 30 days after the date of the enactment of this section) that the amount equal to one-fourth of the allotment (as determined without regard to this paragraph) of any State is in excess of the total of the expenditures (of the type, and under the programs, to which the allotment under this subsection applies) which will be incurred by the State for such calendar quarter, then the allotment of such State for fiscal year 1973 shall be reduced by the amount of such excess and an amount equal to the amount of such excess shall be available, for reallocation among the States, by the Secretary for such fiscal year but only for social services provided recipients of assistance under State plans approved under Titles I, X, XIV, XVI, or part A of Title IV of this Act.

"(B) From the amounts made available for reallocation under this paragraph for fiscal year 1973, the Secretary may increase the allotment of any State (but not by more than \$15,000,000) which he determines will incur, during such fiscal year, expenditures (of the type, and under the programs, to which the allotment under this section applies) the total of which is in excess of the amount of the allotment of such State (as determined without regard to this paragraph).

"(C) Each State shall, prior to each calendar quarter (commencing with the first calendar quarter which begins more than 30 days after the date of the enactment of this section) certify to the Secretary (in such form and manner and containing such information as the Secretary shall by regulations prescribe) the total amount of the expenditures (of the type, and under the programs, to which the allotment under this section applies) which will be incurred by the State for such calendar quarter; and the Secretary shall conclusively presume, for purposes of subparagraph (A), that the amount so certified will be the amount which will be expended for such quarter. If any State fails to make timely certification of such expenditures for any calendar quarter, the Secretary shall conclusively presume, for purposes of this paragraph, that the amount of such expenditures for such quarter will be equal to the amount of such expenditures for the preceding calendar quarter.

Mr. STEVENS. Mr. President, this is the amendment that my colleague and I have offered on two separate occasions. Twice now it has been refused by the House. Last Friday I called to the particular attention of the Senate the state-

ment that was made by the chairman of the House Ways and Means Committee. He said at that time:

I have suggested that if the Senate would add an amendment to the bill that we could consider that would allow a redistribution under the formula of moneys that are not to be used by the States or by some States within this \$2.5 million ceiling, so that some States could get more because some other States were not using all of their part, then I would have no objection to such an amendment and I would support it, but I cannot go beyond that.

This amendment says precisely that. It is intended to give the Secretary of Health, Education, and Welfare discretionary power to reallocate moneys not used by some States under the \$2.5 billion social services limitation to other States that may need it, but only to the extent that such services are provided by the States that get the discretionary allowance to recipients of assistance under State plans approved under titles 1, 10, 14, 16, and part A of title 4 of the Social Security Act.

When we put the amendment on the supplemental appropriation bill, the House members of the conference—and I served on that conference—stated that they would not accept it, but they were kind enough to place in the supplemental appropriation report of the conference this statement:

The managers on the part of the Senate and the House recognize that certain States will suffer undue hardship as a result of the ceiling on payments for social service 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.

I do not want to take a great deal of time about this, but I would point out again that this amendment will not cost a dollar of any Federal funds unless the Secretary of Health, Education, and Welfare exercises the discretion, and even if he does, there is a limit of \$15 million to any one State.

So there are two limitations in this amendment: The first is that it will not cost anything at all unless the Secretary of Health, Education, and Welfare exercises his authority. If he does, he cannot go hog wild and give all of it to one State and none to another. He can allocate only up to \$15 million.

It was again pointed out by the chairman of the House Ways and Means Committee that our Commissioner of Health and Welfare had talked to the chairman. The distinguished chairman, who was doing a great job in the House in trying to work out this factor, pointed out, himself, that he had been told there are 2,000 people in Alaska who will have to be taken off the State payroll, who are providing alcoholic assistance, family planning, child care, and services to those who are dependents of recipients of public assistance. These are very indigent people, people who live in the most rural parts of Alaska, and are being provided services that are needed. These people are providing services under an allocation of moneys that was made by the Department of Health, Education, and Welfare under the old law, which was a 75-25 matching formula concept.

We do not see why we should be cut off arbitrarily solely because revenue

sharing is based on population, which law hurt us. It also hurt Delaware and some of the very small States.

I think this is a legitimate proposal, particularly in view of the statement on the part of the managers of the appropriation bill that it belongs in substantive legislation. It is a legitimate proposition to add the amendment to this bill and to try, once again, to get the House to understand what we are trying to do. We are not trying to change the ceiling which was established at \$2.5 billion. This money will be available to some of the smaller States only if the larger States do not use it. Again, it will be available to them only if the Secretary of Health, Education, and Welfare allocates it to the smaller States, and even then under a \$15 million ceiling. I think it is the most reasonable proposition we could possibly advance to try to alleviate the hardships that those people will suffer unless we do it.

I hope the manager will accept the amendment and take it to conference so we can, once again, try to get the House conferees to see what we are trying to do.

The PRESIDING OFFICER. The question is on the amendment.

The Senator from Alaska.

Mr. GRAVEL. Mr. President, I am ready to move to a vote.

Mr. PROXMIRE. Mr. President, unless the Senator—

Mr. GRAVEL. I will defer my remarks until I can be enlightened by what the Senator has to say.

Mr. PROXMIRE. The Senator has already been enlightened. The Senator knows how I feel about it. Although I have great respect for both Senators from Alaska—they work very hard for their State's viewpoint—nevertheless I oppose this amendment. It would have a huge budgetary impact. I understand from the staff people on the committee that it would amount to about \$370 million. What it does is provide that the amount not used under the ceiling that has been imposed for the purposes of social services can be provided to States that have reached the top and want to go a little higher.

This is one area, this is one program, which we all know has just exploded in the last couple of years. It has gone way, way beyond what it was before. It started 2 or 3 years ago as a \$40 million program. Now it is up in the billions.

While both Senators from Alaska have spoken to me, and Senator STEVENS made a most impressive and appealing speech, pointing out that this would go to people who most desperately need assistance, I do think it is time for us to take it a little easy, to slow down, to take a look at this, to recognize that we have already gone very steeply up in spending in this country, and not provide the Secretary of Health, Education, and Welfare with additional discretion.

The pressure on him is going to be very, very great indeed. He may not provide any additional sum. But it seems to me it is not enough for us to say the House will cut it out anyway, that they have done it twice and will do it again. It seems to me we have to assume our own responsibilities.

This is not only an expensive amend-

ment, I think under the circumstances it is an amendment that would result in spending which I think we ought to take a most careful, prudent look at before we approve it.

Mr. GRAVEL. Mr. President, I would hope that my distinguished colleague from Wisconsin would reason with us a little bit on this amendment, because I think we may arrive at a point that will satisfy all parties.

First, with respect to the program, there has been an exploding of this program, for obvious reasons: There is an exploding need in this Nation in these areas. That is the reason why the program has exploded.

Second, of course, my colleague speaks of taking a look. That is exactly what the Senate did and what the House did. We took a look at this program. We realized things were exploding, and for that reason we changed the whole process, put a brake on it, and then after extensive deliberations, put a cap on the whole thing.

We have done that. There is nothing now that can be arrived at by additional impairments, because we have set the policy to be followed for a few years.

The question is whether or not we will extend some amount of succor to people who were relying upon a prior program which has now been altered.

If this had happened in a private area, the Senator or I would take someone to court and sue them to get our just deserts. That will not work in this case, because of the fickleness of Congress. But persons who have done things under a proper, legitimate approach, with reasonable expectations, are now being unfairly truncated as of a specific date.

As to suing the Government, I think my colleague knows as well as I that you do not get too much justice if you are a small person suing a State government or the Federal Government in this regard. But there are a lot of people who have entered into normal contracts who will get hurt. The prop wash of that in Alaska will be about 2,000 people, and these are not corporate executives ripping it off in the highest elements of society. These are 2,000 people at the base—or underneath the foundation—of society, who never even get a chance to get up for air to look at the rest of what is going on in society. These are the people who will be crippled by our inability to address ourselves of this problem intelligently.

I would submit to my colleague that the basis of his opposition is the figure he has cited, the figure he announced it would cost. We in Alaska are being victimized by this erroneous information. I do not know where the Senator's staff ever got it; I do not know where anyone got it, but someone is bantering around the figure of, what \$370 million? Is that what the Senator was told?

I would say to my distinguished colleague, whom I respect very deeply, because of the values he has stood for on many issues on this floor, let us develop the figures together, and see whether \$370 million is correct.

I say this is a figment of someone's imagination, which is crippling, because the Senator is relying on it, and it has no

relationship to reality. If someone has figures, whether it is his staffman or my staffman, let us develop the figures and see whether justification can be provided.

Mr. PROXMIRE. If I can provide justification, will the Senator work with his colleague to withdraw the amendment?

Mr. GRAVEL. I beg the Senator's pardon?

Mr. PROXMIRE. Would the Senator then agree, with Senator STEVENS, to withdraw the amendment?

Mr. GRAVEL. If the Senator can justify his figures, perhaps so.

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

Mr. GRAVEL. I yield.

Mr. STEVENS. I can show the Senator how they reach the amount. They take the number of States that lose under the population formula, and they assume that the Secretary of Health, Education, and Welfare would give every one of those States \$15 million. They add up all those States that lost under the population formula, multiply it by \$15 million, and come up with this figure. I have the chart right here.

But the fallacy of it is that they assume the Health, Education, and Welfare people are going to give every State the maximum amount under the discretionary ceiling.

Somehow or other, in the last weeks of Congress, we are getting down to the point where the Senators and Representatives are not running Congress, it is the staff members, figuring out some hypothetical thing about what someone downtown will do.

Mr. PROXMIRE. May I say that this is not the estimate of a staff member. It was secured from the Social Security Administration, which said, at the last conference, that the cost would be \$366 million, which we rounded out at \$370 million for the sake of convenience. Social security may know less than the Senator from Alaska about it.

Mr. GRAVEL. Mr. President, my colleague's figures are correct. You can take the number of States that would lose, multiply it by \$15 million, and that gives you the figure.

But the reason is that States will not take up their allotment. That is the reason why. Of the States that have this entitlement, some of them are not even spending their allotment. That is the reason why there is a pool of money available to be used. But for them to turn around and represent to the Senator that this is the amount of money that will be taken up is the very reason why there is money to be reapportioned, because States are not taking it up.

So actually they have given the Senator half a piece of knowledge, and then the assumption is that is the amount of money we would spend. It is an erroneous assumption. I hate to use any State as an example, because I am not familiar with them all, but I happen to know that many of the Southern States are not using their entitlement, and that is where the money will come from.

Mr. PROXMIRE. Let me say to the Senator, another problem is involved: The proposal does not provide that New York, Wisconsin, and Alaska will be

treated alike. It says they all will get \$15 million; \$15 million for Alaska is 20 times what it is for Wisconsin, and many more times than for a State like California or New York.

Mr. GRAVEL. The Senator is correct. Mr. PROXMIRE. It seems to me that Alaska has a strong case. The cost of living is extraordinary, and poverty is great.

Mr. GRAVEL. The poverty is considerably greater than in the State of Wisconsin.

Mr. PROXMIRE. It may well be. But let me point out why this is bad: If Alaska should get \$15 million under this proposal, this could be a substantial increase in the amount they would get. Suppose in the second year the States used their full entitlement; it will not take them long to catch on to this. Then Alaska would have to have a sharp cut-back, and would just be postponing a very difficult adjustment.

Mr. GRAVEL. This is only for 1 year, fiscal 1973.

Mr. PROXMIRE. I understand that.

Mr. GRAVEL. So it cannot get into the second year.

Mr. PROXMIRE. Only inasmuch as it may not be available the second year.

Mr. STEVENS. No; this amendment applies only to 1973.

Mr. PROXMIRE. That is right. What I am saying is, Alaska would not get it in 1974, so in 1974 they would have to learn to live with a great deal less.

Mr. GRAVEL. That is the problem we face today. We have to learn to live with a great deal less immediately, people with legitimate contracts which are being truncated, because of the actions of Congress. So if the Senator is advocating this, I say do not do it, because it is going to cost some pain and time. We are being shocked right now; we cannot stand it. Give us a chance to spread it out over a year.

Mr. PROXMIRE. Will the Senator tell us what Alaska had from the Federal Government under this program for fiscal 1970, 1971, 1972, and 1973? This does not represent a large decrease for Alaska this year.

Mr. STEVENS. Mr. President, Alaska, at the beginning of this fiscal year, had a \$24 million a year program, \$2 million a month. Of that, 25 percent was paid by the State government, 75 percent by the Federal Government. We are in a situation now where, in the first quarter, we have spent \$8 million, \$6 million of which is coming from the Federal Government under the old formula. Under the new formula, based on population, we are entitled to \$3.7 million for the whole fiscal year.

The Senator points out that this is not fair to Wisconsin or Illinois or New York, to have this new allocation authority at \$15 million per State. The thing that is not fair is the population formula to begin with. It is not based on need, on poverty, or on the high cost of doing business in rural Alaska, in trying to provide social services to Unalakleet or Teller or the Shishmaref or out on the Diomedes or on the Pribilof Islands. The cost of getting there would cost more than to provide the services to someone in the State of Wisconsin. We have been providing these services. Suddenly, along

comes the Revenue Sharing Act, which says we get \$3.7 million for the whole year, starting July 1, 1972. So my colleague and I are trying to find a way to push this out to end these contracts and adjust our State to the fact that starting next year we will only get from the Federal Government approximately one-sixth of the amount we got before to provide these social services.

Mr. PROXMIRE. The Senator said that under this program Alaska will get how much—\$3.7 million?

Mr. STEVENS. It is \$3.74 million for the whole fiscal year.

Mr. PROXMIRE. Then, why do we provide here \$15 million? Why is that necessary?

Mr. STEVENS. I was going to come to that. When I offered this amendment first, the Senator from New York pointed out that we had \$10 million, that no more than \$10 million could be reallocated by the Secretary of Health, Education, and Welfare. We do not expect to get the full amount for reallocation. This is the limit on the authority of the Secretary of Health, Education, and Welfare; and the reason why we challenged the staff—whether the executive staff or the Senate staff—coming up with a figure of how much it is going to cost is that it will not cost anything unless the Secretary exercises the discretion. Once he does, we put a limit on that of \$10 million. At the request of the Senator from New York, on the floor, it was raised to \$15 million. People look at the population formula and they see the States that lost money. They assume the Secretary would give every State the lost money up to the maximum of the reallocation authority, and that is \$370 million.

The Senator asks for examples—

Mr. PROXMIRE. I think we could save some time, and perhaps I could accept the modified amendment, if the Senator would indicate, for example, how much Alaska would need here, how much they might expect to get—\$1 million, \$500,000.

Mr. STEVENS. In order to continue the existing contracts the State of Alaska has in being, it would cost an additional \$11 million of Federal funds.

Mr. PROXMIRE. And the program now is \$3.5 million?

Mr. STEVENS. The program now is \$24 million, of which \$18 million is Federal funds.

Mr. PROXMIRE. What is the \$3.7 million?

Mr. STEVENS. That is the allocation under the new ceiling based on population that became effective July 1, 1972. The amount spent up to the date of the act will be paid, and that is what I told the Senator is approximately \$6 million. We get approximately \$6 million under the concept that what was spent in the first quarter is going to be paid. The last quarter is \$3.4 million. The figure we have about \$9 million. We need about \$11 million to continue.

Mr. PROXMIRE. The difference between \$3.7 and \$9 million, or a little more than \$5 million?

Mr. STEVENS. It is the difference between the \$18 million and what we get—we get into all kinds of problems, because presently we are operating under the laws that exist now. The revenue-sharing

bill has not been signed. Right now, there is no ceiling. What the States are spending, they will be matched, 25-75. Starting with the date of the revenue-sharing bill, it will go to a ceiling based on population.

Mr. PROXMIRE. What would the Senator think of applying this only to non-contiguous States? There is a precedent for this in revenue sharing. It would save the Treasury a great deal of money and would solve the Senator's problem.

Mr. STEVENS. The Senator from New York is not here. He was part of the matter.

Let me go into this: Indiana, under the new formula, is entitled to \$64 million, based on population. At the present time, Indiana is spending at the rate of \$4 million a year. In order to get any money into this fund to reallocate, we have to assume Indiana is not going to increase its spending to \$64 million. Let us assume it does. The Senator does not object to Indiana spending up to its allotment, does he?

Mr. PROXMIRE. No.

Mr. STEVENS. Let us assume they spend only \$54 million, and \$10 million remains. Our amendment would provide that the Secretary could reallocate that to any State up to \$15 million from the total pool. We are not going above the ceiling. We are just spending the money that other States do not want to spend for social services, and then only if the Secretary of Health, Education, and Welfare allows us to do it, and only for this fiscal year. We tried to be as reasonable as we could.

Our State legislature met in the early part of the year and authorized the State to enter into contracts. The State entered into contracts based on authority received from the Department of Health, Education, and Welfare, for \$2 million a month. Along comes the revenue-sharing bill in August and early September and says, "No longer are we going to pay on the basis of needs or authorize the Secretary of Health, Education, and Welfare to recommend needs in States. We are going to allocate social services funds on the basis of population only."

Mr. PROXMIRE. The only two Senators who have expressed very deep interest in this matter and a very strong position for it are the two Senators from Alaska. There may be other Senators who feel strongly about this matter, too. While the Senator from New York indicated that if this is going to be passed, he thinks it ought to be higher than the \$10 million originally provided, it seems to me, under these circumstances, that we ought to be able to work out something that would not provide this terrific impact on the Treasury.

Frankly, I do not like to work out anything of this kind, because I feel there is a program that has already exploded, and this would permit it to increase much more.

The case in Alaska can be argued strongly; but not only will Alaska benefit from revenue sharing in the coming year, which is retroactive, but also, Alaska has the colossal oil find which is going on, which will benefit the State in the near future.

Mr. GRAVEL. I hope that is a prediction.

Mr. PROXMIRE. Now we will pass a program that will enable them to increase by a high proportion their social services spending, and I wonder whether it is wise for Congress to proceed on this matter.

Mr. STEVENS. The Senator from Florida (Mr. CHILES) was just in here and asked me if we needed any assistance. He had an amendment to do this earlier this year. The Senator from Delaware (Mr. ROTH) offered an amendment, which was one of the predecessors of the amendment we finally worked out. That would have gone over the whole 5-year period of revenue sharing.

This one, I want to tell my colleague, will not help Delaware unless the Secretary of Health, Education, and Welfare wants to help Delaware. It will not help Florida unless the Secretary of Health, Education, and Welfare wants to help Florida. It will not help Alaska unless they exercise that discretion. It will not cost a dime—needless to say, it will not cost \$370 million—unless someone exercises the discretion. It will not cost any money under this amendment unless other States do not spend their allotment in the \$2.5 billion ceiling. This is money other States leave in the Federal Treasury because they do not ask for their allotment.

Under those circumstances, I think it is a very reasonable thing. I would feel that I neglected my colleagues who have fought through this matter. Twice before, this amendment has been adopted by the Senate—once on H.R. 1 and once on the supplemental appropriations bill; and twice the House has refused to take it. All we are asking for is a third attempt to try to convince them, as we are trying to convince the Senator from Wisconsin, that it will not cost the Federal Treasury \$3.7 million. It will not cost a dime unless I can convince Elliot Richardson to give us the money.

If the Senator from Wisconsin would like to reduce it to \$10 million, which was the original level we suggested, we would have no objection.

Mr. GRAVEL. I hope the Senator from Wisconsin realizes that in this suggestion there is justice for everybody involved. In the interest of trying to accommodate him in his strong feelings on this expenditure, I would hope the Senator could see the wisdom of a \$10 million limitation.

Mr. PROXMIRE. With the understanding that the Senator will modify his amendment to make it \$10 million I will withdraw my opposition. I do think we can make a strong case against any amendment—but I want to accommodate the majority leader and move along—I am willing to accept this compromise.

I hope we have a chance to look it over and that the conferees will be very prudent and careful about this matter when they go to conference.

Mr. GRAVEL. I thank the Senator.

Mr. PROXMIRE. One more point. The principal reason for accepting the amendment is that it has passed the Senate twice. It has already been approved by this body. So that, under the circumstances, it is in a different category and entirely different from some of the other amendments.

Mr. STEVENS. We are indebted to the Senator from Wisconsin.

Mr. President, I ask that my amendment be modified as originally written, in paragraph B, on the third line where it says "15 million dollars," insert in lieu thereof "10 million dollars."

The PRESIDING OFFICER (Mr. MANSFIELD). The Senator has that right. The amendment is modified accordingly.

Mr. GRAVEL. Mr. President, I move adoption of the amendment.

The amendment was agreed to.

H.R. 10751—ESTABLISHING THE PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Mr. HANSEN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 10751.

The PRESIDING OFFICER (Mr. MANSFIELD) laid before the Senate H.R. 10751, to establish the Pennsylvania Avenue Development Corporation, which was read twice by its title.

Mr. HANSEN. 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. HANSEN. Mr. President, this bill involves the development plan for Pennsylvania Avenue which has been pending before the Congress for several years. Members of the Senate may recall that twice before the Senate has passed similar legislation, but the measures died in the House of Representatives. The House has finally passed a bill which is very similar to a measure ordered reported by the Committee on Interior and Insular Affairs and also quite similar to the recommendations of the administration in regard to the Pennsylvania Avenue National Historic Site. I am gratified that at long last this important project is about to be undertaken and that agreement can be reached on proceeding with the development of a plan for the avenue and its environs.

However, there are certain amendments which I feel are justified and should be made to the bill as passed by the House of Representatives. The primary amendment which I shall offer attempts to strike a compromise between the position taken by the House of Representatives and that recommended to the Congress by the President. That deals with the development of the plan to be submitted by the Corporation established in this legislation. The House of Representatives attempted to give a veto power to the Secretary of the Interior over the plan to be developed by the Pennsylvania Avenue Development Corporation. However, the House language is not clear and could result in a misunderstanding as to how to proceed in a positive manner in finalizing approval of the plan itself, which is after all the fundamental goal we are all seeking.

On the other hand, the administration proposed that not only the Secretary of the Interior but the District of Columbia government and the National Capital Planning Commission should have a veto

power over the plan. Mr. President, I submit that this procedure is unworkable and might result in all of our effort being wasted in a bureaucratic snarl. Therefore, the amendment which I have proposed, and which has the backing of my colleagues on the Interior Committee, would be action forcing in nature and would give direction to the Corporation and to the Secretary of the Interior and to the District of Columbia government to proceed in a positive manner to finalize and submit a plan. Each agency and the general public would have an opportunity to participate in the development of the plan, but it is guaranteed that a plan will be prepared and submitted to Congress under my amendment.

There are other technical amendments which correct deficiencies in the House-passed bill. These are minor in nature with the exception of one which is recommended by the administration, that is, we would not permit the Corporation to incur itself by borrowing in the private financial market in order to finance its activities. There is ample authority to borrow from the Treasury, and it would be much less expensive. In addition, it is the opinion of the administration, in which I concur, that market borrowing activities of the Federal Government should be conducted by the Treasury Department in keeping with the overall fiscal responsibilities of the Secretary of the Treasury.

Mr. President, I send the amendments to the desk and ask that they be stated.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk read as follows:

AMENDMENT TO H.R. 10751

Strike all of Section 5(c), beginning on page 10 at line 22, and the first sentence of Section 5(d) ending with the word "Representatives," on page 11, line 14, and insert in lieu thereof the following:

"(c) After the proposed development plan has been completed and approved by the Board of Directors of the Corporation, it shall be submitted to the Secretary of the Interior and the Commissioner of the District of Columbia. The Secretary of the Interior, within ninety days, shall notify the Corporation of his approval or recommended modifications from the standpoint of the compatibility of the proposed plan with his responsibilities for the administration, protection and development of the areas within the Pennsylvania Avenue National Historic Site. The Commissioner of the District of Columbia, within ninety days, shall consult with the National Capital Planning Commission, shall hold public hearings on the proposed plan, and shall notify the Corporation of his approval or recommended modifications: *Provided*, That in the event that the Secretary of the Interior or the Commissioner of the District of Columbia has not notified the Corporation of his approval or recommended modifications of the proposed plan within ninety days after the date of submission, he shall be deemed to have approved the proposed plan.

(d) In the event the Secretary of the Interior or the Commissioner of the District of Columbia has recommended modifications of the proposed plan, the Corporation within 120 days of the original submission of the plan shall consult with them regarding such modifications and shall prepare a final development plan which shall be transmitted to the President of the Senate and the Speaker of the House of Representatives.

If the Secretary of the Interior or the Commissioner of the District of Columbia has not approved the final development plan, the

transmittal shall include a specification of the areas of difference, the modifications suggested by the Secretary of the Interior or the Commissioner of the District of Columbia and the views of the Corporation thereon."

On page 11, beginning on line 16 and ending on line 17, strike "plans as authorized by the other provisions of this Act" and insert in lieu thereof "plan".

On page 14 beginning on line 21 through line 5 on page 15, strike paragraph 6(9), and renumber the following paragraphs accordingly.

Page 17, line 5, after the word "property" strike the word "of" and insert in lieu thereof the word "or".

The PRESIDING OFFICER. Without objection, the amendments are considered and agreed to en bloc.

Mr. HANSEN. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-1445), explaining the purposes of the measure.

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

PURPOSE

The purpose of H.R. 10751 is to establish the Pennsylvania Development Corporation, a public corporation to prepare and implement a development plan for certain areas adjacent to Pennsylvania Avenue between the White House and the Capitol, comprising approximately twenty-three acres, to further the purposes for which the Pennsylvania Avenue National Historic Site was designated, and for other purposes.

H.R. 10751 was introduced by Representatives Saylor and Aspinall.

BACKGROUND

1976 will mark the Bicentennial of the founding of the American Republic. It will be an occasion to reflect upon the extraordinary vision of our founding fathers, a vision which not only shaped this Nation, but which also influenced the course of world history.

That revolutionary vision of 1776 is still unfulfilled. Few would deny the great dream of democracy, of liberty and equality for all, bequeathed us by the gifted men who founded this Nation. That dream included a city that was to be different from all others. It would, first of all, belong to all the people. It would be the only such place in the Nation. It was to be the seat of government. It was to be the conscious creation of the American people.

When the city was little more than a few drawings on paper, the ten mile square was named "District of Columbia" and the Capital itself "City of Washington". President Washington himself perceived that the life of the new Nation was to be expressed in the architecture and urban design of the Capital city.

The French military engineer, Pierre Charles L'Enfant, was engaged to design a plan for the new city. James Hoban, an Irish architect, won the competition to design the White House. William Thornton submitted his design for the Capitol. To this day, these three architectural elements have formed the basis of the Federal City.

The visible symbols of the Federal City are the two great buildings, The White House and The Capitol, representing the legislative and executive branches, and behind them is the plan. In the new concept of government which these buildings represented, the legislative and executive powers of this Nation are at once separated and joined together. These separation was to be seen in the distance between them—just over a mile. Their connection was to be seen in Pennsylvania Avenue, named for the State wherein our independence was first proclaimed.

From the outset, Pennsylvania Avenue became the main thoroughfare of the Capital. From the earliest times, Pennsylvania Avenue, the area three or four blocks north and south of it, and the parks surrounding the White House and the Capitol, were seen as a special precinct uniquely associated with the business and ceremonies of the democracy.

In 1800, when the Federal Government formally arrived, Pennsylvania Avenue was a tangle of elder bushes, swamp grasses, and tree stumps. Gradually the Federal City came to life with the planting of some trees and the erection of private buildings. Progress was slow and it became apparent that it would be a long time before the Federal City plan would become a reality. As the years and generations passed, the L'Enfant plan was never completed. Through the years, many things have been done in the Federal City directly contributing to the completion of the plan. Gradually the design took shape, and rarely has a design conception exercised such power over such a length of time.

With the passage of time, as Pennsylvania Avenue and its surrounding area became so necessary for public activities, it became less and less suited for private ones. In the early 1950's, the business and commercial center of the city began to drift northward, away from the Federal City. It soon became clear that the north side of Pennsylvania Avenue was in need of redevelopment.

In June 1962, President Kennedy appointed the President's Advisory Council on Pennsylvania Avenue to prepare plans for the revitalization of the Federal City. Its purpose was to propose a mode of development consistent with the historic heritage and to seek to increase the private, commercial, residential, cultural and educational facilities of the area.

In 1965, the Council completed its work and report. President Johnson, by Executive Order, established the President's Commission on Pennsylvania Avenue to refine and implement the work of the preceding Council.

Since 1965, there have been numerous legislative proposals introduced in the Congress to move forward on the revitalization of Pennsylvania Avenue. H.R. 10751 is a similar proposal and a significant step toward fulfilling the vision of our founding fathers and their design of our Federal City. H.R. 10751 is another step in completing the plan of L'Enfant. H.R. 10751 is, as our founding fathers saw it, the conscious creation of the American people.

Pennsylvania Avenue, like "Main Street" in the development of most American cities, has experienced an exodus of previously established private commercial activities. In the 1960's there was less private activity in the area at the end of the decade than at the beginning. The sources of this decline are many, but three in particular are fundamental. The first is the great decline in small investor confidence in the area as has been characteristic in the development of other cities now being revitalized through urban redevelopment. The second source is the lag of private development, resulting from the difficult, if not impossible, task for private investors to aggregate parcels of land and sites large enough for profitable investment. For example, within the development area described in H.R. 10751, there are approximately 155 buildings, 7 of which are completely vacant and 77 vacant above the first floor or used for storage only. There are approximately 133 private landowners (individuals and organizations) and some 261 private lots. The third source of decline results from the continuing uncertainty regarding the national commitment of the legislative and executive branches of our Federal Government toward the revitalization and development of Pennsylvania Avenue.

Like other American cities, our Main Street—Pennsylvania Avenue—has suffered a gradual deterioration resulting in its now blighted character which imposes severe public, economic, and social liabilities on the government of the District of Columbia as the seat of the Federal Government, with the corresponding effect of impeding its growth and development and constituting a serious and growing threat to the public health, safety, and welfare of the inhabitants. The need to eliminate these conditions in our Federal City should not require further elaboration.

A fundamental national interest also dictates the need for this legislation. Pennsylvania Avenue is the nation's most important street or avenue. It has been the ceremonial avenue in the history of our Republic. Many of our Presidents have and will continue to journey this famous corridor to deliver their Inaugural Addresses and State of the Union Messages which have a profound effect on the historic course of this Nation. So, too, has this national street shared the burden of our loss when the cortege of a fallen leader traversed this last mile in the eyes of their fellow countrymen toward his final resting place. These ceremonial and other related occasions led to the designation of Pennsylvania Avenue as a national historic site on September 30, 1965.

The need to develop and maintain Pennsylvania Avenue so that it may be used in a manner suitable to its ceremonial, physical, and historic relationship to our Federal City and the Nation becomes apparent.

H.R. 10751, establishing the Pennsylvania Avenue Development Corporation is the entity needed to insure orderly comprehensive development of Pennsylvania Avenue and the adjacent area.

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

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

AMENDMENT OF SECTION 3306, INTERNAL REVENUE CODE OF 1954

The PRESIDING OFFICER (Mr. GRAVEL). The Chair now lays before the Senate, the unfinished business which the clerk will state.

The 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.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. FANNIN. 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:

EMPLOYEES OF MEMBERS OF AFFILIATED GROUPS OF CORPORATIONS

Employer Social Security Tax Liability

SEC. 533. (a) Section 3121 of the Internal Revenue Code of 1954 (relating to definitions for purposes of the Federal Insurance Contributions Act) is amended by adding at the end thereof the following new subsection:

"(t) CERTAIN EMPLOYEES OF MEMBERS OF AFFILIATED GROUPS.—For purposes of this chapter, an employee whose wages are paid

by a corporation which is a member of an affiliated group, but who performs services for one or more other members of the affiliated group, shall be treated as being in the employment only of the corporation which pays his wages. For purposes of the preceding sentence, the term "affiliated group" has the meaning assigned to it by section 1504(a), except that, for such purposes, any corporation shall be treated as an includible corporation."

Employer Unemployment Tax Liability

(b) Section 3306 of the Internal Revenue Code of 1954 (relating to definitions for purposes of the Federal Unemployment Tax Act) is amended by adding at the end thereof the following new subsection:

"(c) CERTAIN EMPLOYEES OF MEMBERS OF AFFILIATED GROUPS.—For purposes of this chapter, an employee whose wages are paid by a corporation which is a member of an affiliated group, but who performs services for one or more other members of the affiliated group, shall be treated as being in the employment only of the corporation which pays his wages. For purposes of the preceding sentence, the term "affiliated group" has the meaning assigned to it by section 1504(a), except that, for such purposes, any corporation shall be treated as an includible corporation."

Effective Date

(c) The amendments made by this section shall apply with respect to wages paid after December 31, 1972.

Mr. FANNIN. Mr. President, this is a simple amendment but it is an important one. It has been approved by the Senate as part of H.R. 1, and was deleted in conference, for purposes of FICA and the FUTA taxes, providing that an individual who performs services for more than one member of an affiliated group of corporations is to be treated as an employee only of the member of the group from which he receives his compensation. Thus, the present practice of attributing payments of compensation made by one member of an affiliated group to other members of the group for purposes of determining whether the FICA and FUTA taxes apply is no longer to be followed. The provisions of this bill do not provide a ceiling, however, where an employee is transferred from one member of an affiliated group to another member of the group and no longer performs services as an employee of the first member. Nor does the provision provide a ceiling in the case of an employee who is on the payroll of each of two, or more, affiliated corporations.

It is unfair the way the procedure is followed today. As an example, assume \$10,200 withholding level for FICA—social security—the total amount earned by an employee could be, say, \$20,000 and that would be equally divided by the four sub companies at \$5,000 each. Then by the time the employee had worked the first 6 months for the two affiliated companies, he would have paid in the amount for the withholding but if he continued working for three or four of those affiliated groups, then he would pay a double tax. The employee can deduct this expense as a credit on his individual tax return but the employer cannot deduct it or obtain any credit for his overpayment. This means that the employer pays the double tax in this instance and it is unfair and should be corrected.

Mr. PROXMIRE. I have discussed this matter with the distinguished Senator from Arizona (Mr. FANNIN) and I must

say he knows that I intend to oppose it. It would result in a revenue loss of \$10 million. It would not affect the worker but only the corporations involved. I realize that there is a matter of equity here and I know that the Senator is sincere about feeling that this is a matter of double taxation.

Mr. President, the Social Security Administration opposes this amendment.

Mr. FANNIN. Mr. President, if the Senator will yield, the Senator agrees this is a matter of double taxation.

Mr. PROXMIRE. I recognize that. The Social Security Administration opposed the amendment on \$10 million. I think there is some argument that could be made that under the circumstances the \$10 million ought to be paid. I think that on a bill of this kind, because it is opposed by a great agency of the Federal Government since it would affect the revenue by that amount, that we ought to have regular hearings. We ought to have a report, and we ought to have an opportunity to act on it in due course. This was one of the 13 proposals, was it not?

Mr. FANNIN. No; it was not. It came over. It was on H.R. 1. I am sure that when it came over we had a complete consideration of it by the Finance Committee. It was included in H.R. 1. It was only taken out because all measures of this nature were deleted in the conference. So, it has had complete consideration and also approval.

Mr. PROXMIRE. I know they were approved. All 13 of the amendments were approved, were they not?

Mr. FANNIN. No. This is not one of the 13 amendments.

Mr. PROXMIRE. At any rate, under the circumstances I hope that the Senator would not press it.

Mr. FANNIN. The Senator is saying that it is all right to be fair to the employee, but that it is wrong to be fair to the employer. I cannot understand it. Is not fair treatment fair treatment? This is a question of double taxation.

Mr. PROXMIRE. Mr. President, what happened was that the employee had a second job. I think there is a little different situation here. What happens is that an employee comes in. He has one job, and he is working for a second company. Is that correct?

Mr. FANNIN. He could be working for a second company, the Senator is correct.

Mr. PROXMIRE. There might be a third company. We could have a man who is working for three different companies.

Mr. FANNIN. He could be working for 3 months, and then 3 months, and then 3 months, and that would be the time during the year in which he is employed.

Mr. PROXMIRE. The situation is that the employer should treat all employees alike, whether they have one other job or no other job.

Mr. FANNIN. Mr. President, this is not the case here.

Mr. PROXMIRE. The employer would have the advantage when he is hiring a moonlighter, would he not?

Mr. FANNIN. Let me explain that to be eligible for this provision, the affiliates must be 80-percent owned by the parent company.

Mr. President, this is not a case where

they shift jobs. This is a very different matter from what the Senator is considering. This is one that is 80-percent owned. This is a very different matter from what the Senator is considering. I think it is very unfair to continue to have double taxation on a corporation. This involves \$10 million. Certainly if inequity exists, it should be corrected.

Mr. PROXMIRE. As I understand it, this was not considered in the House. There were no public witnesses heard. Is that correct?

Mr. FANNIN. I would not want to try to think back as to that. Certainly there was full consideration in the Senate.

Mr. PROXMIRE. Well, full consideration may be in executive session.

Mr. FANNIN. As far as I can recall—I would want to check on it, as to whether there was consideration in the House. It certainly is a matter that is inequitable. I think it is so very plain on the surface that there is an inequity. It is like taking something away from somebody improperly. It should not be done.

Mr. PROXMIRE. In this case I would say to the Senator that we are taking \$10 million away from the Social Security Administration, although they oppose it. We are doing so without public testimony, without public hearing at which the Social Security Administrator can appear and state his position and be cross-examined in public so that we have an opportunity for that kind of a record. It seems to me that to push this through in the last days of the Congress is no way to legislate.

Mr. FANNIN. Mr. President, H.R. 1 has been under consideration for 2 years. This is not pushing it through in the last minutes of the Congress. This has been under consideration. It has approval. The Treasury Department approves it. The Senator is saying, "Let us get as much money as we can. We can get this, and let us take it." And I think that is very unfair way to proceed.

Mr. PROXMIRE. No, I understand the Senator feels that is my position, but it is not. I know it is very difficult to understand. My opposition is on procedural grounds. It seems to me that if we are going to approve a \$10 million loss against an agency of the Federal Government, we should have public hearings, we should have testimony, and we should have a record established on it. We should have a report on it, and have all the details so that we have before us the details, pro and con, and not just kiss off \$10 million because there happens to be an inequity involved. There are many inequities in the tax laws. They should be considered together in a comprehensive reform bill and not rushed through piecemeal on the last day of Congress.

Mr. FANNIN. Mr. President, that would be like saying, "Let's not give anyone a refund, because we could save that money."

Mr. PROXMIRE. We certainly should not establish the principle that we could do that and give all kinds of refunds without having a regular legislative record, and give all kinds of refunds because there is not a regular legislative record to follow.

Mr. FANNIN. Mr. President, we have established a precedent for the employee, the same employee that is in-

involved, so that he can deduct that as a credit on his return. I think that as far as that is concerned, it shows the equity. I cannot understand why the Senator is opposed to being equitable, fair, and just. I would say that just because an agency of the Federal Government says, "I want all the money I can get, or I want more money," that we should just add on and add on. That is not fair. There is no equity to that. The Treasury recognizes the inequity and says that it is only fair and that we should correct it.

Mr. PROXMIRE. Do we not have a situation where the committee considered it in conference and deleted it?

Mr. FANNIN. Yes, but only because it was not germane, as far as they were concerned. It was not deleted because it was not a fair and equitable proposition. It was not considered from either standpoint. It was deleted because it was not germane.

Mr. PROXMIRE. My position is that I do not think we should be passing legislation on this basis. This is not a matter on which we could compromise without hearings, without a report, and without a regular legislative record to rely on.

Mr. FANNIN. Well, there is a report as far as that is concerned. There is a report. It is on H.R. 1. I do not have the report. However, it has been considered. And I feel that if the Senator gave consideration to what is involved, he would feel differently. The Senator understands it quite clearly, but the Senator feels that the employee should receive credit on his individual income tax return because he has paid twice. Why should not the corporation receive credit when they have paid twice?

Mr. PROXMIRE. Mr. President, I think I have made my position clear. I do not think it is necessary to repeat it. However, I will do so if necessary. I could stay here for several days and do it.

Mr. FANNIN. Mr. President, the only thing the Senator has said is, "Let us get this money. It is available, and let us get it."

Mr. PROXMIRE. Mr. President, that is not what I said.

Mr. FANNIN. What else has he said?

Mr. PROXMIRE. The only thing I have said is that we do not have a public record on this matter. We do not have public testimony on this matter. It is opposed by an agency of the Federal Government that will lose \$10 million. We ought to know why they are opposed.

Mr. FANNIN. Is the Senator willing to get a vote on this matter?

Mr. PROXMIRE. No.

Mr. FANNIN. The Senator is not willing to have a vote?

Mr. PROXMIRE. No. There is no way we can get a vote. There is no way we can do it.

Mr. FANNIN. We could have a voice vote.

Mr. PROXMIRE. We could have a voice vote, surely. I am afraid that would not be very representative. I admire all of the Senators who are present. But under the circumstances, I do not believe we could.

Mr. FANNIN. Mr. President, with great

reluctance, I withdraw the amendment. I think we are doing something that is very unfair, and I hope we will have an opportunity to correct such an inequity.

If the Senator from Wisconsin gives the matter consideration, he will probably support it.

Mr. PROXMIRE. It may be that I will in the future if it is brought up in the regular procedure. I would then have a different attitude.

Mr. RIBICOFF. Mr. President, I believe the bill is ready for third reading.

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

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 7577) was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. HANSEN. Mr. President, I have an amendment.

The PRESIDING OFFICER. The bill has been read the third time.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that third reading be reconsidered.

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

Mr. HANSEN. 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 proceeded to read the amendment.

Mr. HANSEN. 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. —. (a) Section 2055 (e) of the Internal Revenue Code of 1954 (relating to the disallowance of deductions in certain cases) is amended by adding at the end thereof a new paragraph to read as follows:

"(3) If a deduction is not allowable at the time of decedent's death, because of the failure of an interest in property which passes from the decedent to a person, or for a use, described in subsection (a), to meet the requirements of subparagraph (A), of paragraph (2) of this subsection and if the governing instrument of the trust is amended or conformed on or before December 31, 1974, or, if later, on or before the 30th day after the date on which judicial proceedings begun before December 31, 1974 (which are required to amend or conform the government instrument), become final, so that the interest is in a trust which is a charitable remainder annuity trust or a charitable remainder unitrust (described in section 664) a deduction shall nevertheless be allowed. The Secretary or his delegate may, by regulation, provide for the application of the provisions of this paragraph to trusts whose governing instruments are amended in accordance with this paragraph, and such regulations may provide for any adjustments in the application of the provisions of section 508 (relating to special rules with respect to section 501 (c) (3) organizations) and sub-

chapter J (relating to estates, trusts, beneficiaries, and decedents) to such trusts made necessary by the application of this paragraph. If the amendment or conformation of the governing instrument is made after the due date for the filing of the estate tax return (including any extension thereof), the deduction shall be allowed upon the filing of a timely claim for credit or refund (as provided for in section 651) of an overpayment resulting from the application of this paragraph. In the case of a credit or refund as a result of an amendment or conformation made pursuant to this paragraph, no interest shall be allowed for the period prior to the expiration of the 180th day after the date on which the claim for credit or refund is filed."

(b) The amendment made by this section shall apply in the case of decedents dying after December 31, 1969.

Mr. HANSEN. Mr. President, this amendment deals with the extension of time to allow charitable remainder trusts to conform to the requirements provided in the Tax Reform Act for purposes of an estate tax deduction.

As a result of the 1969 act, charitable remainder trusts must meet certain requirements in order for an estate tax deduction to be allowed for the transfer of remainder interest to charity. In general, these requirements must be met in the case of a decedent dying after December 31, 1969. Present transitional rules have been provided to allow a trust created after July 31, 1969, to qualify if the governing instrument of the trust is amended to meet these new requirements by December 31, 1972. However, because of the complexity of these rules, many nonconforming charitable remainder trusts are unable to meet this deadline. Accordingly, the committee amendment extends these transitional rules to December 31, 1974.

I think it is also worth noting that it took the Treasury Department 30 months to provide a publication providing sample trust provisions which were to help the public and the tax bar in drafting these new instruments so that they will comply with the act. If the public does not know what is expected of it, how can it comply with these laws?

The adoption of this amendment will help all charitable organizations. It is a proposed transitional rule which does not create an opportunity for tax avoidance. It applies only where the decedent created a vested remainder in the charity and the sole purpose is to permit, pursuant to State law, rather technical adjustments in the disposition of the income interest, and the protection and preservation of the remainder.

Mr. President, I can well understand the concern of Senators on the floor to adopting last minute amendments. I wish to say for the benefit of Senators here that this amendment was discussed by the Committee on Finance. It has the endorsement of the Treasury. It was agreed to and ordered reported by the Committee on Finance. It goes beyond that. This amendment would provide the opportunity for a great many people who may be so inclined to leave money to hospitals, to crippled children's hospitals, burn institutes, and that sort of institution.

In the last week we have been talking

about appropriating money in order to establish medical schools in the United States. This amendment would not necessarily do that, but it would expand the opportunities that institutions already in existence have to help little children, to help people who have been badly burned, and other people in that category.

I hope very much that my distinguished and respected colleague from Wisconsin will look with favor on the amendment.

Mr. PROXMIRE. Mr. President, the Joint Economic Committee made a study of subsidies of the Federal Government. We have \$63 billion of subsidies at the present time. Of that amount, \$38 billion is what we call tax expenditures, as the Senator knows. Some of these are merited and some are not.

I think the Senator made an excellent case for this proposal. This would cost \$10 million?

Mr. HANSEN. Over a 3-year period of time.

Mr. PROXMIRE. Over a 3-year period of time. In this case there were no hearings and there was no report. It is true it was approved by the Committee on Finance, but under the circumstances it seems to me it would be ill-advised for us to proceed with this amendment, involving this much money. Sometimes the tax expenditure route is good; the purpose is excellent. All of us would like to see medical facilities established.

However, this proposal cries out for hearings and for a record so we know, just as if we were appropriating \$10 million over a period of time. It would seem under those circumstances we should have hearings on the record.

We are here considering \$10 million in taxes without the regular course of legislation being observed.

While this may be all right, I hope the Senator will withdraw the amendment under the circumstances, because otherwise I will have to do my best to stop it.

Mr. HANSEN. Mr. President, let me say to my distinguished colleague that this amendment, as I understand it, really would not create any additional medical schools. I want to make certain no one is under that illusion, but I would say the end objective of this amendment is to recognize the failure of the Treasury Department for 30 months' time to take the necessary steps that I feel were indicated so that taxpayers and those so inclined could make bequests of this kind, such as to hospitals. It is unfortunate that the Treasury would not follow through and take steps and publish instructions so that taxpayers might be informed. That has not been done and it is because of those very compelling reasons I felt it necessary to present the amendment.

Mr. PROXMIRE. This would be retroactive for 30 months or 3 years?

Mr. HANSEN. No, for that period of time the Treasury has been derelict in not informing taxpayers.

Mr. PROXMIRE. For that reason it would save taxpayers part of the funds that otherwise would be obligated?

Mr. HANSEN. No. I think what would result is that money would go to the Treasury now that was intended to go to hospitals and charitable institutions. I

stress the word "crippled children's hospital." It is up to each of us to indicate his own decision. It would represent a Treasury loss of \$10 million over 3 years. My guess is that far more than that would go to hospitals and other institutions that would be the recipients of this kind of money, if my amendment could be approved.

Mr. PROXMIRE. That is what I had in mind when I said this might have an excellent effect, but as I understand it, the Treasury still has until December 31 to make its regulations available.

Mr. HANSEN. I did not mean that by law the Treasury had given any specific length of time. I think with the passage of the Income Tax Act of 1969 it was incumbent on the Treasury to spell out what steps might be taken by the taxpayers. That was not done. It seems unfortunate we would lose—that the public and the Nation would lose the help that otherwise would be going to institutions that have been so much the benefactors of all of us, because of the dereliction on the part of the Treasury in failing to come forward with a proper proposal.

I did not mean to imply that by a certain date the Treasury was obligated to come up with something, but it would mean that facilities for child treatment in this country, burn institutes, and institutes that give health care that could have been made possible will not go into effect because of the effect of the tax law of 1969. I just wanted to be sure my colleague understands that.

Mr. PROXMIRE. I understand that. I greatly respect the Senator from Wyoming. I understand the sincerity in which he offers the proposal.

I think I explained my objection.

Mr. HANSEN. I withdraw my amendment.

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

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

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

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

The motion to lay on the table was agreed to.

The title was amended, so as to read: "An Act to amend section 3306 of the Internal Revenue Code of 1954, and for other purposes."

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 7577, and the bill to be printed as it passed the Senate, with Senate amendments numbered.

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

Mr. MANSFIELD. Mr. President, will the Senator yield to me briefly?

Mr. MATHIAS. I am happy to yield.

Mr. MANSFIELD. I yield first to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I move that the Senate insist on its amendments and ask for a conference with the House on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. LONG, Mr. ANDERSON, Mr. TALMAGE, Mr. BENNETT, and Mr. CURTIS conferees on the part of the Senate.

Mr. MANSFIELD. Mr. President, I want to commend the distinguished Senator from Connecticut (Mr. RIBICOFF), the distinguished Senator from Indiana (Mr. HARTKE), and the distinguished Senator from Louisiana (Mr. LONG) for their management of this most complex and late-blooming bill. I also want to thank the distinguished Senator from Utah (Mr. BENNETT) and the distinguished Senator from Arizona (Mr. FANNIN) for their part in managing this bill and finally bringing it to fruition. I also want to extend my congratulations to the distinguished Senator from Wisconsin (Mr. PROXMIRE), who has proven himself to be a vigilant guardian at the gate.

This is a very complex bill. I hope any of the future tax measures that come before the Senate will come in sufficient time for adequate consideration so we will not be faced with the consideration of them at the last minute when we are rushing pell-mell to adjournment sine die. I think the Senate has given sufficient consideration to this measure. I am certain in my own mind that every amendment offered on the Senate floor was offered in good faith and had substance and merit behind it. I would hope that those which have been defeated will be considered by the committee and will be reported to the Senate; the amendments offered by the Senator from Wyoming and the Senator from Arizona both deserve consideration. As I listened to the debate, I thought they had a good deal of merit. If they had come to a vote, I would have voted for them, because I thought from the explanations offered that they were good amendments.

A CONGRESS OF FRUSTRATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed, at an appropriate place in the RECORD, an editorial entitled "A Congress of Frustration," which was published in the Baltimore Sun of October 15, 1972.

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

A CONGRESS OF FRUSTRATION

The 92d Congress is approaching adjournment, fittingly, in a general air of frustration. Even though denouncing Congress is an American institution in itself, no doubt as old as the Constitution which created our national legislature, the performance of the 92d Congress has to be disappointing, and alarming, to those who put their faith in representative democracy and in the separation of powers within the federal government.

A visitor in Washington makes the tour of Capitol Hill—the grand old Capitol, speaking so confidently of the earlier America that designed and built it; the sprawling cluster of big and, let us say, less impressive office buildings for the senators and representa-

tives—and senses a massive power. But the impression of power is misleading. Senators and representatives are men and women of power on Capitol Hill, within their own circles of self-esteem, but their power radiates a shorter and shorter distance from their own hill. Within the vast reaches of the executive branch of the government, the President, the department heads and the bureaucrats who run the countless agencies within the departments represent the real power and authority. Their power increases, moreover, as the power of Congress, speaking relatively, diminishes.

Is this an institutional failure—a decline in Washington of the authority of a legislative or parliamentary body such as has often occurred in other nations? Is Congress obsolete or obsolescent in the kind of executive government which has spread across the country during the past four decades? Or is this Congress ineffective because by accident, its leadership is weak—weak, that is, in comparison with some of the men in years past who exercised national leadership from positions in Congress?

An answer is not clear. We would like to think that a more vigorous leadership at the Capitol could revitalize Congress and persuade its members to accept their responsibilities as the direct representatives of the people, and as the first branch in our three-branch government. It is hard, however, to get much comfort from the record of the Congress now ending. Its concluding agony over the question of delegating to the President its control over federal spending—a delegation of power that would have been shouted down in an instant in earlier Congresses—points up the frustration that, more than anything else, has characterized the past year at the Capitol.

PERSONNEL RECORDS, DISTRICT OF COLUMBIA POLICE

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House on H.R. 11773.

The PRESIDING OFFICER laid before the Senate 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, on which the House insisted on its disagreement to the amendments of the Senate.

Mr. MANSFIELD. Mr. President, I move that the Senate recede from the Senate amendments to H.R. 11773.

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

The motion was agreed to.

ORDER FOR ADJOURNMENT TO 11 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 a.m. tomorrow.

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

Mr. MANSFIELD. Mr. President, I want to express my deepest thanks to the Senator who is now about to take the floor (Mr. MATHIAS), who has shown the greatest patience today, and who has done so uncomplainingly, and who has waited so other Senators could dispose of

other pieces of legislation. He has my sincere appreciation.

Mr. MATHIAS. I thank the majority leader for his kind remarks.

EXPENDITURE LIMIT

Mr. MATHIAS. Mr. President, I do not intend to detain the Senate long. I have complete regard for the members of the staff, who are spending very long hours here at this time of the session, but what I have to say is something that is pertinent to the Senate staff. They have an interest in what I have to say, so I am looking out for their interests as well as the interests of the country.

Last Friday, the Senate rendered its judgment on the proposal to allow the Executive to reduce expenditures to an aggregate amount of \$250 billion by cutting individual appropriations at his discretion. That judgment was, in short, that we bear our share of the blame for the fix we are in, and that we must shoulder our own responsibilities in finding a remedy. There is no way in which we could pass the buck to the Executive or anyone else without also confessing our own impotence. Such a confession would be a degree below abdication of all authority.

There is a big difference between admitting that we have failed to cut the mustard and an admission that we can't cut the mustard anymore. Once we have admitted our failure, we can at least attempt to make a stronger and better effort. But if we simply collapse under the strain, then it is unlikely that we shall ever make sufficient effort to recover the vigor and the perseverance that has characterized the Congress in the past. I helped to reach the Senate's conclusion and I concur in the judgment.

Yet the crisis is real. A \$23 billion deficit in a recession was concerning, but a prospective \$35 billion deficit in a rising economy is alarming. The decision of the Senate was not, therefore, predicated on the proposition that there was no cause for alarm, but rather that the remedy prescribed was even worse than the malady.

Since the conferees have met and reported on this question, and since the Senate and the other body will have to reconsider its position after studying the conference committee reports, I thought that it might be helpful to review the situation before us.

The question is not whether we should be fiscally responsible or not, for no one in this Chamber advocates fiscal irresponsibility. Nor is the question whether there should be a limit to Federal spending, for all of us recognize the need for tighter controls on the Federal budget. Nor is the question whether \$7 or \$10 or even \$20 billion can be safely cut from the programs we have appropriated, for each of us believes that he or she could make those cuts and improve our way of life in the process.

The question, rather, is who should have the power to decide what programs should be cut and by what amount. The bill sent to us by the House provided that the Executive, acting alone, could cut any programs by any amount necessary to reduce Federal expenditures to \$250 billion. This would be an unprecedented

and unlimited delegation of Federal power.

The Executive could make crippling reductions in all funds for the administration of the U.S. Supreme Court and the other Federal courts. He could slash all funds for the operation of the so-called independent regulatory agencies—the FTC, FCC, ICC, CAB, FMC, and SEC.

The President could hold back funds for development of missiles, bombers, and submarines so vital to our national defense. He could starve diplomatic missions around the world. He could strangle programs to provide funds for school-children, to provide health care for the elderly, to clean our air and waters, to aid the FBI and police forces throughout our land. He could take any number of other unwise actions.

Now, coming to the legislative staff, under the conferees' agreement to make budget item 904 discretionary, the Executive could close the Capitol, and then, I ask, where are the checks and balances that have been the guarantee of our liberty? What is then left of the doctrine of separation of powers?

I have the highest confidence in the wisdom and capabilities of President Nixon, but each of us must realize that most of the spending decisions would be made—not by the President—but by some nameless, faceless bureaucrat not answerable to the people of America. Perhaps these decisions would be made wisely—I hope so—but we have no way of knowing. And we would be setting a very dangerous precedent for the future.

I contend that our duty to the people and the Constitution demands that we make these fundamental decisions ourselves. The Constitution gives Congress the power of the purse, the power to raise revenues and to direct how those revenues are to be spent. The power of the purse—as the Senator from Oregon (Mr. Packwood) pointed out on Friday was the great victory won by the barons at Runnymede and guaranteed in the Magna Carta in the year 1215.

Thousands of Englishmen have given their lives and fortunes to protect that fundamental principle in the centuries that have followed. Millions of people in other countries have died trying to gain a similar check on their rulers. Our Founding Fathers considered this power so vital that they spelled out in the Constitution that only the House of Representatives could initiate revenue legislation. The purpose of that provision was made clear by Hamilton and Madison—the Representatives are more accessible to and more responsible to, the people of the United States—and the power to make these critical decisions should be shared by a large number of elected officials close to the general populace.

To have accepted the House provisions would have been to have treated too lightly the lessons 750 years of experience of people trying to govern themselves. In the name of fiscal responsibility, we would surrender responsibility for all vital public programs. In the name of helping the people, we would delegate the power to help to persons unanswerable to the people.

In the final analysis, each of us must admit that we have been derelict in our duties, that we have neglected our re-

sponsibility to reform programs to meet the challenges of the modern Federal budget. But we should not now take the easy way out—by not only passing the buck, but also passing the power of the purse—with no commitment to reform our procedures in the future beyond a new committee to study the problem.

I can not support such action. If cuts be necessary—and I think they are—let us make them ourselves. If time be required, let us take it. If wisdom and responsibility be demanded, let us rise to the occasion and find it in ourselves. Only thereby shall we meet our full obligations to the people and the Nation we serve.

Mr. PROXMIRE. Mr. President, I rise under the circumstance that I had intended to speak on the same issue on which the Senator from Maryland has spoken, and I find myself in complete, total, absolute disagreement with him. I feel very uneasy about that, because I admire the Senator so much and I know how strongly the Senator feels about it.

But, Mr. President, this has been an experience I have had repeatedly in the last couple of days. I have found myself in disagreement with many Senators whom I like and admire the most, and I find myself in agreement on many things with Senators with whom I ordinarily tend to disagree. I find myself in disagreement with able Senators such as my friend the Senator from Minnesota (Mr. HUMPHREY) and others of both parties who oppose this measure on the grounds that it is giving the President unprecedented powers that go back to the time of the Magna Carta. They say that this is a surrender of legislative authority to the President.

Skilled editorial writers of the New York Times, the Washington Post, and other outstanding newspapers take the same position. They write as if this were a great historical watershed in the loss of congressional power to the Executive.

Mr. President, I have great respect for these Senators and these leading newspapers, but I am convinced that they could not be more wrong. What, in fact, does Congress give away by providing this \$250 billion ceiling, with the President instructed to make broad spending cuts to achieve it? The answer is, "nothing."

We lose nothing. Even if we did not have the Jordan amendment, we would be giving nothing away.

And what do we gain? We gain something. We gain a restriction in the President's spending authority.

Then why is the President for it? Why does he want this authority restricted?

Why? The answer is simple. This is October 16. The President is up for election on November 7—3 weeks from tomorrow. By calling for this ceiling, he makes himself appear to be an economy-minded President—the taxpayers' friend. And by opposing this ceiling, the Democratic Senators are playing right into the President's hands. The Democrats appear to be for spending, and therefore for higher taxes or inflation, or both.

President Nixon has set an artful political trap, and if we delay or kill or somehow make a spectacular reaction or a presidential and congressional campaign issue out of this, perhaps in the closing

weeks of the campaign the principal issue, the President will be the big political winner.

Of course, all of this comes down to whether this spending ceiling does or does not limit Presidential and not congressional power.

THE SPENDING CEILING LIMITS THE PRESIDENT'S POWERS

To put it another way, the major argument against Congress setting a \$250 billion ceiling on spending is that the Congress is granting to the President power which rightly belongs to the legislative branch.

In my view that is not true. In fact, most of the argument is purely a partisan political one on the part of the President. The President now has the authority to establish a spending ceiling of \$250 billion or \$245 or probably one anywhere from \$220 to \$280 billion. He can do that by a memo to his Budget Director. He can do that by word of mouth, by merely telling Mr. Weinberger to put such a ceiling on spending.

Because the President controls spending, or outlays, and can spend very much more than \$250 billion if he so desires, what we in fact are doing is limiting his power by placing a ceiling on the total amounts he might otherwise spend. We are not giving him power he does not already have and power which he cannot already exercise. By placing a ceiling on spending, we are limiting his power.

DIFFERENCE BETWEEN APPROPRIATIONS AND OUTLAYS

Very few people, including many in Congress, understand what Congress has power over and what the President has power over with respect to the budget.

Congress has power to appropriate and to grant what is called "new obligatory authority." The President has power over expenditures of "outlays." The two are only remotely connected.

What we appropriate and what the President spends in any 1 year are very different things. But few people know that.

When Congress appropriates money for military procurement, construction of public works, funds for housing and urban renewal, or foreign aid, those funds may not be spent for several years into the future. Within certain limitations, the President controls the rate or timing of that spending. Congress does not.

For example, as of January 1972, I calculated that in fiscal years 1968 to 1972 Congress cut the President's requests for the Pentagon by \$18.4 billion. He asked for a total of \$378.8 billion. We appropriated \$360.5 billion, or a cut of \$18.4 billion.

But in that period the Pentagon actually spent some \$382.1 billion. The Pentagon spent \$3.3 billion more than the President requested. And \$21.6 billion more than Congress appropriated in those years.

But that rate of spending by the Pentagon was determined by the President and the Budget Bureau and the Pentagon, but not by Congress in the years involved.

HUGE UNEXPENDED BALANCES

The reason the President controls spending is that he has huge unexpended

balances to draw from. At the end of fiscal year 1972, the total unexpended balances amounted to \$266.7 billion.

At the end of fiscal year 1973, it is estimated that the amount will be \$289.8 billion.

The fiscal year 1973 total amount of \$289.8 billion includes \$155 billion in Federal funds and \$134 billion in trust funds.

Looked at another way, the \$289.8 billion includes \$182 billion in obligated balances and \$108 billion in unobligated balances. All of this is set forth on page 98 and table G-1 in the special analysis of the fiscal year 1973 budget.

When Congress appropriates, the funds go to the President. But he determines at what rate they will be spent. He can speed up, slow down, or draw out the funds.

And that is not only true of the President, it is true of a Governor or a mayor, and it has always been.

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

Mr. PROXMIRE. I yield.

Mr. MATHIAS. I think, from what the Senator has said, that we are in fundamental disagreement on the substance of the issue, and therefore it is not necessary to argue the details, although the Senator's political argument on this subject does not ring very true to me, because I hope the President will be reelected. I am supporting him.

Mr. PROXMIRE. I know the Senator is. I think all Senators should be concerned about this issue, and perhaps the President is. Whether he is or not, it is working out to his great political advantage. The reasons are that he wants this ceiling, and Congress does not want to give it to him.

Mr. MATHIAS. That is all the more reason why the Senate should look at this very carefully, and see what we are dealing with here. The Senator is familiar with article III, section 1 of the Constitution, which reflects the Founding Fathers' judgment and deep perception of human nature. It says that the salaries of judges shall not be diminished during their term of office. It does not say the President's or Congress shall not be, but nobody shall diminish the salaries of the judges during their term of office, because one of the ways to reduce the independence of judges is by threatening to remove their financial security. That has been a problem over the years.

Here we are, in this conference report, specifically including as one of the items over which we give the President discretion item 904. Item 904 is the legislative branch of the Government.

We are saying to the President, "All right, now, Mr. President, you can cut the salaries of the Parliamentarian, of the Secretary of the Senate, of the pages. You can turn off the heat in the Capitol, if you like. You can do all those things, and you can do them with our blessing."

Remember what W. C. Fields said: "Never give a sucker an even break."

I think we are just ignoring some of the sagest advice the American people ever received.

Mr. PROXMIRE. I say to the Senator from Maryland, with respect to the extent to which the President can do these things under the resolution, that he

could do them, anyway. He obviously cannot reduce the salary of a judge; that is unconstitutional. There is nothing in the resolution we passed to enable him to do that.

Mr. MATHIAS. But he can close the Supreme Court building. They can have a fine time in the park out here.

Mr. PROXMIRE. He can do that, anyway.

Mr. MATHIAS. I question whether he can do it. I do not think he could, because that is not my theory.

Mr. PROXMIRE. It may well be that that would be a violation of the Constitution. But to the extent that he can, there is nothing in this limitation on spending that gives him any more power.

Mr. MATHIAS. Let me make this final observation, because the hour is late. I do not think he has the power, but whether he does or does not, there is going to be no act of mine which condones it.

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

Mr. PROXMIRE. I yield.

Mr. MANSFIELD. Mr. President, I am in complete, total, and absolute agreement with what the distinguished Senator from Maryland has said.

I have grave questions about the first part of the distinguished Senator from Wisconsin's remarks. So far as he has gone on the second part, I find myself in agreement with him.

But I would point out that the fundamental power of Congress—and the Founding Fathers thought long and hard about this—was to give Congress the right to tax and the right to appropriate. What we are endeavoring to do is not to set a ceiling, which I think is relatively unimportant—it is far less significant than the constitutional question—but what we are trying to do is to give the President power which has been ours since the beginning of this Republic, and which goes back far beyond, as the distinguished Senator has said, to Runnymede and the Magna Carta—taxation and appropriation.

Yes, this is a historic watershed. I do not think it is a political trap on the part of the President, but I could be wrong. But, political trap or not, when the Senate faces up to this program, it is, in my opinion, going to decide whether or not it is going to maintain as much equality as it has left—it has been going away ever since the Roosevelt's period—or whether it is going to maintain the constitutional precept of equality between the legislative and the executive branches.

What we did in this Chamber last Friday or Saturday in adopting the Jordan proposal and in voting for the debt ceiling bill was to give to the President power which no President has any right to arrogate or even to request. I did not vote for that, either. I do not intend to vote for the conference report, because I think it is a namby-pamby, mish-mash of a compromise; I know our conferees sought to bring some order out of a most difficult situation but the result is not satisfactory.

So I find myself in disagreement with the distinguished Senator from Wisconsin, for whom I have the greatest ad-

miration. No one here knows more about taxation than he does, and no one watches the Federal budget more closely. But in this instance I find that, despite my lack of knowledge of things financial and economic and otherwise, the simple question to me, boils down to the constitutionality of what the President is requesting; and this is something which previous Congresses before my time would not even have allowed to get to first base.

But here we pass bills in the Senate and the House, we arrive at a compromise, and the constitutional question is shunted aside. What we are doing is giving up our power to a President, as we have done so often during the past 40 or 50 years. When we do that, may I say to my colleagues in this Chamber, we are giving away the constitutional power which was accorded to us by the men who wrote that document. They knew what they were doing 200 years ago. I wonder whether we know what we are doing 200 years later.

Mr. PROXMIRE. Mr. President, the majority leader, as he knows, has my complete admiration and respect. Not only that, but also, he knows far more than I do in many of these areas. He has been in Congress longer. He has studied these questions at great length; he has served in the Appropriations Committee longer. Therefore, I approach this matter with the greatest care and with the complete knowledge that there are very distinguished and able men who disagree very strongly and deeply with this position. But I do not hear any counter to the argument that the President can slow down, can speed up, can decide that a program will not go ahead.

What sticks in my mind, especially, is the fact that in 1962, President Kennedy and Secretary McNamara opposed having an additional wing of B-52 bombers; and they recommended that we save a very substantial amount of money, several billion dollars, by not having them. That proposal was overruled by Congress. I recall that the Appropriations Committee recommended that we go ahead with it.

I took the Kennedy proposal, the McNamara proposal, and I introduced an amendment supporting the President and knocking out these funds. I got four votes for it on the floor. The Senate decided, by an 87-to-4 vote, overwhelmingly, that those funds should be spent. Were they spent? No. Did we hear any more about it? No.

President Kennedy used his good judgment, and said it should not be spent, and it was not spent. Because it was President Kennedy, in retrospect, many people think he was wise and saved us money; and now many people would say that was a good move.

That seems to me to be no more unconstitutional, no more in error, than it would be for Richard Nixon to decide not to spend money on some program all of us would like to have. We would like to have some of the welfare or educational programs go ahead. It seems to me that if he wants to slow down or postpone or not spend money on a program, we have a record that he can do so.

Mr. MATHIAS. The Senator could not

have picked a happier example, it seems to me, than that particular episode, which I recall very well.

I was aware, of course, of the Senator's very valued efforts for economy in the Senate. I was then a Member of the other body, however; and my primary focus was over there. Carl Vinson, the great chairman of the House Armed Services Committee, was a very strong advocate for going ahead with the plane. It was not in fact abandoned as a project, and the congressional heat did not come off so far as the other body was concerned until Carl Vinson and President Kennedy took a walk in the rose garden. I recall it very well.

Mr. PROXMIRE. I am talking about the B-52, an additional wing of the B-52. I am not talking about the B-70 bomber.

Mr. MANSFIELD. The Senator is correct. I was thinking of the B-70. But I think it applies as an example.

Mr. PROXMIRE. But in this case, Congress passed the appropriation by an overwhelming vote and was very anxious to have the funds spent. They were not spent, not because Congress did not want it or pass it, but because President Kennedy decided they should not go ahead.

With only minor exceptions, that determination is up to the President. To the extent it is controlled, the President controls it; Congress does not.

Therefore, in placing a limit or ceiling on spending, Congress is limiting the President's power. Without it, he could spend billions more than the ceiling.

Some Senators may still be dubious. If they are, let them look at some of the specifics.

The Pentagon alone will have more than \$40 billion in unexpended balances at the end of this year.

In other areas, there will be \$28 billion in guarantee and insurance programs; \$8.2 billion in loan programs; \$8 billion in procurement funds, \$14 billion in construction funds; \$565 million in research and development programs, and another \$2.3 billion in "other balances." This is a grand total of \$62.8 billion in Federal unobligated fund balances at the end of fiscal year 1973.

And there is another \$92 billion in obligated balances and \$134 billion in trust funds balances, both obligated and unobligated, which will still remain available at the end of the year.

This vast backlog of funds is the reason the President controls spending and the reason why what Congress appropriates and what is spent are two very different things.

The details can be found in tables G-2, G-3, and G-4 of the Special Analyses of the U.S. Budget for 1973.

FURTHER PROOF

There is further proof that what Congress appropriates and what the President spends are virtually unrelated. That is to be found on page 497 of the budget document itself. What does it show?

When the President proposed his \$246.3 billion budget last January, only \$126.8 billion was the "portion available through current action by Congress." Get that—only \$126 billion of \$250 billion—about only half of the amount that relates to the appropriations we made on the floor of the Senate.

The remaining \$119 billion included \$52.9 billion from obligated balances, \$45.4 billion from unobligated balances, and \$45 billion which was available without current action by the Congress. The total was offset by \$23.8 billion in deductions for offsetting receipts.

The fact is that only \$126 billion, or slightly more than half of this year's spending, will come from current actions by the Congress, or from what Congress appropriates.

Like the flowers that bloom in the spring, Congress has very little to do with actual spending or the rate of spending or budget outlays. That power resides with the President.

WHAT CAN PRESIDENT DO WITHOUT SPENDING CEILING?

The question comes: What power does the spending ceiling give the President that he does not already have?

Could the President limit spending to \$250 billion without the ceiling? Answer? Absolutely "yes." He could cut it even be-

low that amount, merely through a memo or a word to Mr. Weinberger.

Could the President withhold or impound funds? Answer? Yes; he could do it as he has done it in the past. In fact, the ceiling as passed, limits the President to impounding or not spending only 20 percent of funds in a number of categories where he might otherwise impound 50 or 100 percent of the funds.

Our ceiling limits the total amount he can spend. Our ceiling now limits how much he can impound in certain crucial categories. This is an awfully important point—it limits the impoundment. Without the ceiling, the President could spend more and impound more than is now possible.

LIMITING HIS POWERS

Our action in placing a ceiling on spending limits the President's powers to spend. It limits what he can impound. Far from granting him more power, it restricts his powers.

He controls the rate of spending. We limit that.

He controls the rate at which unobligated balances are used. Our actions limit that.

He controls the rate at which obligated balances are spent. We limit that.

He has the power to impound funds. He has used it. The ceiling limits that power in some major categories to 20 percent of the total funds.

For all these reasons, the spending ceiling does not give up congressional power to the executive. It limits and controls and defines more closely powers he already has.

Mr. President, I ask unanimous consent that the following table may be printed in the RECORD:

They include: First, a memorandum from page 474 the fiscal year 1973 budget; and second, four tables from the special analyses of the budget showing the unexpended balances for fiscal year 1973, from pages 98, 99, 104, and 105.

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

TABLE 3.—BUDGET AUTHORITY AND OUTLAYS BY AGENCY

(In millions of dollars)

Department or other unit	Budget authority			Outlays		
	1971 actual	1972 estimate	1973 estimate	1971 actual	1972 estimate	1973 estimate
MEMORANDUM						
Portion available through current action by Congress ¹	169,444	169,418	185,305	102,335	119,033	126,780
Portion available without current action by Congress.....	85,255	100,763	109,508	36,921	42,536	45,086
Outlays from obligated balances.....				48,500	49,670	52,877
Outlays from unobligated balances.....				41,962	45,775	45,428
Deductions for offsetting receipts:						
Intrabudgetary transactions.....	-13,420	-14,981	-15,142	-14,420	-14,981	-15,142
Proprietary receipts from the public.....	-4,874	-5,424	-8,772	-4,874	-5,424	-8,772
Total.....	236,406	249,777	270,898	211,425	236,610	246,257

¹ Budget authority excludes appropriations to liquidate contract authorizations. Outlays from such appropriations are included as outlays from balances below. Source: Fiscal year 1973 Budget, p. 497.

TABLE G-1.—SUMMARY OF BALANCES

(In millions of dollars)

Description	Balances end of year			Description	Balances end of year		
	1971 actual	1972 estimate	1973 estimate		1971 actual	1972 estimate	1973 estimate
Federal funds:				Total Federal and trust funds:			
Unobligated balances.....	71,963	64,313	62,844	Unobligated balances.....	174,843	172,684	181,782
Obligated balances.....	72,280	78,480	92,372	Obligated balances.....	86,078	94,010	108,046
Total Federal fund unexpended balances.....	144,244	142,793	155,216	Total unexpended balances.....	260,922	266,695	289,828
Trust funds:							
Unobligated balances.....	102,880	108,371	118,938				
Obligated balances.....	13,798	15,530	15,674				
Total trust fund unexpended balances.....	116,678	123,902	134,612				

Source: Special Analyses of the Budget, p. 98.

TABLE G-2.—ANALYSIS OF FEDERAL FUND UNOBLIGATED BALANCES

(In millions of dollars)

Category and agency	Unobligated balances end of year			Category and agency	Unobligated balances end of year		
	1971 actual	1972 estimate	1973 estimate		1971 actual	1972 estimate	1973 estimate
Guarantee and insurance programs:				Low-rent public housing.....	972	894	863
Standby and backup authority:				Flood and civil disorder insurance.....	569	572	570
International financial institutions.....	7,114	7,397	7,814	Urban renewal loans and planning advances.....	257	20	26
Federal Home Loan Bank Board:				Federal Housing Administration fund.....	156		
Investment in Federal home loan banks.....	4,000	4,000	4,000	Securities and Exchange Commission:			
Federal Savings and Loan Insurance Corporation.....	750	750	750	Securities Investor Protection Corporation fund.....	1,000	1,000	1,000
Interest adjustment payments.....			50	Veterans' Administration: Loan guaranty fund.....	524	556	471
Federal Deposit Insurance Corporation.....	3,000	3,000	3,000	Farm Credit Administration: Banks for cooperatives investment fund, and short-term credit investment fund.....	260	260	260
Department of Housing and Urban Development:							
Loans to Federal National Mortgage Association.....	2,250	2,250	2,250				

TABLE G-2.—ANALYSIS OF FEDERAL FUND UNOBLIGATED BALANCES—Continued

[In millions of dollars]

Category and agency	Unobligated balances end of year			Category and agency	Unobligated balances end of year		
	1971 actual	1972 estimate	1973 estimate		1971 actual	1972 estimate	1973 estimate
National Credit Union Administration: Credit union share insurance fund.....	106	113	124	Total guarantee and insurance programs.....	26,477	26,760	28,074
Total standby and backup authority.....	20,958	20,812	21,177	Loan programs:			
Reserves for losses and debt redemption:				Department of Housing and Urban Development:			
Federal Home Loan Bank Board: Federal Savings and Loan Insurance Corporation.....	2,615	2,831	3,051	Government National Mortgage Association: Special assistance functions.....	3,767	4,632	4,605
Department of Housing and Urban Development:				College housing loans.....	1,320	955	925
Federal Housing Administration fund.....	1,314	1,454	1,631	Public facilities loans.....	225	187	149
Participation sales fund.....	678	393	571	Housing for the elderly or handicapped.....	64	76	93
Department of Agriculture: Rural housing, Federal crop, and agricultural credit insurance funds.....	146	417	646	Rehabilitation loans.....	4	53	14
Veterans' Administration: Veterans insurance funds.....	470	527	588	Veterans' Administration: Direct loan revolving fund.....	680	843	925
International development assistance: Overseas Private Investment Corporation.....	204	238	323	Department of Agriculture: Farmers home, rural electrification and telephone loans.....	377	433	559
Housing guaranty fund.....	49	49	48	Department of Labor: Advances to the unemployment trust fund.....	347	349	351
Other agencies.....	42	39	39	International development assistance: Development loans.....	463	330	330
Total reserves for losses and debt redemption.....	5,519	5,948	6,897	Small Business Administration.....	418	194	151
				Export-Import Bank.....	1,458	358	322
				Other agencies.....	253		
				Total loan programs.....	9,375	8,409	8,424

Source: Special Analyses of the Budget, p. 99.

TABLE G-3.—FEDERAL FUND OBLIGATED BALANCES

[In millions of dollars]

Description	Obligated balances end of year			Description	Obligated balances end of year		
	1971 actual	1972 estimate	1973 estimate		1971 actual	1972 estimate	1973 estimate
Department of Defense—Military:				National Institutes of Health.....	1,670	2,121	2,324
Procurement.....	14,920	16,121	18,760	Health Service and Mental Health Administration (mostly community mental health and hospital construction).....	1,457	1,740	1,981
Research and development.....	3,390	3,795	4,370	Office of Child Development.....	8	183	213
Operation and maintenance.....	2,388	2,591	2,704	Other.....	63	186	425
Construction and family housing.....	1,086	1,328	2,081	Department of the Interior.....	816	1,011	1,137
Military personnel.....	550	709	823	Department of Justice (mostly Law Enforcement Assistance Administration).....	491	920	1,205
Other.....	679	586	809	Department of Labor (manpower development and training).....	1,138	1,722	1,995
Total Department of Defense—Military.....	23,013	25,130	29,547	Atomic Energy Commission (mostly research and development).....	1,038	1,404	1,565
Civilian agencies:				Environmental Protection Agency (mostly construction grants).....	1,631	2,850	3,838
Funds Appropriated to the President:				Department of Transportation (mostly urban mass transportation, highways and Coast Guard).....	1,082	1,173	2,022
International development assistance.....	3,865	4,224	4,922	Department of Housing and Urban Development:			
International security assistance.....	2,199	2,100	2,484	Community Development (mainly urban renewal fund).....	5,735	7,616	8,038
Appalachian regional development programs.....	479	566	576	Housing Production and Mortgage Credit: Federal Housing Administration.....	2,366	1,307	1,243
Office of Economic Opportunity.....	923	569	492	Housing Management.....	274	326	428
Other.....	608	674	199	Other.....	138	201	226
Department of Agriculture:				National Aeronautics and Space Administration (mostly research and development).....	1,463	1,723	1,923
Commodity Credit Corporation.....	3,069	3,772	4,032	Postal Service.....	913	1,519	2,595
Rural Electrification Administration.....	1,064	1,149	1,166	Veterans Administration.....	964	982	1,069
Farmers Home Administration.....	779	719	935	Export-Import Bank.....	3,848		
Agricultural Stabilization and Conservation Service.....	241	277	221	Other civilian agencies.....	2,763	3,282	4,085
Other.....	601	601	646	Total civilian agencies.....	49,267	53,350	62,825
Department of Commerce (mostly economic development and maritime programs).....	1,185	1,399	1,558	Total Federal fund obligated balances.....	72,280	78,480	92,372
Department of Defense—Civil.....	318	371	510				
Department of Health, Education, and Welfare:							
Office of Education (mainly grants to colleges, universities, local school districts, and other educational institutions).....	2,677	3,735	4,497				
Social and Rehabilitation Service (mainly grants to States).....	3,431	2,928	4,275				

¹ Includes obligated balances of allowances for civilian and military pay raises of the Department of Defense (1972, \$30,000,000; 1973, \$135,000,000).

² Includes obligated balances of allowances for pay raises, excluding DOD (1972, \$10,000,000; 1973, \$35,000,000; and contingencies 1972, \$200,000,000; 1973, \$400,000,000).

Source: Special Analyses of the Budget, p. 104.

TABLE G-4.—TRUST FUND BALANCES

[In millions of dollars]

Balances end of year							Balances end of year						
Description	1971 actual		1972 estimate		1973 estimate		Description	1971 actual		1972 estimate		1973 estimate	
	Unobligated	Obligated	Unobligated	Obligated	Unobligated	Obligated		Unobligated	Obligated	Unobligated	Obligated	Unobligated	Obligated
Federal old-age and survivors insurance trust fund	31,502	2,843	32,035	3,214	32,341	3,395	Federal employees life insurance fund	1	975	1	1,133	1	1,304
Federal disability insurance trust fund	6,073	337	6,657	389	6,879	407	Highway trust funds	6,210	7,496	6,962	7,834	8,336	7,364
Federal hospital insurance trust fund	3,044	59	4,460	81	9,095	94	Airport and airway trust fund	829	460	564	941	284	965
Federal supplementary medical insurance trust fund	245	45	461	45	717	50	National service life insurance fund	6,051	372	6,043	385	6,305	404
Unemployment trust fund	11,282	23	9,528	49	9,145	69	U.S. Government life insurance fund	740	21	694	21	668	22
Railroad retirement account	4,694	157	4,637	168	4,739	171	Foreign military sales trust fund	2,345	320	3,225	520	3,825	620
Civil service retirement and disability fund	24,755	279	27,575	300	30,617	344	Federal Deposit Insurance Corporation funds	4,351	322	4,748	348	5,173	356
Federal employees health benefits fund	108	48	135	57	181	69	Other trust funds	650	41	646	45	632	40
							Total trust funds	102,880	13,798	108,371	15,530	118,938	15,674

Source: Special Analyses of the Budget, p. 105.

Mr. PROXMIRE. Mr. President, I realize that this is the kind of speech which many Senators will find so sharply in disagreement with their feelings that they will simply disregard it, but I hope they will think about it and reflect on it and recognize that while we do have power to appropriate, we have appropriated over many years and we have given the President over the years a backlog of funds which he can spend which greatly exceed the amount we appropriated this year. Therefore, I would hope that Senators would reconsider their position. That is not done very often, especially under these circumstances, but I would hope that they would hope that they would look long and hard at exactly what authority we do give the President. I may be wrong about this but I do not believe that I am. I have discussed this in great detail with our staff people, with economists, and other experts in this area, and I have no question that we do provide restrictions here and I would hope that Senators would consider that this is the spirit and the effort we are trying to impose.

The distinguished majority leader has pointed out over the years that the Congress has restricted Presidents—not just President Nixon, but President Johnson, President Kennedy, President Eisenhower, and President Truman. In every case, Congress has appropriated less money. It seems to me that this particular resolution which has been passed is in the spirit of that which we have established. I do not think that we should feel that we are giving anything away. We are limiting the opportunity the President has to spend. We appropriate the money that the Congress has approved. We are below the President. We should make that clear.

If we were to ask the commentators and the newspaper reporters who follow this matter, they would say that Congress is spending more than the President, but the record shows quite the contrary. I hope that this resolution, certainly if it passes, will be viewed by the country and Members of Congress as one that does not surrender power to the President or limit him, but is a sincere effort to hold down spending.

Mr. MANSFIELD. Mr. President, may I say that, as always, I have found the remarks of the Senator most interesting. He has given me a lot of food for thought, although I must admit that we are on different sides, so far as the fundamental, the basic, the constitutional question is concerned.

In this respect, in this instance, I happen to be a strict constructionist. If I love anything more than my wife and family, it is the Congress, the institution which is the embodiment of and by the traditions which it has created the foundation on which this Republic rests.

In my opinion, it is not a court, it is not the presidency, it is the Congress which is the most important factor in the well-being, the welfare, and the strength of this Republic. As long as this institution stands, I think there is hope for this Nation.

The Senator has mentioned that we have restricted the President over the

past several years. We have. Presidents Kennedy, Johnson, Eisenhower, Truman, and Nixon—yes—by and large, their budgets have been cut every year at least for the past 20 years. Mr. Nixon's budget will be cut at least \$5 billion before we are through, hopefully, this week. So there have been restrictions there.

But, by the same token, we have imposed restrictions on ourselves by delegating powers, which are constitutionally ours, to the President. We have done it regardless of what particular party any President belonged to.

The States have given up their sovereignty at the same time, in return for what I refer to as "handouts"—Federal funds to take care of their highways, their social services, and other factors; which indicate that the Central Government here in Washington is becoming more and more powerful and the States are becoming less and less powerful, and weaker with the passage of time.

There is too much centralized government in this country. There is too much coming to Washington. There is too much emphasis on the Federal Government. There is not enough emphasis on the State governments and State sovereignties. That is most unfortunate, because with the accumulation of power at a central point, certain difficulties arise. On this basis, we find conflict between the executive and the legislative branch and, unfortunately, we find that we are losing out, we who represent the legislative branch.

What we have done, we have done willingly. What we have done, we have done without any coercion whatsoever. Because of that, we have no one to blame but ourselves. We have given away a lot of power in the field of foreign policy. We have tried to get back a little bit here and a little bit there, but once we give something away, it is like going into Vietnam or Indochina.

It is easy to give. It is easy to go in. But it is hard to take back, and it is hard to withdraw. This to me is a fundamental question. I would say the most fundamental constitutional question which has confronted me in my 30 years in the Congress.

I feel very deeply about this, because I do not want to see any more domestic or foreign policy power given to a President of the United States, and I emphasize, any President.

I want to see Congress bring about a restoration of the powers which it has given away.

I would hope—respecting as I do the very distinguished Senator's judgment and the reasons which lie behind what he said this evening—that Congress will stand firm and not give up any of its rights, not even to the extent that the Jordan amendment in the nature of a substitute embodied the other day, and certainly not on the basis which has been agreed to in conference, which has further emasculated what the Senate did when it passed the bill last Friday or Saturday.

I did not vote for the Jordan amendment. I thought it went too far. I did not vote for the bill which the Senate passed.

I do not intend to vote for the conference report, because I think considering the debt ceiling is one thing, but giving to the President power is another thing, and the two should not be entwined together, but rather separated.

There is a need for an increase in the debt ceiling. There is no need for transferring constitutional powers, which inherently belong to the Congress, to the President of the United States. What the President does with respect to withholding from expenditure money appropriated by the Congress for specific programs is one issue still not fully resolved under the Constitution; but in any case the Congress should not by its own act resolve this issue in favor of the President by sanctioning—by mandating—that questionable process.

Mr. PROXMIRE. Mr. President, I thank the Senator from Montana. My speech tonight was not intended to cover the entire issue of delegation of power. The Senator is absolutely right. We have given up too much power, when we consider the Gulf of Tonkin joint resolution and all the other matters. We certainly gave away far more power in the case of the wage and price controls. We gave unprecedented authority to the President, and with virtually no guidelines or restrictions of any kind.

I think it is a bad piece of legislation to give away one of the most important domestic powers to the President, without the kind of restrictions we should have in this area. But in the spending area, there is no question that the President can speed up or slow down and time his outlays as he wishes. He always has done so, and he will continue to do so.

What this resolution does is to delegate this authority and the ability to the President. The fascinating thing to me is that it limits the kind of spending he can make and it puts a limit on the impoundment. This resolution limits it to 20 percent.

Once again I want to say that it really pains this Senator to disagree with the distinguished majority leader. It is only on rare occasions that I do. It certainly troubles me that I do so now. However, I must say that I disagree with him vigorously.

Mr. President, I yield the floor.

Mr. MANSFIELD. Mr. President, I appreciate the remarks of the Senator and I can understand the point of view of the distinguished Senator from Wisconsin, although I cannot agree with it because of my basic fundamental belief in the division of powers between the legislative and the executive branch, and also because of my deep feeling that the powers of Congress have been eroded too much over the past four or five decades.

I will read the Senator's speech with a great deal of interest, because aside from the basic question, there is much that he has said which is going to give me something to think about. As always, I find the Senator from Wisconsin most interesting. His facts are reliable and compact.

There is, of course, a time when even the best of friends differ, but in differing we find that that is what strengthens friendship as well.

The PRESIDING OFFICER. Who yields time?

TRIBUTES TO SENATOR JORDAN OF NORTH CAROLINA

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the RECORD be help open until November 1, 1972, for tributes by his colleagues to Senator B. EVERETT JORDAN of North Carolina and that all the tributes to the Senator be printed as a Senate document.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, tomorrow, the Senate will take up the conference reports on H.R. 1 and the debt limitation. The House will have to act on both of these conference reports first, however. Consequently, the Senate may be in very late tomorrow night in order to dispose of these two conference reports before sine die adjournment.

If the Senate were not to dispose of these two conference reports tomorrow, we would have to try to do so on Wednesday. Hence, it is necessary that Senators be present and be prepared for a very

long day tomorrow, which could conceivably extend beyond midnight, depending on how the situation develops.

ADJOURNMENT TO 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 11 a.m. tomorrow.

The motion was agreed to; and at 6:15 p.m., the Senate adjourned until tomorrow, Tuesday, October 17, 1972, at 11 a.m.

EXTENSIONS OF REMARKS

JUDGE BINKOWSKI SPEAKS ON TRAFFIC SAFETY

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1972

Mr. NEDZI. Mr. Speaker, newspaper stories and television coverage of matters relating to traffic safety tend, regardless of their accuracy, to have a sameness which numbs and shortens the attention span of the average citizen.

A recent article in the September 1972 issue of The Peace Officer, however, is of special merit because of its scope and probing insights.

The author is District Judge Don Binkowski, of Warren, Mich., who draws upon his wide experience with traffic safety as assistant attorney general sitting on the Michigan Drivers License Appeal Board, as examiner for the Michigan Department of State, as practicing attorney, and now as a local judge.

Under leave to extend my remarks in the RECORD, the article follows:

JUDGE SPEAKS OUT ON TRAFFIC SAFETY (By Judge Don Binkowski)

Of all the groups involved in traffic law enforcement, the Police, by far, are doing the best job.

In most cases, the Police are making arrests and bringing the offenders to court. It is evident that Police officers are receiving more training than ever before. This must be continued.

HEAVY LOSSES

Over 50,000 people die in traffic accidents each year and more than four million others suffer injuries. In addition traffic mishaps cause billions of dollars in property loss each year.

It demands total community effort to reduce these grim statistics. I don't feel that we must wait until we kill over 100,000 people a year on the highways before we take concerted drastic efforts.

Action is called for not only by the Police, but by the judges, prosecuting attorneys at the various levels of government, mayors and city councils, and the various traffic safety associations.

TRAINING BENEFITS JUDGES

I make many of my recommendations based upon attending traffic court school at Northwestern University under the auspices of the American Bar Association and especially under the dedicated directorship of James P. Economos. However, I do not consider myself "expert".

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Every traffic court referee or judge dealing with traffic should attend a course of this type. Thus far, it is optional and very often up to the unit of government involved to allow such expenses. Judges must be trained the same as other professionals must.

MUST CONTROL DRINKERS

In the area of drinking-related offenses, responsible for roughly half the deaths and injuries, I feel that judges cannot continue the old policy of "fining and forgetting" the drinking driver.

With respect to the restoration of driving privileges after suspension due to bad records, it would appear that no group has evaluated the large percentage of restorations and then made suggestions or criticisms. A judge is a public official and his actions are always subject to public scrutiny.

MUST PROSECUTE OFFENDERS

However, the judge or the traffic court referee cannot act as prosecutor. It sometimes appears that prosecuting attorneys are more interested in property cases, such as breaking and entering and larceny, than in traffic-related offenses such as manslaughter or negligent homicide.

EMPHASIS ON LIVES

This old tradition must be broken. Human lives are more important than property. The prosecuting attorneys must regard any death by automobile as serious as death by any other cause. Often, there appears to be an attitude of "there, but for the grace of God, go I".

In at least one county I know of, it appears to be the policy that in the first arrest for driving while under the influence of liquor, it is automatically reduced to driving while visibly impaired. This attitude and policy is wrong—and should be severely criticized.

An extremely important aspect bearing upon the attitudes among prosecuting attorneys is that many are not protected by civil service status.

NEED CAREER PROSECUTORS

In too many instances the prosecuting attorney is engaging in a part-time occupation and is not dedicated to traffic law enforcement, and thus sometimes subject to certain special interest pressures.

If we are to have an effective and integral law enforcement program, then we need career prosecuting attorneys as well as career judges, free to act in the public interest.

Prosecuting attorneys should be trained in traffic matters, perhaps at universities, and in cooperation with the American Bar Association Court Program.

LAW SCHOOL CAN HELP

To my knowledge, law schools do not devote much, if any, attention to the matter of traffic safety and law enforcement.

It stands to reason that if traffic safety is

important enough that we have Police officers lecture to kindergarten classes, it would apply with greater logic that traffic matters deserve the serious attention of law students and future attorneys. Unfortunately, most attorneys feel that it is below their professional dignity to appear in traffic court.

LAWYERS MUST CHANGE

Far worse than this attitude is the prevailing attitude, especially in charges of driving while under the influence of liquor, that an attorney must "do something" to earn his fee.

When a client is charged with first degree murder, no attorney ever feels under obligation to "do something". The only thing he generally does tell his client is that he will do the best possible job.

However, in the case of drinking/driving matters, it is the prevailing attitude that the attorney must secure a reduction or he is not earning his fee.

This is not correct professionally or as a practical matter, but it does reflect the condescending attitude of the members of the Bar toward traffic matters.

POLICE IN COURTROOM

Police might also sharpen their court-room appearances. My suggestion is that they listen to the records that are made in open court in other cases, so that they know how to testify and learn what questions will be asked of them under cross examination.

The biggest deficiency appears to be on the part of the breathalyzer operators. They often are not sufficiently trained to testify in court and relate what "10" means to the average individual.

Further, I am at a loss to determine why some Police officials who have TV equipment for use in drinking-related offenses use it in court, while others do not.

PROSECUTORS IN COURT

It would also seem a good practice that a prosecuting attorney appear at every traffic case. It must be recognized, however, that in many cases this may not be economically possible. Yet it is inexcusable that a prosecuting attorney cannot appear at the more serious traffic violations such as D.U.I., reckless driving, leaving the scene of an accident or driving on a suspended license.

PUBLIC SUPPORT NEEDED

It seems that because the people have not been clamoring for traffic law enforcement of such a degree and at all levels, responsible public officials have not provided sufficient funds. Monies are required to staff prosecuting attorney's offices and related expenditures.

It must be noted that we cannot rely upon the public to demand this type of action. It would appear to me that forces such as the local traffic safety associations must demand that all necessary funds be expended in this direction.