Political activity remains outlawed and deposed politicians are under close surveillance. Black, unmarked cars are parked in front of the homes of Mr. Canellopoulos, Mr. Mavros, Mr. Papasyprou and others. They usually contain three plainclotehsmen who display an ostentatious interest in callers.

Students reported that the universities, considered likely resistance centers, were heavily infiltrated by young people in the pay of the security services. A belief frequently expressed in university circles is that everything that is said is overheard by informers.

Education Minister Gerasimos Fragatos denied in an interview that there were informers on the campuses. He said that the Government commissioners, usually retired officers, installed in each university since the coup were often very popular among the students.

Labor unions have been stripped of their elected leaders since the coup and are generally considered to have ceased to be a political force.

RESTRICTIONS ON PRESS

The press, while freed from censorship, continues to operate under martial-law conditions, with publishers and editors subject to severe penalties. Anti-Government newspapers have come under heavy economic pressure, through both taxation and the withholding of Government advertising and advertising from business concerns with rich Government contracts.

All political leaders interviewed emphasized that they did not want direct United States interference. But many people who suspect the Central Intelligence Agency of having arranged Mr. Papadopoulos's accession to power said they wanted it to depose him.

The consensus among political figures was that as long as the regime could keep alive the impression that it enjoyed American support, opposition political activity would be inhibited by the feeling that the forces against the dissidents were too strong to be tackled.

No one interviewed believed that Mr. Papadopoulos would call general elections.

In the absence of indications that Mr. Papadopoulos plans to restore democracy, many Greeks look to their allies to use their influence in their behalf. They believe that the United States wields more influence than the other members of the Atlantic alliance.

"The United States must stop all moral support of this regime," Mr. Canellopoulos said. "From then on the task—and it is our task—will be made much easier."

SENATE—*Tuesday, February 8, 1972*

The Senate met at 10 a.m. and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

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

Almighty God, who has made and preserved us a nation, we thank Thee for the hallowed memories which cluster about the commemorations of this week. We thank Thee for the life and labor of the Great Emancipator, for the Union which has been preserved, for the elevation of free men under Thy rulership, for equal justice under law, for the wider opportunities for life's fulfillment opened to men and women of every race and religion, and for the measure of brotherhood achieved in this good land.

May the mantle of Abraham Lincoln cover our efforts in this age, that we may be kind as he was kind, magnanimous as he was magnanimous, firm as he was firm. Inspired by his memory, may we go to our duties uplifted and strengthened.

In the name of Him who came to set men free. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 8, 1972.

To the Senate:

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

ALLEN J. ELLENDER,
President pro tempore.

Mr. BYRD of West Virginia thereupon took the chair as Acting President pro tempore.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed, without amendment, the following bill and joint resolution of the Senate:

S. 2672. An act to permanently exempt potatoes for processing from marketing orders; and

S.J. Res. 196. A joint resolution extending the date for transmission to the Congress of the report of the Joint Economic Committee.

The message also announced that the House insisted upon its amendments to the bill (S. 748) to authorize payment and appropriation of the second and third installments of the U.S. contributions to the Fund for Special Operations of the Inter-American Development Bank, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PATMAN, Mr. BARRETT, Mrs. SULLIVAN, Mr. REUSS, Mr. ASHLEY, Mr. GONZALEZ, Mr. WIDNALL, Mr. JOHNSON of Pennsylvania, Mr. J. WILLIAM STANTON, and Mr. BROWN of Michigan were appointed managers on the part of the House at the conference.

The message further announced that the House insisted upon its amendments to the bill (S. 749) to authorize U.S. contributions to the Special Funds of the Asian Development Bank, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PATMAN, Mr. BARRETT, Mrs. SULLIVAN, Mr. REUSS, Mr. ASHLEY, Mr. GONZALEZ, Mr. WIDNALL, Mr. JOHNSON of Pennsylvania, Mr. J. WILLIAM STANTON, and Mr. BROWN of Michigan were appointed managers on the part of the House at the conference.

The message also announced that the House insisted upon its amendments to the bill (S. 2010) to provide for increased participation by the United States in the International Development Association, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PATMAN, Mr. BARRETT, Mrs. SULLIVAN, Mr. REUSS, Mr. ASHLEY, Mr. GONZALEZ, Mr. WIDNALL, Mr. JOHNSON of Pennsylvania, Mr. J. WILLIAM STANTON, and Mr. BROWN of Michigan were appointed managers on the part of the House at the conference.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, February 7, 1972, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

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

SENATOR MARGARET CHASE SMITH TO BE A CANDIDATE FOR RE-ELECTION

Mr. AIKEN. Mr. President, on July 15, 1964, it was my privilege to nominate at the Republican National Convention in San Francisco a person whom I considered fully qualified to be President of the United States.

That person was Senator MARGARET CHASE SMITH, of Maine.

Although she did not receive the nomination, she did receive the finest ovation I have ever seen given a candidate at a national convention.

I now ask unanimous consent that the nominating speech which I gave at that time be printed in the RECORD.

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

SPEECH BY MR. AIKEN

Mr. Chairman and Delegates: I intend to nominate for President one of the most capable persons I have ever known and one with whom I have been associated in public service for 24 years.

I don't like to start a nominating speech with a confession, but the circumstances are compelling.

In introducing my candidate, I find myself in a most peculiar position; I am severely restricted in what I can offer for your support.

I can't promise you a cabinet job, an ambassador's appointment—or even a shot at a nice government contract.

I can't even offer you cigars or chewing gum.

For a while, it looked real promising. I thought I could at least invite you all out

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

for coffee because I knew my candidate was having checks and $10.00 bills and $1.00 bills and pennies sent her from most every State in the Union. Pennies came from school children—and dollars from low income people who couldn't afford it. Then there were some beautiful checks in three and four figures from real important business people.

The outlook looked as rosy as a Pacific sunset.

You and I were going to have a wonderful time here in San Francisco.

Then do you know what happened?

Do you know what my candidate pulled on me?

She took every big check—every little check—every $10.00 bill—every $1.00 bill and every penny and sent them straight back to where they came from. My candidate wants the nomination solely on her record and her qualifications for the job. And that's why I can't offer you any candy or cigars or chewing gum or even ask you all out for a cup of coffee.

The only thing in the world left for me to offer you for your support is the best managed government the United States ever had—a government headed by the best qualified person you ever voted for.

Before setting forth the qualifications of the candidate I shall shortly present to you, let it be distinctly understood that I am concerned solely with the nomination of one who is best qualified for the job and who can bring victory to our Party in November.

I am not making this nomination for the purpose of embarrassing any other candidate.

I intend to support the nominees of this Convention next November.

What do we have a President for?

Certainly not to do just those things which you and I as individuals would like to have done.

Certainly not to run this country exactly as he or she would like to run it.

If that is the way we feel, we should promptly scrap our Constitution and become a monarchy.

Until we reach that state of political depravity, however, the President of the United States will be required to perform the duties of the office as set forth by our Constitution and to administer laws and carry out programs as laid down by the Congress.

In carrying out programs and administering laws as determined by the Congress, the President will necessarily use the great powers which originally were vested in the Congress but which have long since been delegated to the Executive Branch.

There are some Republicans who still insist that Congress rescind these delegations of authority.

Let us not kid ourselves, however. The next President, whether Republican or Democrat, and regardless of race, creed, color or sex, is not going to recommend that Congress rescind the powers that have been delegated to the White House over the past century.

In view of this situation, it is far more important to elect a person of integrity and ability to the Presidency—one who owes allegiance to no special interests—either domestic or foreign—one who will conscientiously perform the duties of the office as prescribed by the Constitution—than it is to elect one on the premise that he or she may agree with our particular viewpoints.

I have definite ideas as to the qualifications our candidate for President should have. I say unequivocally that the candidate I will propose most nearly meets that criteria.

1. A President should have integrity. Whether dealing with foreign nations or the folks at home, integrity is a priceless asset. My candidate stands ace-high in this respect.

2. A President should have ability. Good intentions alone are not enough. We don't want the floors of the White House paved with good intentions.

If my candidate does not have ability, then the 44 universities and colleges that have awarded her degrees based solely on merit have been wrong.

3. A President should have had wide experience in government.

Well, if 24 years' experience on the roughest-toughest Committees of the Congress—Defense, Space, Appropriations, Government Operations and Rules don't qualify my candidate then the other candidate whose names are being submitted to you cannot possibly be qualified for none of them can approach her record.

4. A President should have courage—courage to stand for the right when it may not be popular to do so—courage to stand for decency in the conduct of public affairs—courage to stand alone if necessary against formidable odds.

Does my candidate have this kind of courage?

I can refer you to several high ranking officers of the United States Armed Forces who have learned from experience that she is ably qualified in this respect.

As a sincere testimonial to her courage the Reserve Officers Association has recently designated her as "Minute Man of the Year"—the first time that this great honor has ever been conferred upon a person of her sex.

5. A President should have common sense.

My candidate stands par-excellence in this respect.

Time and again I have watched her keep her head "when all about her were losing theirs" and blaming it on everyone but themselves.

She wants to get things done that ought to be done—and she wants them done right.

She does not panic when things don't go to suit her. She just keeps on headed for her goal—which at this moment is the Republican nomination for the Presidency.

We need a candidate that does not panic in a crisis, not even a campaign crisis.

Nor should we support a candidate just because we are partial to any particular industry either at home or abroad. We don't want an industry in the White House. We want a living, capable, conscientious human being.

We want to nominate and elect a President who will promote the interests of our Nation both at home and abroad with impartial consideration for all.

We want a candidate who enjoys the confidence of people in all walks of life.

The one I shall nominate has demonstrated time and again that she "can walk with Kings nor lose the common touch".

She never forgets her own people and the glare of glory has never turned her head.

The record majorities which the people of her home State have given her with each passing election are eloquent testimony to this trait of her character.

Her conduct during this campaign has been rather unusual. She has not neglected her work in the Senate to chase down delegates to this Convention. The job she was elected to do has come first.

Running solely on her record and her qualifications for the office, she has spent no money for advertising—has hired no paid workers—has made no promises—and will have nothing to do with the wheeling and dealing—the trading and raiding practices which I understand have sometimes been used in political campaigns.

I now aks you two questions:

Do you want the United States to have good government? If you do—then vote for the candidate best qualified to give good government.

Do you want to win the November election? If you do—then vote for the candidate who enjoys the confidence and respect of all people and who can get the votes necessary to win.

I am now proud to nominate that candidate—The Senior Senator from the Great Republican State of Maine, Senator Margaret Chase Smith.

Mr. AIKEN. Mr. President, it may have been fortunate for this Senate that Senator SMITH did not receive the nomination or become President because, during the past 8 years Congress has continued to be the beneficiary of her sound judgment and advice.

I was delighted when she announced yesterday that she would be a candidate for reelection from the State of Maine.

Not only does that mean that the State of Maine but the Nation as well will have the benefit of her services in the future, services enhanced by experience, commonsense and integrity.

No one in this body has a greater knowledge of our national needs than our esteemed colleague, MARGARET CHASE SMITH.

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 30 minutes, with statements therein limited to 3 minutes.

Mr. MANSFIELD. 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.

NOTICE ON CONSIDERATION OF WEST COAST DOCK STRIKE LEGISLATION

Mr. MANSFIELD. Mr. President, for the information of the Senate—and I wish attachés on both sides would contact each Senator individually—it is the intention of the leadership to bring up the bill reported by the Committee on Labor and Public Welfare having to do with the west coast dock strike at some time between 4 and 5 o'clock this afternoon.

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

The ACTING PRESIDENT pro tempore. The absence of a quorum has been suggested. 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 DEPARMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. BYRD of West Virginia) laid before the Senate the following com-

munication and letters, which were referred as indicated:

PROPOSED ADDITIONS TO NATIONAL WILDERNESS PRESERVATION SYSTEM

A communication from the President of the United States, transmitting, pursuant to law, proposals for 18 additions to the National Wilderness Preservation System (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORT ON VIETNAMESE SUPPORT COSTS

A letter from the Assistant Secretary of Defense, transmitting, pursuant to law, a confidential report on Vietnamese Support Costs (with an accompanying report); to the Committee on Appropriations.

REPORT ON WORKING CAPITAL FUNDS

A letter from the Secretary of Defense transmitting, pursuant to law, a report setting forth the financial condition and operating results of working capital funds (with accompanying report); to the Committee on Armed Services.

REPORT ON MILITARY PERSONNEL POLICY

A letter from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, a report on military personnel policy, for fiscal year 1971 (with accompanying papers); to the Committee on Armed Services.

REPORT OF 1971 QUADRENNIAL REVIEW OF MILITARY COMPENSATION

A letter from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, an errata sheet for inclusion in the report of the 1971 Quadrennial Review of Military Compensation (with an accompanying paper); to the Committee on Armed Services.

REPORT ON PROGRESS OF ROTC FLIGHT INSTRUCTION PROGRAM

A letter from the Secretary of the Navy, transmitting, pursuant to law, a report of the Naval Reserve Officers Training Corps flight instruction program, for fiscal year 1971 (with an accompanying report); to the Committee on Armed Services.

REPORT ON EXEMPLARY REHABILITATION CERTIFICATES

A letter from the Secretary of Labor, reporting, pursuant to law, on exemplary rehabilitation certificates, for calendar year 1971; to the Committee on Armed Services.

DELAY OF REPORT REQUIRED UNDER DEFENSE PROCUREMENT AUTHORIZATION ACT OF 1971

A letter from the Assistant Secretary for Congressional Relations, Department of State, informing the Senate that there has been an unavoidable delay in submitting the report required under the Defense Procurement Authorization Act of 1971; to the Committee on Armed Services.

REPORT ON FLAMMABLE FABRICS

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on flammable fabrics, for fiscal year 1971 (with an accompanying report); to the Committee on Commerce.

HEARINGS ON AMENDMENT OF FLAMMABILITY STANDARD

A letter from the Assistant Secretary of Commerce submitting a copy of a press release and petitions for amendment of the flammability standard of children's sleepwear (with accompanying papers); to the Committee on Commerce.

REPORT OF THE DISTRICT OF COLUMBIA ARMORY BOARD

A letter from the Chairman of the District of Columbia Armory Board transmitting, pursuant to law, its financial statement and annual report (with accompanying papers); to the Committee on the District of Columbia.

GENERAL ACCOUNTING OFFICE REPORTS ISSUED OR RELEASED

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a list of the reports issued or released by the General Accounting Office, for the month of January, 1972 (with an accompanying report); to the Committee on Government Operations.

REPORT ON DISPOSALS OF FOREIGN EXCESS PROPERTY

A letter from the Acting Assistant Secretary for Administration, Department of Agriculture, transmitting, pursuant to law, a report on disposals of foreign excess property, for fiscal year 1971 (with an accompanying report); to the Committee on Government Operations.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Two Ways the Food and Nutrition Service Could Reduce Costs of Donating Commodities," Department of Agriculture, dated February 4, 1972 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Continuing Problems in Paying State Claims for Administrative Expenses of Public Assistance Programs," Social and Rehabilitation Service, Department of Health, Education, and Welfare, dated February 7, 1972 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Demonstration Grant Program Has Limited Impact on National Solid Waste Disposal Problem," Environmental Protection Agency, dated February 4, 1972 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Economies Available by Better Selection of Office Copiers by Federal Agencies," General Services Administration, dated February 3, 1972 (with an accompanying report); to the Committee on Government Operations.

A report of the Comptroller General of the United States transmitting, pursuant to law, a report entitled "The Effects of Federal Expenditures on the Economy of Johnson County, Ky." (with accompanying report); to the Committee on Government Operations.

REPORT ON ACTIVITIES OF GEOLOGICAL SURVEY RELATING TO ACTIVITIES OUTSIDE THE NATIONAL DOMAIN

A letter from the Acting Secretary of the Interior, reporting, pursuant to law, on activities outside the national domain, for the 6-month period ended December 31, 1971; to the Committee on Interior and Insular Affairs.

PROPOSED ACQUISITION OF BIG CYPRESS NATIONAL FRESH WATER RESERVE, FLA.

A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to authorize the acquisition of the Big Cypress National Fresh Water Reserve in the State of Florida, and for other purposes (with an accompanying paper); to the Committee on Interior and Insular Affairs.

REPORT ON ADMINISTRATION OF FEDERAL METAL AND NONMETALLIC MINE SAFETY ACT

A letter from the Secretary of the Interior, transmitting, pursuant to law, a report on administration of the Federal Metal and Nonmetallic Mine Safety Act, for the year 1970 (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORT OF ECONOMIC DEVELOPMENT ADMINISTRATION

A letter from the Secretary of Commerce, transmitting, pursuant to law, a report of the Economic Development Administration, for fiscal year 1971 (with an accompanying report); to the Committee on Public Works.

REPORT OF THE UPPER GREAT LAKES REGIONAL COMMISSION

A letter from the Chairman of the Upper Great Lakes Regional Commission transmitting, pursuant to law, its report for the period July 1, 1970 to June 30, 1971 (with accompanying report); to the Committee on Public Works.

POSTPONEMENT OF SUBMISSION OF REPORTS ON THE ECONOMICS OF CLEAN AIR

A letter from the Administrator, Environmental Protection Agency, reporting, for the information of the Senate, that reports on the Economics of Clean Air, required by law to be made by January 10, have necessarily been postponed; to the Committee on Public Works.

REPORT OF NEW ENGLAND REGIONAL COMMISSION

A letter from the Federal and State Co-chairmen, New England Regional Commission, Washington, D.C., transmitting, pursuant to law, a report of that Commission, for fiscal year 1971 (with an accompanying report); to the Committee on Public Works.

REPORT OF VETERANS' ADMINISTRATION

A letter from the Administrator of Veterans' Affairs, transmitting, pursuant to law, a report of the Veterans' Administration, for fiscal year 1971 (with an accompanying report); to the Committee on Veterans' Affairs.

PROPOSED LEGISLATION RELATING TO DIRECT LOANS

A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to authorize the Veterans' Administration to forgo making direct loans where a lender will make a guaranteed loan at a reasonable discount (with an accompanying paper); to the Committee on Veterans' Affairs.

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

Harold C. Crotty, of Michigan, to be a Member of the National Commission on Libraries and Information Science; and

John A. Penello, of Maryland, to be a Member of the National Labor Relations Board.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. SPONG (for Mr. JACKSON) (for himself, Mr. ALLOTT, Mr. CHILES, and Mr. GURNEY) (by request):

S. 3139. A bill to authorize the acquisition of the Big Cypress National Fresh Water Reserve in the State of Florida, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MUSKIE (for himself, Mr. GURNEY, Mr. PERCY, Mr. METCALF, Mr. JAVITS, Mr. HUMPHREY, and Mr. ROTH):

S. 3140. A bill to improve the financial management of Federal assistance programs to facilitate the consolidation of such programs; to provide temporary authority to expedite the processing of project applications drawing upon more than one Federal assistance program; to strengthen further congressional review of Federal grants-in-aid; and to extend and amend the law relating to intergovernmental cooperation. Referred to the Committee on Government Operations.

By Mr. MUSKIE (for himself and Mr. GURNEY):

S. 3141. A bill to amend the Intergovernmental Personnel Act of 1970 to provide for the employment of younger citizens of States and local governments as a means of increasing administrative, technical, and professional skills available to local and State governments, thereby strengthening the Federal system. Referred to the Committee on Government Operations.

By Mr. MUSKIE (for himself, Mr. JAVITS, Mr. RIBICOFF, and Mr. SCHWEIKER):

S. 3142. A bill to authorize the Secretary of State to furnish assistance for the resettlement of Soviet Jewish refugees in Israel. Referred to the Committee on Foreign Relations.

By Mr. CHILES:

S. 3143. A bill to exclude service performed by certain nonresident alien circus performers from covered employment under the Social Security Act. Referred to the Committee on Finance.

By Mr. ANDERSON:

S. 3144. A bill to designate certain lands in Bosque del Apache National Wildlife Refuge, Socorro County, N. Mex., as wilderness. Referred to the Committee on Interior and Insular Affairs.

By Mr. ANDERSON (by request):

S. 3145. A bill to amend to Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful. Referred to the Committee on the Judiciary.

By Mr. BENTSEN:

S. 3146. A bill to amend chapters 31, 34, and 35 of title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and persons; to provide for advance educational assistance payments to certain veterans; to make improvements in the educational assistance programs; and for other purposes. Referred to the Committee on Veterans' Affairs.

By Mr. GRAVEL:

S. 3147. A bill for the relief of Brian B. Brinkley. Referred to the Committee on the Judiciary.

By Mr. BAYH:

S. 3148. A bill to improve the quality of juvenile justice in the United States and to provide a comprehensive, coordinated approach to the problems of juvenile delinquency, and for other purposes. Referred to the Committee on the Judiciary and when reported, by unanimous consent, to the Committee on Government Operations.

By Mr. FONG:

S. 3149. A bill for the relief of Julita Funtanilla and her children, Wilhelmina Funtanilla, Sylvia Funtanilla, and Josephine Funtanilla. Referred to the Committee on the Judiciary.

By Mr. HUGHES, from the Committee on Labor and Public Welfare:

S.J. Res. 197. An original joint resolution to provide a procedure for settlement of the dispute on the Pacific coast between certain shippers and associated employers and certain employees. Considered and passed.

By Mr. BAYH:

S.J. Res. 198. A joint resolution to authorize the President to issue a proclamation designating the week of March 20–26, 1972, as "American Football and Basketball Coaches Week." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPONG (for Mr. JACKSON) (for himself, Mr. ALLOTT, Mr. CHILES, and Mr. GURNEY) (by request):

S. 3139. A bill to authorize the acquisition of the Big Cypress National Fresh Water Reserve in the State of Florida, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. SPONG. Mr. President, on behalf of the Senator from Washington (Mr. JACKSON), I introduce a bill and ask unanimous consent that a statement prepared by Senator JACKSON and a letter from the Secretary of the Interior be printed in the RECORD.

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

STATEMENT OF SENATOR JACKSON

Mr. President, I introduce by request a bill submitted by the Secretary of the Interior to authorize the acquisition of the Big Cypress National Fresh Water Reserve in the State of Florida and for other purposes. I have been joined in the introduction of this departmental bill by the ranking minority member of the Committee on Interior and Insular Affairs (Mr. Allott) and both Senators from the State of Florida (Mr. Gurney and Mr. Chiles).

Mr. President, last August the junior Senator from Florida and I introduced S. 2465, to establish the Everglades-Big Cypress National Recreation Area in the State of Florida. I conducted a hearing on this legislation on November 30, 1971, in Miami, Florida. One week before that hearing on November 23, I was most pleased to learn that the President announced his support of the concept to preserve this important area which has such a direct relationship to the well-being of the Everglades National Park. The bill I am introducing today by request is the Administration bill. I am pleased that progress is being made toward the eventual protection of this highly valuable ecological area. There may be differences of degree on just how to protect the area, but the important point to remember is that there appears to be a consensus on the need to move forward before it is too late. Now that the Administration has presented its bill, I will shortly announce a date for the resumption of the hearing on this proposal.

The field hearings to which I referred earlier should be available for distribution within the next two weeks.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., February 4, 1972.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of a bill "To authorize the acquisition of the Big Cypress National Fresh Water Reserve in the State of Florida, and for other purposes."

We recommend that the bill be referred to the appropriate committee for consideration, and we recommend that it be enacted.

Evidencing a deep concern and understanding of the conservation problems involved in protecting the Big Cypress area of south Florida, President Nixon on November 23, 1971 stated:

"About 35 miles west of Miami lies the Big Cypress Swamp, a unique ecological preserve of paramount importance to the future of Southern Florida. In order to protect Big Cypress Swamp from private development that would destroy it, and to insure its survival for future generations, it is now essential for the Federal Government to acquire this unique and vital watershed. I will therefore propose legislation to acquire the requisite legal interest in 547,000 acres of the swamp."

The enclosed draft bill would authorize the implementation of plans announced by President Nixon on November 23, 1971.

The bill authorizes the Secretary of the Interior to acquire by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange, lands, waters, and interests therein within an area depicted on a map of file with the National Park Service of this Department. The area to be acquired, consisting of not to exceed 547,000 acres of private land and approximately 37,000 acres of publicly owned land, shall be known as the Big Cypress National Fresh Water Reserve.

The reserve shall be administered by the Secretary of the Interior in accordance with the laws applicable to the National Park System. However, the bill authorizes the Secretary to enter into an agreement with the State of Florida or an appropriate political subdivision thereof, pursuant to which the State or local political subdivision may manage and administer the lands acquired for the reserve for the purpose of protecting the unique natural environment of the Big Cypress area. Any such agreement shall contain provisions to limit or control such uses as motorized access, exploration for an extraction of oil, gas, and other minerals, grazing, draining or constructing works to alter the natural water courses, agriculture, hunting, fishing, and trapping, and new construction of any kind. The bill directs the Secretary to permit hunting, fishing, and trapping within the reserve in accordance with applicable State and Federal laws.

Section 5 of the bill authorizes the appropriation of such sums as may be necessary, but not to exceed $156 million for the acquisition of lands and interests therein. We anticipate the use of proceeds from the Land and Water Conservation Fund to acquire such private property over a 10-year period, with an expenditure of $15.6 million in each of the first 5 years following enactment, and the balance of $78.0 million to be spent during the next 5 years.

Everglades National Park, authorized in 1934, represents one of the most unique ecosystems in the world. The biological values of the park, which include habitat for the continued existence of several endangered species, depend on fresh water supplies. In 1971, an estimated 1,420,000 people will visit Everglades National Park.

In the past, the eastern half of the park was threatened due to development along the Shark River drainage, and by development and draining of the Northern wetlands which lie east and south of Lake Okeechobee. This threat has been offset by guarantees of water flow by the Corps of Engineers and the State of Florida. There is now a working arrangement with the Corps and the State which furnishes an optimum water supply to the eastern side of the park. All of the remainder of the park, considerably more than half of the 1,400,533 acres within the authorized boundaries, is dependent upon the Big Cypress for its supply of fresh water.

To describe the resources of the Big Cypress and its basis in the South Florida ecosystem, is to answer the question of why it should be protected.

Aside from its manifold benefits as one of the vital underpinnings of the ecosystems

which provide critically important esthetic and economic benefits for much of the southern Florida Gulf Coast. Big Cypress is a highly significant resource in itself. The larger ecosystem of which it is a part is the Nation's only significant subtropical marsh community complex.

The Big Cypress is an intricate mosaic of marsh and lowland forest types—a wilderness of sloughs, tree islands (or hammocks), and bay and cypress heads. Cypress dominates, and gives the area its name.

A vital factor in the Big Cypress-Everglades ecosystem is the almost imperceptible slope of the land. This results in exceedingly slow drainage, which extends the "wet months" well beyond the period of actual rainfall. The unrelieved flatness of the area's topography makes sheet flow the predominant drainage rather than flow in well-defined channels or courses. Thus, a water level change of only a few inches ofttimes affects thousands of acres. Much of those areas still experiencing natural drainage stands under water for as long as 4 months after rainfall ceases in a year of normal rainfall. During the normal dry season, about one-tenth of the land remains inundated.

The Big Cypress Watershed serves as a natural water storage area, and supplements the man-made storage areas in conservation areas one, two, and three, that are considered vital for the protection of an adequate fresh water supply for south Florida.

Nowhere outside the tropics are epiphytes, or "air-plants", which include orchids, some ferns, and fromeliads, found in such abundance and variety as they are in Big Cypress. Seven species of orchids found nowhere else in the world grow in the Big Cypress, and because of depredation by orchid hunters can be classed as endangered flora.

Large portions of Big Cypress have so far experienced little man-made disturbance. The scars left by the early loggers have nearly healed. Nearly all the wildlife species native to semitropical Florida are contained within the watershed. Animal life is diverse and abundant. Large, showy, long-legged wading birds are a major natural attraction. Big Cypress provides important feeding, nesting and wintering areas, as well as a resting place for birds migrating to and from Central and South America. Acquisition of the Big Cypress Swamp would preserve important habitat for at least nine species of wildlife determined by the Secretary of the Interior to be threatened with extinction. Ultimate loss or mismanagement of the area would be most damaging to the endangered Cape Sable sparrow and the peripheral roseate spoonbill, reddish egret, and mangrove cuckoo. To another group of species that have far wider ranges, Big Cypress, along with the adjacent Everglades National Park, serves as a stronghold or retreat. This group includes the endangered American alligator, Florida panther, Florida Everglade kite, and Southern bald eagle, and the rare great white heron. The Big Cypress provides excellent hunting for deer, turkey, quail, and wild hog.

As stated earlier, Everglades National Park is utterly dependent upon a plentiful supply of high quality water flowing through the region in an overland sheet pattern for up to 8 or 9 months of the year.

A major portion of its water supply comes from rainfall over the park itself. The remainder historically comes from Lake Okeechobee drainage system and from Big Cypress Watershed, the latter accounting for about 56 percent of all outside water entering the park.

Because of the extremely slight elevation differences in the park's terrain, the effects of dessication and inundation resulting from seasonal changes in water levels are extraordinarily widespread. Only the alligator holes and ponds retain water throughout the natural annual cycle.

The summer wet period normally inundates extensive areas, allowing expansion of the aquatic populations—phytoplankton, crustaceans and fishes. Subsequently, water levels must sink to concentrate the summer production of food organisms sufficiently to supply the nourishment essential to larger fishes, amphibians, reptiles, mammals, and many species of birds.

This seasonal wet-dry cycle must coincide with the natural reproductive cycles of the many varieties of predatory animals that feed upon the small aquatic organisms supported by the water. If any of the links in this process are broken, the reproduction of the larger animals at the top of the food chain will fail. Either excessively high or low water can cause reproductive failure. So can too short a delivery period.

The coastal zone within the influence of the Big Cypress Watershed contains about one-third of the total mangrove-estuarine complex of Everglades National Park. Levels of productivity and diversity of species as high as any to be found within the United States characterize the coastal zone. In addition to its very large bird population, the area produces or maintains hundreds of species of aquatic organisms. The mangrove forest is considered among the finest in the world.

Following acquisition of the land the bill contemplates that the Secretary of the Interior will enter into an agreement with the State of Florida for the management of the area. Existing uses where compatible with the management objectives will be allowed to continue. Management would be directed toward maintaining the pattern, quantity and quality of waterflow. Hunting and fishing are present, acceptable uses but limitations will have to be placed on travel through the swamp by air boats, swamp buggies, and other "all terrain vehicles" to insure against rutting, and other impairment of the area. Increased use should result from campers, bird watchers, naturalists, and picnickers. Many will seek escape into near-tractless wilderness-type areas over hiking nature trails. Some portions would be managed as scientific ecological study areas.

Acquisition of the Big Cypress will be expensive—a monumental commitment in terms of funds for environmental protection—but at no time in the future will it be less so. As President Nixon stated on November 23, 1971:

"The Nation, as a whole, will benefit through the protection of Everglades National Park and through the addition of another major wildlife haven and recreational area."

We therefore urge the Congress to take early and favorable action to authorize the Big Cypress National Fresh Water Reserve, as proposed herein.

Enclosed is a draft of an environmental impact statement, prepared in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969.

The Office of Management and Budget has advised that the enactment of the enclosed bill would be in accord with the Administration's program.

Sincerely yours,

ROGERS C. B. MORTON,
Secretary of the Interior.

S. 3139

A bill to authorize the acquisition of the Big Cypress National Fresh Water Reserve in the State of Florida, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asembled, That the Congress finds—

(a) the unique natural environment of the Big Cypress area of southwestern Florida should be protected from further development which would significantly and adversely affect its ecology;

(b) the Big Cypress is a fragile area, ecologically interlocked with Everglades National Park and the continued viability of Everglades National Park and certain of the estuarine fisheries of south Florida are directly dependent upon fresh water of adequate quality and volume from the Big Cypress area; and

(c) appropriate measures must be taken by the United States and the State of Florida to assure the conservation of fresh water from the Big Cypress area.

It is, accordingly, the purpose of this Act to provide for the protection of the Big Cypress area and for apropriate uses thereof through cooperative action by the Federal Government and the State of Florida.

SEC. 2. In order to effectuate the purpose of this Act the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange, lands, waters, and interests therein within the area generally depicted on the map entitled "Boundary Map, Big Cypress National Fresh Water Reserve, Florida", numbered BC–91,001, and dated November 1971, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The Secretary may from time to time make minor revisions in the boundaries of the area by publication of a revised map or other boundary description in the Federal Register, and he may acquire property within the revised boundaries in accordance with the provisions of this section: *Provided,* That the boundaries of the area may not encompass more than 547,000 acres of privately owned land. Property owned by the State of Florida or any political subdivision thereof may be acquired only by donation. Notwithstanding any other provision of law, Federal property within the boundaries of the area may, with the concurrence of the head of the administering agency, be transferred to the administrative jurisdiction of the Secretary for the purposes of this Act, without a transfer of funds.

SEC. 3. (a) The owner of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless this property is wholly or partially donated to the United States, the Secretary shall pay the owner the fair market value of the property on the date of acquisition less the fair market value on that date of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

(b) As used in this Act the term "improved property" means a detached, one-family dwelling, construction of which was begun before November 23, 1971, which is used for noncommercial residential purposes, together with not to exceed three acres of the land on which the dwelling is situated, such land being in the same ownership as the dwelling, together with any structures accessory to the dwelling which are situated on such land.

SEC. 4. The area within the boundaries depicted on the map referred to in section 2, or as such boundaries may be revised, shall be known as the Big Cypress National Fresh

Water Reserve, and it shall be administered by the Secretary in accordance with the laws applicable to the National Park System, and in a manner consistent with the findings and purposes of this Act. The Secretary is authorized to enter into an agreement with the State of Florida, or any political subdivision thereof having jurisdiction over the lands, waters, and interests therein within the reserve, pursuant to which such State or political subdivision may agree to manage and administer any property acquired by the Secretary pursuant to this Act for the purpose of protecting the unique natural environment of the Big Cypress area. Any such agreement shall contain provisions which, as applied to the area within the reserve, will limit or control the use of the lands and waters therein for the purposes of motorized access, exploration for and extraction of oil, gas, and other minerals, grazing, draining or constructing works to alter the natural water courses, agriculture, hunting, fishing, and trapping, new construction of any kind, and such other uses as the Secretary determines must be limited or controlled in order to carry out the purpose of this Act: *Provided, however,* that the Secretary shall consult and cooperate with the Secretary of Transportation to assure that necessary transportation facilities shall be located within existing or reasonably expanded rights-of-way and constructed within the reserve in a manner consistent with the purposes of this Act.

SEC. 5. The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the reserve in accordance with the applicable laws of the United States and the State of Florida, except that he may designate zones where and periods when no hunting, fishing, or trapping may be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any regulations prescribing such restrictions shall be put into effect only after consultation with the appropriate State agency having jurisdiction over hunting, fishing, and trapping activities. Notwithstanding this section or any other provision of this Act, the Secretary may authorize members of the Miccosukee Tribe of Indians of Florida and members of the Seminole Tribe of Florida to continue their usual and customary use and occupancy of Federal lands and waters within the reserve, including hunting, fishing and trapping on a subsistence basis and traditional tribal ceremonials.

SEC. 6. Notwithstanding any other provision of law, before entering into any contract for the provision of revenue-producing visitor services, the Secretary shall provide those members of the Miccosukee and Seminole Indian Tribes who on January 1, 1972, were engaged in the provision of similar services, a reasonable opportunity to continue providing such services within the reserve in accordance with such terms and conditions as he may by agreement, hereby authorized, provide.

SEC. 7. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed $156,000,000 for the acquisition of lands and interests therein.

By Mr. MUSKIE (for himself, Mr. GURNEY, Mr. PERCY, Mr. METCALF, Mr. JAVITS, Mr. HUMPHREY, and Mr. ROTH):

S. 3140. A bill to improve the financial management of Federal assistance programs to facilitate the consolidation of such programs: to provide temporary authority to expedite the processing of project applications drawing upon more than one Federal assistance program; to strengthen further congressional review of Federal grants-in-aid; and to extend and amend the law relating to intergovernmental cooperation. Referred to the Committee on Government Operations.

INTERGOVERNMENTAL COOPERATION ACT OF 1972

Mr. MUSKIE. Mr. President, I introduce for appropriate reference, the Intergovernmental Cooperation Act of 1972, a bill to streamline our system of Federal grants-in-aid, or categorical grants, to State and local governments, on behalf of myself and Senators GURNEY, PERCY, METCALF, HUMPHREY, JAVITS, and ROTH.

I ask unanimous consent that the bill and section-by-section analysis be included in the RECORD at the conclusion of these remarks.

This measure is directed to strengthening the management of our categorical grant-in-aid system, the chief means by which the Federal Government helps the States and localities solve national problems. It is a necessary supplement to the Intergovernmental Cooperation Act of 1968—Public Law 90–577—the first major piece of legislation to improve administrative relationships between the Federal, State, and local levels of government.

The bill is the result of over 4 years of investigation and legislative hearings by the Senate Subcommittee on Intergovernmental Relations. It deals with the question of overlapping and time-consuming auditing, accounting, and fiscal reporting activities; the difficulties facing grant applicants seeking to package grant applications; the tough issue of controlling excessive fragmentation of grant authorizations and categories; and the problem of achieving more effective executive and legislative oversight with respect to these programs.

To meet these problems, the bill provides for:

Authorization in the President to promulgate rules to simplify and unify financial reporting requirements of Federal assistance programs, including reliance on State and local audits which meet Federal criteria.

Provision for an expeditious method—using the Executive Reorganization Act approach—for congressional approval of grant consolidations involving closely related grants in a functional area.

Authorization for simplifying administrative and technical requirements to permit joint management and joint funding of Federal assistance programs on a departmental, and to a lesser extent, on an interdepartmental basis.

Establishment of a more comprehensive policy of congressional and Executive review of the operation of grant programs, and provisions for grant review specialists on substantive committees in the Congress.

Mr. President, portions of this bill, particularly the grant consolidation title, touch on a fundamental question: How should responsibility be divided between the Federal Government on the one hand and State and local governments on the other?

There are many areas with which State and local governments are best qualified to deal; there are others where it is necessary for the Federal Government to share responsibility. The National Government is best placed to have a broad view of national interest, to identify national priorities and to see that they are met. There are critical problems, national in scope, which must be attacked by the Federal Government because States and localities are unable to deal with them alone. It is to meet this national responsibility that the Federal Government distributes and administers funds in the form of categorical grant programs.

Many of these grant programs, created by the Congress to deal with specific problems during the past decade, should be listed among the most significant legislation ever passed. Programs like model cities, the antipoverty program, title I of the Elementary and Secondary Education Act, and the air and water pollution control program have made vital and significant contributions to the betterment of our Nation. They have provided opportunities for millions of our citizens who previously have had no chance to become productive members of society.

During the past decade, however, these programs have multiplied. Between 1960 and 1970, the amount of Federal assistance allocated through categorical grant programs increased from $7 billion annually to $30 billion—20 percent of the total revenue of State and local governments. The number of Federal grant programs has risen as well—from 160 in 1962 to more than 530 by the end of the last Congress.

It is understandable, with this rapid expansion of categorical grant programs that some overlapping, duplication of effort and lack of coordination has occurred. This bill is intended to remedy that situation. Inefficiency squanders resources which should go toward solving the problems for which the grants were authorized by Congress; confusion makes it hard for the Executive to administer programs to the maximum benefit of the intended recipients.

It is the purpose of this bill, therefore, not to blunt or destroy the thrust of categorical grant programs, but to sharpen that thrust by eliminating overlapping and duplication, improving coordination and promoting better administration, planning, economy, and efficiency.

This bill differs fundamentally from the proposals for special revenue sharing under which the President would have the power to lump funds of a large number of categorical grants together and transfer these funds to State governments with only skeletal controls and no provision for Federal-State administrative cooperation.

I want to underline that the legislation which I am introducing today is not intended to undercut either the concept of categorical grants-in-aid or individual grants. It is intended to strengthen grant-in-aid assistance by giving the President the means to make grants more effective and efficient.

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

S. 3140

A bill to improve the financial management of the Federal assistance programs to facilitate the consolidation of such programs; to provide temporary authority to expedite the processing of project applications drawing upon more than one Federal assistance program; to strengthen further congressional review of Federal grants-in-aid; and to extend and amend the law relating to intergovernmental cooperation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Intergovernmental Cooperation Act of 1972."

TITLE I—ACCOUNTING, AUDITING, AND REPORTING OF FEDERAL ASSISTANCE FUNDS

SEC. 101. The Intergovernmental Cooperation Act of 1968 (82 Stat. 1098; 42 U.S.C. 4201) is amended by adding at the end thereof the following new title:

"TITLE VII—ACCOUNTING, AUDITING, AND REPORTING OF FEDERAL ASSISTANCE FUNDS

"STATEMENT OF PURPOSE

"SEC. 701. It is the purpose of this title to encourge simplification and standardization of financial reporting requirements of Federal assistance programs, to promote among Federal agencies administering such programs, accounting and auditing policies that rely on State and local financial management control systems meeting certain standards, and to authorize the issuance of principles and standards governing the auditing of Federal assistance programs.

"MORE UNIFORM FINANCIAL REPORTING

"SEC. 702. Notwithstanding any other provision of law, the President shall, to the extent feasible, promulgate rules and regulations simplifying and making more uniform the financial reporting required by Federal agencies of recipients under Federal assistance programs.

"STANDARDS OF AUDITING TO BE DEVELOPED

"SEC. 703. (a) The Office of Management and Budget or such other agency as the President may designate, in cooperation with the Comptroller General, is hereby authorized to develop and issue principles and standards of auditing for the guidance of Federal executive agencies and State and local governments, as well as independent public accountants, engaged in the review and audit of Federal assistance programs. Such principles and standards shall serve the purpose of providing technical guidance to the various audit organizations but shall not be construed as relieving such audit organizations of their responsibility for the effective administration of their audit programs.

"(b) The Comptroller General shall include in his audits of Federal assistance programs reviews of the extent of utilization made by the Federal departments and agencies of audits performed by State and local government auditors or outside auditors and of the implementation of the principles and standards issued pursuant to subsection (a) of this section. He shall include in his reports on such audits information on the extent of such utilization and implementation.

"(c) The Comptroller General shall from time to time make such recommendations to the Federal agencies administering Federal assistance programs as he determines desirable to assist such agencies in complying with the provisions of this title and any regulation or principles and standards of auditing prescribed pursuant thereto.

"FEDERAL AGENCIES' RELIANCE ON THE FINANCIAL MANAGEMENT CONTROL SYSTEMS OF STATES AND THEIR POLITICAL SUBDIVISIONS

"SEC. 704. (a) Federal agencies administering Federal assistance programs shall adopt accounting and auditing policies that, to the maximum extent feasible, rely on evaluation of internal or independent accounting and audits of such programs performed by or for States and units of local government without performing a duplicate audit unless deemed necessary.

"(b) Heads of such agencies shall determine the adequacy of the internal financial management control systems employed by recipient jurisdictions, including but not restricted to a determination of (1) whether reports are prepared in accordance with applicable requirements and are supported by accounting and other records: (2) whether audits are carried out with adequate coverage and in accordance with the auditing principles and standards issued pursuant to section 703(a); and (3) whether the auditing function is performed on a timely basis by a qualified staff which is sufficiently independent of program operations to permit a comprehensive and objective auditing performance.

"(c) Where such control systems are found to be acceptable, heads of such agencies shall, in the absence of substantial reasons to the contrary, authorize an evaluation of audits performed under such systems to determine their acceptability in lieu of audits which otherwise would be required to be performed by such agencies. Where the agency determines that audits performed under financial management control systems are acceptable, it will not perform duplicate audits. Where the agency does not accept audits performed under such systems in lieu of its audits, such agency shall make whatever audits are necessary to assure that the Federal funds are expended for the purpose of the Federal assistance program involved.

"(d) Periodic review and testing of the operations under such control systems shall be undertaken by such agencies to verify the continuing acceptability of the systems for the purposes of subsection (c) of this section.

"(e) Each Federal agency administering a Federal assistance program shall encourage greater cooperation with the personnel operating the internal financial management control systems of recipient jurisdictions by maintaining continuous liaison with such personnel, collaborating in accounting systems development and the interchange of audit standards and objectives and collaboration in the development of audit programs.

"(f) Each such agency administering more than one Federal assistance program shall, to the extent feasible and permitted by law, coordinate and make uniform the auditing requirements of individual programs.

"(g) Each Federal agency administering a Federal assistance program shall, to the extent feasible, establish cross-servicing arrangements with other Federal agencies administering Federal assistance programs under which one such agency would conduct the audits for another.

"(h) The Office of Management and Budget, or such other agency as may be designated by the President, is hereby authorized to prescribe such rules and regulations as are deemed appropriate for the effective administration of this section.

"NO DIMINUTION OF AUTHORITY OF COMPTROLLER GENERAL

"SEC. 705. Nothing in this title shall be construed to diminish the authorities and responsibilities of the Comptroller General of the United States under existing law."

TITLE II—CONSOLIDATION OF FEDERAL ASSISTANCE PROGRAM

SEC. 201. Title 5, United States Code, is amended by inserting the following immediately after chapter 9 of such title 5:

"Chapter 10—FEDERAL ASSISTANCE PROGRAM CONSIDERATION

"Sec.
"1001. Purpose
"1002. Definitions
"1003. Federal assistance program consolidation plans.
"1004. Limitations on powers
"1005. Effective date and publication of consolidation plans.
"1006. Effect on other laws and regulations.
"1007. Rules of Senate and House of Representatives on consolidation plans.

"§ 1001. Purpose

"(a) The President shall from time to time examine the various Federal assistance programs provided by law and with respect to such programs shall determine what consolidations are necessary or desirable to accomplish one or more of the following purposes:

"(1) to promote better administration and more effective planning;

"(2) to improve coordination;

"(3) to eliminate overlapping and duplication; and

"(4) to promote economy and efficiency to the fullest extent consistent with the achievement of program goals.

"§ 1002. Definitions

"For the purpose of this chapter—

"(1) 'agency' means—

"(A) an executive agency or part thereof; and

"(B) an office or officer in the executive branch.

"(2) 'officer' is not limited by section 2104 of this title;

"(3) 'Federal assistance' or 'Federal assistance program' means any assistance provided by an agency in the form of grants, loans, loan guarantees, property, contracts (except those for the procurement of goods and services for the Federal Government), or technical assistance, whether the recipients are a State or local government, their agencies, including school or other special districts created by or pursuant to State law, or public, quasi-public, or private institutions, associations, corporations, individuals, or other persons; and

"(4) 'consolidation plan' means any Federal assistance consolidation plan proposed under section 1003 of this title.

"§ 1003. Federal assistance program consolidation plans

"(a) When the President, after investigation, finds that a consolidation of Federal assistance programs is necessary or desirable to accomplish one or more of the purposes set forth in section 1001(a) of this title, he shall prepare a Federal assistance consolidation plan for the making of program consolidations, and shall transmit the plan (bearing an identification number) to the Congress, together with a declaration that, with respect to the consolidation included in the plan, he has found that the consolidation is necessary or desirable to accomplish one or more of the purposes set forth in section 1001(a) of this title and a declaration as to how each program included in the plan is functionally related.

"(b) Each such consolidation plan so transmitted—

"(1) shall place responsibility for administration of the consolidated program in a single Federal agency;

"(2) shall specify in detail the terms and conditions under which the Federal assistance programs included in the plan shall be administered, including but not limited to

matching, apportionment, and other formulas, interest rates, and planning, eligibility, and other requirements; except that the President shall, in selecting applicable terms and conditions, be limited by the range of terms and conditions already included in the Federal assistance programs being consolidated.

"(3) shall set forth in the message transmitting the plan to the Congress the difference between the terms and conditions of the individual Federal assistance programs to be consolidated under the plan and those that will be consolidated after the plan goes into effect, and shall also set forth the reasons for selecting such terms and conditions.

"(c) The President shall have a consolidation plan delivered to both Houses on the same day and to each House while it is in session, except that no consolidation plan may be delivered within 30 calendar days following the delivery of a previous plan in the same functional area.

"§ 1004. Limitations on powers

"(a) A consolidation plan may not provide for, and may not have the effect of (1) continuing any Federal assistance program or part thereof beyond the period authorized by law for its existence or beyond the time when it would have terminated if the consolidation plan did not take effect, (2) consolidating any Federal assistance programs which are not in the same functional area, (3) providing any type of Federal assistance included in such a consolidation plan to any recipient who was not eligible for Federal assistance under any of the programs included in the consolidation plan, (4) excluding from eligibility under the consolidation plan any recipient who was eligible for Federal assistance under any of the programs included in the consolidation plan, or (5) transferring responsibility for the administration of the program or programs contained in a consolidation plan in an agency, office, or officer who was not responsible for the administration of one or more such programs prior to the taking effect of the consolidation plan.

"(b) Each consolidation plan shall provide for only one consolidation of two or more Federal assistance programs.

"(c) A provision contained in a consolidation plan may take effect only if the plan is transmitted to Congress before April 1, 1973. Section 905(b) of this title shall not limit any consolidation plan prepared under this chapter.

"§ 1005. Effective date and publication of consolidation plans.

"(a) Except as otherwise provided in subsection (c) of this section a consolidation plan shall become effective at the end of the first period of 60 calendar days of continuous session of the Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the 60 day period, either House passes a resolution stating in substance that the House does not favor the plan.

"(b) For the purposes of subsection (a) of this section,

"(1) continuity of session is broken only by adjournment of Congress sine die, and

"(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 60 day period.

"(c) Under provisions contained in a grant consolidation plan, a provision of the plan may become effective at a time later than the date on which such plan otherwise is effective.

"(d) A consolidation plan which becomes effective shall be printed (1) in the Statutes at Large in the same volume as the public laws and (2) in the Federal Register.

"§ 1006. Effect on other laws and regulations

"(a) To the extent that any provision of a consolidation plan which becomes effective under this chapter is inconsistent with any provision of any statute enacted prior to the effective date of the plan, the provision of the consolidation plan shall control, to the extent that such plan specifies the provision of the Statute to be superseded.

"(b) Any regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, or other action made, prescribed, issued, granted, or performed with respect to any matter affected by a consolidation plan which becomes effective under this chapter shall be deemed to be modified to the extent of any inconsistency thereof with the consolidation plan but shall otherwise continue in effect.

"(c) A suit, action, or other proceeding lawfully commenced by or against the head of any agency or other officer of the United States, in his official capacity or in relation to the discharge of his official duties, does not abate by reason of the taking effect of a consolidation plan under this chapter. On motion or supplemental petition filed at any time within 12 months after the plan takes effect, showing a necessity for a survival of the suit, action, or other proceeding to obtain a settlement of the questions involved, the court may allow the suit, action or other proceeding to be maintained by or against the successor of the head or officer under the consolidation plan or, if there is no successor, against such agency or officer as the President designates.

"(d) A consolidation plan may provide for transfers of appropriations or other budget authority in such manner that the aggregate amount of appropriations and other budget authority available for carrying out the Federal assistance programs involved in such plan shall be available for any or all such programs; and the aggregate amount of authorizations of appropriations or other budget authority for such programs shall be deemed an authorization of appropriations and other budget authority for any or all of such programs. The appropriations or portions of appropriations unexpended by reason of operation of this chapter may not be used for any purpose, but shall revert to the Treasury.

"§ 1007. Rules of Senate and House of Representatives on consolidation plans

"(a) This section is enacted by the Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resoutions in subsection (b); and it supersedes other rules to the extent that it is inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(b) The provisions of sections 910 through 913 of this title, shall apply with respect to a consolidation plan and, for such purposes—

"(1) all references in such sections to a 'reorganization plan' shall be treated as referring to a 'Federal assistance program consolidation plan', and

"(2) all reference in such sections to 'resolution' shall be treated as referring to a resolution of either House of the Congress, the matter after the resolving clause which is as follows: 'That the ——— does not favor the Federal assistance program consolidation plan numbered ——— transmitted to the Congress by the President on ——— 19—, the first blank therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled.'"

TITLE III—JOINT FUNDING SIMPLIFICATION

SEC. 301. The Intergovernmental Cooperation Act of 1968 (82 Stat. 1098; 42 USC 4201) is further amended by adding after title VII, as added by section 101 of this Act, the following new title:

"TITLE VII—JOINT FUNDING SIMPLIFICATION

"STATEMENT OF PURPOSE

"SEC. 801. The purpose of this title is to enable States, local governments and other public or private organizations to use Federal assistance programs more effectively and efficiently, to adapt such programs more readily to their particular needs through the wider use of joint projects drawing upon resources available from more than one Federal program, appropriation, or agency and to acquire experience which would lead to the development of legislative proposals respecting the consolidation, simplification, and coordination of Federal assistance programs. It is further the purpose of this title to facilitate the development of joint project and joint funding arrangements at the national level by giving primary emphasis to those arrangements involving intradepartmental actions and by placing interdepartmental joint projects and management funds on an experimental and limited demonstration basis.

"INTRADEPARTMENTAL JOINT PROJECTS

"SEC. 802. (a) The head of every Federal department and agency administering two or more Federal assistance programs is authorized to approve combined applications for joint projects requiring funding from two or more such programs administered by his department or agency.

"(b) To develop the necessary departmental or agency capability to achieve the purposes of section 801, the head of such department or agency, among other actions, shall—

"(1) identify related programs within his department or agency likely to be particularly suitable or appropriate for providing combined support for specific kinds of joint projects;

"(2) develop and promulgate guidelines, model or illustrative joint projects, common application forms, and other materials of guidance to assist in the planning and development of joint projects drawing support from different Federal assistance programs;

"(3) review program requirements established administratively within his department or agency in order to determine which of those requirements may impede combined support of joint projects and the extent to which these may be appropriately modified, and make modification accordingly;

"(4) establish common technical or administrative rules among Federal assistance programs administered by his department or agency to assist in the support of specific joint projects or classes of joint projects;

"(5) create joint or common application processing and project supervision procedures or mechanisms including procedures for designating a lead office or unit to be responsible for processing of applications and supervising joint projects approved by him; and

"(6) develop common accounting, auditing and financial reporting procedures that will facilitate establishment of fiscal and program accountability with respect to joint projects aided by Federal assistance programs administered by his department or agency.

"(c) Where appropriate to further the pur-

poses of this title, and subject to the conditions prescribed under subsection (f) of this section, the head of every Federal department and agency administering two or more Federal assistance programs may adopt uniform provisions respecting—

"(1) inconsistent or conflicting departmental or agency requirements relating to financial administration, including accounting, auditing, and fiscal reporting, but only to the extent consistent with the provisions of clauses (2), (3), (4), and (5) of subsection (d) of this section;

"(2) inconsistent or conflicting departmental or agency requirements relating to the timing of Federal payments where a single or combined schedule is to be established for the joint project as a whole;

"(3) inconsistent or conflicting departmental or agency requirements that assistance be extended in the form of a grant rather than a contract, or a contract rather than a grant;

"(4) inconsistent or conflicting departmental or agency requirements for merit personnel systems, but only to the extent that the joint project contemplated would cause those requirements to be applied to programs or projects administered by recipient agencies not otherwise subject to such requirements;

"(5) inconsistent or conflicting departmental or agency requirements relating to accountability for, or the disposition of, property or structures acquired or constructed with Federal assistance where common rules are to be established for the joint project as a whole; and

"(6) other inconsistent or conflicting departmental or agency requirements of an administrative or technical nature as defined in regulations authorized by subsection (f) of this section.

"(d) To further carry out the purposes of this title, the head of every Federal department and agency administering two or more Federal assistance programs—

"(1) may provide for review of combined applications for joint projects to his department or agency by a single panel, board, or committee in lieu of review by separate panels, boards, or committees when such review would otherwise be required by law;

"(2) may prescribe rules and regulations for the establishment of joint management funds with respect to joint projects approved by him so that the total amount approved by any such project may be accounted for through a joint management fund as if the funds had been derived from a single Federal assistance program or appropriation; and such rules and regulations shall provide that there will be advanced to the joint management fund from each affected appropriation its proportionate share of amounts needed for payment to the grantee and amounts remaining in the hands of the grantee at the completion of the joint project shall be returned to the joint management fund;

"(3) may prescribe rules and regulations governing the financial reporting of joint projects financed through joint management funds established pursuant to this section; and such reports shall, as a minimum, fully disclose the amount and disposition of Federal assistance received by recipient States and local governments, the total cost of the joint project in connection with which such Federal assistance was given or used, the amount of that portion of the cost of the joint project supplied by other sources, and such other records as will facilitate an effective joint project audit;

"(4) shall have access for the purpose of audit and examination to any books, documents, papers, and records of recipient States and local governments that are pertinent to the moneys received from joint management funds authorized by him; and

"(5) may establish a single non-Federal share for any joint project, authorized by him and covered in a joint management fund, according to the Federal share ratios applicable to the several Federal assistance programs involved and the proportion of funds transferred to the joint project account from each of those programs.

"(e) Subject to such regulations as may be established pursuant to subsection (f) of this section, the head of every Federal department or agency administering two or more Federal assistance programs may enter into agreements with States or appropriate State agencies to extend the benefits of this title to joint projects involving assistance from his department or agency and one or more State agencies. These agreements may include arrangements for the processing of requests for, or the administration of, assistance to such projects on a joint basis. They may also include provisions involving the establishment of uniform technical or administrative requirements, as authorized by this section. Such agreements ordinarily will focus on those program areas wherein Federal assistance is normally channeled through the States.

"(f) In order to provide for the more effective administration of funds drawn from more than one Federal assistance program or authorization in support of intradepartmental joint projects authorized under this section and to assure energetic and more uniform departmental and agency administration of the functions authorized by this section, the President may prescribe such rules and regulations as he deems necessary to achieve these purposes.

"INTERDEPARTMENTAL DEMONSTRATION JOINT PROJECTS

"SEC. 803. (a) In order to extend selectively the benefits of joint projects and joint management funding on a governmentwide basis and in recognition of the administrative difficulties involved in this undertaking, the President is authorized to approve on a demonstration basis combined applications for joint projects, requiring funding from two or more Federal assistance programs administered by more than one Federal department or agency.

"(b) In order to develop the necessary capability within the Executive Office of the President for achieving the purpose of this section, the President shall have authority to exercise, with reference to interdepartmental demonstration joint projects, the same responsibilities and authorities assigned to heads of Federal departments and agencies with reference to intradepartmental joint projects under subsections (b), (c), (d), and (e) of section 802.

"(c) To facilitate the expeditious processing of applications for interdepartmental demonstration joint projects or their effective administration, the President is authorized to establish rules and regulations requiring the delegation by heads of Federal departments and agencies to other such departments and agencies of any powers relating to approval, under this section, of programs or classes of programs under an interdepartmental demonstration joint project, if such delegation will promote the purposes of such project. Such rules and regulations may also provide for the delegation to other Federal departments and agencies of powers relating to the supervision of administration of Federal assistance, or stipulate other arrangements for other departments or agencies to perform such activities, with respect to programs or classes of programs subject to this section. Delegations authorized by such rules and regulations shall be made only on such conditions as may be appropriate to assure that the powers and functions delegated are exercised in full conformity with applicable statutory provisions or policies.

"(d) To facilitate the establishment of joint management funds on an interdepartmental basis, any account in a joint management fund involving money derived from two or more Federal assistance programs administered by more than one Federal department or agency shall be subject to such rules and regulations, not inconsistent with other applicable law, as the President may establish with respect to the discharge of the responsibilities of affected departments and agencies. Such rules and regulations shall assure the availability of necessary information, including requisite accounting and auditing information, to those departments and agencies, to the Congress, and to the Executive Office of the President. They shall also provide that the department or agency administering a joint management fund shall be responsible and accountable for the total amount provided for the purposes of each account established in the fund, and shall adhere to accounting and auditing policies consistent with title VII of this Act. They may include procedures for determining, from time to time, whether amounts in the account are in excess of the amounts required, for returning that excess to participating Federal departments and agencies in accordance with a formula providing an equitable distribution; and for effecting returns accordingly to the applicable appropriations, subject to fiscal year limitations. Excess amounts applicable to expired appropriations will be lapsed from that fund.

"(e) During the seventh month after the end of each fiscal year, starting with the first full fiscal year after the effective date of this section, the President shall submit to the Congress an evaluation of progress in accomplishing the purposes of this title.

"(f) This section shall expire three years after it becomes effective, but its expiration shall not affect the administration of joint projects previously approved.

"FUNDING AND PERSONNEL AVAILABILITY

"SEC. 804. (a) Appropriations available to any Federal assistance program for technical assistance or the training of personnel may be made available for the provision of technical assistance and training in connection with projects approved for joint or common funding involving that program and any other Federal assistance program.

"(b) Personnel of any Federal agency may be detailed from time to time to other agencies as necessary or appropriate to facilitate the processing of applications under this title or the administration of approved projects.

"AUTHORITY OF THE COMPTROLLER GENERAL OF THE UNITED STATES

"SEC. 805. For the purpose of audit and examination, the Comptroller General of the United States shall have access to any books, documents, papers, and records of recipients of interdepartmental and intradepartmental joint projects that are pertinent to the moneys received from joint management funds established for such projects.

"DEFINITIONS

"SEC. 806. As used in this title—

"(1) 'Federal assistance' or 'Federal assistance program' means any assistance provided by an agency in the form of grants, loans, loan guarantees, property, contracts (except those for the procurement of goods and services for the Federal Government), or technical assistance, whether the recipients are a State or local government, their agencies, including school or other special districts created by or pursuant to State law, or public, quasi-public, or private institutions, associations, corporations, individuals, or other persons; and

"(2) 'Joint project' means any undertaking which includes components proposed or approved for aid under more than one Federal assistance program or appropriation or one or more Federal assistance programs or appropriations in combination with one or more State or local programs, if each of those components contributes materially to the

accomplishment of a single purpose or closely related purpose."

EFFECTIVE DATE

SEC. 302. Sections 802 and 803 of the Intergovernmental Cooperation Act of 1968, as added by section 301 of this Act, shall become effective one hundred and twenty days after the date of enactment of this Act.

TITLE IV—CONGRESSIONAL AND EXECUTIVE OVERSIGHT OF FEDERAL ASSISTANCE PROGRAMS

SEC. 401. Section 601 of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098; 42 U.S.C. 4201) is amended by adding at the end thereof the following new subsection:

"(c) If any law enacted on or after the date of the enactment of the Intergovernmental Cooperation Act of 1972 authorizes the making of grants-in-aid over a period of three or more years, then during the period beginning not later than the twelve months immediately preceding the date on which such authority is to expire, the committees of the House and Senate to which legislation extending such authority would be referred shall, separately or jointly, conduct studies of the program under which such grants-in-aid are made and advise their respective Houses of the results of their findings with special reference to the considerations cited in clauses (1), (2), (3), and (4) of subsection (a) of this section. Each such committee shall report the results of its investigation and study to its respective House not later than one hundred and twenty days before such authority is due to expire."

SEC. 402. Title VI of such Act is amended—

(1) by redesignating section 604 as section 606; and

(2) by inserting immediately after section 603 the following new sections:

"CONGRESSIONAL REVIEW SPECIALISTS

"SEC. 604. Each standing committee of the Senate and House of Representatives which is responsible for the review and study, on a continuing basis, of the application, operation, administration, and execution of two or more grant-in-aid programs is entitled to employ a review specialist as a member the professional staff of such committee in addition to the number of such professional staff to which such committee otherwise is entitled. Such specialist shall be selected and appointed by the chairman of such committee, with the prior approval of the ranking minority member, on a permanent basis, without regard to political affiliation, and solely on the basis of fitness to perform the duties of the position. Such specialist shall, under the joint direction and supervision of the chairman and the ranking minority member, assist the committee in the performance of its review functions under this title.

"REPORTS BY FEDERAL AGENCIES

"SEC. 605. (a) Heads of Federal agencies administering one or more Federal assistance programs shall make a report to the President and the Congress on the operations of such programs at the end of each fiscal year, beginning with the first full fiscal year following the date of enactment of the Intergovernmental Cooperation Act of 1972. Such reports shall include—

"(1) the overall progress and effectiveness of administrative efforts to carry out each program's statutory goals;

"(2) the consultative procedures employed under each program to afford recipient jurisdictions an opportunity to review and comment on proposed new administrative regulations, and basic program changes;

"(3) intradepartmental and interdepartmental arrangements to assure proper coordination of headquarters and in the field with other related Federal assistance programs;

"(4) efforts and progress in simplifying and making more uniform (A) application forms and procedures and (B) financial reporting and auditing requirements and procedures;

"(5) efforts and progress in relying on the internal or independent audits performed by or for States and political subdivisions;

"(6) the feasibility of consolidating individual Federal assistance programs with others in the same or closely related functional areas, where they exist;

"(7) the practicability of delegating more administrative discretion, including application approval authority, to field offices;

"(8) whether changes in the purpose, direction, or administration of such Federal assistance programs, or in procedures and requirements applicable thereto, should be made; and

"(9) the extent to which such programs are adequate to meet the growing and changing needs for which they were designed.

"(b) The President shall transmit to the Congress, no later than January 31 of each year, a summary report on Federal assistance activities of the preceding fiscal year. The first such report shall be transmitted not later than January 31 following the first full fiscal year following the date of enactment of the Intergovernmental Cooperation Act of 1972. Each report shall (1) summarize and analyze the findings of the department and agency reports provided in subsection (a) of this section; (2) set forth such recommendations as he may deem appropriate to convert the existing system of Federal assistance programs into a more effective vehicle for intergovernmental cooperation; and (3) such other matters that are considered pertinent."

TITLE V—MISCELLANEOUS

SEC. 501. Section 202 of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098; 42 USC 4201) is amended to read as follows:

"SEC. 202. No grant-in-aid to a State or a political subdivision shall be required by Federal law or administrative regulation to be deposited in a separate bank account apart from other funds administered by the State or political subdivision. All Federal grant-in-aid funds made available to the States or to political subdivisions shall be properly accounted for as Federal funds in the acounts of the State or of the political subdivisions. In each case the agency of the State or of the political subdivisions concerned shall render regular authenticated reports to the appropriate Federal agency covering the status and the application of the funds, the liabilities and obligations on hand, and such other facts as may be required by said Federal agency. The head of the Federal agency and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers and records that are pertinent to the grant-in-aid received by the States or by the political subdivisions."

SEC. 502. Section 203 of such Act is amended to read as follows:

"SEC. 203. Heads of Federal departments and agencies responsible for administering grant-in-aid programs shall schedule the transfer of grant-in-aid funds consistent with program purposes and applicable Treasury regulations, so as to minimize the time elapsing between the date of transfer of such funds from the United States Treasury and the date of disbursement thereof by a State or by a political subdivision; or between the date of disbursement by a State or by a political subdivision and the date of transfer by the United States Treasury. States and the political subdivisions shall not be held acountable for interest earned on grant-in-aid funds, pending their disbursement for program purposes."

SECTION-BY-SECTION ANALYSIS OF THE INTERGOVERNMENTAL COOPERATION ACT OF 1972

TITLE I—ACCOUNTING, AUDITING, AND REPORTING OF FEDERAL ASSISTANCE FUNDS

Title I amends the Intergovernmetnal Cooperation Act of 1968 (P.L. 90-577) by adding a new Title VII which deals with the accounting, auditing, and reporting of Federal assistance funds. Section 701 sets forth the purposes of this new title: to encourage the simplification and standardization of the diverse financial reporting requirements of Federal assistance programs, to promote among Federal grant agencies accounting and auditing policies that rely on State and local fiscal control systems if they meet certain professional standards, and to empower the Comptroller General of the United States to establish rules and regulations for use of certain State and local audits in meeting GAO's responsibilities regarding Federal assistance programs.

More uniform financial reporting

Section 702 authorizes the President, notwithstanding any other provisions of law, to establish rules and regulations that will simplify and, where possible, make more uniform the financial reporting requirements associated with Federal assistance programs. The purpose here is to bring greater order to a situation where widely varying forms, differing time schedules, and divergent data requests have undermined the basic objectives of meaningful fiscal reporting on Federal assistance programs.

Standards of auditing to be developed

Section 703 authorizes the Office of Management and Budget, with the cooperation of the Comptroller General, to promulgate principles and standards of auditing for the guidance of Federal, State and local agencies, and independent public accountants, in their review and audits of Federal assistance programs. This section further directs the Comptroller General to include in audits of Federal assistance programs reviews (i) of the extent of utilization by Federal agencies of audits performed by State and local agencies, and (ii) of the extent of implementation of principles and standards of auditing issued pursuant to this section. This section further directs the Comptroller General from time to time to make recommendations to Federal agencies to assist them in implementing the provisions of this title as they relate to Federal assistance programs.

Federal agencies reliance on the financial management control systems of States and their political subdivisions

Section 704 directs Federal agencies which administer Federal assistance programs to adopt accounting and auditing policies which, to the maximum extent feasible, rely on the financial management control systems of States and localities, so as to avoid performing duplicate audits unless necessary.

Under this section, heads of agencies are assigned the responsibility of determining the adequacy of the internal financial management control systems utilized by recipient jurisdictions. In meeting this responsibility, such heads will among other things ascertain whether reports are prepared in accordance with applicable requirements and are supported by accounting and other records, whether audits are carried out with adequate coverage and in accordance with the auditing principles and standards issued pursuant to section 703(a), and whether the auditing function is performed in a timely fashion by a qualified professional staff that is sufficiently independent—in an administrative and political sense—from program operations, so that a comprehensive and objective audit can be performed. Where such control systems are found ac-

ceptable, agency heads, in the absence of substantial reasons to the contrary, are required to accept the audits performed under such sy tems as a substitute for those which otherwise would be performed by their own agency personnel. The periodic sample testing technique is cited as the chief means of verifying the continuing reliability of accepted control systems.

In order to strengthen the cooperative relationships among fiscal management personnel, each Federal agency administering assistance programs is required (under section 703(e)) to maintain continuous liaison with counterpart State and local fiscal control administrators and the interchange of audit standards and objectives and interlevel collaboration in the development of audit schedules are specifically cited as means of furthering this liaison. To reduce the proliferation of accounting and auditing systems within and between Federal agencies, Federal agency heads are required, to the extent feasible and permitted by law, to cordinate the auditing requirements of assistance programs coming under their jurisdiction (section 703(f) and to establish cross-servicing arrangements with other agencies for audit purposes (section 703 (g)). The Office of Management and Budget, or such other agency as may be designated by the President, is authorized to prescribe government-wide rules and regulations for the effective implementation of this section.

TITLE II—CONSOLIDATION OF FEDERAL ASSISTANCE PROGRAMS

This title amends title 5 of the United States Code which sets out procedures authorized for an executive reorganization: a proposal by the President becomes effective in 60 days unless either House passes a resolution saying it is not in favor. This title adds a new chapter 10, which places a new approach to consolidation of "closely related" Federal assistance programs within the framework of the executive reorganization procedures.

Section 1001 declares the title's basic purposes and states that the President from time to time shall examine the various Federal assistance programs and, in the case of programs falling within the same functional area, promote better administration and planning, improve coordination, eliminate overlapping and duplication and promote economy and efficiency to the fullest extent consistent with the achievement of program goals.

Section 1002 contains certain definitions applicable to the new chapter 10 added by this Act.

Federal assistance consolidation plans

Under section 1003, the President, after finding that a consolidation of Federal assistance programs is necessary or desirable to accomplish one or more of the purposes of section 1001(a), is authorized to prepare and transmit to Congress a consolidation plan, together with a declaration indicating his finding that the plan will further the purposes of this title and a declaration as to how each program in the plan is functionally related.

In his transmission of a consolidation plan, the President is required to place responsibility for the consolidated program in a single Federal agency and is required to specify in detail the term, under which the Federal assistance programs included within the plan shall be administered.

In selecting applicable terms and conditions, the President is limited by the range of terms and conditions of programs which are consolidated under the plan.

The President is required to set forth differences between proposed terms and conditions and corresponding provisions of the programs to be consolidated, along with the reason for such changes.

Subsection 1003 (c) stipulates that a consolidation plan must be delivered to both Houses of Congress on the same day and to each House while it is in session.

No consolidation plan may be delivered within 30 calendar days following the delivery of a previous plan in the same unctional area.

Limitations on powers

Section 1004 sets forth limitations on the scope of a proposed consolidation plan. The limitations are as follows:

1. No plan shall continue any consolidated program beyond its authorized period. Section 1004(a)(1).

2. Consolidation of programs must be in the same functional area, or closely related functional areas. Section 1004(a)(2).

3. The plan must not extend assistance to any recipient not eligible under any program included in the consolidation. Section 1004 (a)(3).

4. The plan must not exclude from eligibility any recipient eligible under any program included in the consolidation. Section 1004(a)(4).

5. Responsibility for administration of the plan cannot be transferred to any agency which was not previously responsible for at least one of the consolidated programs. Section 1004(a)(5). It is stipulated that each consolidation plan shall provide for only one consolidation of two or more Federal assistance programs.

In line with traditional Congressional limitations on the duration of reorganization legislation, subsection 1004(c) provides that authorization to transmit a consolidation plan under this legislation shall expire two years after enactment of this title.

Effective date and publication of consolidation plans

Section 1005 follows the procedure for Congressional action on executive reorganizations. This section provides that a consolidation plan shall become effective at the expiration of sixty days of continuous session of the Congress, unless before termination of the sixty-day period either House passes a resolution stating in substance that it does not favor the consolidation. A consolidation plan which becomes effective shall be printed in the Statutes at Large and in the Federal Register (subsection 1005(d)).

Effect on other laws and regulations

Subsections 1006 (a) and (b) provide that the provisions of a consolidation which has become effective shall take precedence over any preexisting law, regulation, rule or order to the extent that any inconsistency exists. However, legal actions commenced prior to the effective date of a consolidation plan would not abate solely as a result of changes effected by the plan. (Subsection 1006 (c)).

Under subsection 1006 (d) a consolidation plan may provide that the unexpended authorizations and appropriations for merged programs shall be transferred for use under any or all programs which are part of the consolidation.

Rules of the Senate and the House of Representatives

As an exercise of the rulemaking power of the Senate and the House of Representatives, section 1007 provides that consideration and action on a consolidation plan in either House shall be pursuant to the provisions of sections 910 through 913 of title 5, relating to executive reorganizations.

TITLE III—JOINT FUNDING SIMPLIFICATION

Section 301 further amends the Intergovernmental Cooperation Act of 1968 by adding a new Title VIII dealing with joint funding simplification. Section 801 states that the purpose of the title is to enable States and other public or private organizations to use Federal aid programs more effectively and efficiently, to adapt these programs more readily to their individual needs by facilitating the broader use of joint projects involving more than one aid program, and to acquire experience that would lead to additional legislative proposals regarding consolidation, coordination, and simplification of Federal assistance programs. The statement of purpose also indicates that primary emphasis is to be given to developing widespread use of joint projects and joint funding arrangements within individual departments and placing counterpart efforts at the interdepartmental level on an experimental and limited demonstration basis.

Intradepartmental joint projects

Section 802 deals wholly with procedures involving intradepartmental joint projects and joint funding arrangements. Under it, the head of each Federal department and agency administering more than one Federal aid program is authorized to approve combined applications for joint projects requiring funding from two or more such programs falling under his jurisdiction. To develop the necessary departmental or agency capability for achieving the purposes of this title, section 802(b) requires departmental heads, among other things, to identify related aid programs within his agency that are likely candidates for joint projects; to develop and promulgate guidelines, joint project examples, common application forms, and other materials that will facilitate development of an intradepartmental joint project program; to review the various administrative requirements of departmental assistance progams in order to identify those that might impede the expeditious processing of joint project applications and where appropriate make the necessary modifications; to establish common technical or administrative rules for related departmental assistance programs; to create common or joint application processing and project supervision procedures—including establishing a single unit for handling these functions; and to develop common auditing, accounting, and fiscal reporting procedures to facilitate establishment of fiscal and program accountability with respect to joint projects approved by him.

In order to provide the means of cutting the red tape arising from the varying procedural requirements associated with individual assistance programs, the head of each Federal department and agency administering two or more such programs is authorized under section 802(c) to adopt, subject to such regulations as may be promulgated by the President pursuant to section 802(f), uniform provisions regarding inconsistent or conflicting agency requirements involving financial administration, the timing of Federal payments, whether assistance must be extended in the form of a grant or a contract, merit personnel systems (but only to the extent that a proposed joint project would cause these requirements to be applied to programs not otherwise subject to them), the accountability for or the disposition of property or structures acquired or constructed with Federal assistance, and other relevant administrative technical items defined in regulations issued pursuant to subsection (f).

To develop the intradepartmental financial arrangements necessary for expediting joint projects, each head of a department and agency administering two or more Federal assistance programs is permitted under section 802(d) to set up a single board or panel for the review of combined applications to his department; to prescribe rules and regulations for establishing joint management funds with respect to joint projects approved by him, so that the total amount approved for any project may be accounted for as if the funds had been derived from a single aid program or authorization; to establish uniform rules and regulations governing the fiscal reporting of projects financed through joint management funds; to

have access, for the purpose of audit and examination, to relevant records and other data of recipient States and local governments relating to moneys received from joint management funds authorized by him; and to establish a single non-Federal share for any joint project authorized by him and covered in a joint management fund.

Section 802(e) permits such heads of departments and agencies, subject to such regulations as may be established pursuant to subsection (f), to enter into agreements with States to extend the benefits of joint projects and joint management funds to cover combined applications involving not only assistance from programs administered by his department but also from those administered by one or more State agencies. In most instances, such arrangements will be restricted primarily to those programs areas where Federal assistance is normally channeled through the States.

Under section 802(f), the President is authorized to prescribe such rules and regulations as he deems necessary to provide for the more effective administration of funds drawn from more than one Federal assistance program or authorization in support of intradepartmental projects authorized by this section. While fewer administrative problems can be expected to arise in establishing meaningful departmental joint project programs than in the case of interdepartmental projects, energetic and consistent departmental efforts may not always be forthcoming—hence, the need for this section.

Interdepartmental demonstration joint projects

Section 803 extends selectively the benefits of joint projects and joint management funding on a government-wide basis. This is done in recognition of the administrative difficulties involved in this commendable but complex undertaking. Section 803(a) authorizes the President to approve on a demonstration basis combined applications for joint projects requiring funding from two or more Federal assistance programs administered by more than one Federal department or agency.

Section 803(b) gives to the President with respect to interdepartmental projects authorities comparable to those assigned to heads of departments and agencies under section 802 (b), (c), (d), and (e). This is done in order to facilitate the development of the necessary capability in the Executive Office of the President for processing and administering interdepartmental joint projects and joint management funds.

Section 803(c) authorizes the President to establish rules and regulations requiring the delegation by heads of Federal departments and agencies to other departments and agencies of project or program approval authority insofar as it involves programs or classes of programs included in an interdepartmental joint project (s). Without this authority, it is doubtful whether the goals of this section can be achieved. Such rules and regulations may also call for the delegation to other Federal departments and agencies of powers relating to the supervision by Federal assistance programs. These rules and regulations are conditioned by the proviso that they must be appropriate to assure that the powers and functions delegated are utilized in full conformity with applicable statutory provisions or policies.

Section 803(d) is geared to permitting establishment of joint management funds on an interdepartmental basis. Accordingly, the President is authorized to make rules and regulations, not inconsistent with other applicable law, governing the setting up of joint management funds involving moneys derived from two or more Fedral assistance programs administered by more than one Federal department or agency. These rules and regulations will assure that the necessary accounting, auditing, and other fiscal information will be made available to the departments involved, the Congress, and the Executive Office of the President. They also shall stipulate that any department or agency administering a joint fund shall be accountable for the total amount provided for the purposes of each account established in the fund and shall practice accounting and auditing policies consistent with new Title VII of the Intergovernmental Cooperation Act. Such rules and regulations may include procedures for determining on a periodic basis whether amounts in the account are in excess of those required, for returning that excess to participating agencies according to an equitable distribution formula, and for making returns to applicable appropriations, subject to fiscal year limitations.

Section 303(e) requires the President to submit annually to Congress a report evaluating the progress in accomplishing the purposes of this title. This report will be submitted every January beginning with the first January following the end of the first fiscal year after the effective date of this section.

The final subsection stipulates that this section will become effective 120 days following the date of enactment and will expire three years after it has become effective. Such expiration, however, shall not affect the administration of interdepartmental joint projects previously approved.

Funding and personnel availability

Section 804(a) is designed to help provide technical assistance to State and local governments involved in developing combined applications for joint projects. Under it, appropriations available to any Federal aid program for technical assistance or personnel training may be made available for the provision of such assistanc in connection with joint projects involving that program and any other Federal aid program. In addition, the personnel of any Federal agency (pursuant to section 904(b)) may be detailed from time to time, where ncessary, to other agencies to assist in processing combined applications or in administering approved joint projects.

The authority of the Comptroller General of the United States

Section 805 states that the Comptroller General of the United States shall have access to any books, documents, papers, and records of recipients of intradepartmental or interdepartmental joint projects relating to moneys received from joint management funds for the purpose of GAO audit and examination.

Definitions

Section 806 contains definitions of "Federal assistance," "Federal assistance program," and "joint project" as used in this title.

Effective date

Section 302 states that section 802 and 803 of the Intergovernmental Cooperation Act of 1968, as added by section 301 of this Act, shall become effective one hundred and twenty days after the date of enactment of this Act.

TITLE IV—CONGRESSIONAL AND EXECUTIVE OVERSIGHT OF FEDERAL ASSISTANCE PROGRAMS

Section 401 of this Act amends the Intergovernmental Cooperation Act of 1968 by adding a new subsection at the end of section 601. This amendment is designed to strengthen Congressional review procedures for grants-in-aid having termination provisions of three or more years. During the year preceding the date on which the program authority is to expire, the relevant substantive Committee of Congress, either separately or jointly, will conduct studies of the program and advise their respective Houses of their findings with special reference to the factors cited in section 601(a) (1), (2), (3), and (4). The Committee report will be filed with the respective Houses not later than one hundred and twenty days before the program is slated to expire.

Section 402 amends Title VI of the Intergovernmental Cooperation Act of 1968 by adding two new sections following section 603 and appropriately renumbering section 604. The first of these new sections authorizes establishment of the position of review specialist of each standing committee of the Senate and House responsible for the review, study, and oversight of two or more assistance programs. This additional professional staff member will be selected and appointed by the Chairman of the standing committee with prior approval of the ranking minority member. He would serve on a permanent basis, without regard to political affiliation, and solely on the basis of professional competence. His basic assignment would be to assist the Committee in its performance of functions assigned by this title and he would be under the joint direction of the Chairman and the ranking minority member.

The second new section (section 605) is geared to strengthening Executive Branch oversight with respect to Federal assistance programs. Under it, heads of Federal departments and agencies administering more than one program would submit annually a report to Congress and the President on the operations of these programs, beginning with the first fiscal year following the date of enactment. These departmental reports among other things would cover the progress and effectiveness of administrative efforts to carry out the programs' statutory goals; the consultative procedures utilized under each program to afford recipient governments a chance to review and comment on proposed administrative regulations and basic program changes; the various intradepartmental and interdepartmental arrangements for achieving proper headquarters-field program coordination; efforts to simplify and make more uniform application forms and procedures as well as fiscal reporting and auditing requirements; effort and progress in relying on audits performed by or for States and localities; the feasibility of consolidating functionally related assistance programs; the practicability of delegating more administrative authority—including project or program approval power—to departmental field offices; whether the purpose, management, administrative procedures and requirement in such programs should be changed; and the degree to which such programs are meeting the growing and changing needs they were initially designed to support.

This new section (section 605) concludes with the requirement that the President shall submit a summary report on these various departmental studies not later than January 31 of each year following the first fiscal year after the date of enactment. This report would be a synthesis of the materials presented in the various departmental studies and would stress the broad problems confronting grants-in-aid as effective government-wide devices for intergovernmental cooperation. Presidential proposals for reform might well be a concluding feature of this report.

TITLE V—MISCELLANEOUS

The purpose of this title is to extend to the political subdivisions of a State the provisions of sections 202 and 203 of the Intergovernmental Cooperation Act of 1968 which now apply only to States.

Section 202, as amended, by this title, would eliminate the requirement that political subdivisions maintain separate bank accounts for grants-in-aid. At the same time the amended section extends to political subdivisions the requirement of keeping proper accounts, making regular fiscal reports, and providing Federal agencies and the Comptroller General access to the books of the political subdivision for purposes of audit.

Section 203, as amended by this title, would require that Federal agency heads schedule transfers of grant-in-aid funds in such a way as to minimize the time elapsing

between the date of transfer and the date of disbursement by a political subdivision. Present law limits section 203 to transfers to States under grant-in-aid programs.

Mr. GURNEY. Mr. President, I am pleased to cosponsor the Intergovernmental Cooperation Act of 1972 introduced today by Senator MUSKIE. This legislation differs only slightly from that reported unanimously by the subcommittee on Intergovernmental Relations to the full Government Operations Committee in the last Congress (S. 2479).

Since the end of World War II, and especially in the last decade, Federal expenditures in the area of civilian-domestic needs have relied heavily on categorical grants to States and local governments. Today, these sometimes narrow-purposed, project-oriented grants have proliferated until we have more than 530 specific Federal programs operating through categorical grants. In the fiscal year ending June 30, 1971, some $30 billion was dispersed to States and localities through these programs.

The multiplicity and complexity of this growing maze of grants has caused serious problems for States and localities which are the intended beneficiaries of the various programs. Among these problems are the difficulty in determining just what programs are available and what are the differences and similarities among them; the loss of flexibility caused by the necessity to work within the framework of numerous small grants rather than with a limited number of consolidated programs; the needless inefficiency and waste resulting from overlapping and duplicated efforts; and the bureaucratic redtape which hinders recipients attempting to comply with differing requirements of many separate grants.

This bill, which is based on over 4 years of subcommittee investigation and hearings and encompasses studies and recommendations of the advisory committee on intergovernmental relations, moves toward a solution of these problems by:

First. Authorizing the President to establish simpler and more unified auditing regulations governing Federal assistance programs;

Second. Providing for expeditious congressional approval of executive proposals for consolidation of related grants in the same functional area;

Third. Authorizing simpler administrative requirements to permit joint management and funding of Federal assistance programs; and

Fourth. Establishing more comprehensive executive and congressional reviews over grants programs.

This bill accomplishes the desired streamlining of grants' administration without sacrificing congressional prerogatives. This is done through a combination of congressional review and restrictions on consolidation plans which prohibit:

First. The continuance of a consolidation program beyond its authorized period.

Second. The consolidation of programs which are not of the same or closely related functional areas.

Third. The extension of assistance to any recipient not qualified under one of the programs to be consolidated.

Fourth. The exclusion of any recipient qualified under any of the programs to be consolidated.

Fifth. The transfer of administration of a consolidated program to any agency not previously responsible for administration of one of the programs to be consolidated.

Sixth. The submission to Congress of more than one consolidation proposal from the same functional area, within the same 30-day period.

Mr. President, this bill promises a more rational and efficient participation by State and local governments in Federal assistance programs, without surrendering the principle of congressional oversight. This bill will do much to reduce the bureaucracy and redtape which threatens to smother the Federal relationship between our national, State and local governments. I urge the assistance of all Members of the 92d Congress in the passage of this legislation.

By Mr. MUSKIE (for himself and Mr. GURNEY):

S. 3141. A bill to amend the intergovernmental Personnel Act of 1970 to provide for the employment of younger citizens of States and local governments as a means of increasing administrative, technical, and professional skills available to local and State governments, thereby strengthening the Federal system. Referred to the Committee on Government Operations.

INTERGOVERNMENTAL PERSONNEL ACT AMENDMENTS OF 1972

Mr. MUSKIE. Mr. President, I introduce for appropriate reference an amendment to the Intergovernmental Personnel Act of 1970. Senator GURNEY, who is ranking minority member of the Subcommittee on Intergovernmental Relations, joins me in sponsoring this measure. I ask unanimous consent that the bill and a cost estimate of these amendments be included in the RECORD at the conclusion of these remarks.

The Intergovernmental Personnel Act expressed the conviction of Congress that strong State and local governments are essential to the federal system. Through that act, the Federal Government helps State and local governments strengthen their personnel by training, education and related programs.

This amendment adds a new ingredient. It will bring outstanding young Americans into State and local governments.

The measure creates a Federal-State Fellows program and a Federal-Urban Fellows program. The Civil Service Commission administers both, though they differ slightly in structure. Both are aimed at bringing talented young people from a variety of ethnic and occupational backgrounds into government service for a year. The Federal, State, and local governments share the cost.

The creation of these national programs of Federal-State Fellows and Federal-Urban Fellows is neither complicated nor expensive. Yet they have a most important purpose—to join an underutilized national resource with an obvious, serious national need. The need is for additional talented and committed people to help State and local governments face problems that are ever increasing both in scope and complexity. The resource is a generation of Americans whose energies and talents are demonstrably great.

This measure encourages local governments to reach out toward talented young people. It will attract them to careers in government services; it will give them the opportunity to acquire a commitment to better government and public service, whatever their ultimate careers.

The Federal-State Fellows program is patterned after the highly successful White House Fellows Program which began in 1964. Under it, exceptional young Americans from outside government are chosen in a nationwide competition and join the Federal Government for a year. They serve as assistants to members of the President's Cabinet and other top officials. After their year in Washington, some have remained in government service. Many have returned to the government for short periods to carry out important special assignments. Virtually all have become deeply involved in the civic or governmental process in their home states and communities.

The proposed Federal-State Fellows program creates a program similar to the White House Fellows for every State interested in participating. The Federal Government contributes three-fourths of the cost the first year, with its share dropping to no more than one-half by the third year. The Civil Service Commission makes grants to each State which then selects outstanding young people to serve for a year in the State government. Recruiting, selection, and program administration would be done on State-by-State basis.

Guidelines will be general, stressing excellence and the nonpartisan nature of the program. Selection should be competitive and service would normally be in both executive and legislative branches. The Council of State Governments will act as adviser to the Commission.

The Federal-Urban Fellows program would also bring outstanding young people into government service for a year—in this case, into city and urban county governments.

Urban governments are numerous and diverse. Because of this, it is my view that this program would be most effective if administered on a national basis by a central organization. The most effective arrangement, at this stage, would be for the Commission to contract for administration of the program with the National League of Cities/Conference of Mayors, which already has a program functioning successfully called the National Urban Fellows program.

The National Urban Fellows began in 1969. Young men and women from many professions are selected in national competition to serve in key positions in city and urban county governments. They undergo a 10-month internship and supplementary academic training which equip them for high level administrative,

technical, and professional positions in local governments.

An expansion of this concept into the proposed Federal Urban Fellows program would multiply the number of young administrators and professionals with first-hand knowledge of the tremendous challenges facing urban governments in America today. It would enlarge the pool of talent available to meet these challenges.

This legislation recognizes that various cities and States will devise imaginative programs which could supplement the fellowship programs in achieving their basic objectives. Therefore, it contains a provision in this measure for supplementary programs. The State of Ohio, for example, has a successful summer intern program for young people. New York and other cities have urban fellows programs. The Civil Service Commission is authorized to make grants to such existing efforts, when they would serve as imaginative complements to the measure's two primary programs.

If the programs outlined in this legislation are fully utilized, they will cost some $10 million a year. It will be well spent, and I recommend that funding be provided the Civil Service Commission to cover this new program.

One aim of this measure is, of course, long range: It will provide for the gradual development of valuable new personnel resources for State and local governments. But I believe that there will be an immediate return: When the most talented of our young citizens are placed in positions of responsibility, one of the natural outcomes is the development of needed new approaches and ideas. The young do not have a monopoly on prescience; but in a world where we must accept dazzlingly rapid change as a fact of life, we need not only their energy but their insights.

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

S. 3141

A bill, to amend the Intergovernmental Personnel Act of 1970 to provide for the employment of younger citizens of States and local governments as a means of increasing administrative, technical and professional skills available to local and State governments, thereby strengthening the Federal system

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intergovernmental Personnel Act Amendments of 1972".

SEC. 2. Section 2 of the Intergovernmental Personnel Act of 1970 is amended by adding at the end thereof the following new paragraph:

"That the commitment, imagination, energy, and skills of younger citizens constitute an available source of talent that should be broadly utilized in the strengthening of personnel resources available to State and local governments, thereby strengthening the Federal system."

SEC. 3. Title III of the Intergovernmental Personnel Act of 1970 is amended—

(1) by striking out—

"TITLE III—TRAINING AND DEVELOPING STATE AND LOCAL EMPLOYEES"

and inserting in lieu thereof—

"TITLE III—STATE AND LOCAL GOVERNMENT EMPLOYMENT

"PART A—TRAINING AND DEVELOPMENT"

(2) by striking out of section 301 the word "title" and inserting in lieu thereof "part"; and

(3) by adding at the end thereof the following new part:

"PART B—DEVELOPING ADDITIONAL EMPLOYEE RESOURCES

"SEC. 321. The purpose of this part is to develop additional employee resources for State and local governments and simultaneously to create new avenues of Federal, State, and local government service for younger citizens of the United States by establishing programs of Federal-State Fellows and Federal-Urban Fellows, and by authorizing support for related supplementary programs.

"DEFINITION

"SEC. 322. For the purpose of this part, 'organization' means—

"(1) a national, regional, statewide, areawide, or metropolitan organization, representing member State or local governments;

"(2) an association of State or local public officials; or

"(3) a nonprofit organization, one of whose principal functions is to offer professional advisory, research, development, educational, or related services to governments.

"FEDERAL-STATE FELLOWS

"SEC. 323. (a) The Commission, or an organization designated by it, is authorized to make grants to a State to establish, develop and carry out a Federal-State Fellows program for that State. Each State program shall provide opportunities for learning and service in other work of State governments by younger citizens of the United States of diverse backgrounds. Each such program shall—

"(1) emphasize the development of a group of informed and experienced citizens who, following their internship as Fellows, may subsequently be available to State governments, and also to Federal and local governments, for career employment or special periodic service.

"(2) provide for the appointment of Fellows from among outstanding young citizens at least 21 years of age;

"(3) be administered on a non-partisan basis; and

"(4) provide for carrying out such programs by a State agency designated by the Governor or chief executive authority of the State or pursuant to an agreement with an organization (unless State law otherwise prohibits such an agreement).

"(b) The Council of State Governments shall be designated as adviser—

"(1) to the States, with respect to the development of appropriate qualifications, standards, and methods of selection of Fellows; and

"(2) to the Commission, with respect to the development of criteria for awarding grants to States.

"(c) Grants to a State shall be for not to exceed 75 per centum (or, with respect to fiscal years commencing after the expiration of three years following the date of enactment of this part, up to 50 per centum) of the costs of such program of that State, including—

"(1) costs of stipends of not to exceed 10 Fellows per State a year;

"(2) administrative costs; and

"(3) related expenses as may be authorized by the Commission.

"(d) Each State shall agree to be responsible for the non-Federal share of the costs of its program. The State agency or the organization administering the Federal-State Fellows program for the State may seek public or private funds to pay for the non-Federal share of the cost of its program and for educational activities designed to supplement or complement the work-service experience of Fellows.

"(e) For costs incurred in connection with its advisory role, the Council of State Governments shall be reimbursed by the Commission, out of appropriations made pursuant to this Act, in such amounts as may be determined by the Commission.

"FEDERAL URBAN FELLOWS

"SEC. 324. (a) The Commission is authorized to establish, develop, and carry out a Federal Urban Fellows program which shall provide opportunities for learning and meaningful participation in the functioning of local government. Such program shall—

"(1) recognize the common national implications of local problems and seek to build a coordinated national personnel resource for local governments;

"(2) provide for the appointment of Fellows from among outstanding young persons, 20 through 39 years of age, representing a variety of ethnic groups and occupational backgrounds, including the appointment of such persons from volunteer programs and community service organizations, and with business, labor, medical, teaching, community action, and other kinds of experience relevant to the needs of local governments; and

"(3) provide for the assignment of Fellows, by agreements with a local government, or a local governmental or non-governmental agency, designated by the mayor or chief executive authority of the local government.

"(b) Except as otherwise provided in subsection (c) of this section, the Commission shall enter into an agreement with an organization or another Federal agency to carry out such program for the Commission. If the Commission enters into such an agreement, it is authorized to reimburse such organization or agency for stipends for the Fellows and administrative and other costs determined by the Commission to be related to carrying out such program. In no event, however, shall the Commission reimburse any such organization or agency for more than 75 per centum (or, with respect to fiscal years commencing after the expiration of three years following the date of enactment of this part, up to 50 per centum) of the total amount of stipends for five Fellows to each local government or non-governmental agency each year.

"(c) If the Commission determines it is not practicable to have an organization or other Federal agency carry out such program, the Commission is authorized to carry out such program by making grants directly to a local government or to a local governmental or non-governmental agency (designated by the mayor or chief executive authority of the local government) to establish, develop, and carry out Federal Urban Fellows programs of that government or agency. Any such grant shall not exceed 75 per centum (or, with respect to fiscal years commencing after the expiration of three years following the date of enactment of this part, up to 50 per centum) of (1) the costs of each such program of that local government or agency (including administrative costs and other costs authorized by the Commission to be paid out of the grants), and (2) the total amount of stipends for more than five Fellows to that government or agency each year.

"(d) Each such local government or agency shall agree to be responsible (1) in the case of Fellows provided by an organization or Federal agency under subsection (b) of this section, for that portion of the total amount of the stipends for Fellows provided that local government or agency and not reimbursed by the Commission, or (2) in the case of a grant directly to that government or agency

under subsection (c) of this section, for the non-Federal share of the costs of its program.

"(e) The local government or agency may seek public or private funds to pay the non-Federal share of the amounts of the stipends for Fellows provided under subsection (b) of this section; or its program under subsection (c) of this section.

"SUPPLEMENTAL PROGRAMS

"SEC. 325. (a) The Commission is authorized to make grants to States, general local governments or combinations of governments that serve fifty thousand or more persons, or other organizations, for support of additional programs which, as determined by the Commission—

"(1) are consistent with the provisions of subsection (a) of section 323 and subsection (a) of section 324 of this Act;

"(2) do not duplicate programs established under such sections;

"(3) constitute imaginative complements to those programs; and

"(4) in the case of programs proposed by organizations, have the endorsement of the appropriate State or local governments.

"(b) Grants may provide up to 75 per centum (or, with respect to fiscal years commencing after the expiration of three years following the date of enactment of this part, for up to 50 per centum) of the costs of such programs, as determined to be appropriate by the Commission, including stipends and administrative costs."

ESTIMATE OF FUNDS NEEDED FOR INTERGOVERNMENTAL PERSONNEL ACT AMENDMENTS OF 1972

Attracting persons to an internship who have the talent to be in demand elsewhere and who have administrative, technical, and professional skills requires a stipend in the range of $10,000 to $15,000 per year. The experience of similar programs suggests the following budget approximation for a program of 1000 fellows:

500 Federal-State Fellows average stipend $12,500/year	$6,250,000
500 Federal-Urban Fellows average stipend $12,500/year	6,250,000
Supplemental Programs	1,000,000
	13,000,000
Administrative costs, educational expense, advisory committee	5,000,000
Total annual cost	18,000,000
Federal share	13,500,000
State and local share	4,500,000

PROJECT FEDERAL EXPENDITURES

1st year—start up: 300 state, 300 Urban Fellows, no supplemental programs	10,500,000
2d year: 500 State, 500 Urban Fellows, supplemental programs	13,500,000
3d year: 500 State, 500 Urban Fellows, supplemental programs	13,500,000
4th year: (50% Federal share)	9,000,000
5th and subsequent years: (50% Federal share)	9,000,000

Mr. GURNEY. Mr. President, I am pleased to cosponsor the Intergovernmental Personnel Act Amendments of 1972 introduced today by Senator MUSKIE. This legislation will provide for the training and involvement of young people in State and local government through a Federal fellowship program.

We hear from young people throughout our Nation, an increasingly serious criticism of our governmental institutions and the ability of these institutions to respond to the people whom they serve. Too often, these criticisms are rooted in ignorance of the actual operations of governmental bodies and agencies; also, too often, there is legitimate basis for such accusations.

This legislation will serve to familiarize hundreds of our Nation's brightest, most talented young people with the day-to-day problems and activities of State and local government. All who participate in it will share an opportunity for increased knowledge and respect for the realities of government; some will choose careers in government and remain to change and improve the very institutions from which they have learned.

The program will operate through two types of fellowship plans: the Federal State Fellows and the Federal Urban Fellows. Overall administration would be through the Civil Service Commission, with each State administering its individual program for fellowships in State government; and with a contracting agency or organization such as the National Urban Fellows program of the National League of Cities and Conference of Mayors, administering the fellowships in local governments.

The program will be financed on a 50-percent matching basis, with the Federal share of the costs less than $9 million annually, following slightly higher start-up costs of the first 3 years.

Mr. President, I speak as a fiscal conservative when I say I believe this program to be a wise investment in the future of our country. It would be irresponsible to ignore the proper education and preparation of youths who will be tomorrow's leaders in our society and government.

By Mr. MUSKIE (for himself, Mr. JAVITS, Mr. RIBICOFF, and Mr. SCHWEIKER):

S. 3142. A bill to authorize the Secretary of State to furnish assistance for the resettlement of Soviet Jewish refugees in Israel. Referred to the Committee on Foreign Relations.

SOVIET JEWISH REFUGEE ASSISTANCE ACT OF 1972

Mr. MUSKIE. Mr. President, I am introducing today a bill to authorize $85 million for assistance to Soviet Jewish refugees in Israel—The Soviet Jewish Refugee Assistance Act of 1972.

The plight of Jews in the Soviet Union has for some time been a matter of great concern and sorrow in this country. We cannot fail to be greatly moved, because of our own tradition of religious and personal liberty, with the example of a minority in the Soviet Union struggling against such overwhelming odds to preserve its ancient religious and cultural traditions in what appears to be an increasingly hostile environment. In recent years the attention of the world has been focused sharply on the plight of Soviet Jewry by the victims' own courageous public protest and demand for the right to emigrate to Israel.

In Congress there have been several bipartisan efforts to call attention to this problem and to do what little we can to influence the Soviet Government in the direction of a nondiscriminatory policy toward the Jewish people of the U.S.S.R. We have tried to render what small assistance we can to the struggle of this brave people to maintain their identity and their right to worship God as they see fit. And we must continue to do what we can as long as repression of the Jewish people continues in the Soviet Union.

But in recent months there has been a surprising new development in Soviet policy. The motivations remain obscure, but the results are dramatic—a sudden increase in the number of Soviet Jews allowed to emigrate to Israel. In the one month of December 1971, three times as many Jews emigrated from the Soviet Union as in all of 1970. The increased rate is continuing in 1972, and it is now anticipated that between 40,000 and 60,000 Soviet Jewish immigrants will arrive in Israel this year.

On January 8 of this year, I suggested in a statement that the United States should be prepared to assist these refugees resettle in Israel—for it is to Israel that they strongly desire to go. I pointed out that this new Soviet policy was a blessing—but a blessing accompanied by staggering financial and social burdens for Israel. We know from our own experience with some 650,000 Cuban refugees in the past 12 years and some 30,000 Hungarian refugees in 1958 and 1959 how difficult it is to absorb substantial numbers of refugees—and we are a nation of more than 200 million.

For Israel's 3 million people, the task is awesome. Given our relative populations, it is as if the United States was suddenly confronted with the need to absorb into its social and economic structure an additional 2 to 3 million people, roughly the size of Philadelphia or Los Angeles. Housing must be built, food provided, and jobs created. A new language must be taught. Health and educational facilities must be found. New communities must be developed. Counseling and training are required. None but the Israelis can build the homes, teach the languages, find the jobs, and otherwise pay the social costs of giving freedom to Soviet Jews. But there is a financial cost as well—estimated at several hundred million dollars—and that is something I believe we can and must help with.

When I raised this problem last month, I suggested that there were three principal reasons why the United States should help in this effort. These reasons are worth repeating:

First, since World War II, the United States has contributed more than $2.8 billion to refugee assistance, directly and through intergovernmental organizations. We spent close to $600 million to assist Cuban refugees. From 1947 to 1951, we contributed $237 million to the International Refugee Organization. In the early 1950's, we contributed almost $85 million to aid Korean refugees. And for Arab refugees, we have contributed more than $500 million. We have never forgotten that we were founded and populated by the refugees of an earlier world. Our commitment to this cause is inscribed on the base of the Statue of Liberty.

Second, there is the long history of our concern with persecution on account of religion and, in the last half century, particularly with the persecution of Jews.

Beginning in the early 1900's, our national leaders have fought for the freedom and dignity of the world's Jewish community. We played a major role in the creation of Israel; we have been its firm defender ever since.

Third, beyond humanitarian concerns, there is our clear self-interest in the health and well-being of Israel. War is not the only danger to a healthy Israel. Economic disaster can accomplish what war could not, if we let it. A country the size of Israel, with its heavy defense burdens, cannot afford the several hundred million dollars that will be required for the anticipated influx of Soviet Jews over and above Israel's normal budget for immigrants—and Israel has already spent enormous sums in recent years receiving and integrating hundreds of thousands of Jewish refugees from Middle Eastern countries.

For all these reasons, therefore, we must be prepared to help Israel cope with the new influx of Soviet Jewish refugees. Since proposing such assistance last January, I have asked my staff to explore the best possible means of providing it. We have consultated with Members and staff in both Houses of Congress, with the Department of State which administers current refugee programs, and with many individuals and groups outside the Government who are most familiar with the present situation. The result of these consultations is the legislation being introduced today.

First, the bill we are introducing today is bipartisan. This is the kind of humanitarian issue which attracts bipartisan support, and it is imperative that it be made clearly bipartisan and not the creature of any one man or party. I am particularly pleased, therefore, to be joined by my distinguished colleagues on both sides of the aisle, Senator RIBICOFF, Senator JAVITS, and Senator SCHWEIKER, in introducing this legislation today. We are eager for the widest possible cosponsorship, and we invite other Senators to join us in this effort.

This same legislation is being introduced on a bipartisan basis in the House today by Congressmen JONATHAN B. BINGHAM and SEYMOUR HALPERN. Congressmen BINGHAM and HALPERN are also seeking the widest possible cosponsorship in the House.

Second, we are suggesting as the most appropriate level of assistance to Israel a sum of $85 million. We are well aware that the financial burden on Israel for resettling these new immigrants will amount to several times this figure. If the current rate of immigration from the Soviet Union continues next year and into the future, we would most certainly want to consider additional assistance. For the moment, however, we believe that $85 million is an appropriate and realistic initial commitment.

Third, we believe that the most appropriate vehicle for such assistance is the Department of State which has been designated by the President as the administering authority for our refugee assistance programs abroad. We note with satisfaction that the State Department is already providing some funds, albeit at a very modest level, for maintenance costs in Vienna for Soviet Jewish refugees in transit to Israel. We applaud this effort, and we hope that in this same spirit the administration will provide substantially more funds in the State Department budget for resettlement costs in Israel—a much larger financial commitment, to be sure, but one which we believe to be amply justified. The administration has already indicated that aid to Israel should not be a political issue this year. It is all the more appropriate that humanitarian assistance of this kind should be taken completely out of the political arena.

We hope, therefore, that the legislation we are proposing today will receive the broadest possible support in Congress and in the administration. The burden on Israel and on the refugees is already enormous. We must not delay in acting—and in acting generously.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

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

S. 3142

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of State is authorized to furnish, on terms and conditions he considers appropriate, assistance to Israel, including assistance for housing, clothes, food, medical care, education and training, for the resettlement in Israel of Jewish refugees from the Union of Soviet Socialist Republics. There are authorized to be appropriated to the Secretary not to exceed $85,000,000 to carry out the provisions of this Act.

Mr. RIBICOFF. Mr. President, I would like to commend Senator MUSKIE for his introduction today of a bill to furnish much needed assistance to Soviet refugees in Israel. I am pleased to be a cosponsor. This is the most appropriate legislative vehicle for helping Israel bear the heavy burdens of absorbing these thousands of newcomers.

I am particularly pleased that Senator JAVITS and Senator SCHWEIKER have joined in this bipartisan effort. As the time draws near for active consideration of this measure, I am certain we will be joined by many of our colleagues who share our deep concern for the well-being of these refugees and for the economic well-being of Israel.

America, like Israel, is, after all, a nation composed of refugees, and American assistance to refugees from many nations is part of our tradition and is a matter of record. Cubans, Hungarians, Arabs, Koreans, and most recently, Bengalis, have all been helped. Today there are new refugees who need our help. Faced with the sudden influx of immigrants from the Soviet Union, Israel's economy, already under enormous strains, because of heavy defense expenditures, is seriously threatened. Despite these new burdens, the Israelis are determined to provide new lives for those who have suffered from persecution, because of their religion.

The Israelis will continue to welcome their Soviet brethren no matter what the costs. Some 15,000 arrived last year, and another 40,000 to 50,000 are expected. The need for assistance in this awesome task is becoming critical. So much must be done for these refugees in the way of housing, medical care, job placement, and language-skills training before they can become absorbed into the mainstream of Israeli life.

The bill being introduced today authorizes the Secretary of State, who is charged with the overall responsibility for administering refugee assistance programs abroad, to provide $85 million to assist Soviet refugees in Israel. Precedent of such assistance to third countries exists with our aid to Czech refugees in third countries. The amount called for in our bill represents only a small fraction of Israel's total cost. But this amount will be of significant help. It is also a realistic amount, in view of our Nation's many commitments elsewhere in the world and at home.

I urge my colleagues, particularly those who have spoken out so eloquently against Soviet persecution of Jews in the past, to give their active support to this legislation. In doing so, they will be acting in the highest traditions of humanitarian concern for those in need in other lands.

By Mr. ANDERSON:

S. 3144. A bill to designate certain lands in the Bosque del Apache National Wildlife Refuge, Socorro County, N. Mex., as wilderness. Referred to the Committee on Interior and Insular Affairs.

Mr. ANDERSON. Mr. President, I am today introducing legislation which will establish the Bosque del Apache wilderness within the Bosque del Apache National Wildlife Refuge as a unit of the national wilderness system. The wildlife refuge is located along the Rio Grande in central New Mexico and is fully suitable for inclusion within the wilderness system because of its untrammeled and unexploited scenic and scientific qualities.

As is provided in the Wilderness Act of 1964, the area has been reviewed by the Secretary of the Interior who supports the inclusion of the acreage within the wilderness system, as does the President.

The proposed wilderness is made up of three units within the wildlife refuge totaling 32,500 acres. The three units consist of uplands on both sides of the Rio Grande and are predominately desert country with vegetable cover typical of the Lower Sonoran Life Zone. Animal life includes mule deer, antelope, quail, cottontail, and occasional mountain lions, coyotes, and bobcats.

The Bosque del Apache National Wildlife Refuge was established in 1939 as a refuge and feeding area for migratory birds and other wildlife. It is located about 13 miles south of Socorro, N. Mex. Within the three proposed wilderness unit, 232 species of wildlife have been recorded, primarily including shrikes, mockingbirds, nighthawks, owls, and king birds.

As required by the Wilderness Act, a public hearing was held and the comments received were predominately favorable. The only negative portions dealt with technical matters involving appropriate boundaries of the wilderness area. As I have stated, the measure has the full support of the administration. I ask for

speedy approval of this legislation, which is in the public interest and which will preserve this scenic and valuable area for future generations.

By Mr. BENTSEN:

S. 3146. A bill to amend chapters 31, 34, and 35 of title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and persons; to provide for advance educational assistance payments to certain veterans; to make improvements in the educational assistance programs; and for other purposes. Referred to the Committee on Veterans' Affairs.

Mr. BENTSEN. Mr. President, the quality of programs which today's veteran has available to him upon leaving the armed services is a vitally important matter. Because of currently high unemployment levels, because of rises in the average educational level, because of the constant increases in the costs of education, we must go further toward assuring that veterans' educational benefits and vocational opportunities are fully adequate. That the need is great cannot be denied.

Disturbing figures exist which underline the plight of returning Vietnam veterans. Unlike veterans coming home from past wars, these young men are statistically in worse straits today than their contemporaries who did not serve. The unemployment rate last month for young veterans ages 20 to 29 was 8.5 percent while it was 7.5 percent for nonveterans. This 1 percentage point represents a tremendous number of unemployed individuals. Clearly, we have to do more in creating educational and employment opportunities to correct this situation.

I see no justification for expecting veterans from Vietnam to be content with programs which are inferior to those during and after World War II and the Korean conflict. The veterans involved in all of these conflicts have the same basic needs and aspirations. The programs we enact and fund today must meet the needs that exist now, just as those in the past met the needs of their times.

Accordingly, I am here presenting legislation designed to improve and broaden the administration's proposals in the fields of veterans education and employment. While their legislation calls for increased benefits, I am persuaded that some of their proposals will prove inadequate by the time they actually become law and subsequently take effect. The effectiveness of the legislation would be therefore diluted.

The administration proposal asks an increase of 8.6 percent in basic education allowances and a 48-percent increase in rates for on-the-job and apprentice trainees.

While I have no disagreement with the second figure—the need is greatest in these areas and a 48-percent increase should stimulate veterans' job opportunities—I feel the first figure should be increased from 8.6 to 14 percent.

It should be noted these increases will probably not be available to veteran students until the start of fall semester in 1972. The larger benefit increase I propose takes into account the time lapse which occurs during the "proposed-enacted-instituted" time period. It will increase the present rate for a veteran alone from $175 per month to $200, rather than the $190 figure suggested in the administration proposal.

This measure also authorizes advance payment of a veteran's rehabilitation subsistence and educational assistance allowance to prevent delays from halting his planned program. Safeguards would exist to prevent double payments.

Provision is also made for the Veterans' Administration to employ student-veterans who are participating fulltime in educational or training programs, in order to help them meet expenses.

Seeing that wives and widows share veterans' educational and vocational opportunities is a major aim of this measure. Evidence exists to show that these dependents or survivors often have the same need for training as does the veteran himself. Provisions of this bill also extend various benefits to female veterans of the armed services, heretofore not included.

Other important rule changes and benefit improvements are contained in this comprehensive legislation, along with a detailed section on farm training opportunities. I ask that the full text of the Veterans Educational and Training Amendments of 1972 appear in the RECORD following my remarks, in order that my colleagues can fully examine and evaluate the contents of this measure.

Mr. President, there are few investments which we can make in the future of our country which can match the training and educating of young Americans. We have seen the great benefits which our veterans' programs of World War II and Korea engendered. That the GI bill has produced outstanding and productive careers in many fields is, I think, obvious.

I want to see the Vietnam veteran have an equal chance to prepare himself for an active and rewarding civilian life. To assure him of this opportunity is the least we can do, for he has given the best of himself in the service of his country. If we make a fair and equitable investment in him, I know he will make the same kind of investment in the future well-being of this Nation. I urge my colleagues to join me in support of this worthwhile and critically needed legislation.

By Mr. BAYH:

S. 3148. A bill to improve the quality of juvenile justice in the United States and to provide a comprehensive, coordinated approach to the problems of juvenile delinquency, and for other purposes. Referred to the Committee on the Judiciary and when reported, by unanimous consent, to the Committee on Government Operations.

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1972

Mr. BAYH. Mr. President, I send to the desk a bill, the content of which I have discussed with the distinguished Senator from Arkansas (Mr. MCCLELLAN), the Chairman of the Committee on Government Operations. He has agreed that it would be appropriate to refer this bill to the Committee on the Judiciary and thereafter to the Committee on Government Operations. I ask unanimous consent that the bill be so referred.

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

Mr. BAYH. Mr. President, juvenile crime in this country is reaching crisis proportions. During the past decade, arrests of juveniles for violent crimes increased by 148 percent, and arrests of juveniles for property crimes, such as burglary and auto theft, jumped 85 percent.

I am deeply alarmed by these rapidly accelerating arrest rates for young people. But I am even more alarmed by the fact that juveniles now represent almost half the crime problem in this country. Children between the ages of 10 and 17 compose only 16 percent of the national population, yet they account for more than 48 percent of all arrests for serious crimes. And the problem is even worse than these figures indicate, because a large proportion of adult arrests for serious crimes are those we failed to rehabilitate as young offenders.

Our dismal failure to rehabilitate is dramatically clear from the recidivism rate for juvenile delinquents, estimated at 74 percent to 85 percent. Our attempts to redirect young lives by the traditional means of incarceration in large training schools simply do not work; they succeed only in producing more sophisticated, more alienated young criminals.

The hard facts indicate that juvenile crime has reached crisis proportions. To respond to this crisis with half-measures would be worse than doing nothing at all, for it might well give us a false sense of accomplishment. We must face this crisis of delinquency in all its severity, and recognize that our approach must be completely restructured.

A juvenile justice system that resorts to incarceration masquerading as rehabilitation serves only to increase our already critical crime rate by providing new students for what have become institutionalized schools of crime. What is needed is an approach that concentrates on producing productive citizens.

When juvenile crime costs our society billions of dollars each year, such an approach makes good sense not only from a humanitarian point of view, but from an economic point of view as well. So long as we tolerate a system of juvenile justice that turns delinquents into hardened criminals, our crime rate will continue its upward spiral.

Today I am introducing a new bill—the Juvenile Justice and Delinquency Prevention Act—which will provide the comprehensive, coordinated Federal effort combined with the massive resources that have so long been needed.

My bill restructures the Federal approach to the problems of juvenile delinquency under a new National Office of Juvenile Justice and Delinquency Prevention. It insures national coordination, supervision, and evaluation of federally assisted delinquency programs. It authorizes substantial new resources to develop and implement effective delinquency prevention, treatment, and re-

habilitation programs. It creates a centralized research, training, data collection, and technical assistance effort in a new Institute of Juvenile Justice. Through a National Commission on Standards for Juvenile Justice, it provides for the development of model uniform standards for the administration of the juvenile justice system, including conditions of confinement in detention and correctional institutions. Finally, it establishes basic procedural rights for juveniles who come under Federal jurisdiction—rights that are already enjoyed by adult criminal defendants. I believe that my bill will give us the kind of comprehensive national program which we need to deal effectively with the massive problems of delinquency.

During my first year as chairman of the Subcommittee to Investigate Juvenile Delinquency, I have carefully reviewed the numerous juvenile delinquency programs administered by more than half a dozen Federal agencies. In March and April 1971 the subcommittee conducted hearings to examine the effectiveness of the Federal effort in this area.

Unfortunately, these hearings and subsequent investigation confirmed what had already been painfully suggested—that existing Federal programs have not provided the requisite direction, coordination, resources, and leadership needed to deal with the crisis of delinquency. They have had virtually no impact on the devastating effects of juvenile crime—crime which results in immeasurable loss in human life, personal security, and wasted economic and human resources.

Testimony of both governmental and nongovernmental witnesses indicated that there is at present no central responsibility within the Federal government for juvenile delinquency programs. Even those agencies which administer the substantial portion of delinquency funds—the Law Enforcement Assistance Administration and the Department of Health, Education, and Welfare—are unwilling to claim a primary role in coordinating and sustaining the overall Federal effort in this area.

The Juvenile Deliquency Prevention and Control Act of 1968 was clearly intended by Congress to coordinate all Federal efforts in the area of juvenile delinquency. Unfortunately, this mandate has never been carried out. In fact, the the Youth Development and Delinquency Prevention Administration, the agency charged with the responsibility of administering the act, has conceded its failure to implement the goals set forth by Congress. Its annual report, issued in March 1971, concluded that there is:

> Little coherent national planning or established priority structure among the major programs dealing with the problems of youth development and delinquency prevention . . . The present array of programs demonstrate the lack of priorities, emphasis, and direction in the Federal Government's efforts to combat delinquency.

In approving a 1-year extension of the Juvenile Delinquency Prevention and Control Act last June, we provided for the creation of an Interdepartmental Council to coordinate all Federal juvenile delinquency programs.

We hoped that this new Council would pull together the fragmented delinquency programs into a cohesive, effective Federal effort. However, I now believe that this Council does not have sufficient authority or independence from existing agency structures to do the job. Nor does it have the mandate, the resources, or the national prestige to become a forceful advocate for the thorough-going reform demanded by our present crisis of delinquency.

My bill establishes a new National Office of Juvenile Justice and Delinquency Prevention within the Executive Office of the President. This new office is charged with the responsibility of supervising and coordinating all Federal juvenile delinquency programs. The multidisciplinary approach afforded by the participation of several agencies, such as the Departments of Labor, Justice, Health, Education, and Welfare, and Housing and Urban Development, is valuable in developing an effective response to the many facets of the delinquency problem. However, as past experience has demonstrated, without centralized coordination and planning, a multifaceted approach can degenerate into fragmentation and confusion.

My bill does not propose the termination or the relocation of existing juvenile delinquency programs; rather, it provides the authority to supervise Federal planning and policy and to establish priorities and objectives for all Federal delinquency programs, including training, evaluation, research, prevention, rehabilitation, and treatment activities. The Director of the new National Office of Juvenile Justice would be the spokesman and central coordinator for the entire Federal juvenile delinquency effort. He would have broad supervisory review over the operation of programs in other agencies, and would be responsible for reporting on their effectiveness and for making budgetary and programmatic recommendations to the President.

The need for centralized authority has been recognized by both major Federal agencies operating in th field of juvenile delinquency—the Law Enforcement Assistance Administration and the Department of Health, Education, and Welfare. In announcing the decentralization of authority to regional offices on May 18, Mr. Jerris Leonard, Administrator of the Law Enforcement Assistance Administration, specified that juvenile delinquency programs would be excepted from this decentralization and that supervisory control would remain in headquarters. Mr. Leonard said:

> This is a real problem area—the apparent inability of all of the programs that we have in the juvenile delinquency field to dovetail and address the problem on a very broad and effective base. That is something that cannot be done at the regional or State level; the coordination effort has got to come from the National Government and from Washington.

The Youth Development and Delinquency Prevention Administration—within the Department of Health, Education, and Welfare—in its annual report of Federal activities in juvenile delinquency, concluded that Federal efforts to combat delinquency demonstrate "a lack of priorities, emphasis and direction," and that State planning has been "spasmodic and ineffective." The report recommended that a new national program be created to provide coordination and leadership for all delinquency related efforts—Federal, State, and local.

Not long ago the President responded to the crisis of drug addiction facing our Nation by creating a new Special Action Office for Drug Abuse Prevention with far-reaching powers over the numerous drug programs scattered throughout the Federal Government. My bill recognizes that a similar response is warranted in the area of juvenile delinquency—a response which will focus Federal resources to have a meaningful, effective impact on the terrible social, economic, and human cost of juvenile delinquency.

The Federal effort to combat delinquency has failed not only because of lack of direction and coordination, but also because we simply have not allocated resources commensurate to the size of the problem. Despite the fact that juveniles represent at least half the crime problem, the Federal Government allocates only a small fraction of its total crime prevention money to the problems of juvenile delinquency. In fiscal 1970, LEAA spent less than 12 percent of its appropriation on juvenile delinquency programs; in fiscal 1971, although the percentage increased somewhat, it still remained well under 15 percent.

Further, although accurate figures on the actual amounts allocated to juvenile delinquency by model cities programs of the Department of Housing and Urban Development are not available, a rough estimate indicates that no more than $8.3 million of the model cities supplemental funds was spent in the area of juvenile delinquency in fiscal 1970. Moreover, the amounts requested by the Department of Health, Education, and Welfare under the Juvenile Delinquency Prevention and Control Act have never approached the amounts authorized by Congress. In fiscal 1970, of the $50 million authorized, $15 million was requested; in fiscal 1971, of the $75 million authorized, only $15 million was requested. This fiscal year, the Department of Health, Education, and Welfare requested even less than it has in the past: $10 million of an authorized $75 million.

We can only conclude that to date no Federal agency, including those specifically charged with the prevention and control of crime and delinquency has responded to the fact that juveniles constitute at least half the crime problem in our country. On the contrary, juveniles seem to be last on the list of priorities when it comes to allocating vitally needed resources.

My bill authorizes substantial appropriations—a total of one and a half billion dollars over the next 4 years—for the new National Office of Juvenile Justice so that funds will be available for developing and implementing delinquency prevention, rehabilitation, and treatment programs. Federal agencies would be qualified recipients of such grants, as well as public and private agencies, organizations, institutions, and individuals.

My bill provides for substantial Federal assistance for State and local juvenile delinquency programs. These funds will be distributed by the States through designated planning agencies in accordance with comprehensive State plans approved by the new national office. My bill also provides funds for direct grants to public and private agencies to develop and implement new methods of delinquency prevention, treatment, and rehabilitation. This formula will maintain the funding flexibility required to develop innovative approaches to the problems of delinquency. Moreover, the ability of the Director to develop and implement an effective, coordinated Federal delinquency effort will be enhanced by making funds available for direct grants over which he has supervisory control. This will allow him to implement his decisions as to what must be done in the area as well as to supplement existing efforts. Further, by making funds available to nonprofit private agencies, institutions, and individuals, participation by a wide spectrum of the community in developing ways of dealing with the problems of juvenile delinquency wil be encouraged.

Most important, all grants, whether made to State agencies, public or private agencies, institutions, or individuals, will be made in accordance with broad guidelines which reflect the views of people who have long worked in the field. These guidelines encourage the development of viable alternatives to the traditional juvenile justice system, with particular emphasis on replacing large, outmoded juvenile detention and corrections institutions with community-based services and facilities.

For example, my bill requires that at least three-quarters of the funds a State planning agency receives must be spent on the development and use of facilities designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system, and to provide community-based alternatives to traditional detention and correctional facilities used for the confinement of juveniles. Witnesses who have appeared before my subcommittee have testified again and again that large, custodial institutions rarely succeed in rehabilitating their inmates. Rather, the conditions in these institutions usually produce physical and psychological damage which is permanent. The statistics confirm this tragic picture: the recidivism rate of institutionalized delinquents is the highest of any age group—74 percent.

My bill will provide States with the incentive and with the resources to develop alternatives to these large institutions, such as group homes, halfway houses and foster-care programs. Through the use of community-based services and facilities, juveniles will be able to receive the help they need while remaining in their communities, close to the families and friends so necessary to rehabilitative efforts.

My bill also provides that children who have committed "juvenile status offenses," such as truancy, or running away from home, be treated separately from juveniles who have committed serious criminal offenses. Witnesses have told us repeatedly that approximately one-half of the children presently confined in large institutions for juvenile delinquents are there because they are runaways, truants, or have destructive home situations. These children are victims of societal and parental neglect, and should not be treated in the same way as juveniles who have a history of criminal activity.

In order to provide the kind of care needed for a particular child, it is crucial to have adequate diagnostic facilities. Many localities do not have such facilities, and thus are unable to differentiate among the children sent to institutions in any meaningful way. The bill includes the development of diagnostic services on a statewide, regional, or local basis as a requisite part of State juvenile delinquency plans.

One of the most successful alternatives to institutionalization has been the probation subsidy program, which is now operating in several States. Under this program, a county or unit of local jurisdiction is reimbursed for every juvenile it retains in the community, rather than committing to a State correctional institution. This program allows a child to stay at home while receiving intensive probation services, and, in fact, costs far less than institutionalization. For example, in California, during the 5-year period that the probation subsidy program has been operating, commitments to State institutions have been reduced by 15,301. My bill provides for the development of these and similar probation programs, for the expansion and improvement of probation services in local communities, and for the training of probation officers and other professional and paraprofessional personnel.

One of the best documented problems facing our youth today is that of drug abuse. Not only do drugs destroy the lives of many young people, they are also the direct cause of serious delinquent behavior. The Subcommittee to Investigate Juvenile Delinquency has conducted an extensive investigation of the problems of nonopiate addiction among young people, especially with regard to amphetamines and barbiturates. We have found that a shockingly large percentage of our high school, and even elementary school, population have become involved in the abuse of these dangerous drugs, often without realizing their tragic consequences. Numerous young witnesses have told us of their first experiences with these drugs, of their increasing dependence and eventual addiction, and of the delinquent, often criminal activity to which their drug habits led them.

My bill provides for comprehensive programs of drug abuse education and prevention which will reach even the youngest children before they become hopelessly enmeshed in the destructive cycle of drug addiction and criminal activity. For those children who are already involved with drugs, my bill provides for rehabilitation and treatment programs. As many correctional authorities have indicated, drug abuse is a grave problem both within juvenile correctional institutions and in the communities in which the juveniles live. We must make a concerted attack on this evil if we are ever going to reduce the numbers of children for whom crime becomes a necessary way of life.

Many of the early signs of delinquent behavior, or of problems at home, first show up in the schools. Any approach to delinquency prevention must include intensive services within the elementary and secondary education systems which will detect and divert from the juvenile justice system delinquent and potentially delinquent youth. My bill emphasizes the need to develop such programs through the use of individual and family counseling, and other supportive services within the structure of the schools. Grantees are also encouraged to provide training for professionals and paraprofessionals working with juvenile delinquents and predelinquents in all aspects of the problem.

One of the major features of my bill is the creation of a National Institute for Juvenile Justice within the new National Office of Juvenile Justice and Delinquency Prevention. The need for such an Institute has long been recognized. Many of my colleagues in both the Senate and House have responded to this need by supporting a similar, although far more limited, concept in the Institute for the Continuing Studies of Juvenile Justice. My proposal would give the Institute the national prestige, the authority, and the resources required to develop long-range strategies for dealing effectively with the problems of juvenile delinquency. Even more important, the Institute would be an integral part of the new National Office. Promising research results developed through the Institute could be translated promptly into operating programs in the field. By closely relating the functions of the Institute to the activities of the National Office, we will be effectively closing the information gap that has severely hindered Federal efforts to combat delinquency until now.

The new National Institute would provide technical assistance to Federal, State, and local agencies, courts, institutions, and individuals involved in developing and implementing delinquency programs. The current unavailability of effective technical assistance at the State and local levels is well documented and has a serious adverse impact. The Youth Development and Delinquency Prevention Administration's annual report found that State delinquency planning and proposed projects had been poor largely because "a sufficient theoretical knowledge base was lacking and only an extremely limited amount of technical assistance was forthcoming."

In conjunction with the technical assistance function, the Institute would serve as an information clearinghouse, both collecting all data related to juvenile delinquency and disseminating it throughout the country. There is general agreement that the impact of various research and demonstration program results has been severely limited due to the fragmented Federal structure and the lack of any centralized source of information. Further, it is extremely difficult for a prospective grantee to obtain comprehensive information on Federal resources available in the area of

juvenile delinquency. The Institute would serve as a clearinghouse for delinquency information, including statistics, research, availability of resources, and Federal, State, and local prevention, rehabilitation and treatment programs.

Research on the problems of juvenile delinquency would be a primary function of the Institute. My bill provides substantial funding for research to be conducted both by Institute personnel as well as by public and private agencies, institutions, and individuals. The quality of these research projects would be regularly evaluated and the findings widely disseminated.

The Institute would also be responsible for conducting training programs throughout the country for persons working in the area of juvenile delinquency, such as policemen, judges, probation officers, corrections personnel, and lay and paraprofessional workers. In addition, the Institute would develop technical training teams to aid in the development of on-going State and local training programs for juvenile justice personnel, including those who work with young people to prevent delinquency. An Advisory Council consisting of Government officials and representatives of groups actively involved in juvenile delinquency prevention and control would consult with the Director and the Administrator concerning the overall policy and operations of the Institute.

The Institute would provide vitally needed leadership in developing effective research, training, technical assistance, and information services relating to juvenile delinquency. It is an essential part of the new comprehensive, coordinated Federal approach I am recommending. Appropriations of $500 million over the next 4 years are authorized for the vital work of the Institute.

Another component of my program to improve juvenile justice in America is a series of specific amendments to existing Federal law, designed to guarantee certain basic protections to juveniles under Federal jurisdiction.

I would require that, whenever possible, juveniles be processed through State and local juvenile courts and correctional systems, and not in the Federal courts. Under the Federal Juvenile Delinquency Act, a district court is authorized to sit as a juvenile court to judge minors who are charged with Federal offenses not punishable by death or life imprisonment. Unfortunately, neither the Federal courts nor the Federal correctional system has ever been properly equipped to handle large numbers of juveniles. The result has been that great numbers of juveniles have been shipped away from their home communities, especially for the purpose of institutionalization. This dislocation has been repeatedly criticized, for one of the most important factors in the success of efforts at rehabilitation is the access the juvenile has to stabilizing influences in the community he will return to after release. And this dislocation makes very difficult—or totally prevents—contact of the juvenile with members of his immediate family.

By their very nature, State courts are more likely to be community based. My bill requires Federal courts to defer to State courts, as long as the State court has jurisdiction over the offense and has adequate rehabilitation programs and services.

My bill contains an absolute prohibition against the detention or confinement of any juvenile alleged or found to be delinquent in any institution in which adults—whether convicted or merely awaiting trial—are confined. We have heard a lot of unpleasant evidence about the conditions in all our prisons, whether they deal with adults or juveniles.

And my bill is designed to improve these conditions. But, in the meantime, allowing adult and juvenile offenders to be confined together only exacerbates an already difficult problem.

Juveniles who are incarcerated with hardened criminals are much less likely to be rehabilitated. The older criminals become the teachers of graduate seminars in crime. In addition, we have heard repeated charges about the homosexual attacks that take place in adult institutions, and confining juveniles in such institutions only increases the likelihood of such attacks. There is no reason to allow adults and juveniles to be imprisoned together. Only harm can come from such a policy, and I would forbid it completely.

Under present law it is possible to treat a juvenile alleged to have committed an act which if committed by an adult would be a felony either in juvenile proceedings or in criminal proceedings. Juvenile proceedings are designed to rehabilitate a youthful offender and to avoid the stigma of having a criminal conviction on a young person's record. If at all possible, therefore, no one eligible for juvenile treatment should be made to face adult criminal charges without the benefit of full constitutional protections. Of course, there are cases in which referral to the juvenile courts would be pointless.

My bill would require a hearing before a Federal district judge before transferring an eligible juvenile to adult criminal jurisdiction. Only if the Federal judge found, after hearing all of the evidence, that "there are no reasonable prospects for rehabilitating" the juvenile before he reaches the age of majority could the criminal prosecution take place. Transfer proceedings could be instituted only against a juvenile age 16 and older. In all other cases, he would be treated as a juvenile.

I have heard too many stories of juveniles being detained for long periods of time without having the nature of the charges against them precisely stated, and without sufficient evidence against them to make their detention legal. I propose to include an explicit statement in the Federal statutes dealing with the treatment of juveniles, requiring that immediately after arrest, each juvenile be advised of his legal rights. My bill further requires that the juvenile's parents or guardian be notified forthwith of such custody. The juvenile must then be brought before a magistrate who shall release him to his parents or guardian, unless, after hearing, the magistrate determines that detention is necessary to secure the juvenile's timely appearance before the appropriate court or to protect the safety of others.

My bill would also implement recent Supreme Court decisions dealing with the right to counsel. The arresting officer and the court would be required to inform the juvenile that he has the right to be represented by legal counsel at all critical stages of the juvenile proceedings. And if the juvenile does not retain counsel, legal counsel will be appointed by the court.

The proposed amendments would also establish safeguards for juveniles under Federal jurisdiction, guaranteeing them the constitutional protections against self incrimination, illegal searches and seizures, and cruel and unusual punishment. These guarantees are fundamental to our system of justice, and I believe that they should be extended to juveniles in our Federal laws.

Finally, my proposed Juvenile Justice and Delinquency Prevention Act would create a National Commission on Standards for Juvenile Justice, composed of 15 members appointed by the President. The commission would be broadly representative of juvenile judges, corrections officials, probation and welfare workers, lawyers, and young people who have had extensive contact and experience with the juvenile justice system. The commission would be specifically charged with the responsibility of studying the administration of juvenile justice at the Federal, State, and local level, including juvenile court procedures and conditions of confinement in juvenile detention and correctional facilities. The commission would, of course, draw upon the considerable body of work already done in these areas.

Within 2 years of its inception, the commission would make its recommendations and report its findings to Congress. These recommendations would be widely publicized, and State and local governments would be urged to adapt their practices and procedures to the standards recommended by the commision.

To prevent the commission from becoming another impotent study group, the Director is authorized to use these recommendations as guidelines in establishing funding priorities as well as in making individual funding decisions. Thus, the Director might determine that a State agency or institution would require additional funds to bring it up to national standards established by the commission, or in the alternative, should not receive funds at all since it merely perpetuates outmoded, ineffective practices.

We have been told again and again of the wide disparities in the procedures governing the treatment of juveniles at all stages of the adjudicatory and dispositional process. Many State juvenile laws are archaic and even unjust; further, they are often inconsistent with laws in neighboring jurisdictions. The result is that children in trouble frequently are deprived of basic procedural safeguards, depending on the particular laws of the jurisdiction they are in. I believe that by creating a National Commission with sufficient prestige and authority, we can develop basic standards governing the treatment of juveniles that will be used as models by State and local governments in revising their procedures.

The Juvenile Justice and Delinquency Prevention Act provides an effective new approach to the problems of juvenile delinquency. We have failed too long to respond in any meaningful way to the crisis of delinquency facing our Nation. We cannot afford to delay any longer. I urge my colleagues in the Congress to give my bill careful consideration. I hope that they will act expeditiously to give this country the comprehensive coordinated juvenile delinquency program it so desperately needs.

Mr. President, I ask unanimous consent that the bill and certain analyses in connection therewith be printed at this point in the RECORD.

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

S. 3148

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Juvenile Justice and Delinquency Prevention Act of 1972".

TITLE I—FINDINGS AND DECLARATION OF PURPOSE

FINDINGS

SEC. 101. The Congress hereby finds—

(1) that juvenile delinquency is increasing at an alarming rate in the United States;

(2) that the adverse impact of juvenile delinquency results in enormous annual cost and immeasurable loss in human life, personal security, and wasted human resources;

(3) that existing Federal programs have not provided the requisite direction, coordination, resources, and leadership to deal effectively with the crisis of delinquency;

(4) that juvenile delinquency constitutes a growing threat to the national welfare requiring immediate, comprehensive, and effective response by the Federal Government.

PURPOSE

SEC. 102. It is the purpose of this Act—

(1) to focus the resources of the Federal Government to bring about an immediate reduction in the rate of juvenile delinquency;

(2) to provide the necessary additional resources to improve the quality of juvenile justice in the United States and to develop and implement effective methods of preventing and treating juvenile delinquency;

(3) to increase the capacity of State and local governments, and public and private agencies and organizations to conduct innovative, effective juvenile justice and delinquency prevention and rehabilitation programs, and to provide adequate research, evaluation, and training programs and services in the area of juvenile delinquency;

(4) to provide for the development of national guidelines for juvenile detention and corrections facilities, and for the administration of juvenile justice;

(5) to amend title 18, United States Code, to guarantee certain basic rights to juveniles who come within Federal jurisdiction;

(6) to establish a centralized research effort on the problems of juvenile delinquency, including an information clearinghouse to disseminate the findings of such research and all data related to juvenile delinquency;

(7) to provide technical assistance to agencies, institutions, or individuals in developing and implementing delinquency programs and to provide for the effective and prompt evaluation of all Federally assisted juvenile delinquency programs;

(8) to establish training programs for personnel working in the juvenile justice system; and

(9) to establish a new National Office of Juvenile Justice and Delinquency Prevention in the Executive Office of the President to coordinate, review, and evaluate all Federally assisted juvenile delinquency programs.

TITLE II—AMENDMENTS TO FEDERAL JUVENILE DELINQUENCY ACT

SEC. 201. Section 5032 of title 18, United States Code, is amended to read as follows:

"Sec. 5032. Proceeding against juvenile delinquent

"A juvenile alleged to have committed an act of juvenile delinquency shall not be proceeded against in any court of the United States unless the Attorney General, after investigation, certifies to an appropriate district court of the United States that the juvenile court or other appropriate court of a State (1) does not have jurisdiction over said juvenile with respect to such alleged act of juvenile delinquency, or (2) does not have available to it programs and services adequate for the rehabilitation of juveniles.

"If the Attorney General does not so certify, such juvenile shall be surrendered to the appropriate legal authorities of such State.

"If Federal jurisdiction is retained over a juvenile, the Attorney General shall proceed by information, and no criminal prosecution shall be instituted for the alleged act of juvenile delinquency. With respect to a juvenile 16 years and older alleged to have committed an act which if committed by an adult would be a felony, criminal prosecution may be begun if the Attorney General moves in the appropriate district court of the United States that criminal prosecution be undertaken and such court finds, after hearing, that there are no reasonable prospects for rehabilitating such juvenile before his majority.

"Once a juvenile has entered a plea with respect to an alleged act of juvenile delinquency a criminal prosecution based upon such alleged act of delinquency shall be barred."

SEC. 202. Section 5033 of this title is amended to read as follows:

"Sec. 5033. Jurisdiction and constitutional safeguards

"District courts of the United States shall have jurisdiction of proceedings against juvenile delinquents. For such purposes, the court may be convened at any time and place within the district, in chambers or otherwise.

"A juvenile charged with an act of juvenile delinquency shall be accorded the constitutional right guaranteed an adult in a criminal prosecution against unreasonable searches and seizures, against self-incrimination, and against cruel and unusual punishment."

SEC. 203. Section 5034 of this title is amended by adding at the end of the third paragraph the following new sentence: "The Attorney General shall not cause any juvenile alleged or found to be delinquent to be detained or confined in any institution in which adult persons convicted of a crime or awaiting trial on criminal charges are incarcerated."

SEC. 204. Section 5035 of this title is amended to read as follows:

"SEC. 5035. Detention of alleged juvenile delinquent

"Whenever a juvenile is taken into custody for an alleged act of juvenile delinquency, the arresting officer shall immediately advise such juvenile of his legal rights, and immediately notify the Attorney General and the juvenile's parents, guardian, or other custodian of such custody.

"Such juvenile may be detained only in a juvenile facility or such other suitable place as the Attorney General may designate. The Attorney General shall not cause any juvenile alleged to be delinquent to be detained or confined in any institution in which adult persons convicted of a crime or awaiting trial on criminal charges are confined. The juvenile shall not be detained longer than a reasonable period of time required to produce the juvenile before a magistrate.

"The magistrate shall, with all reasonable speed, release the juvenile to his parents, guardian, custodian, or other responsible party upon their promise to bring such juvenile before the appropriate court when requested by such court unless the magistrate determines, after hearing, that the detention of such juvenile is required to secure his timely appearance before the appropriate court or to protect the safety of others.

"Any magistrate before which the juvenile may be brought shall advise such juvenile, his parents, guardian, or other custodian of his right to be represented by legal counsel at all critical stages of the juvenile proceeding and that legal counsel will be appointed by the court if the juvenile is unable to secure such counsel."

SEC. 205. The table of sections of chapter 403 of this title is amended to read as follows:

"SEC.
"5031. Definitions.
"5032. Proceeding against juvenile delinquent.
"5033. Jurisdictions and constitutional safeguards.
"5034. Probation; commitment to custody of Attorney General; support.
"5035. Detention of alleged juvenile delinquent.
"5036. Contracts for support; payment.
"5037. Parole."

TITLE III—NATIONAL COMMISSION ON STANDARDS FOR JUVENILE JUSTICE

COMMISSION ESTABLISHED

SEC. 301. (a) There is established within the National Office of Juvenile Justice and Delinquency Prevention (established under title IV of this Act) a National Commission on Standards for Juvenile Justice (referred to in this Act as the "Commission") to develop standards for the administration of juvenile justice at the Federal, State, and local level, including juvenile court procedures and conditions of confinement in juvenile detention and correction facilities.

(b) The Commission shall consist of 15 members who shall be appointed by the President by and with the advice and consent of the Senate for terms of two years without regard to the provisions of title 5, United States Code, in accordance with the provisions of this subsection. Each member so appointed shall be a person who as a result of his training, experience, or special knowledge is especially qualified to make recommendations on standards for juvenile justice, including conditions of confinement, to serve as models for Federal, State, and local governments. As least five members so appointed shall not have attained 26 years of age on the date of their appointment and shall have actual experience with the juvenile justice system in the United States. Two of these five members shall be former adjudicated juvenile delinquents.

(c) The Commission shall select its own Chairman and Vice Chairman.

DUTIES OF THE COMMISSION

SEC. 302. (a) The Commission shall make a complete and full study and investigation of all aspects of the juvenile justice system in the United States, with particular emphasis on juvenile court procedures, and the conditions of confinement in juvenile detention and correctional facilities, in order to develop standards for the administration of juvenile justice to serve as models for Federal, State, and local governments.

(b) Within two years after the appointment of the members of the Commission under this title, the Commission shall submit to the President and the Congress a final report which shall include—

(1) recommendations for standards of ju-

venile justice and the reasons underlying such recommendations; and

(2) recommendations and proposals for Federal action which would facilitate the adoption of these standards.

(c) The Director shall make use of the recommendations of the Commission as guidelines in establishing funding priorities or in making individual funding decisions, as he deems appropriate and advisable.

(d) The Commission shall cease to exist 30 days after the submission of its final report.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 303. (a) The Commission or, on the authorization of the Commission, any subcommittee thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings as may be required for the performance of its functions under this Act, administer oaths for the purpose of taking evidence in any such hearings and issue subpoenas to compel witnesses to appear and testify and to compel the production of documentary evidence in any such hearing. Any member authorized by the Commission may administer oaths or affirmations to witnesses appearing before the Commission, or any subcommittee thereof.

(b) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this Act.

(c) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power—

(1) to appoint and fix the compensation of such staff personnel as he deems necessary, including an executive director who may be compensated at a rate not in excess of that provided for level V of the Executive Schedule in title 5, United States Code, and

(2) to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(d) (1) Subpoenas issued pursuant to subsection (a) of this section shall bear the signature of the Chairman of the Commission and may be served by any person designated by the Chairman of the Commission for that purpose.

(2) The provisions of section 1821 of title 28, United States Code, shall apply to witnesses summoned to appear at any such hearing. The per diem and mileage allowances of witnesses so summoned under authority conferred by this section shall be paid from funds appropriated to the Commission.

(3) Any person who willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify, or to produce any evidence in obedience to any subpoena duly issued under authority of this section shall be fined not more than $500, or imprisoned for not more than six months, or both. Upon the certification by the Chairman of the Commission of the facts concerning any such willful disobedience by any person to the United States Attorney for any judicial district in which such person resides or is found, such Attorney shall proceed by information for the prosecution of such person for such offense.

COMPENSATION OF MEMBERS

SEC. 304. (a) Members of the Commission who are otherwise employed by the Federal government shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

(b) Members of the Commission not otherwise employed by the Federal government shall receive compensation at a rate not to exceed $150 a day, including travel time, for each day they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence and other necessary expenses incurred by them in carrying out the duties of the Commission.

EXPENSES OF COMMISSION

SEC. 305. There is hereby authorized to be appropriated for the work of the Commission the sum of $600,000 without regard to fiscal year limitation.

TITLE IV—NATIONAL OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

ESTABLISHMENT OF OFFICE

SEC. 401. (a) There is hereby established in the Executive Office of the President, an office to be known as the National Office of Juvenile Justice and Delinquency Prevention (referred to in this Act as the "Office").

(b) There shall be at the head of the Office a Director (referred to in this Act as the "Director") who shall be appointed by the President by and with the advice and consent of the Senate.

(c) There shall be in the Office a Deputy Director of the Office who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall perform such functions as the Director from time to time assigns or delegates, and shall act as Director during the absence or disability of the Director or in the event of a vacancy in the office of the Director.

(d) There shall be in the Office not to exceed three Assistant Directors who shall be appointed by the Director. Each Assistant Director shall perform such functions as the Director from time to time assigns or delegates.

PERSONNEL—SPECIAL PERSONNEL—EXPERTS AND CONSULTANTS

SEC. 402. (a) The Director is authorized to select, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in him and to prescribe their functions.

(b) The Director is authorized to select, appoint, and employ not to exceed five officers and to fix their compensation at rates not to exceed the rate now or hereafter prescribed for GS–18 of the General Schedule by section 5332 of title 5 of the United States Code.

(c) Upon the request of the Director, the head of any Federal Agency is authorized to detail, on a reimbursable basis, any of its personnel to the Director to assist him in carrying out his functions under this Act.

(d) The Director may obtain services as authorized by section 3109 of title 5 of the United States Code, at rates not to exceed the rate now are hereafter prescribed for GS–18 of the General Schedule by section 5332 of title 5 of the United States Code.

VOLUNTARY SERVICE

SEC. 403. The Director is authorized to accept and employ, in carrying out the provisions of this Act or any Federal juvenile delinquency program, voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

DEFINITIONS

SEC. 404. For the purpose of this Act—

(1) the term "juvenile delinquency programs" means programs and activities related to juvenile delinquency prevention, diversion, treatment, rehabilitation, education, training, research, and the improvement of the juvenile justice system which are conducted directly or indirectly by the Departments of Health, Education, and Welfare, Labor, Housing and Urban Development, Justice, and the Office of Economic Opportunity. With regard to those Federal programs which appear to have only a tangential or indirect involvement in the area of juvenile delinquency, the Director of the Office of Management and Budget, upon consultation with the Director, is authorized to determine whether such programs come within the purview of this Act; and

(2) the term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

CONCENTRATION OF FEDERAL EFFORT

SEC. 405. (a) The Director shall provide overall planning and policy and establish objectives and priorities for all Federal juvenile delinquency programs and activities relating to prevention, diversion, training, treatment, rehabilitation, evaluation, research, and programs to improve the juvenile justice system in the United States.

(b) In carrying out the purposes of this Act, the Director is authorized and directed to—

(1) advise the President as to all matters relating to federally assisted juvenile delinquency programs and Federal policy regarding the problems of juvenile delinquency;

(2) assist operating agencies in the development and promulgation of, and review regulations, guidelines, requirements, criteria, standards, procedures, and budget requests in accordance with the policies, priorities, and objectives he establishes;

(3) recommend changes in organization, management, personnel, standards, and budget requests which he deems advisable to implement the policies, priorities, and objectives he establishes;

(4) conduct and support evaluations and studies of the performance and results achieved by Federal juvenile delinquency programs and activities and of the prospective performance and results that might be achieved by alternative programs and activities supplementary to or in lieu of those currently being administered;

(5) coordinate Federal juvenile delinquency programs and activities among Federal departments and agencies and between Federal juvenile delinquency programs and activities and other Federal programs and activities which he determines may have an important bearing on the success of the entire Federal juvenile delinquency effort;

(6) develop yearly, and submit to the President and the Congress prior to March 1 in each year, an analysis and evaluation of such programs conducted and assisted by Federal departments and agencies, the expenditures made, the results achieved, the plans developed, and problems discovered in the operation and coordination of such programs; and

(7) develop yearly, and submit to the President and the Congress, prior to March 1, a comprehensive plan for Federal juvenile delinquency programs, with particular emphasis on the prevention of juvenile delinquency and the development of programs and services which will encourage increased diversion of juveniles from the traditional juvenile justice system.

(c) The Director may require departments and agencies engaged in any activity involving any Federal juvenile delinquency program to provide him with such information and reports, and to conduct such studies and surveys, as he may deem to be necessary to carry out the purposes of this Act.

(d) The Director may delegate any of his functions under this title, except the making of regulations, to any officer or employee of the Office.

(e) In administering the provisions of this title, the Director is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

JOINT FUNDING

SEC. 406. Notwithstanding any other provision of law, where funds are made available by more than one Federal agency to be used by an agency, organization, institution, or individual to carry out a Federal juvenile delinquency program or activity, any one of the Federal agencies providing funds may be designated by the Director to act for all in administering the funds advanced. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and the Director may order any such agency to waive any technical grant or contract requirement (as defined in such regulations) which is inconsistent with the similar requirement of the administering agency or which the administering agency does not impose.

TRANSITIONAL PROVISIONS

SEC. 407. (a) The President may authorize any person who immediately prior to the date of enactment of this Act held a position in the executive branch of the Government to act as the Director of the National Office of Juvenile Justice and Deliquency Prevention until the office of Director is for the first time filled pursuant to the provisions of this Act or by recess appointment, as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Director.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect of which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition, to other compensation from the United States to which such person may be entitled.

(d) No Federal officer, department, or agency shall be deemed to be relieved of any responsibility that such officer, department, or agency had on the date of enactment of this Act with respect of any federally assisted juvenile delinquency program.

AMENDMENT TO TITLE 5, UNITED STATES CODE

SEC. 408. (a) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(21) Director, National Office of Juvenile Justice and Delinquency Prevention.".

(b) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(58) Deputy Director, National Office of Juvenile Justice and Delinquency Prevention."

(c) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(95) Assistant Directors, National Office of Juvenile Justice and Delinquency Prevention."

APPROPRIATIONS AUTHORIZED

SEC. 409. There are hereby authorized to be appropriated to the President $15,000,000 for the fiscal year ending June 30, 1972, $20,000,000 for the fiscal year ending June 30, 1973, $25,000,000 for the fiscal year ending June 30, 1974, and $30,000,000 for the fiscal year ending June 30, 1975, to carry out the purposes of this title.

TITLE V—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

PART A—FORMULA GRANTS AUTHORIZATION

SEC. 501. There are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1972; $50,000,000 for the fiscal year ending June 30, 1973; $75,000,000 for the fiscal year ending June 30, 1974; and $100,000,000 for the fiscal year ending June 30, 1975, for grants to States to assist them in planning, establishing, operating, coordinating, and evaluating projects for the development of more effective education, training, prevention, diversion, treatment, and rehabilitation programs to deal with juvenile delinquency and programs to impove the juvenile justice system.

STATE ALLOTMENT

SEC. 502. (a) For each fiscal year the Director shall, in accordance with regulations, allot the sums appropriated pursuant to section 501 for such year among the States on the basis of the relative population of people under age 18, financial need, and need for more effective juvenile delinquency programs (as defined in section 404) except that no such allotment to any State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) shall be less than $200,000.

(b) Any amount so allotted to a State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) and remaining unobligated at the end of such year shall remain available to such State, for the purposes for which made, for the next fiscal year (and for such year only), and any such amount shall be in addition to the amounts allotted to such State for such purpose for such next fiscal year; except that any such amount remaining unobligated at the end of the sixth month following the end of such year for which it was allotted, which the Director determines will remain unobligated by the close of such next fiscal year, may be reallotted by the Director, to be available for the purposes for which made until the close of such next fiscal year, to other States which have need therefor, on such basis as the Director deems equitable and consistent with the purposes of this part, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the States for the same period. Any amount allotted under subsection (a) to the Virgin Islands, American Samoa, Guam, or the Trust Territory of the Pacific Islands for a fiscal year and remaining unobligated at the end of such year shall remain available to it, for the purposes for which made, for the next two fiscal years (and for such years only), and any such amount shall be in addition to the amounts allotted to it for such purpose for each of such next two fiscal years; except that any such amount, remaining unobligated at the end of the first of such next two years, which the Director determines will remain unobligated at the close of the second of such next two years, may be reallotted by the Director, to be available for the purposes for which made until the close of the second of such next two years, to any other of such four States which have need therefor, on such basis as the Director deems equitable and consistent with the purposes of this part, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the State for the same period.

(c) At the request of any State, a portion of any allotment or allotments of such State under this part shall be available to pay that portion of the expenditures found necessary by the Director for the proper and efficient administration during such year of the State plan approved under this part, except that not more than 10 per centum of the total of the allotments of such State for a year, or $50,000, whichever is the least, shall be available for such purpose for such year.

STATE PLANS

SEC. 503. (a) Any State desiring to participate in this part shall submit a State plan for carrying out its purposes. Such plan must—

(1) designate a single State agency as the sole agency for the preparation, and administration of the plan, or designate such agency as the sole agency for supervising the preparation and administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) (hereafter in this section referred to as the "State agency") will have authority to implement such plan in conformity with this part and with Federal policy established under this Act and will include representatives of nongovernmental organizations or groups, and of public agencies specifically concerned with juvenile delinquency prevention, treatment and rehabilitation;

(3) set forth, in accordance with criteria established by the Director, a detailed survey of the local and State needs for the prevention and treatment of juvenile delinquency, and the improvement of the juvenile justice system, including a survey of the juvenile facilities, services, and programs needed throughout the State to provide an effective comprehensive, coordinated approach to juvenile delinquency prevention, treatment, and rehabilitation, and a detailed plan, including itemized estimated costs, for the development and implementation of such a program;

(4) provide for coordination and maximum utilization of existing and planned juvenile delinquency programs and activities within the State, and require compliance with the plan and cooperation with other programs and activities as a condition for financial support this title;

(5) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Director an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, which it considers necessary;

(6) provide reasonable assurance that Federal funds made available under this part for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and will in no event supplant such State, local, and other non-Federal funds;

(7) provide that not less than 75 percent of the funds available to such State under this part will be expended on the development and use of facilities, programs, and services designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system, and to provide community-based alternatives to detention and correctional facilities used for the confinement of juveniles;

(8) provide that the State will detain and treat juvenile who are not charged with or who have not committed offenses that would be criminal if committed by an adult in separate facilities with separate and distinct programs from juveniles who are charged with or who have committed offenses that would be criminal if committed by an adult;

(9) provide for the development of an adequate research, training, and evaluation capacity within the State in accordance with criteria prescribed by the Director;

(10) provide for advanced techniques in the design of programs, services, and facilities, such as, but not limited to—

(A) community-based programs, services and facilities for the prevention of juvenile delinquency, for pre-trial diversion from the juvenile justice system, and for the treatment and rehabilitation of juvenile delinquents through the development of foster-care and shelter care homes, group homes, halfway houses, and any other designated residential, community-based treatment or rehabilitative facility or service;

(B) diagnostic facilities and services on a statewide, regional, or local basis;

(C) expanded use of probation as an alternative to incarceration, including programs of probation subsidies, probation caseloads commensurate with recognized optimum standards, the recruitment and training of

probation officers and other professional and paraprofessional personnel according to standards promulgated by the Director, and community-oriented programs for the supervision of juvenile probationers and parolees;

(D) comprehensive programs of drug abuse education and prevention, and programs for the treatment and rehabilitation of drug addicted and drug dependent youth (as defined in section 2 of the Public Health Services Act);

(E) delinquency prevention programs, including individual and family counseling, use and training of professionals and paraprofessionals and other supportive services within the elementary and secondary education systems to detect, work with, and divert from the juvenile justice system delinquent and potentially delinquent youth;

(11) provide for special training of professional and paraprofessional personnel to work effectively in the prevention and treatment of juvenile delinquency;

(12) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement of an accurate accounting of funds received under this title;

(13) provide assurances that assistance will be available on an equitable basis to migrant, Indian, and other minority group youth;

(14) contain such other terms and conditions as the Director may reasonably prescribe to assure the effectiveness of the programs assisted under this title:

(b) Funds authorized under section 501 of this part may be used to develop the State plan required by subsection (a) of this section.

(c) The Director shall approve any State plan and any modification thereof that meets the requirements of subsection (a) of this section.

PART B—SPECIAL EMPHASIS PREVENTION AND TREATMENT PROGRAMS

PROGRAM AND AUTHORIZATION

SEC. 504. (a) The Director is authorized to make grants to public and private non-profit agencies, organizations, or institutions and enter into contracts with public and private agencies, organizations, institutions, and individuals—

(1) to develop and implement new approaches, techniques, and methods with respect to juvenile delinquency prevention, diversion, treatment and rehabilitation;

(2) to evaluate those new approaches, techniques, and methods;

(3) to foster the establishment of new or expanded juvenile delinquency programs and activities (as defined in Section 404);

(4) to develop and implement effective means of diverting juveniles from the formal adjudicatory process and from traditional forms of institutionalization: and

(5) to develop and implement programs and activities to improve the juvenile justice system in the United States.

(b) Any such agency, organization, institution, or individual desiring to receive a grant, or enter into any contract under this part, shall submit an application at such time, in such manner, and containing or accompanied by such information as the Director may prescribe. Each such application shall—

(1) provide that the activities and services for which assistance under this title is sought will be administered by or under the supervision of the applicant;

(2) set forth a program for carrying out the purposes set forth in subsection (a) of this section;

(3) provide for a proper and efficient administration of such program;

(4) provide that regular reports on program activities shall be made in such form and containing such information as the Director may require; and

(5) provide for such fiscal control and fund accounting procedures as may be necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title.

(c) There are authorized to be appropriated $75 million for the fiscal year ending June 30, 1972; $150 million for the fiscal year ending June 30, 1973; $225 million for the fiscal year ending June 30, 1974, and $300 million for the fiscal year ending June 30, 1975 to carry out the purposes of this part.

SEC. 505. Payments under this title, pursuant to a grant or contract, may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursements, and in such installments and on such conditions as the Director may determine.

WITHHOLDING

SEC. 506. Whenever the Director, after giving reasonable notice and opportunity for hearing to a grant recipient under this title, finds—

(1) that the program or activity for which such grant was made has been so changed that it no longer complies with the provisions of this title; or

(2) that in the operation of the program or activity there is failure to comply substantially with any such provision;

the Director shall notify such recipient of his findings and no further payments may be made to such recipient by the Director until he is satisfied that such noncompliance has been, or will promptly be, corrected.

TITLE VI—NATIONAL INSTITUTE FOR JUVENILE JUSTICE

NATIONAL INSTITUTE

SEC. 601. (a) There is established within the National Office of Juvenile Justice and Delinquency Prevention a National Institute for Juvenile Justice (refererd to in this Act as the "Institute").

(b) The Institute shall be under the direction of an Administrator who shall be appointed by the Director of the National Office of Juvenile Justice and Delinquency Prevention. Acting through the Institute, the Director shall take any action consistent with the intent and purpose of this Act, including but not limited to the functions stated in this title.

COORDINATION AND TECHNICAL ASSISTANCE FUNCTIONS

SEC. 602. The Institute, under the supervision and direction of the Administrator, is authorized to—

(1) assist and serve in a consulting capacity to Federal, State, and local courts, departments, and agencies in the development, maintenance, and coordination of a full range of programs, facilities and services for education, diagnosis, prevention, counseling, training, treatment, and rehabilitation with respect to juvenile delinquency problems;

(2) encourage and assist State and local government programs and services, and programs and services of other public and private agencies, institutions, and organizations in their efforts to develop and implement juvenile delinquency programs;

(3) serve as an information bank by collecting systematically the data obtained from studies and research by public and private agencies, institutions, or individuals on juvenile delinquency, including, but not limited to, programs for prevention of juvenile delinquency, training of youth corrections personnel, and rehabilitation and treatment of juvenile offenders; and

(4) serve as a clearinghouse and information center for the collection, preparation, and dissemination of all information regarding juvenile delinquency, including State and local juvenile delinquency prevention and treatment plans, availability of resources, training and educational programs, statistics, and other pertinent data and information.

RESEARCH FUNCTIONS

SEC. 603. (a) The Institute under the supervision and direction of the Administrator is authorized to—

(1) conduct, encourage, and coordinate all forms of research relating to the causes, sociological aspects, prevention, diagnosis, and treatment of juvenile delinquency; and

(2) make grants to any public or nonprofit private agency, institution, or organization, and to enter into contracts with any agency, organization, institution, or individual to carry out such research; and to otherwise carry out the purposes of this section.

(b) The Administrator shall prepare an annual report to the Director on the research programs funded under this section, including a review of the results of such research, an assessment of the application of such results to existing and to new juvenile delinquency programs, and detailed recommendations for further research to be conducted under this section.

TRAINING FUNCTIONS

SEC. 604. (a) The Institute, under the supervision and direction of the Administrator, is authorized to—

(1) devise and conduct in various geographical areas of the United States, seminars and workshops providing continuing studies for persons engaged in working directly with juveniles and juvenile offenders;

(2) devise and conduct a training program of short term instruction in the latest proven effective methods of prevention, control, and treatment of juvenile delinquency for law enforcement officers, juvenile welfare workers, juvenile judges and judicial personnel, probation officers, correctional personnel, and other persons, including lay and paraprofessional personnel, connected with the prevention and treatment of juvenile delinquency;

(3) develop technical training teams to aid in the development of training programs for professional and paraprofessional personnel within the several States and with State, local, and private agencies which work directly with young people to prevent and treat juvenile delinquency.

(b) The Administrator is authorized to make grants to or enter into contracts with any public or private agency, institution, or individual to carry out training programs authorized by this title, to evaluate their effectiveness, and to otherwise carry out the purposes of this section.

ADVISORY COUNCIL

SEC. 605. (a) There is hereby established an Advisory Council which shall advise, consult with, serve as a sounding board for, and make recommendations to the Director of the National Office and to the Administrator of the Institute concerning the overall policy and operations of the Institute.

(b) The Advisory Council shall consist of the Administrator of the Law Enforcement Assistance Administration, the Director of the Bureau of Prisons, the Administrator of the Youth Development and Delinquency Prevention Administration, the Director of the National Institute of Mental Health, the Director of the United States Judicial Center, and 15 persons having training and experience in the area of juvenile delinquency appointed by the President from the following categories:

(1) law enforcement officers (two persons);

(2) juvenile or family court judges (two persons);

(3) probation personnel (two persons);

(4) correctional personnel (two persons);

(5) representatives of private organizations concerned with juvenile delinquency (five persons); and

(6) representatives of State agencies established under the Juvenile Delinquency Prevention and Control Act of 1968, Title I of the Omnibus Crime Control and Safe Streets

Act of 1968, or the Juvenile Justice and Delinquency Prevention Act of 1972 (two persons).

(c) Members appointed by the President to the Advisory Council shall serve for terms of four years and shall be eligible for reappointment, except that for the first composition of the Council, one-third of these members shall be appointed to one-year terms, one-third to two-year terms, and one-third to three-year terms; thereafter each of these member's terms shall be for four years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term. Any member appointed to the Council may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(d) While performing their duties, members of the Council shall be reimbursed under Government travel regulations for their expenses, and members who are not employed full time by the Federal Government shall receive in addition a per diem of $100 in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(e) The Director shall act as Chairman of the Advisory Council. The Council shall establish its governing rules of procedure.

AUTHORIZATION OF APPROPRIATIONS

SEC. 606. To carry out the purposes of this title there are hereby authorized to be appropriated $50 million for the fiscal year ending June 30, 1972; $100 million for the fiscal year ending June 30, 1973; $150 million for the fiscal year ending June 30, 1974, and $200 million for the fiscal year ending June 30, 1975.

SUMMARY AND ANALYSIS OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1972

TITLE I: FINDINGS AND DECLARATION OF PURPOSE

This title sets forth the need for a comprehensive, expanded Federal approach to the problems of juvenile delinquency, and briefly outlines the activities encompassed by the Act.

Findings. This section essentially summarizes the problem and includes general statements concerning the alarming increase in juvenile delinquency, the adverse impact of juvenile delinquency on our society, the failure of Federal delinquency programs to provide the necessary direction, coordination, resources, and leadership, and the need for an immediate and effective Federal governmental response to the crisis of delinquency.

Purpose. This section sets forth the objectives the Act is designed to achieve. Such objectives include coordination of Federal delinquency programs; authorization of additional resources; creation of centralized research, training, technical assistance, and evaluation activities; development of national guidelines for the administration of juvenile justice, including conditions of confinement; and finally, adoption of basic procedural protections for juveniles under Federal jurisdiction.

TITLE II: AMENDMENTS TO THE FEDERAL JUVENILE DELINQUENCY ACT

This title sets forth a series of specific amendments to the Federal Juvenile Delinquency Act (Secs. 5032–5035 of Title 18) designed to guarantee certain basic rights to juveniles who come within Federal jurisdiction.

Deference to local courts. In cases involving juveniles, Federal courts would be required to defer to state courts whenever the state court has concurrent jurisdiction over the offense and has adequate rehabilitation programs and services. The Federal courts and the Federal correctional system have never been properly equipped to handle large numbers of juveniles with the result that Federal juvenile delinquents are frequently transferred away from their home communities for treatment. By deferring jurisdiction to state courts, the harmful effects of this dislocation would be reduced.

Transfer hearing. In Federal cases where a juvenile age 16 and older could be prosecuted either as a juvenile or as an adult, a Federal District judge would be required to conduct a hearing and find that "there are no reasonable prospects for rehabilitation" before a juvenile could be prosecuted as an adult criminal. The Attorney General now has sole discretion to make this determination.

Procedural safeguards. The bill requires that juveniles be advised of their rights and taken before a committing magistrate immediately upon arrest, and that pre-adjudication detention is permitted only if a magistrate determines, after hearing, that detention is necessary to secure the juvenile's timely appearance before the appropriate court or the safety of others. The bill also accords juveniles the constitutional protections against self incrimination, unreasonable searches and seizures, and cruel and unusual punishment.

Right to counsel. The bill implements Supreme Court decisions guaranteeing the right to counsel, including the right of indigent juveniles to have court appointed counsel.

Prohibition against commingling. The bill prohibits the detention or confinement of juveniles in institutions in which adults who are convicted or awaiting trial are confined.

TITLE III: NATIONAL COMMISSION ON STANDARDS FOR JUVENILE JUSTICE

The Act creates a National Commission composed of 15 members appointed by the President with the advice and consent of the Senate. The Commission is to be broadly representative of persons who have had extensive experience in the juvenile justice field, such as juvenile judges, corrections officials, probation and welfare workers, lawyers, and young people. At least five of the members will be under twenty-six years of age, including two who are former * * *

Charge. The Commission is specifically charged to study the administration of juvenile justice at the Federal, State and local level, including juvenile court procedure and conditions of confinement in juvenile detention and correctional facilities. The Commission would, of course, draw upon the considerable body of work already done in these areas. The Commission is authorized to hold hearings, administer oaths, and issue subpoenas in accordance with the purposes of this Title.

Within two years of its inception, the Commission would report to the Congress its recommendations for standards for juvenile detention and correctional facilities, and guidelines for the administration of justice within the juvenile system. The recommendations of the Commission would be widely publicized, and state and local governments would be urged to adapt their practices and procedures to conform to the national standards.

Implementation of recommendations. Upon completion, these recommendations may be used by the Director as guidelines in establishing funding priorities as well as in making individual funding decisions. For example, the Director might determine that an applicant agency or institution would require additional funds to bring it up to national standards established by the Commission, or in the alternative, should not receive funds at all since it merely perpetuates outmoded, ineffective practices.

Authorization. Authorization for the hiring of a professional staff and for a two year appropriation of $600,000 is provided.

TITLE IV: NATIONAL OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

This title establishes a new National Office in the Executive Office of the President, charged with the responsibility of administering the Juvenile Justice and Delinquency Prevention Act. The Office is administered by a Director, appointed by the President with the advice and consent of the Senate. The Director is assisted by a Deputy Director, three Assistant Directors, and such other employees as are necessary to perform the duties vested in him. The Director also has the authority to hire consultants and to request the detailing of personnel from other Federal agencies.

Patterned after the new Special Action Office for Drug Abuse Prevention, the National Office of Juvenile Justice and Delinquency Prevention would have supervisory and coordinating power over all Federal juvenile delinquency programs. This concept is central to the bill. There is general agreement that the Federal effort to date has been badly fragmented and lacking in direction, and has had virtually no impact in reducing the spiralling rate of juvenile crime. The President responded to the drug abuse crisis by proposing a centralization of program authority in one office; this bill recognizes that a similar response is warranted in the area of juvenile delinquency.

Programs included. The programs which come under the supervision of the new National Office of Juvenile Justice include those conducted directly or indirectly by the Department of Health, Education and Welfare, Labor, Housing and Urban Development, Justice, and the Office of Economic Opportunity. The Director of the Office of Management and Budget, on consultation with the Director of the National Office, is authorized to determine whether additional programs come within the purview of the Act.

Authority and powers of the Director. The Director will provide overall planning and policy and establish objectives and priorities for all Federal juvenile delinquency programs and activities relating to prevention, diversion, training, treatment, rehabilitation, evaluation, research, and programs to improve the juvenile justice system. Specifically, he would be authorized to:

"(1) advise the President as to all matters relating to Federally assisted juvenile delinquency programs and Federal policy regarding the problems of juvenile delinquency;

"(2) assist operating agencies in the development and promulgation of, and review regulations, guidelines, requirements, criteria, standards, procedures and budget requests in accordance with the policies, priorities, and objectives he establishes;

"(3) recommend changes in organization, management, personnel, standards, and budget requests which he deems advisable to implement the policies, priorities, and objectives he establishes;

"(4) conduct and support evaluation and studies of the performance and results achieved by Federal juvenile delinquency programs and activities and of the prospective performance and results that might be achieved by alternative programs and activities supplementary to or in lieu of those currently being administered; and,

"(5) coordinate Federal juvenile delinquency programs and activities among Federal departments and agencies and between Federal juvenile delinquency programs and activities and other Federal programs and activities which he determines may have an important bearing on the success of the entire Federal juvenile delinquency effort."

The Director of the National Office of Juvenile Justice would be the spokesman and central coordinator for the entire Federal juvenile delinquency effort. He would have broad supervisory review over the operation

of programs in other agencies, and would be responsible for reporting on their effectiveness and for making budgetary and programmatic recommendations to the President.

The need for centralized authority has been recognized by both major Federal agencies operating in the field of juvenile delinquency—LEAA and the Department of Health, Education and Welfare. In announcing the decentralization of authority to Regional Offices last May, the Administrator of LEAA specified that juvenile delinquency programs would be excepted from this decentralization and that supervisory control would remain in Headquarters. The exception was justified on the basis of the national scope of juvenile delinquency problems and the need for central coordination and review. Further, the Youth Development and Delinquency Prevention Administration (within D/HEW), in its annual report of Federal juvenile delinquency activities, concluded that Federal efforts to combat delinquency demonstrate "a lack of priorities, emphasis and direction," and that State planning has been "spasmodic and ineffective." The report recommended that a new national program be created to provide coordination and leadership for all delinquency related efforts—Federal, State and local.

Annual Report. The Director will be required to report annually on the activities of the Office, on problems encountered in the operation and coordination of the various Federal juvenile delinquency programs, and on the effectiveness of Federal efforts to deal with juvenile delinquency. He is also required to develop annually a comprehensive plan for Federal juvenile delinquency programs with particular emphasis on prevention and diversion.

In addition, there are certain routine, housekeeping sections in Title IV, such as transitional provisions, joint-funding, voluntary service, and personnel provisions.

Appropriations. Appropriations of $15 million for Fiscal '72, $20 million for Fiscal '73, $25 million for Fiscal '74, and $30 million for Fiscal '75 are authorized.

TITLE V: FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

In addition to exercising supervisory power over existing Federal efforts, the Director is authorized to make grants and enter into contracts to carry out the purposes of the Act.

Formula Grants. Funds appropriated under this part will be reserved for grants to state planning agencies in accordance with certain basic goals set forth in the bill. These goals include:

(1) the development and use of facilities and services designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system, and to provide community-based alternative to traditional detention and correctional institutions;

(2) the use of advanced, innovative techniques in the design of programs, services, and facilities, such as, but not limited to the following:

(a) community-based services, programs, and facilities for the prevention of juvenile delinquency, for pre-trial diversion from the juvenile justice system, and for the rehabilitation of juvenile delinquents through the development of foster-care and shelter care homes, group homes, halfway houses, and any other designated residential, community-based treatment or rehabilitative facility or services;

(b) diagnostic facilities and services on a statewide, regional, or local basis;

(c) expand use of probation as an alternative to incarceration, including programs of probation subsidies, probation caseloads commensurate with recognized optimum standards, the recruitment and training of probation officers and other professional and paraprofessional personnel according to standards promulgated by the Director and community-oriented programs for the supervision of juvenile probationers and parolees;

(d) comprehesive programs of drug abuse education and prevention, and programs for the treatment and rehabilitation of drug addicted and drug dependent youth; and

(e) delinquency prevention programs, including individual and family counseling, use and training of professionals and paraprofessionals and other supportive services within the elementary and secondary education systems to detect, work with, and divert from the juvenile justice system delinquent and potentially delinquent youth.

Grants will be allocated among the states on the basis of population of people under age 18, financial need, and need for more effective juvenile delinquency programs.

Appropriations of $250 million are authorized over the next four years for state grants.

Special Emphasis Prevention and Treatment Programs. Funds under this part will be used for grants or contracts with public or private agencies, organizations, institutions, and individuals. These grants will develop and implement new approaches to the problems of juvenile delinquency, foster the establishment of new or expanded juvenile delinquency programs, including efforts to prevent juvenile delinquency and improve the juvenile justice system, as well as develop programs to divert juveniles from the traditional juvenile justice system.

Direct funding authority will allow the new Office to provide additional overall resources for juvenile delinquency programs and to maintain the funding flexibility required to develop innovative approaches to the problems of delinquency. Moreover, the ability of the Director to develop and implement an effective, coordinated Federal delinquency effort will be enhanced by making funds available for direct grants over which he has supervisory control. This will allow him to implement his decisions as to what must be done in the area as well as to supplement existing efforts.

Authorization. The Act authorizes $75 million for Fiscal '72, $150 million for Fiscal '73, $225 million for fiscal '74, and $300 million for Fiscal '75 for grants under this part.

TITLE VI: NATIONAL INSTITUTE FOR JUVENILE JUSTICE

This title establishes a National Institute for Juvenile Justice, which will be the research, training, and technical assistance arm of the National Office. It is under the direction of an Administrator, appointed by the Director of the Office. The Institute is closely tied to the operation of the Office, and the Director is authorized to act through the Institute to carry out any of the purposes of the Act. For example, although establishing a uniform evaluation system for delinquency programs is the responsibility of the Director, he may choose to delegate that responsibility to the Institute.

Technical assistance. The Institute provides technical assistance to Federal, State, and local agencies, courts, institutions, and individuals involved in developing and implementing delinquency programs. The current unavailability of effective technical assistance is well documented and has had a serious adverse impact. The YDDPA annual report found that state delinquency planning and proposed projects had been poor largely because "a sufficient theoretical knowledge base was lacking and only an extremely limited amount of technical assistance was forthcoming." The Institute will provide a central source for this vitally needed technical assistance.

Information clearinghouse. In conjunction with the technical assistance function, the Institute will serve as an information clearinghouse, both collecting all data related to juvenile delinquency and disseminating it throughout the country. There is general agreement that the impact of various research and demonstration program results has been severely limited due to the fragmented Federal structure and the lack of any centralized source of information. Further, it is extremely difficult for a prospective grantee to obtain comprehensive information of Federal resources available in the area of juvenile delinquency. The Institute is intended to serve as a clearinghouse for delinquency information, including statistics, research, availability of resources, and Federal, State, and local juvenile delinquency programs.

Research and demonstration. Research will be a central function of the Institute, conducted both by Institute personnel and by outside agencies, institutions, or individuals. The quality of these research projects will be regularly evaluated and the findings widely disseminated. Those which prove effective can then be adapted for use on a broad scale in various parts of the country. By relating the research function closely to the program funding function of the National Office, the bill will permit promising research results to be treanslated promptly into operating programs in the field.

Training. The Institute is also responsible for conducting training programs (directly or by contract) throughout the country for persons working in the juvenile justice system, such as policemen, judges, probation officers, corrections personnel, and welfare workers. In addition, the Institute would develop technical training teams to aid in the development of on-going state and local training programs for professional and paraprofessional personnel who work with young people to prevent and treat juvenile delinquency.

Advisory Council. The Bill establishes an Advisory Council to advise and consult with the Director of the National Office and the Administrator of the Institute concerning the overall policy and operations of the Institute. The Council will consist of 20 persons, including Federal officials and representatives of the major groups working in the area of juvenile delinquency. Members of the Council will be appointed by the President for terms of four years.

Authorization. Amounts authorized for appropriation to the Institute are $50 million for Fiscal '72, $100 million for Fiscal '73, $150 million for Fiscal '74, and $200 million for Fiscal '75.

SECTION-BY-SECTION ANALYSIS OF THE PROVISIONS OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1972

TITLE I: FINDINGS AND DECLARATION OF PURPOSE

This title sets forth the need for a comprehensive, expanded Federal approach to the problems of juvenile delinquency, and briefly sets forth the objectives the Act is designed to achieve.

TITLE II: AMENDMENTS TO THE FEDERAL JUVENILE DELINQUENCY ACT

This title amends sections 5032–5035 of Title 18 of the United States Code, which deal with proceedings in Federal courts against juvenile delinquents to provide that:

1. Juveniles otherwise eligible to be treated as juveniles in Federal courts shall be tried in State courts unless (a) the State court does not have jurisdiction, or (b) the State courts do not have adequate rehabilitation and treatment services;

2. Adult criminal prosecutions of juveniles age 16 and older alleged to have committed a felonious act may be commenced only if a Federal judge finds, after a hearing, that "there are no reasonable prospects for rehabilitating" the juvenile before he reaches the age of majority;

3. Juveniles shall be accorded the constitutional protections against self incrimination, unreasonable searches and seizures, and cruel and unusual punishment;

4. No juvenile may be detained or confined in any institution in which adults are incarcerated;

5. Juveniles must be advised of their rights and taken before a committing magistrate immediately upon arrest;

6. No juvenile may be detained prior to adjudication of delinquency unless the magistrate determines, after hearing, that such detention is required to secure the juvenile's timely appearance in court or to protect the safety of others;

7. Juveniles must be advised of their rights to counsel, and if they do not obtain counsel, the court must appoint counsel for them.

TITLE III: NATIONAL COMMISSION ON STANDARDS FOR JUVENILE JUSTICE

Sec. 301. This section establishes a National Commission on Standards for Juvenile Justice, consisting of 15 members appointed by the President for terms of 2 years. The Commission will be broadly representative of persons who have had extensive experience in the juvenile justice field, such as juvenile judges, corrections officials, probation and welfare workers, lawyers, and young people. At least 5 of the members must be under 26 years of age on the date of their appointment, including two who are former adjudicated juvenile delinquents.

Sec. 302. This section sets forth the duties of the Commission. Specifically, the Commission is to make a complete study of all aspects of the juvenile justice system in the United States with particular emphasis on juvenile court procedure and the conditions of confinement in juvenile detention and correctional facilities in order to develop standards for the administration of juvenile justice which will serve as models for Federal, State, and local governments. Within two years, the Commission will report its findings and recommendations to Congress. These recommendations may be used by the Director as funding guidelines.

Sec. 303. This section sets forth the powers and the administrative functions of the Commission. Specifically, the Commission, or any Subcommittee thereof, is authorized to hold hearings to perform its duties, to administer oaths, to take evidence in such hearings, to issue subpoenas to compel witnesses to appear, and to compel the production of documentary evidence in any hearing. The section also directs the executive branch of the Government, including independent agencies thereof, to furnish information to the Commission upon the request of the Chairman or Vice Chairman. The Chairman is further authorized to appoint and fix compensation of staff personnel and to procure the services of experts and consultants. Subpoenas issued by the Commission shall bear the signature of the Chairman, and the provisions of section 1821 of title 28, United States Code, shall apply to witnesses summoned to appear. A subpoenaed witness who willfully neglects or refuses to appear, or who refuses to qualify as a witness or to testify, or who fails to produce subpoenaed evidence, shall be punished by a fine of not more than $500, or imprisoned for a term of not more than six months, or both. Upon the certification of the Chairman of any such willful disobedience, a United States Attorney shall proceed by information with the prosecution of the person for the offense.

Sec. 304. This section establishes compensation rates for members of the Commission.

Sec. 305. This section authorizes appropriations of $600,000 for the work of the Commission without regard to fiscal year limitation.

TITLE IV: NATIONAL OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Sec. 401. This section establishes a new National Office of Juvenile Justice and Delinquency Prevention in the Executive Office of the President, administered by a Director appointed by the President. The Director is assisted by a Deputy Director and three Assistant Directors.

Sec. 402. This section authorizes the Director to employ personnel, hire consultants, and request the detailing of personnel from other Federal agencies.

Sec. 403. This section authorizes the Director to accept voluntary service in carrying out the provisions of the Act.

Sec. 404. This section establishes the definition of "juvenile delinquency programs" to mean those which are conducted directly or indirectly by the Departments of Health, Education, and Welfare, Labor, Housing and Urban Development, Justice and the Office of Economic Opportunity in the area of juvenile delinquency prevention, diversion, treatment, rehabilitation, education, training, research, and the improvement of the juvenile justice system. The Director of the Office of Management and Budget, on consultation with the Director, is authorized to determine whether additional programs come within the purview of this Act. This section also defines the term "state" to include the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

Sec. 405. This section sets forth the functions and authority of the Director. He is the spokesman and central coordinator for the entire Federal juvenile delinquency effort. He has broad supervisory review over the operation of programs in other agencies, and is responsible for reporting on their effectiveness and for making budgetary and programmatic recommendations to the President. Specifically, this section authorizes the Director to provide overall planning and policy and to establish priorities and objectives for all Federally assisted juvenile delinquency programs and activities. Further, he is authorized to recommend changes in organization, management, budget request, and standards in accordance with the policies and priorities he has established; to conduct evaluations of the performance of Federal juvenile delinquency programs; and to coordinate Federal juvenile delinquency and related activities among all Federal agencies. The Director is required to report annually on the activities of the Office, on problems encountered in the operation and coordination of the various Federal juvenile delinquency programs, and on the effectiveness of Federal efforts to deal with juvenile delinquency. He is also required to develop annually a comprehensive plan for Federal juvenile delinquency programs, with particular emphasis on the prevention of juvenile delinquency and the development of programs and services which will encourage increased diversion of juveniles from the traditional juvenile justice system. In addition, there are certain routine provisions regarding cooperation with other Federal agencies, and delegation of functions.

Sec. 406. This section establishes procedures for joint funding of programs by more than one Federal agency, including a single non-Federal share requirement.

Sec. 407. This section sets forth transitional provisions regarding the appointment of an Acting Director and Deputy Director.

Sec. 408. This section sets forth routine amendments to Title 5 of the United States Code to include the National Office for Juvenile Justice and Delinquency within its purview.

Sec. 409. This section authorizes appropriations of $15,000,000 for Fiscal '72, $20,000,000 for Fiscal '73, $25,000,000 for Fiscal '74 and $30,000,000 for Fiscal '75.

TITLE V: FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

Part A—*Formula Grants*

Sec. 501. This section authorizes appropriations of $25,000,000 for Fiscal '72; $50,000,000 for Fiscal '73; $75,000,000 for Fiscal '74; and $100,000,000 for Fiscal '75 to assist the States in planning, establishing, operating, coordinating, and evaluating projects for the development of more effective education, training, prevention, diversion, treatment, and rehabilitation programs to deal with juvenile delinquency and programs to improve the juvenile justice system.

Sec. 502. This section provides that funds under this part are to be allocated equitably among the States on the basis of the relative population of people under age 18, financial need, and need for more effective juvenile delinquency programs as defined in Section 404. No allotment to any State, except the Virgin Islands, American Samoa, Guam and the Trust Territory of the Pacific Islands shall be less than $200,000. The Director is authorized to reallocate unused or surplus funds to other states as he deems advisable.

Sec. 503. This section authorizes the Director to make grants to state agencies to develop and implement comprehensive state plans for juvenile delinquency programs and services. The requirements which these plans must meet are set forth in the following subsections:

Sec. 503(a)(1). This subsection requires the plan to designate a single state agency for supervising the preparation and administration of the plan.

Sec. 503(a)(2). This subsection requires that the designated State agency will include representatives of organizations and groups concerned with juvenile delinquency prevention, treatment, and rehabilitation.

Sec. 503(a)(3). This subsection requires the State agency to submit a detailed survey of State and local needs for the prevention and treatment of juvenile delinquency and a comprehensive program to meet those needs.

Sec. 503(a)(4). This subsection requires that the applicant State provide for maximum coordination and utilization of existing juvenile delinquency programs within the State.

Sec. 503(a)(5). This subsection requires regular reporting by the State agency of the effectiveness of programs carried out under the State plan.

Sec. 503(a)(6). This subsection requires adequate assurances that Federal funds will be used to supplement rather than supplant State funds.

Sec. 503(a)(7). This subsection requires that at least three-quarters of the funds a State receives under this part will be spent on the prevention of juvenile delinquency, the diversion of juveniles from the juvenile justice system, and the development of community-based alternatives to traditional detention and correctional facilities.

Sec. 503(a)(8). This subsection provides that juveniles who are not charged with or who have not committed substantive, criminal offenses must be detained or treated in separate facilities with separate programs from juveniles who are charged with or who have committed criminal offenses. This would include runaways, truants, neglected children, persons in need of supervision (PINS), and incorrigibles.

Sec. 503(a)(9). This subsection encourages the states to develop research, training, and evaluation activities related to juvenile delinquency.

Sec. 503(a)(10). This subsection encourages the States to develop community-based prevention, diversion, and rehabilitation efforts, including development of foster-care and shelter care facilities, group homes, halfway houses, and other community-based, residential facilities and services. The subsection provides for diagnostic services and facilities, and the expanded use of probation, the funding of probation subsidy programs, the recruitment and training of probation personnel, and community-oriented programs for the supervision of probationers and parolees. This subsection also provides for comprehensive drug abuse prevention and education programs and treatment and

rehabilitation programs for drug addicted and dependent youth. It further requires a juvenile delinquency prevention effort which includes family and individual counseling, use and training of professional and paraprofessional personnel for work within the schools in order to detect, work with, and divert youngsters who are either delinquent or potentially delinquent from the juvenile justice system.

Sec. 503(a)(11). This subsection requires States to provide special training of professional and paraprofessional personnel to work in the prevention and treatment of juvenile delinquency.

The remaining sections contain routine administrative provisions regarding accounting and reporting procedures, equitable assistance to minority group youth and use of funds under this part to develop the required State plan.

Part B—*Special emphasis prevention and treatment programs*

Sec. 504. The Director is authorized to make grants and enter into contracts with public or private agencies, institutions, and individuals to develop and implement new approaches to the problems of juvenile delinquency; to evaluate those new approaches; and to foster new or expanded juvenile delinquency programs and activities. It also provides for the development of diversion programs and programs to improve the juvenile justice system.

Authorized appropriations for the purposes of this part are $75 million for Fiscal '72; $150 million for Fiscal '73; $225 million for Fiscal '74, and $300 million for Fiscal '75.

This section also contains routine administrative provisions regarding accounting, administrative, and reporting procedures for grantees.

Sec. 505. This section establishes payment procedures for grants or contracts under this title.

Sec. 506. This section authorizes the Director to withhold funds from a grantee for failure to comply with the provisions of this title. The Director is required to give reasonable notice and opportunity for hearing.

TITLE VI: NATIONAL INSTITUTE FOR JUVENILE JUSTICE

Sec. 601. This section establishes a National Institute for Juvenile Justice within the National Office of Juvenile Justice and Delinquency Prevention under the supervision of an Administrator appointed by the Director.

Sec. 602. This section sets forth the coordination and technical assistance functions of the Institute. The Institute is authorized to encourage and assist public and private agencies, courts, institutions, and individuals involved in developing and implementing delinquency programs. In addition, the Institute will serve as an information clearinghouse, both collecting all data related to juvenile delinquency and disseminating it throughout the country.

Sec. 603. This section authorizes the Institute to conduct, encourage, and coordinate all types of research relating to juvenile delinquency. Research will be conducted both by Institute personnel and through grants and contracts, by public or nonprofit private agencies, institutions, and individuals. The Administrator is required to report annually on research activities, including a review of research results and an assessment of their applicability to operating programs.

Sec. 604. This section authorizes the Institute to devise and conduct training programs throughout the country for persons working in the juvenile justice system, such as policemen, judges, probation officers, corrections personnel, and paraprofessional workers. In addition, the Institute will develop technical training teams to aid in the development of on-going state and local training programs for professional and paraprofessional personnel who work directly with young people to prevent and treat juvenile delinquency.

Sec. 605. This section establishes an Advisory Council to advise and consult with the Director of the National Office and the Administrator of the Institute on the policy and operations of the Institute. The Council shall consist of 20 members, including Federal officials and representatives of groups specifically working in the area of juvenile delinquency. Members of the Council shall be appointed by the President for terms of four years.

Sec. 606. This section authorizes appropriations of $50 million for Fiscal '72, $100 million for Fiscal '73, $150 million for Fiscal '74, and $200 million for Fiscal '75 for the work of the Institute.

By Mr. BAYH:

S.J. Res. 198. A joint resolution to authorize the President to issue a proclamation designating the week of March 20–26, 1972, as "American Football and Basketball Coaches Week." Referred to the Committee on the Judiciary.

AMERICAN FOOTBALL AND BASKETBALL CONFERENCE—1972

Mr. BAYH. Mr. President, I am introducing today a resolution to designate March 20 to March 26 as "American Football and Basketball Coaches Week."

During that period, the 1972 American Football and Basketball Conference, designed to instruct coaches in the most sophisticated training and coaching techniques, will be held at Notre Dame University at South Bend in my home State of Indiana.

I am constantly impressed by the important role which amateur and professional athletics play in American society. At the age of 8 years, Little Leaguers learn about the discipline and sportsmanship which accompany the best competitive sports; these habits as well as pride in physical coordination are strengthened for boys and girls during the next 10 years in high school physical education classes. But this Nation's enjoyment of athletics does not stop upon graduation from school; the overwhelming attendance records at professional games is ample tribute to the satisfaction brought by spectator sports.

Unfortunately it is sometimes forgotten that behind the spotlight, away from the glare of publicity, are the men and women who provide the foundation and expertise for the football and basketball which spectators so enjoy. I refer to the athletic directors, coaches, trainers, and physical fitness specialists who work year round to prepare for a short season of fast, exciting games, and high competition.

Despite some of the notions that sports are simple skills, the truth is that properly played athletics require a great deal of planning and a lot of hard work before the opening whistle. The Notre Dame Conference provides clinics and lectures on subjects as diverse as offensive drills, passing, ball control offense, zone press drills, and orthopedic conditions involving the developing athlete.

Besides the expected discussions of offensive and defensive techniques in both football and basketball, the participants in the conference will consider the impact of social attitudes on team compatibility, motivation, morale and will hear a presentation by three doctors on potential injuries from which coaches must protect their players.

The conference this March promises to be exciting and worthwhile for those participating. It is another step toward making popular sports as safe and sophisticated as possible. I urge Senators to cosponsor this resolution so as to recognize the importance of the occasion. I ask that the resolution be printed at this point in the RECORD.

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

S.J. RES. 198

Whereas, hundreds of the nation's top coaches, athletic directors, officials, trainers and other physical fitness educators will be gathered in South Bend, Indiana, March 23–26, 1972, at the University of Notre Dame, for the 1972 American Football and Basketball Conference, and

Whereas, the eyes of the whole sporting world will be focused on the Conference and the four days of coaching clinics, seminars, panel discussions and demonstrations taking place there: Therefore it is

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of March 20–26, 1972, shall be known as "American Football and Basketball Coaches Week."

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2659

At the request of Mr. BAYH, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 2659, a bill to provide for a procedure to investigate and render decisions and recommendations with respect to grievances and appeals of employees of the Foreign Service.

S. 2994

At the request of Mr. MCCLELLAN, the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 2994, a bill to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes.

S. 3121

At the request of Mr. SCOTT, the Senator from Indiana (Mr. HARTKE) was added as a cosponsor of S. 3121, a bill to extend the Commission on Civil Rights for 5 years.

S. 3022

At the request of Mr. BAYH, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of S. 3022, a bill to provide for the issuance of $2 bills bearing the portrait of Susan B. Anthony.

S. 3131

At the request of Mr. BOGGS, the Senator from Delaware (Mr. ROTH) was added as a cosponsor of S. 3131, a bill to amend the Rail Passenger Service Act of 1970.

SENATE JOINT RESOLUTION 4

At the request of Mr. JAVITS, the Senator from Maine (Mr. MUSKIE) was added as a cosponsor of Senate Joint Resolu-

tion 4, a joint resolution providing for the proclamation of School Bus Safety Week.

SENATE JOINT RESOLUTION 171

At the request of Mr. MATHIAS, the Senator from New Mexico (Mr. MONTOYA), the Senator from Kentucky (Mr. COOK), and the Senator from Oklahoma (Mr. HARRIS) were added as cosponsors of Senate Joint Resolution 171, designating March 1972 as Exceptional Children's Month.

SENATE JOINT RESOLUTION 189

At the request of Mr. BROCK, the Senator from Virginia (Mr. BYRD), the Senator from Texas (Mr. BENTSEN), the Senator from Florida (Mr. CHILES), the Senator from Idaho (Mr. CHURCH), the Senator from Washington (Mr. JACKSON), the Senator from Rhode Island (Mr. PASTORE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Ohio (Mr. SAXBE), the Senator from Florida (Mr. GURNEY), the Senator from Washton (Mr. MAGNUSON), and the Senator from Maryland (Mr. MATHIAS) were added as cosponsors of Senate Joint Resolution 189, to authorize the President to designate the week of March 26, 1972, to April 1, 1972, as National Week of Concern for Prisoners of War–Missing in Action and to designate Sunday, March 26, 1972, as a national day of prayer for these Americans.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 180

At the request of Mr. RIBICOFF, the Senator from Rhode Island (Mr. PASTORE) was added as a cosponsor of Senate Resolution 180, calling for an end to the violence and bloodshed in Northern Ireland.

SENATE CONCURRENT RESOLUTION 59—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING THE LOAN OF A PAINTING TO THE SMITHSONIAN INSTITUTION

(Referred to the Committee on Rules and Administration.)

Mr. SCOTT. Mr. President, what do Rufus King, Lewis Cass, John Breckenridge, Horatio Seymour, and Alton Parker all have in common? The answer is that each man was an unsuccessful contender for the White House.

As we move into 1972, a presidential election year, the Nation once again girds itself for the onslaught of candidates, noncandidates, and other assorted pretenders to the throne. In commemoration and remembrance of America's unsuccessful candidates for the Presidency, the Smithsonian Institution's National Portrait Gallery will host a special exhibit of their portraits.

Beginning on April 14, 1972, and extending through September 5, 1972, the National Portrait Gallery will feature the portraits of men and women who ran for the roses, but who got caught in a briar patch along the way. The exhibition will include over 75 portraits and hundreds of items of political memorabilia relating to elections from 1796 to 1968.

The resolution I am today introducing authorizes the loan of the Cornelia Fasset painting, "The Electoral Commission of 1877," to the National Portrait Gallery for use in the exhibit. This historic painting will be an invaluable aid in the visual representation of the very important Tilden-Hayes contest of 1876, which will be discussed at some length in one of several historical essays to be incorporated in the exhibition catalogs.

Mr. President, as a member of the Smithsonian Institution's Board of Regents, I am delighted to offer this resolution. Its adoption will enable thousands of Americans to see history through art. I urge the Congress to give this matter speedy and favorable consideration.

The resolution reads:

S. CON. RES. 59

Resolved by the Senate (the House of Representatives concurring), That the Architect of the Capitol shall, on behalf of the Congress, lend the Cornelia Fasset painting, "The Electoral Commission of 1877", located in the Capitol, to the Smithsonian Institution for the National Portrait Gallery exhibit of political memorabilia relating to elections from 1796 to 1968. Such loan shall be made so that the portrait shall be available for display by the National Portrait Gallery not later than April 14, 1972, and under procedures that will assure its proper preservation, display, and return to the Capitol as soon as practicable after September 5, 1972.

SENATE CONCURRENT RESOLUTION 60—SUBMISSION OF A CONCURRENT RESOLUTION TO PRINT ADDITIONAL COPIES OF HEARINGS ON THE ENVIRONMENTAL PROTECTION ACT OF 1971

(Referred to the Committee on Rules and Administration.)

Mr. BYRD of West Virginia for Mr. MAGNUSON submitted the following concurrent resolution:

S. CON. RES. 60

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Commerce two thousand additional copies of the hearings entitled "Environmental Protection Act of 1971" held before the Senate Committee on Commerce.

ADDITIONAL COSPONSORS OF CONCURRENT RESOLUTIONS

SENATE CONCURRENT RESOLUTION 48

At the request of Mr. DOLE, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of Senate Concurrent Resolution 48, relating to the Holy Crown of St. Stephen.

SENATE CONCURRENT RESOLUTION 55

At the request of Mr. HOLLINGS, the Senator from Indiana (Mr. HARTKE), the Senator from New York (Mr. JAVITS), the Senator from Washington (Mr. MAGNUSON), and the Senator from Pennsylvania (Mr. SCHWEIKER) were added as cosponsors of Senate Concurrent Resolution 55, calling for the recognition of Bangladesh as an independent foreign country.

FOREST LANDS RESTORATION AND PROTECTION ACT OF 1971—AMENDMENT

AMENDMENT NO. 872

(Ordered to be printed and referred to the Committee on Interior and Insular Affairs.)

Mr. METCALF. Mr. President, for far too many years, our forests have been overcut. If those practices continue, ultimately there will be no forests. "Ultimately" may be much sooner than we think.

One consequence of this overcut practice has been the employment of increased numbers of men engaged by the timber industry, men whose jobs are now threatened by the changing priorities of our Nation and growing environmental concerns.

Some individuals may experience job losses as a result of reduced Federal timber sales as we regear forest management to quality, multiple use management. These job reductions will probably be local or regional in nature and will require that individuals be retrained for productive work.

I believe that the Federal Government is obligated to these individuals. The Nation is demanding changing priorities in our national forests, and rightly so. At the same time, we have a continuing obligation to the men who work in the woods, an obligation to prevent their loss in income or employment.

Therefore, today I introduce an amendment to my bill, S. 1734, for comprehensive management of the Nation's forest lands. My amendment to the bill provides for financial assistance, job retraining, relocation assistance, and employment counseling to any employee in the timber industry who should be adversely affected by enactment of the bill. The amendment provides job protection to the men in the woods and insures that they shall have jobs. It assures that no man shall be wanting, because of implementation of this bill.

A nation can be no less concerned about its human beings than about its land. This amendment will make the total bill protective both of humans and the land.

COMMUTER EMERGENCY RELIEF ACT—AMENDMENT

AMENDMENT NO. 873

(Ordered to be printed and referred to the Committee on Banking, Housing, and Urban Affairs.)

Mr. CRANSTON. Mr. President, last November I cosponsored an amendment to the Revenue Act that would have retained the automobile excise tax as a source of funds for mass transit and related programs.

I proposed using the excise tax for this purpose because I am convinced that to create an efficient national public transportation system, we must have an assured and adequate level of funding. We do not have that today.

In fiscal 1971, the Federal Government spent 62.9 percent of the transportation dollar on highways as contrasted with

2.8 percent on mass transit. The present congressional authorization of $3.1 billion for mass transit for a 5-year period ending in fiscal 1975, falls far short of the $32 billion that the urban mass transportation administration estimates is required over the next decade. To compound the problem, the administration has frozen $300 million out of this year's already insufficient $900 million budget for mass transit.

I urge Congress to continue to seek ways to increase the amount of funds for mass transit. In the meantime, I believe we need to extend emergency assistance to transportation systems that are caught in the vise of increased costs and decreased riders. For more and more systems, this financial squeeze is becoming fatal.

Senator WILLIAMS has introduced the Commuter Emergency Relief Act (S. 870) that would provide such relief. I fully support the Williams bill and today offer two amendments to S. 870 that will make it easier for cities to sustain, improve, and expand their transit systems.

The first amendment would change the ratio of assistance for emergency grants and interim assistance, as defined in the Williams bill, from a 67:33 ratio of Federal to local dollars, to a 90:10 ratio. The second amendment would amend the Urban Mass Transportation Act so that the 90:10 ratio would apply to all capital improvement grants and loans.

Mass transit systems simply cannot be constructed on the basis of anticipated fares from future passengers. And local property taxpayers, already overburdened by fiscal demands, usually cannot afford the one-third matching fund requirement. Where a 50 percent local share is demanded, the financial burden is, in many cases, prohibitive.

The Nation's highways have been built with 90 percent Federal funds and 10 percent local moneys. I believe the same ratio that has been so successful in building the Nation's highways should be applied to the task of building an adequate public transportation system.

Recently, citizens of New York State voted down a $2.5 billion bond issue for both mass transit and highways. While the State's share would have been greater for mass transit than for highways, the different ratios—67:33 for mass transit, 90:10 for highways—meant that the highway program would get a larger infusion of Federal dollars. Had the ratios been equal, I think it is fair to speculate that the voters would have approved the bond issue. I think they felt that the disparity in the ratios subverted their desire for more mass transit.

By establishing equivalent ratios for mass transit and highways, we will be giving expression to a widespread desire for better public transportation. The 10 percent local share proposed in my amendments will enable communities to preserve their existing transit systems and construct new ones. If these amendments are passed, I think we will have a better chance to improve the quality of life in our urban areas.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD at this point.

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

AMENDMENT No. 873

On page 3, between lines 5 and 6, insert the following:

"(1) by striking out 'two-thirds of the net project cost' in the fifth sentence of section 4(a) and inserting in lieu thereof '90 per centum of the net project cost';

"(2) by striking out 'one-sixth of the net project cost' in the proviso to the second sentence of section 5 and inserting in lieu thereof '40 per centum of the net project cost';".

On page 3, line 6, strike out "(1)" and insert in lieu thereof "(3)".

On page 3, line 8, strike out "(2)" and insert in lieu thereof "(4)".

On page 4, strike out lines 5 through 8, and insert in lieu thereof the following: "90 per centum of the net capital charge, and the amount provided by the applicant shall not be less than 10 per centum of the net capital charge. The net capital charge is that portion of the total amount required to pay such interest and discharge such obligations which cannot reasonably be paid out of current revenues during the year in which the grant is made, as determined by the Secretary."

On page 5, strike out lines 22 through 24, and insert in lieu thereof the following: "exceed 90 per centum of the total amount required to defray such deficit, and the amount provided by the grant applicant shall not be less than 10 per centum of the total amount required to defray such deficit."

HIGHER EDUCATION AMENDMENTS OF 1971—AMENDMENT

AMENDMENT NO. 874

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

Mr. BAYH submitted an amendment intended to be proposed by him to the bill (S. 659) to amend and extend the Higher Education Act of 1965 and other Acts dealing with higher education.

SOCIAL SECURITY AMENDMENTS OF 1971—AMENDMENT

AMENDMENT NO. 875

(Ordered to be printed and referred to the Committee on Finance.)

Mr. PERCY. Mr. President, no human problem has been of greater concern to me than that of the plight of our elderly and handicapped citizens. One of the major challenges of our time is to enable our older and handicapped Americans to participate in the bounty of this prosperous Nation.

Many of the elderly and handicapped men and women of America have not shared in the affluence of our country, for one of the most serious consequences of age and disability is its effect on one's capacity to earn a livelihood. Over 3 million aged, blind and permanently disabled persons, poor for reasons beyond their control, must rely on welfare for subsistence.

Many of these men and women, regardless of their age and disability, still want to work. For them, work is the only means to supplement meager welfare payments. More important, work is a chance for a little bit of independence and dignity, and an end to total isolation and helplessness. Poverty, one must remember, is far more than a state of income; it is also a state of mind, a state of health, and a state of purposefulness.

Yet, H.R. 1 places strict limitations on the amount of money a recipient can earn without suffering a loss in benefits, discouraging many elderly and handicapped persons from seeking meaningful employment. Under H.R. 1, the earnings disregard for blind or disabled persons or couples is only $85 plus half the balance of earned income per month. For aged persons or couples it is the ludicrous sum of $60 plus one-third the balance of earned income per month.

I have repeatedly argued against the wisdom of earnings limitations which contradict the high value our society places on independence and the willingness of individuals to support themselves. I have already introduced legislation to increase the earnings limitation for the elderly on social security. Today, I am introducing this amendment to liberalize the earnings disregard for the aged, blind and disabled on welfare to allow these men and women an opportunity for a fuller and more productive life.

I ask unanimous consent that the amendment be printed in the RECORD at this point.

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

AMENDMENT No. 875

On page 292, beginning with line 3, strike out through line 10 on page 293 and insert in lieu thereof the following:

"(3) in the case of an individual or an eligible spouse of an individual, (A) the first $1,500 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof, (B) an amount equal to any expenses reasonably attributable to the earning of any income, and (C) such additional amounts of other income, where such individual or such spouse has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan;

On page 294, between lines 7 and 8, insert the following new subsection:

"COST OF LIVING ADJUSTMENT

"(c) (1) For any calendar year commencing after December 31, 1973, the dollar amount specified in subsection (b) (3) shall be deemed to be whichever of the following is the greater:

"(A) the dollar amount specified in subsection (b) (3);

"(B) the dollar amount in effect (after application of this subsection) for the preceding calendar year; or

"(C) the dollar amount prescribed for such year under paragraph (2).

"(2) (A) For purposes of this paragraph—

"(i) the term 'base quarter' means the calendar quarter ending June 30, 1972;

"(ii) the term 'computation quarter' means any calendar quarter ending June 30 of any year after 1972; and

"(iii) the Consumer Price Index for the base quarter or for any computation quarter shall be the arithmetical mean of such index for the 3 months in such quarter.

"(B) If, for any computation quarter, the Consumer Price Index prepared by the Department of Labor exceeds, by not less than 3 per centum, such index for the base quarter, the dollar amount specified in sub-

section (b)(3) shall, for the calendar year commencing on the following January 1, be deemed to be an amount equal to the amount specified in such subsection plus a percentage of such amount equal to the percentage (rounded to the nearest one-tenth of one percent) by which the Consumer Price Index for such computation quarter exceeds such index for the base quarter. Such deemed amount shall, if it is not a multiple of $1.00, be increased to the next higher multiple of $1.00.

"(3) The Secretary shall, on or before November 1 of each calendar year after 1972, publish in the Federal Register the amount which the amount specified in subsection (b)(3) will, after application of this subsection, be deemed to be for the succeeding calendar year.

On page 294, line 8, strike out "(c)" and insert in lieu thereof "(d)".

COMMUNITY DEVELOPMENT ASSISTANCE ACT OF 1971—AMENDMENT

AMENDMENT NO. 876

(Ordered to be printed and referred to the Committee on Banking, Housing, and Urban Affairs.)

Mr. STEVENSON submitted an amendment intended to be proposed by him to the bill (S. 2333) to provide Federal assistance to local governments in support of community development activities.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971—AMENDMENT

AMENDMENT NO. 878

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

Mr. WILLIAMS (for himself and Mr. JAVITS) submitted an amendment intended to be proposed by them jointly to the bill (S. 2515) to further promote equal employment opportunities for American workers.

NOTICE OF HEARING

Mr. BURDICK. Mr. President, as chairman of the Judiciary Committee's Subcommittee on National Penitentiaries, I wish to announce hearings for the consideration of S. 2732, the Offender Rehabilitation Act, beginning at 11 a.m. on February 15, 1972, in room 457 of the Old Senate Office Building.

The purpose of the proposed legislation is the quieting of old criminal records that serve as a barrier to the employment of rehabilitated first offenders. I believe it represents a vital step needed to begin facing the problem of recidivistic crime in our Nation.

These are continuation hearings on this legislation, and additional days will be necessary to carefully consider this proposed legislation. Additional hearings have been scheduled for February 22, 23, and 24 in room 2228 of the New Senate Office Building, at 10 a.m.

Any person who wishes to testify or submit a statement for inclusion in the RECORD should communicate as soon as possible with the Subcommittee on National Penitentiaries, room 6306, New Senate Office Building.

ANNOUNCEMENT OF HEARING

Mr. MATHIAS. Mr. President, on behalf of the chairman of the Committee on the District of Columbia and myself, I wish to announce that a public hearing will be held on February 23, 1972, at 9:30 a.m. in 6226 New Senate Office Building on S. 2196, a bill to establish the District of Columbia Development Bank.

Persons wishing to testify on this legislation should contact Miss Carrie Johnson, minority staff director, 6222 New Senate Office Building or 225-8797, by the close of business on Friday, February 18.

ADDITIONAL STATEMENTS

THE ECONOMY IMPROVES

Mr. SCOTT. Mr. President, much has been said about the economy. In the Pittsburgh Post-Gazette, a feature article quoting the executive vice president of the prestigious Western Pennsylvania National Bank makes a point that conditions of the economy are getting better. I ask unanimous consent that the article be printed in the RECORD and urge Senators to analyze carefully the comments offered by the professional bankers.

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

[From the Pittsburgh Post-Gazette, Feb. 4, 1972]

WPNB: THE RECOVERY IS UPON US

(By Jack Markowitz)

Sure, say the skeptics, everybody's forecasting stronger business but when is it going to get here?

Well, Western Pennsylvania National Bank's top economists say it already is here—visibly—and that, in fact, Pittsburgh's economy shows leading signs of it.

"We're feeling stronger about our forecast than before, and we've raised it on a few points," Dr. Maurice Mann, WPNB executive vice president, told newsmen yesterday.

As tangible recovery signs he cited: strong gains in retail and auto sales, improvements in the government's "leading indicators" for both November and December; higher marks in consumer sentiment, and "the production numbers are better."

Retail sales, if they continue spirited are bound to stir up inventory rebuilding, Mann thinks.

As for the federal budget, with its deep Deficits for this year and next, it's a storm signal for possible renewed inflation up ahead—but meanwhile, a massive boost to the economy's spending stream, what with increased defense outlays, federal employe pay raises and a hike in Social Security benefits.

"Public policy," said Mann, "is doing everything it can to make the forecast a reality."

Dr. David L. Smith, WPNB vice president and economist, said 1971 was a "disappointing" year for Pittsburgh's economy, but the crying towel was more suited to their first eight than the last four months.

Since the August low point, after agreement on a new steel contract, employment in this region has grown faster—seasonally-adjusted—than in the nation as a whole.

And those gains, said Smith, cover the waterfront from primary metals (steel)—with a seasonally-adjusted 18 per cent more hands at work now than in the summer doldrums—to retail trade, other services, government employes and construction.

In manufacturing, Pittsburgh employment has gained twice as fast as the nation's. In non-manufacturing, three times faster. One puzzlement: a sharp rise in the district's state and local government employees.

Vigorous auto sales here, says Dave Smith, are one sign of the better jobs picture: "the last four months have laid the basis for an even stronger 1972." His guess for area unemployment by year's end: "under 5 per cent," versus over 6 per cent now.

Mann and Smith are far less sanguine, though, about the likelihood of a market drop in unemployment nationally.

Most joblessness chronically will not respond to better business activity, according to Maurie Mann, because it is "structural"—that is, frozen into certain depressed localities, or wounded industries (like aerospace) or in the hard-core unemployed.

The solution would involve massive training programs, a challenge to restrictive union practices and other hot political potatoes that Mann—a onetime high official of the U.S. Office of the Budget—does not see the Administration reaching for at this point.

Someday someone's going to have to, he says.

Meanwhile, despite a forecast of sharply rising corporate profits—19 per cent up! to $57 billion, he looks for relatively slow rehiring of work forces laid off during cost-cutting drives.

"Everybody's aim is to improve productivity," he says.

Hence, unemployment will average 5½ per cent in 1972, only dipping toward 5 per cent at the end of the year.

Mann also warns that the wage and price control program may be "emasculated before the job of curbing inflation is completed." If the WPNB forecast is overly optimistic, it's in the price area, he admitted.

The bank predicts just 3½ per cent inflation in 1972, which would be the lowest in five years, versus 1971's 4.6 per cent.

Mann also expects:

Long and short-term money rates to begin rising. ("I could be wrong tomorrow but we think we've seen the last prime rate cut.")

A 10 per cent rise in Gross National Product, to about $1,155 billion.

Real growth of 6½ per cent (the first time in four years it will beat the inflation rate.)

A 10 per cent boost in business spending for plant and equipment, picking up speed as the year progresses.

Nine per cent gains in consumer spending; special strength in durable goods.

NORTHERN IRELAND—FAITH IN THE SYSTEM IS SHATTERED

Mr. RIBICOFF. Mr. President, last week the Senator from Massachusetts (Mr. KENNEDY) and I had the opportunity to meet privately with Irish Foreign Minister Hillery to discuss the present situation in Northern Ireland in the aftermath of Londonderry. I hope that Minister Hillery's visit to our country will help to convince our leadership that our country should take a stand on this issue.

It is unfortunate that the basic issues at stake in Northern Ireland have too often been obscured by the more dramatic events taking place there. I hope that more Senators will take the time to acquaint themselves with the long and complex background to the violence in Ulster and examine the measures called for in Senate Resolution 180. In this connection I note that the distinguished Senator from Rhode Island (Mr. PASTORE) is the most recent cosponsor of this proposal to end the bloodshed.

Last Sunday's New York Times presented two excellent analyses of the present situation in Great Britain and Northern Ireland. I previously had printed in the RECORD articles by both of these writers, Anthony Lewis and Bernard Weinraub. These two newspapermen have continued their excellent job of reporting a very volatile and little understood subject. I ask unanimous consent that both of their articles, entitled "Can't Stay In, Can't Get Out," written by Anthony Lewis, and "Faith in the System Is Shattered" written by Bernard Weinraub, be printed in the RECORD.

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

BRITAIN: CAN'T STAY IN, CAN'T GET OUT

(By Anthony Lewis)

LONDON.—"Now for our Irish wars," says King Richard II, full of confident vigor in Act II of Shakespeare's play. He returns from Ireland in the next act a broken man, ready to say:

For God's sake let us sit upon the ground
And tell sad stories of the death of kings.

English kings and politicians have been trying to master the Irish problem for 800 years, and few of them to their benefit. The struggle has most often turned out to be self-destructive, draining their energies abroad and producing division at home.

Now once again Ireland dominates British political life. The pressures have been building up, along with the toll of violence in Ulster, for three years. Then, last Sunday, came the killing of 13 Catholic civilians by British soldiers in Londonderry. It was one of those incidents that dramatizes history, making clear the direction of events.

The political effect for Britain became quickly visible. There was an immediate flow of emotion in the House of Commons, almost a throwback to the unruly Irish debates there a century ago. Bernadette Devlin, the Catholic radical from Ulster, crossed the floor to punch the Home Secretary, Reginald Maudling—and was not even called to order by the Speaker lest martyrdom raise the temperature even higher.

More significant than Miss Devlin's assault, or the fiery words in many Commons speeches, was the new sense of division between the parties on the Irish issue.

Conservative ministers and backbenchers cheered the British Army and had hardly a word of sympathy for Sunday's victims. On the Labor side, member after member identified himself with the Catholic underdogs in Northern Ireland. An experienced Parliamentary observer, Alan Watkins of The New Statesman, wrote: "I have rarely seen the House of Commons so polarized."

A previous bipartisan truce on Irish matters had been pretty well frayed by the violence of the last two years, but last Tuesday night was the first time Labor forced a Commons vote on the Ulster problem. The issue they chose was a demand that London take over all security responsibility from the Ulster Provincial Government in Stormont.

The Tory majority held. But the vote was only a mild hint of the partisan conflict that could lie ahead on Ireland. The leader of the Opposition, Harold Wilson, is desperately trying to avoid a real fight. But his backbenchers, centrist as well as left-wing, want him to take stronger positions—against the whole policy of internment without trial, for example, and for a commitment to a united Ireland.

Prime Minister Edward Heath and his colleagues faced a general demand from their critics for a "political initiative" on Ireland. But each idea that is suggested the Conservative Government has reason to fear.

End internment? The critics point out the terrible alienation of the whole Catholic community that has occurred since the Government began putting men in prison without trial last Aug. 9. The Government's reply is that it cannot put suspected terrorists back on the streets.

Take control of security away from the Protestant regime in Stormont? The argument for that step is that it would restore Catholic confidence in the impartiality of British forces. But officials are skeptical that, for example, it would have made any difference to Catholic feelings in Londonderry on Sunday if the troops had not been nominally working for Stormont.

Impose direct rule of Northern Ireland from London, eliminating the Stormont regime altogether? This, it is argued, would recognize the inescapable truth that Stormont is a sectarian system and can never win back the Catholics' allegiance. But the British Government fears that Britain would then be caught between the Catholics and Protestants in Ulster—Protestants aroused by what they would see as the beginning of British abandonment of the province.

Withdraw the troops? More and more voices are calling on Britain to pull her forces out on the ground that they are provocative. Such a man as Dr. Conor Cruise O'Brien, the writer who is a Labor member of the Irish Parliament and who until recently opposed withdrawal as a formula or civil war, now has changed his mind. But the Government has no intention of taking a step that it thinks would lead to massacres for which it would be blamed.

Any idea that can be suggested will have flaws, for the intractable problem remains underneath: the existence of two communities that hate and fear each other in one small island. But it does seem essential for the British Government to take some political step soon. For the posture of the army at the moment has the appearance of coercing people for no positive goal. And meanwhile the politics and daily life of Northern Ireland keep disintegrating.

The irony is that over most of the terrible Anglo-Irish history, Britain's goal in Ireland was conquest. Now it is withdrawal, and that is proving to be just as difficult and bloody a challenge.

IRELAND: FAITH IN THE SYSTEM IS SHATTERED

(By Bernard Weinraub)

LONDONDERRY.—An icy rain fell on the bleak hilltop overlooking Londonderry. One by one the 13 coffins were borne from St. Mary's church, the names of the dead echoing through the streets from loudspeakers. "Patrick Doherty . . . William Nash . . . Michael Kelly . . ."

The sight of frenzied children weeping, women shrieking in the agony of loss, men trembling and bereft—somehow the tragedy of Northern Ireland reached a brutal peak with the burial of the men who were killed by British soldiers last Sunday during a massive demonstration by Roman Catholics.

Londonderry is, in some ways, where it all started and Londonderry is, perhaps, where it will all end.

The second largest city in Northern Ireland and the fourth largest in Ireland, Londonderry was the site of a Protestant victory in 1689 when James II of England, a Catholic convert, was defeated at the Battle of the Boyne by William of Orange, the beloved "King Billy" of Ulster's Protestants.

Londonderry's narrow streets were the site in October, 1968, of civil rights demonstrations that spread to the countryside and touched off mass riots in Belfast the following August.

The city is a site of Catholic power (over 60 per cent of the citizens are Catholic), of Irish Republican Army strength and now, of sullen, total fury at the political Establishment. After "Bloody Sunday" the situation, in effect, is one of war against the British Army and the Northern Ireland Government.

"People are stunned and angry, people are hopeless," said the Rev. George McLaughlin, a 39-year-old priest standing inside the packed church where requiem mass for the 13 dead was held. "This tragedy is the final blow."

To the Catholic minority the deaths of the 13 symbolize the death of Northern Ireland in its present political form. Virtually all Catholics have withdrawn from government. Catholic lawyers are seriously discussing a boycott of the courts. Thousands of families have stopped paying rents and electricity bills.

The demand for civil rights—such as the march set for today at Newry, a border town—has been overtaken by a surge of feeling that both the Belfast and London Governments are no longer tolerated in the Catholic community, which forms one-third of the population in Northern Ireland. Catholics have been radicalized, and even moderates now see their future only in the context of a united Ireland.

To the Protestant Union Government the prospect of unity is abhorrent because it would mean being swallowed up by the Catholic majority to the south. The Protestants have offered housing and voting reforms, but Catholics insist these measures came too late and offered too little. At the same time, Catholics here feel that reforms are now out of the question in view of the Government's policy of interning suspected terrorists without trial.

The Londonderry killings—with soldiers insisting that they attacked only after Catholics tossed nail-bombs and opened sniper fire, and Catholics furiously denying the allegations—turned the minority even further against the Protestant Establishment and the British Army.

"Derry has closed the book on Britain as an arbitrator, a neutral force in Northern Ireland," said Tom Conaty, the head of the Central Citizens' Defense Committee, a powerful group in Belfast's Catholic ghettos. "People are now seeing Northern Ireland only in terms of unity with the Republic. For most of us, there is no other answer."

The depth of feeling about last week's killings—and the controversial British role in the tragedy—was underlined in Dublin, across the border, when a mob estimated at up to 50,000 marched with mock coffins on the British Embassy (see picture at top) and burned the building down.

Clearly the question of Irish unification is now intertwined with the simmering historic anger that the Irish feel toward the British. And one need only read the British newspapers, or watch British journalists in Belfast questioning Catholic civil rights leaders, to realize that among many Britons the Irish are still viewed with remarkable, quite personal, disdain.

The Irish Government itself has taken its firmest action in years over the developing crisis in Ulster. Previously, Premier John Lynch had sought to steer a delicate course over his country's involvement in Northern Ireland and had given lip service—but little beyond that—to the prospect of unification. Now, sensing the surge of anger over the Londonderry killings, Mr. Lynch has harshly criticized Britain and struck up his demands for unity.

British soldiers who were welcomed in the Catholic ghettos less than three years ago with tea and biscuits are now the enemy. That change in attitude began with a British act that most observers now regard as a blunder.

The army, in July, 1970, ordered a 42-hour curfew in the Lower Falls ghetto, placing under virtual house arrest 10,000 Catholics in the search for weapons. Gun hunts continued in Catholic areas—with many homes indiscriminately searched—while the Protestant ghettos of Belfast were untouched.

Provacative Protestant marches in Catholic areas were protected by the army in its role in guardian of law and order, leading to confrontation between soldiers and Catholics.

Most important, the army was used by the Protestant Government to implement the policy of internment without trial, a policy to root out terrorists that has clearly had a disastrous impact in Northern Ireland. The violence that followed internment—which the minority views as blatantly anti-Catholic—shook the British Government. Almost overnight, the army was identified with a Protestant regime that Catholics detest. And the I.R.A., who were a mere handful of cranks and desperadoes in the early sixties, turned into a symbol of liberation.

A sense of crude tragedy now grips Northern Ireland. An outraged minority, which began with demands for job equality and better housing, has torn away from the government and refuses to accept it. The Protestant majority is haunted by fears that the British will take over Northern Ireland completely—and will then wash their hands of Ulster and take steps to erase the border with the Republic, where 95 per cent of the population is Catholic.

The 15,000-man British garrison here is serving as an occupation force, defending the Protestant Government of Premier Brian Faulkner whose policies have aliented a restless and powerful minority. Physically and emotionally, the Catholics and the British Army have moved into warning camps.

"It's all over with what we have now," said Kevin McRory, a civil rights leader, shortly after the funerals of the Londonderry victims. "People feel helpless. Their faith in the system is shattered. And it's the system that now has to be replaced. It will be."

TRIBUTE SERVICE TO JOHN EDELMAN

Mr. CHURCH. Mr. President, tomorrow, Wednesday, February 9, at 1 p.m., a very unusual event will take place in the Senate caucus room. The distinguished Senator from Vermont (Mr. AIKEN) and I have made it possible for the American people to pay deserved tribute to a great citizen—Mr. John Edelman.

For a quarter of a century, John Edelman was an eloquent and effective part of the congressional scene—a part, unfortunately, that is not fully appreciated. John Edelman did perhaps more than anyone I have ever known to make the term "lobbyist" an honorable and highly respected title. He was a lobbyist for the miserably treated textile operator or migrant worker. He was a lobbyist for the farmer who needed rural electrification. He was a lobbyist for the rights of all people regardless of color or age or national origin. He was, in the best and fullest sense of the word, a lobbyist for the people.

So tomorrow, at 1 p.m., in the room where some of our most historic debates have taken place, the Senate caucus room, hundreds of John Edelman's friends and associates will assemble to give thanks for his life and his works. Members of Congress and their staff are invited to join in this tribute to a fine man.

SENATOR A. WILLIS ROBERTSON—A TRUE SOUTHERN GENTLEMAN

Mr. McINTYRE. Mr. President, I am moved today by the memory of my distinguished and truly respected late colleague from the State of Virginia, Senator A. Willis Robertson. He was a man who always did bring to my mind the images of a U.S. Senator and of the true southern gentleman. For he was a man devoted to the institution he served in so well for over 20 years. And he was a man devoted to his deepest being to his beloved Virginia.

His code was different from mine. Yet serving under him on the Committee on Banking and Currency I could not help appreciating his gentle humor and keen knowledge of the many tasks faced by the committee of which he was chairman.

Senator Robertson's greatest accomplishments, however, did not obscure his deep humanity and love for life. An avid and, I understand, quite successful dove hunter, Senator Robertson merged his great love for the outdoors with his desire to serve the public. Virginians well remember his accomplishments as chairman of Virginia's Commission on Game and Inland Fisheries. And sportsmen around the country commemorate him as the Senate sponsor of the Pittman-Robertson Act.

Senator Robertson was also a man who was keenly aware of and extremely proud of his roots. I can well remember the twinkle in his eye as he spoke of his grandfather's service with the Army of Virginia and of his gallantry in the Battle of the Wilderness. He was proud as he spoke and never wavered in that pride or his love for his State.

I am happy to have known this man and to have had the opportunity to serve with him on the Committee on Banking and Currency. I know that all Senators share my sense of loss at his passing.

WHO PROLONGS THE VIETNAM WAR?

Mr. SCOTT. Mr. President, since the peace proposal address by President Nixon I have placed in the RECORD various editorials, all from big city newspapers.

Today I ask unanimous consent to have printed in the RECORD the front page editorial "Hanoi Prolongs Vietnam War, Not the President," published in the DuBois, Pa., Courier-Express. The editorial was written by the newspaper's managing editor, Herb Martin, who refers to himself as "a registered voter in the Democratic Party of 25 years standing."

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

AN EDITORIAL—HANOI PROLONGS VIETNAM WAR, NOT THE PRESIDENT

(By Herb Martin)

As a registered voter in the Democratic Party of 25 years standing and as a newsman of 30 years seniority I have two bones to pick with fellow colleagues who have continually sided with Hanoi, North Vietnam and Viet Cong leaders in this nerve-wracking matter of getting a peace settlement in the Vietnam conflict that has been bugging us Americans for a decade.

Soon after the President of these United States revealed to the nation Tuesday night the proposals offered a very stubborn enemy to end U.S. participation, the national Democratic leaders and national news media wasted no time tearing apart the noble effort by our government. This certainly must have delighted Hanoi and NV-VC officials who for too long a time have been riding the coattails of self-styled spokesmen in this country who have completely exonerated the Communists for prolonging the war and place the entire blame on the present administration. This is hogwash.

The latest terms offered by the United States are certainly fair and in keeping with expressed desires of the enemy. The withdrawal date has been set . . . within six months of an agreement between the two sides. That means if Hanoi is sincere in closing out the fighting they will have achieved their objective of withdrawal of all U.S. and Allied forces from South Vietnam as early as this summer. Add to this a cease-fire throughout Indochina, new presidential election in South Vietnam, exchange of prisoners, U.S. aid to help reconstruct North and South Vietnam, international supervision and conferences involving neutral parties.

Hanoi would probably have agreed to some of the past proposals if it had not been for those in this country who insist on stirring up a hornets nest on any kind of settlement. Until this kind of useless talk (especially by senators and news commentators) subsides, Hanoi will remain pat knowing there is diversion in U.S. ranks over peace initiatives.

I, for one, feel President Nixon has done an admirable job in winding down a mess he inherited from Democratic regimes that got us into (Kennedy) and escalated (Johnson) this war. How any Democrat can fault Mr. Nixon about the war takes a lot of gall. If anyone is playing politics with the war it is the Democrats and not Mr. Nixon.

He has not deceived us by conducting secret negotiations. The newsmen use the term loosely because they are pouting over the fact they weren't able to scoop the President in advance.

I'm ashamed of the Democratic Party because they have occupied leadership of this country almost every time we have gone to war. Then, the Republicans have to come along and bail us out.

I fail to understand the reasoning of the young people who are flocking to the Democratic Party as registered voters because they are against war. It doesn't make sense to join a party that has been responsible for most of the wars in which the U.S. has engaged. Make no mistake, of the two major political parties the Democrats have a far poorer war record.

Maybe the young people, by joining the Democratic Party, can change the war stigma image that has plagued us long-time Democrats for years.

Giving credit where it is due, President Nixon gets one solid Democratic vote from this reporter come November because he has kept his promise to the American people to do everything within reason (and even beyond that) to end the war. Hanoi has blocked a settlement, not the President of the United States.

Why don't the critics start hammering at Hanoi, North Vietnam and the VC for their bold refusal to accept the one-sided terms in their favor? How much more do they want?

No longer can this nation bear the brunt of accusations either at home or abroad. We have taken our share, the finger now points directly to the enemy. The full responsibility for continuing the war henceforth lies completely in the laps of those Communistic dictators across the Pacific Ocean.

Those numerous Democratic entries in the

presidential nomination race ought to soon realize the issue of peace proposals has been thoroughly covered by the President's address, and they would be wise to concentrate their campaigns on other problems.

THE ARARAT LODGE—120 YEARS OF SERVICE

Mr. RIBICOFF. Mr. President, the Ararat Lodge of B'nai B'rith, located in Hartford, Conn., recently celebrated its 120th anniversary.

As a member of the lodge, I take particular pride in marking this significant milestone. Ararat is mentioned in the Bible as the mountain upon which Noah's ark came to rest, and from which the dove returned with an olive branch. The lodge's link with this symbol of peace is appropriate, given the distinguished record of devoted service to humanity rendered by the lodge membership over the years.

The Connecticut Jewish Ledger saw fit to devote two of its pages to tributes to the lodge last month. I ask unanimous consent that two of the articles, describing the activities of the Ararat Lodge since its creation in 1851, along with an agenda for the future by the lodge's current president, William Singer, be printed in the RECORD.

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

ARARAT LODGE—A STORY OF 120 YEARS OF SERVICE

HARTFORD.—Since its inception in 1851 Ararat Lodge has devoted itself to the services of humanity generally. Its records and communications indicate that funds of the Lodge have been used to help people in need, all over the world.

As far back as 1873, requests were made for Lodge funds to assist Jews and oppressed poeples in Rumania, Persia and Galicia. Monies were contributed for the relief of B'nai B'rith members in the southern United States of America, who suffered from the scourge of yellow fever. During the first World War monies were used for the B'nai B'rith War Relief Fund. Individual Lodge members who were sick were assisted by the Lodge during their illness.

In 1853 and 1917 the Connecticut State Legislature incorporated the Ararat Widow and Orphan Fund, which fund continues to the present time—its sole project being to provide monies for the relief of widows and orphans of deceased members.

Ararat Lodge has contributed funds towards the development of youth generally, it sponsors baseball teams affiliated with the West Hartford Boys League, and the B'nai B'rith Team in the Little League of Hartford.

The B'nai B'rith Team in Hartford has won championships in its respective league, namely, the McGinley League. A $100 Savings Bond is given annually by a Fund established by Morris Marks, Jr. in memory of his parents. It is given to the most valuable player, selected by the team manager, who is not only a good baseball player but also has high scholastic grades in his school.

Ararat Lodge has also established a Hall of Fame for Jewish Athletes. The first recipient was Louis 'Kid' Kaplan, now deceased, the former featherweight champion of the world. It has also sponsored AZA and AZA Adler Boys Club for high school youth, and developed an intramural basketball team.

BOY SCOUT TROOP

Since 1939 the Lodge has sponsored Troop 90 of the Boy Scouts of America. In keeping with the national goals of the B'nai B'rith movement in supporting youth, it has made itself available through Troop 90, to 1,000 boys of all races, colors and religions, in both the north end of Hartford and now in West Hartford.

Through the ranks of Troop 90 have passed many boys who now serve the community as lawyers, doctors, teachers and professional people including a professional naval officer. The first scoutmaster of Troop 90 was Herman Davidson, and later there were other prominent citizens, Dr. Seymour Saltzman, Paul Sack and presently Dr. Jay Smith.

Jack Paull, a member of the Lodge for over 30 years, joining it as a boyscout, and who is now vice president of the lodge.

This week, the Troop awarded to four of its members—Scouts Stuart Freedman, Alan Paull, Mark Schor and Ronald Soltz—the highest honor in Scouting, that of Eagle Scout. The award was presented by Louis Nassau, a member of the lodge and past president of the Charter Oak Council, BSA.

The Lodge has pioneered in an organization called Brotherhood in Action, composed of the Knights of Columbus, the Masons, the Prince Hall Masons, and B'nai B'rith. The idea of Brotherhood in Action was conceived by the late Samuel Arons, a past president of Ararat Lodge.

Meetings have been held in various cities in Connecticut, and fund raising drives have been jointly conducted to raise monies for such worthwhile projects as the Mansfield Training School for Retarded Children, and the Newington Hospital and Home for Crippled Children.

Social affairs have also been conducted and recently a gathering was held at the State Capitol where over 1,000 members attended.

Samuel Kellin, a member and past president of Ararat Lodge, has contributed towards the development of Brotherhood in Action. The Lodge has been invited to attend a Brotherhood in Action meeting conducted by the St. John's Lodge No. 4 Masons, in Hartford, on Jan. 19, 1972.

SELL ISRAEL BONDS

Ararat Lodge in conjunction with the State of Israel, and the Hartford Israel Bond Committee, has been instrumental in selling over $100,000 of Israel Bonds. Its Annual Cafe B'nai B'rith has featured national entertainers and artists.

The Hartford Israel Bond Chairman has declared, "I am glad to see that the Hartford Community is helping Israel, and B'nai B'rith as usual is playing a leading role in providing much help and encouragement."

As a service organization it has provided and participated in many community services. The lodge, through its membership, assisted the Hartford Heart Association Fund Drive, wherein 1,500 Red Plastic Hearts were placed in virtually every retail store in the area. These hearts were later collected full of coins and bills for the research and cure of heart disease.

In 1955 following the flood and damage in the Torrington-Winsted area, Ararat Lodge, B'nai B'rith, with other service organizations joined and helped raise $180,000. These monies were used to rehabilitate small businesses. Also it collected toys for children of families who had suffered as a result of the floods.

Samuel Kellin, as president of the Connecticut Valley Council, B'nai B'rith, and a member of the lodge, was given a citation in connection with the flood relief work.

During World War II, and after the War, the lodge volunteered services at USO service centers, provided a complete set of musical instruments for blind veterans being rehabilitated at the Avon Old Farms Center, and has accompanied disabled veterans to public places and outings of a personal nature.

An organ was presented to the Connecticut State National Guard and annual Hanukah parties have been held at the Veterans Hospital in Newington, with professional entertainment, gifts and refreshments provided to the veterans.

WORKS WITH ADL

As part of its work, Ararat Lodge has worked with the Anti-Defamation League of B'nai B'rith. Through its services it has fought against discrimination in employment and protected individuals prior to the establishment of the Civil Rights Commission and Fair Employment Practices Act.

Particularly through the efforts of Dr. Eugene Sockut, now of Israel, Joseph Ress and Barry Gordon, an officer of the lodge, it has conducted itself to transmit democratic ideals in everyday life. With A.D.L. it has combatted anti-semitism, secured justice and fair treatment for all citizens, it has served to strengthen in growth, understandings, through public communications and seminars, it has worked vigorously to expose radical groups. It has worked to strengthen local communities and during times of tension has established rumour clinics. In summary, the lodge through the A.D.L. has consistently demonstrated the democratic and American way of life.

The Lodge has dedicated itself to providing youth generally with educational and vocational information, to encourage boys and girls to plan for career choices through the processes of vocational and occupational information.

The B'nai B'rith Vocational Service has provided for guidance and counseling. Ararat Lodge has over the years arranged for and assisted youth of the Greater Hartford area in receiving such testing, and in many cases where there was need, has provided scholarship funds to cover the cost of the services. In the future, the Lodge through its vocational services chairman will provide for a survey and development of a human resource directory of businesses and individuals interested in helping young people obtain first hand information about careers that they may be considering.

HILLEL EFFORTS

Since their inception in 1923, Hillel Foundations and Counselorships have served the cultural, religious and counseling needs of Jewish college students. Its function has been to give students an understanding of their Jewish heritage, and to strengthen their identity, and to serve as the spokesmen of Jewish values in the Jewish community.

The State of Connecticut has four such foundations and counselorships, namely, Yale University, University of Connecticut, Trinity College and University of Bridgeport.

Ararat Lodge was instrumental in establishing the counselorship at Trinity College which has since 1951 been under the guidance of Rabbi William Cohen of Beth David Synagogue of West Hartford, and was responsible, in good measure, for the solicitation of funds and establishment of a foundation, chapel, meeting house and building at the University of Connecticut, which in August of 1951 was dedicated as the Moses A. Savin Hillel House.

The University of Connecticut has 1,200 Jewish students and the majority of them are Hillel members. It provides for a synagogue, social center, chapel, library and kitchen, and has a full time permanent director, Rabbi Hirsh Cohen.

At Trinity College, Danny Freedlander is the chairman. The college has a student population of approximately 200 Jewish students and about 100 of them are members. It conducts four courses for all students in the Talmud, Hebrew, Yiddish and modern Jewish literature. It also offers creative services each week and discussion groups on the weekly Torah portions.

With pride, these students attend and teach at various faculties of religious schools in Hartford and also serve as youth advisors.

In the words of its chairman, Mr. Freedlander, a junior from Worcester, Mass., he states "Hillel's prime purpose is to offer Jewish students an opportunity to search out and examine their Jewishness in whatever ways and means they can accept."

In addition to the foregoing, through its program chairman, Joseph Dubitsky, the lodge has collected monies for the planting of trees in Israel, particularly in the B'nai B'rith Martyrs Forest. In that manner the land which was previously debased has been reclaimed to become primarily a land of milk and honey.

Ararat Lodge No. 13, B'nai B'rith continues to be an organization dedicated to the services of humanity, and it looks forward to that task.

HISTORY OF ARARAT LODGE—LAUNCHED BY HANDFUL OF JEWS DECEMBER 18, 1951

Ararat Lodge No. 13, B'nai B'rith, will be 120 years old this Saturday.

A handful of Jews assembled on Dec. 18, 1851, at the fashionable New England House on State Street, near Front Street, Hartford, and organized Ararat Lodge No. 13, B'nai B'rith.

At that time there were approximately 100 Jewish families and the population of Hartford was only about 18,000. Its founder and first president was Alexander Rothschild and it was sponsored by the founder of B'nai B'rith, Henry Jones.

Meetings were held on Sundays and the debates that took place were so noisy that they could be heard as far as Market Street. At the second meeting of the Lodge on Dec. 19, 1851, Gershon Fox, the founder of G. Fox & Company, was elected a member. On Dec. 25, 1851, a committee was appointed to draft the by-laws, and on Jan. 15, 1852, the first set of by-laws were adopted.

The charter members of Ararat Lodge were Alexander Rothschild, Henry Selling, H. W. Katzenberg, Henry Wallach, L. Hornthal, Jacob Baum, M. L. Strauss, Abraham Hollander, L. Rothenberg, Simon Mayer, Leser Mossbacher, and A. Bernheim.

Other familiar and respected names who joined Ararat Lodge in the early days included Jacob Fox, Phillip Wallach, Tobias Kohen, David Selling, Ferdinand Mayer, Feist Wallach, Nathan Raymond, David Mayer, Joseph Henry, Mayer Katzenberg, Harris Segalla, Joseph Worms, and Getz Rosenberg.

The minutes of the lodge were written in German until July 15, 1882, at which time Solomon Wohl made a motion which was hotly debated to conduct the business of the lodge in English, and after much discussion, it was adopted.

NAMED FOR MOUNTAIN

The charter members decided upon the name of Ararat in memory of the mountain at the foot of which Noah's Ark rested, when the flood waters subsided, and from which a dove was sent out, and returned with the biblical olive branch, to indicate that all was well.

The first Jews in the City of Hartford were believed to be Spanish and Portuguese Jews. German Jews had followed and were the organizers of the lodge. In 1882 Jews living in Russia found life intolerable, and thereafter, immigrated to Hartford, and other parts of the U.S.A.

The result was that the lodge room was an assembly place for all groups of Jews, and was in effect a schoolroom for new immigrants. Ararat Lodge has participated to a marked degree in the development of the business, civil and political life of Hartford, through its membership. Its history and the celebrations of its various anniversaries are described in the pages of the Hartford Courant, Hartford Times, and the book entitled "Hartford Jews, 1659–1970" by Rabbi Morris Silverman.

Its first anniversary was held on Dec. 18, 1876. The Hartford Courant describes the weather at that time to be "a 'howling snowstorm', which filled the streets and air and made out of door existence undesirable, notwithstanding, a large and happy audience composed chiefly of children of Israel, assembled at the Allyn Hall to commemorate the 25th Anniversary of the Lodge."

The paper further described the appearance of the stage as being striking and beautiful, with a scenery representing the interior of a temple with pillars and arches. In front of the middle arch was a massive seven-branch candlestick, this being the symbol of the lodge.

The members of the Executive Committee for the celebration were Dr. Nathan Mayer, A. Hollander, David Mayer, H. Aisberg, S. Lorsch, A. Rothschild, J. Stern, Julius Wallach and L. C. Abrahams. Music was provided by the Colt's Band. A hymn was written for the occasion by Dr. Nathan Mayer, and sung by a choir. The grand feature of the evening was a Ball with 24 dances on the program.

FIFTIETH ANNIVERSARY

The Lodge's 50th Anniversary was celebrated at the Footguard Hall, and consisted of a banquet, concert and ball. The Hartford Courant dated Jan. 2, 1902, described a painting displayed for the celebration, the painting was of Mount Ararat with the Ark resting upon it, and a dove with the olive branch winging homeward to signify that all was well.

The chairman of the event was Solomon Wohl, and in his address he stated that the brethren made a wise choice in the selection of the name "Ararat" and further explained that Mount Ararat was mighty peak which towered above the valleys, plains and lesser hills, similar to the high principles of the order of B'nai B'rith, benevolence, brotherly love and harmony, above worldly selfish motives.

The president of the Lodge was Nathan Morris, and the history of the lodge was given by Joel Samuels. Charles Rosenthal, who was first elected secretary of the lodge in 1868, having served in that office for 30 years, was honored at that celebration. Dr. Nathan Mayer, lodge physician, delivered an eloquent address.

The lodge's 60th Anniversary was distinguished by a banquet and ball held on Feb. 7, 1912, at the Putnam Phalanx Hall. Proceeding this, on Feb. 6, 1912, the lodge contributed and participated in the installation ceremony of a beautiful stained glass door for the Ark of the Congregation Beth Israel, which at that time had its synagogue on Charter Oak Avenue.

When the congregation moved to Farmington Avenue, in West Hartford, in 1936, the Ararat Window was removed and installed in the present building where it still remains.

It was noted in the celebration that the lodge barred all political and religious discussions, as its members were of all classes of Jews and members of all political parties, and sought to teach patriotism and work primarily for the interests of humanity as a whole. At that time the lodge numbered 200, and included some of the most important Jews in the City of Hartford.

DEGREE TEAM

At that time its members were initiated by a ceremony and ritual, and its degree team for the initiation of candidates was composed of Morris Older, Rabbi Harry Ettelson, Henry Marks, Samuel Nussbaum, Benjamin Kashman, George L. Rapport, and Milton Bachrach. The chairman of the celebration was Joseph Leipsiger. The guests were invited for dinner at the Heublein Hotel.

The Lodge's 75th Anniversary was held in the Ballroom of the Hotel Bond, in Hartford, on Jan. 23, 1927, and 500 guests were invited to celebrate and to listen to the Secretary of the United States Department of Labor, James L. Davis.

Judge Solomon Elsner was the toastmaster, Jacob Leipsiger was general chairman for the celebration, Morris Blomer was president of the lodge, Jacob L. Fox and Isadore Wise were in charge of the reception, Walter K. Katzenstein was in charge of invitations. Rabbi Abraham J. Feldman of Congregation Beth Israel participated. It was noted that through the courtesy of Radio Station WTIC, the entire program was broadcast.

Interestingly enough the lodge absorbed the entire expense and no charge was made to the membership of the lodge. The Hartford Times described the ballroom as having been transformed into a luxurious garden with four large American flags serving as a background.

The Lodge's 100th Anniversary was held at the Bond Hotel in Hartford, on Feb. 16, 1952. A gala banquet was held. Francis S. Murphy, publisher of the Hartford Times, was presented with a brotherhood award. The main speaker was Governor John Lodge. Colonel Milton Richman was president of the lodge, and Samuel Kellin was chairman of the 100th Anniversary Committee.

The toastmaster was Milton Nahum, who cited two reasons for the growth of the lodge in Hartford—1) that the lodge kept abreast of the changing needs in its services to the community and 2) because of its leadership. Rabbi Morris Silverman related details of its history, which were later incorporated in his book, "Hartford Jews 1859–1970."

PARTICIPATED IN WARS

The members and officers of the lodge participated in the Civil War, Spanish American War, World Wars I and II and the Korean War. The descendants of the original founders have joined the Lodge and continued in its work of service, e.g. Morton A. Elaner joined Ararat Lodge in 1939, and continues to be a member.

His great-grandfather, Harris Segala, was a founder of the lodge in 1851, his grandfather, Aaron Segalla, was a member and president of the lodge, his father Solomon Elaner was a member from 1909 until his death in 1962, and was a president of the lodge.

Its preamble, unchanged in 120 years, is as follows:

B'nai B'rith has taken upon itself the mission of uniting persons of the Jewish faith, in the work of promoting their highest interests, and those of humanity; of developing and elevating the mantel and moral character of the people of our faith, of inculcating the purest principles of philanthrophy, honor and patriotism; of supporting science and art; alleviating the wants of the poor and needy; visiting and attending the sick; coming to the rescue of victims of persecution; providing for, protecting and assisting the widow and orphan on the broadest principles of humanity.

Millions of dollars have been raised by the membership for such purposes. Almost all of the philanthropies which began are still maintained and others have been added. Its history has been called a record of service for the good and welfare of all humanity.

ARARAT LODGE PRESIDENT LOOKS TO THE FUTURE

(By William Singer)

When a handful of men founded Ararat Lodge No. 13 B'nai B'rith in Hartford on Dec. 18, 1851, they could not have imagined what the world would be like in the 1970's. There were only 100 Jewish families at the time and the great majority of them were foreign-born. This tiny Jewish community had many needs, religious, social and cultural.

Ararat Lodge was designed to be a truly Jewish organization based on the principles of Judaism and devoted to the best interests of mankind as a whole. Committed from its inception to the unification of Jews and the promotion of their highest interests and

those of humanity, Ararat Lodge has been untouched by doctrinal differences.

Ararat Lodge is rooted in a fundamental policy of service to the Jewish people and to the community, flexible in its programs to conform to the changing needs of the times and as dynamic as the world in which we live.

Ararat Lodge is affiliated with B'nai B'rith Sons of the Covenant, which was founded on Oct. 13, 1843 in New York City. B'nai B'rith is the largest and oldest Jewish organization in the world representing a membership of one half million. Ararat Lodge today has a membership of 550 members.

To adapt our program to the changing times, the Lodge has lowered its membership age to 18 and has included younger men on its executive board, its officers and committees. Ararat Lodge concerns itself with the strengthening of Jewish loyalties in our young through its Hillel Foundations on the college campuses and AZA B'nai B'rith Youth Organization.

The Lodge has adult Jewish education programs to increase Jewish knowledge in our adults. It battles anti-Semitism, discrimination, prejudice and extremism through the Anti-Defamation League of B'nai B'rith. It will focus on new areas such as the Jewish poor, drug addition amongst Jewish youth and problems affecting the stability of the Jewish family.

It will continue in its programs to help Israel survive and prosper. It dedicates itself to assist the Soviet Jew in his struggle to assert his Jewishness, peace in our times and problems of the aged.

We look forward to the observance of the 120th anniversary of the founding of Ararat Lodge as an occasion for reaffirming the ideals for which B'nai B'rith has stood devoted to the best interests of humanity.

Ararat Lodge stands ready today seasoned by experience and enhanced by the dedicated service and enormous prestige of its illustrious membership to face the challenges of our people and all people in the decades to come.

NOVEMBER 22, 1971.

Mr. WILLIAM SINGER,
Attorney at Law,
Hartford, Conn.

DEAR BILL: Thank you for your letter.

Enclosed is my statement in commemoration of the Ararat Lodge's 120th Anniversary.

When I receive the full page of the December 17 issue of the Connecticut Jewish Ledger, I will be pleased to insert it in the Congressional Record with appropriate remarks.

Sincerely,

ABE RIBICOFF.

WILLIAM SINGER,
Attorney at Law,
Hartford, Conn., November 17, 1971.

U.S. Senator ABRAHAM RIBICOFF,
Senate Office Building,
Washington, D.C.

DEAR SENATOR RIBICOFF: It is my privilege and honor to be President of Ararat Lodge No. 13, International Order of B'nai B'rith. This Lodge was instituted in Hartford, Connecticut, on December 17, 1851. As such, it has been in continuous existence in this community for 120 years. Its members and officers have been active in the civic and community affairs of the City of Hartford. For example, Solomon Elsner, Jacob Fox, Gershen Fox, Rabbi Abraham J. Feldman, Rabbi Morris Silverman, Attorney Milton Nahum, Samuel Kellin and many other leaders too numerous to mention.

I note that you have been a member of our Lodge for many years and have offered insights in the B'nai B'rith publication, The National Jewish Monthly.

The Connecticut Jewish Ledger has kindly and graciously offered a full page of its December 17th edition in connection with the Lodge's 120th Anniversary.

I believe it would be appropriate to record this event in the Congressional Record and I am hoping that you may deem it proper to offer such resolution. I would appreciate receiving your congratulations and any other records or statements in commemoration of this Anniversary.

The deadline for the publication requires me to receive and furnish to the Ledger the appropriate materials prior to December 3, 1971. Please forward them to me.

Thank you in advance for your kind and gracious consideration.

Very truly yours,

WILLIAM SINGER,
President, Ararat Lodge No. 13.

STATEMENT OF SENATOR ABE RIBICOFF

My heartiest congratulations to the Hartford Ararat Lodge No. 13 of the International Order of B'nai B'rith on the commemoration of this exceptional milestone in its long history.

As a proud member of the Lodge for many years, I am well aware of its many fine contributions to the entire Connecticut Jewish community.

I look forward to the Lodge's continued successes for many years to come, and am most pleased to be able to add my own best wishes to this joyous 120th Anniversary celebration.

OREGON WELFARE MOTHERS EDUCATE THEMSELVES IN ORDER TO LEAVE WELFARE ROLLS AND HELP OTHER RECIPIENTS DO THE SAME

Mr. HATFIELD. Mr. President, earlier this month it was my privilege to introduce to the Senate Finance Committee several fine women from the community of Eugene, Oreg. They were Mrs. Lyndia Wilt, president of the Aid to Dependent Children Association of Lane County, Oreg., who testified on behalf of the federated self-help groups of Oregon on the Welfare Reform bill.

With her were: Mrs. Robin Derringer; Mrs. Patricia Ban and Mrs. Loretta Daniels. All were recipients—none receiving over $200—of the Federal/State welfare program in Oregon, but they have taken very uniquely constructive initiatives to educate themselves for jobs so that they may leave the welfare rolls. They are also working constructively, and with quiet effectiveness, with State and local authorities, with members of the State legislature and with the local community college and the University of Oregon in Eugene, to educate other recipients so that they, too, may work themselves off welfare. In the process, they have been reeducating the citizens of Oregon and changing the "image" of those who receive welfare aid.

Mrs. Wilt submitted testimony, not only as to what should be done about the present and proposed welfare program, but tried to apprise the Finance Committee, as well, of the tremendously worthwhile self-help program which they have had in operation for several years.

Too often the newspapers print only the sensational and the bad news about those on the welfare rolls—just as they print oftentimes too much of the negative and destructive forces at work in our political system which has led to great polarization and estrangement between social groups. The media too often ignores the quiet, constructive efforts of hundreds of men and women—such as is under way in Oregon—and those who testified from my State who have done so much to relieve human suffering. They have also brought a renewed sense of hope to those on welfare and have brought a chance for a changed life to many people in the State.

These women made fine witnesses before the Finance Committee. I ask unanimous consent that Mrs. Wilt's testimony be printed in the RECORD so that others will become aware of this innovative program which Oregonians have undertaken.

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

OREGON WELFARE MOTHERS HELP OTHERS

I am Lyndia Wilt. I am president of the A.D.C. Association of Lane County, Oregon. I am testifying today in behalf of the federated self-help groups of Oregon.

The materials we have entered as testimony will indicate the extent of the self-help programs and their effectiveness in Oregon. These are programs designed by the poor, implemented by the poor and financed through the efforts of the poor.

Under HR 1 most of our programs will be discontinued. Our scholarship program, the telephone aides program, and the Confidence Clinic will be eliminated. We would suggest that the federal government allow the states to pay up the number of quarters that anyone on welfare is lacking, so that the aged, blind and disabled can be eligible for total Social Security benefits. The federal government should incorporate federal regulations which state that all states are required to adopt A.D.C.-UN programs to eliminate the increase in family breakdown. They should eliminate certain categories of need, and substitute categories for people in need. The federal government should establish a federal minimum standard of living for each area. On acceptance of these standards, the federal government would assume the cost on a 9 to 1 matching basis. The federal government should recognize their responsibility for all people in need. In particular, we refer to those persons currently declared as unmatchable. For example, those currently receiving unemployment, those receiving workmen's compensation, and those receiving general assistance. They should guarantee basic training and development funds for innovative programs designed by the poor.

It has long been accepted as a part of our industrialized society that those who work hard are entitled to the goods of our society. It is time we recognized that this concept is not necessarily true. Tell the unemployed aircraft workers from Seattle that they did not work hard. Tell the unemployed workers from the closed factories that have now relocated in Thailand, Samoa and other underdeveloped countries that they did not work hard. But tell them that children are now working in some of those factories, and they apparently do work hard.

It is time that this country responded to the necessity of a guaranteed income for the poor. These standards must be set at one of the more realistic levels set by the Department of Agriculture. The guaranteed income not unlike the present welfare system would merely designate a larger amount of money passing through the hands of the poor, directly back into the local economy. A guaranteed income for the poor merely follows the precedent introduced by the middle class in the form of soil banks, civil service, teacher tenure and oil depletion allowance.

The poor of this country are not depositing their money in Swiss banks. They are not buying tax free school bonds, municipal

bonds or state bonds. They are not investing money in ventures that will pay off far into the future, thus adding to the already pressing problem, of not enough money in circulation. They are taking their monthly welfare checks, and immediately sending them back to middle class pockets. They pay rent, heating and light bills, buy food and clothing, and they do not stick money away in banks. The money they receive goes directly back into the economy to keep it moving. I submit to you at this time, that welfare was never created to take care of people, but to take care of an economy that depends on money passing through many hands to stay alive.

The increase in the number of A.D.C. recipients is not the result of self-inflicted wounds; it is the result of a society that has broken down. This society no longer pays off for hard work, for education, or for wanting to be a good parent.

We are aware that no one should be exempt from the due process of law, but due process should also include equal opportunity. Equal opportunity to choose one's destiny, equal opportunity to live in decent housing and partake of adequate nourishment, to be properly clothed and to participate in the decision making policies of our government.

The federated self-help groups of Oregon are an example of the poor in this country who have been involved. We are involved at the state and local levels of our government, we are involved with agencies, civic groups, fraternal organizations, education and the working classes. We have proven that the poor can be responsible and concerned for the future of our country. They are concerned with the decisions their law makers are called upon to make. They are aware of the low priority given to the wishes, hopes and dreams of their class. They resent handouts, condescending attitudes and categorizing. They resent the lack of response to their cries for understanding. They will respond to any offer of involvement in their future, or to any hope for opportunity. Basically, they are reiterating again and again that when a man is starving, give him a hook and line, not a fish.

HR 1 is not welfare reform. It will not cure the disease of poverty, nor will it put all the poor to work. It will provide an avenue to build a new bureaucracy designed to administer a "get tough" policy, which is doomed to failure. This new bureaucracy will not be trained in the problems of the poor, they will not be trained in the problems of society. The new bureaucracy will learn as the charitable workers of the 1800's did, that poverty is a result of the society, not the sin of the poor.

We are not living in the 1800's nor are the poor as ignorant as their earlier counterparts. True reform must incorporate incentive, equality of opportunity and due process of law.

We must question whether or not HR 1 is true reform. Does it incorporate equality of opportunity and the due process of law, as guaranteed under the constitution? If it does not guarantee the rights and opportunities for all citizens, then it cannot be reform, it becomes repression.

You must examine the constitutionality and the intent of HR 1. We have merely brought to your attention some of our feeling concerning HR 1, a few suggestions for alternatives, and a showing that self-help programs in Oregon are working.

REVIEW OF H.R. 1

I. HR1 establishes an eligibility scheme that excluded many classifications of needy persons from welfare benefits. Generally, HR1, provided that certain families, as defined in the act, are eligible for benefits. A family, in order to be eligible, must contain at least two or more individuals at least one of whom is a child, (Section 2155(a)(4)).

This definition excluded the following persons:

(a) the single persons over the age of 18 who are childless.

(b) married couples without children or whose children are over the age of 18 and not attending school.

(c) a single woman who is pregnant and has no other children.

(d) an unmarried person whose child is over the age of 18 and not attending school.

Undoubtedly other classifications of ineligible persons can be derived from the restrictive definition of family as defined in the act.

The above classifications are derived from the definition of "family" as found in Section 2155(a)(4). There is one significant and specific exclusion found in the act. *If the head of the household is a full time undergraduate or graduate student at a college or university,* he or she is excluded from the benefits, Section 2155(a)(4)(a).

II. GENERAL ELIGIBILITY REQUIREMENTS

Every eligible family is entitled to benefits upon registration for manpower training and employment, Section 2102. Those individuals who are determined by the Secretary of HEW to be a member of an eligible family and available for employment, must register with the Secretary of Labor for man-power services, training, and employment, Section 2111(a).

If the Secretary determines that an individual is unable to engage in work training by reason of illness, incapacity, or advanced age, he is not required to accept employment, Section 2111(b)(1). Until July 1, 1974, a mother of a child under the age of six is not eligible for employment. Thereafter, a mother of a child under the age of three is not eligible for employment, Section 2111(b)(2).

The only standards for the employability of an individual is whether he is able to engage in work or training by reason of illness, incapacity or advanced age. There is not requirement that the work be suitable or gainful. The act specifically requires that employment cannot be refused if the wages for the work offered are at an hourly rate of not less than ¾ of the minimum wage. As specified in Section 6(a)(1) of the fair labor standards act of 1938, Section 2111(c)(2)(d).

The effect of this provision would create a vast pool of unskilled cheap labor that would be utilized by industries that were not subject to the fair labor standards act. These persons could be compelled to work for the sum of $1.20 per hr. gross, or otherwise be ineligible for benefits provided in HR1.

The act contemplates that women with children will be deemed employable.

The act therefore provides that childcare and other supportive services will be provided, Section 2112. The Secretary of Labor is authorized to make provisions for the furnishing of childcare services. There appears to be no provision in the act that allows a mother to decline child-care services if they are at an inconvenient location, or unsuitable because of unsafe or unsanitary conditions. Therefore, it is not clear whether a mother who declines employment because of the unavailability of suitable childcare facilities would remain eligible under the act for benefits, because there are no provisions in the act allowing her to justifiably refuse employment under these conditions. It is likely that the Secretary would determine that she was ineligible. The Secretary of HEW must establish standards assuring the quality of child care services, Section 2134.

III. ELIGIBILITY FOR AN AMOUNT OF BENEFITS

Resources of an eligible family cannot exceed $1,500, Section 2152 (a) (2). The Secretary of HEW has the power to determine the resources of a family that should be excluded from the $1,500 maximum. The Secretary has the power to determine the value of the home that should be excluded or included in the $1,500 maximum as well as the value of the household goods, personal effects and other property which the Secretary deems essential to the families means of support, Section 2154 (a). These guidelines have not been formulated. In cases where the Secretary determines that a family has assets above the $1,500 maximum that are not excludable, he can prescribe a period or periods of time and the manner in which this property shall be liquidated. The funds that the family receives through this liquidation process is considered an overpayment if benefits are being paid during the time of disposal, Section 2154 (b).

The amount of benefits for a family are paid at the rate of $800 yearly for each of the first 2 members, plus $400 yearly for each of the next 3 members, plus $300 yearly for each of the next 2 members, plus $200 for the next member, Section 2152 (b).

The act, therefore, clearly does not compensate eligible families that are greater than 8 in number.

The amount of benefits payable initially to an eligible family must be based upon the Secretary's estimate of the families income for such quarter.

The Secretary must take into account the families income from preceding quarters in any modifications which are likely to occur on the basis of change of circumstances or conditions.

The amount of benefits payable to any family for any quarter of a calendar year shall be determined by the Secretary in the quarter immediately following such quarter; and, to the extent that the amount actually paid to such family for such quarter; was more or less than the amount so determined, proper adjustment, or recovery can be made, Section 2152 (d) (1). This would allow the Secretary to deny benefits to the family whose earnings for appreciating quarters were high in relation to the benefits that they would be entitled to receive under the act. The act undoubtedly contemplates that the family has "saved" this difference when in fact it may not have been saved because it was necessary to apply these sums on pre-existing family indebtedness.

IV. THE HEARING PROCESS

HR1 specifically allows the Secretary to make determinations that would deny benefits, recover overpayments, and assess penalties without a prior hearing. The Secretary can make adjustments for overpayments, Section 2125(d)(2), and assess penalties and fines if certain data is not furnished. Section 2031(e)(1) and redetermines benefit levels at any time he receives notice or has reason to believe there has been a material change in the families circumstances, Section 2152(d)(1).

The impact of the Secretary's power is that benefits can be denied, curtailed or fines imposed without a prior hearing. The Supreme Court of the United States has repeatedly held that once a person is entitled to benefits that they cannot be limited, withdrawn, or denied without a prior hearing. This casts a serious constitutional question on the validity of the hearings provisions.

In all such cases, the recipient must request a hearing after the fact and carry the burden of proof that the Secretary's action was unwarranted. This invokes a hearing process that is equally oppressive.

HISTORICAL BACKGROUND OF THE LANE COUNTY ADC ASSOCIATION

Prior to the 1966 state general election, the Y-ettes (a recipient group taking part in a socialization training program of YM/WCA and the welfare department) were encouraged to sponsor a candidate fair. The candidates fair was an opportunity for all those people running for state and local positions to appear as a group to speak on the wel-

fare issues. As a result of the candidates fair, interested members of the Y-ettes, the mother's group sponsored by the Lutheran Family Services. Friendly House counseling group, and other welfare recipients began meeting informally to discuss what they needed to do about some of the more common problems shared by welfare recipients. Although they were well aware that there was an urgent need for changing policy, laws, rules and regulations pertaining to welfare, the immediate needs of the group were related to survival. It was just before Christmas, and the most loudly voiced question was, "How can we get free Christmas trees, and free turkeys, so we can still buy a toy for the children." This is an indication of why it is essential for poor people to be in charge of their own groups, because only poor people could understand that you can not solve state or national problems of the poor until you have solved your own immediate needs of food, shelter, and clothing.

With the help of Vista volunteers, and the co-operation of the Forest Service, they arranged for the cutting and delivery of truck loads of Christmas trees. With the help of friends and businessmen in the community they were able to supply turkeys at a drastic discount. They referred to the turkeys as disabled rejects, since they came to them with various portions of their anatomy missing; such as a missing wing, neck, leg, or large patches of skin . . . but they were turkeys and they were *very* cheap.

Once the group had satisfied its immediate needs it was willing to look at some of the reasons behind those needs. Again, with the assistance of some Vista volunteers, the group learned how to draw up its statement of purpose, and gave the organization a name; ADC Association of Lane County.

They realized that using "ADC" as part of their legal name would classify them solidly within the welfare stereotype, but they also agreed that they could use this label to their advantage and work to reduce the stigma that had always been attached to it.

In formulating the initial operational strategy, they borrowed liberally from a beginner's book on public relations that they found at the public library (these books are abundant and may be very useful to groups that are in their formative stages). Some of the ideas that they adopted from this book and that have been used are:

a. To present ourselves honestly, including admitting our condition and dealing with it straightforwardly.

b. To be willing to be questioned on any point dealing with our own personal situations and to discuss openly the causes of our being on public assistance. (It should be mentioned that any member who was unwilling to follow these precepts was encouraged to participate in areas that did not involve public representation.)

c. To be representative in appearance and thought of all recipients as much as possible, thus avoiding the extension of our own personalities into issues that really belong to an entire class.

d. To use a factual, informative approach and to avoid emotionalism in presenting issues.

e. To use peer groups in bringing pressure to bear on the people we are trying to convince.

In short, they learned how to use "the system" for the benefit of the people represented. The next step was to work up the constitution and by-laws, and file for articles of incorporation.

They came to an agreement, by consensus, that they would follow a line of public relations procedures, using as their motto, "When a man is starving, don't give him a fish . . . give him a hook and line and teach him to fish for himself". Getting input from the entire Association now that they had a statement of purpose, constitution and by-laws, was made much easier because the association had a direction in which to go. From there they could concentrate on changes that were needed for the entire recipient population. They chose the things that they felt were to be achieved immediately. They realized that some goals would take a little longer, perhaps as long as ten years. They proceeded to recruit sympathetic local people who were politicians, but who had experience dealing within the political arena. These people worked as associate members. They were from both political parties and from all educational backgrounds, i.e., sociologists, psychologists, economists, representatives from business, social work, education, law, and public administration. Other valuable associates were ex-legislators and the wives of politically influential persons within the community.

They were also fortunate in finding a film which was designed to teach people how to get a bill written, sponsored, and how to lobby in the legislature.

The thirty minute movie was nothing like the real thing, and they couldn't see the long educational process ahead of them for the next six years. The movie made the process look simple, and motivated them to action. They soon realized that there was no better way to learn than by experience.

Don't hesitate in getting involved because you're afraid of making mistakes. Every session mistakes have been made, however, we have profited from those mistakes, and avoided making them a second time. For instance, during the first session the "hard sell" was given to a man thought to be a legislator, only to find out he was the man from the supply room. From then on identity was an essential part of the format.

This drive to learn, also drove our lobbyists to the need to be there representing the group, even when they were working under adverse conditions. For instance, one of the two people who was going to the legislature was suffering from an attack of asthma complicated by emphysema. One day it was decided that she would sit in the ladies room which had a cot in it and would rest while the other member of the team did the leg work. After a period of two hours the leg man returned to report that she had gotten three legislators to sign the bills. With a gasp, the the reclining lobbyist replied, "I have been working too. I have been catching the lady legislators as they came through here. It's like having my own office." It generated the natural reply, "You may have your own office but you're sure limiting your clientele with the sign you have outside."

The next step was to take the ideas that were felt to be attainable, present them to a sympathetic legislator and have them drawn into legal bill form. Note: don't ever put all your eggs in one basket; the mistake in the first session was in allowing one liberal legislator to be the chief sponsor of all the Association's bills. Unfortunately, they were not aware that they would also inherit all of his enemies, which would cause future problems in getting the bills out of committee. Our tactics in later legislative sessions were to strategically divide the bills between the House and Senate and to get conservative legislators to sponsor them. Our reason for doing this will become clear in any lobbying effort that is undertaken by anyone.

While the lobbying effort was in progress, other members of the Association were reading and absorbing information on subjects that ranged from child care to legal procedure. They were investigating ways to fund the Association, by looking at the possibility of O.E.O. funds, and other agencies monies. The Association chose not to accept any funding if it necessitated relinquishing their self-governing principles. Since they found that usually there were stipulations requiring that relinquishment, they looked elsewhere for funding. Since the need for funds was present, some of the members worked on cake sales, rummage sales, movies, dinners and other fund raising projects. This money was partially used for expenses incurred in lobbying. One of these expenses was a result of the lobbyists having to coax the life out of a series of old cars owned by the members of the Association, in order to get to the capitol which was eighty miles away. Besides the expense of gas, the lobbyists also found that they had to have a lunch every day and parking. Certs were essential so the lobbyists did not "bad mouth" the legislators.

Other members were engaged in recruiting new members in order to get more welfare recipients involved in determining the goals of the Association. Still others were mailing out news-letters informing recipients in the county about the activities and how they could participate. The news-letters were put out with money contributed by some friends within the community. They were run off on different mimeograph machines from churches, university departments, and business people. They rotated the use of equipment in order to keep as many community groups as possible involved in their progress. They took it to the first person that expressed an interest and told them it was the only copy that they had. If they wanted to use it to make a copy for themselves they were asked to make a few extras for the Association. Research in the law library was being done by another committee in order to back up testimony for the lobbyists. People were recruiting by personal contact, telephone, and other means.

The willingness to work led to the programs that exist today. The cohesiveness of the people involved has led to the success of those programs. For the first time there were alternatives.

NEIGHBORHOOD VOLUNTEERS PROGRAM

Plan—To recruit, train and make use of Public Welfare recipients in supplementing social services for the purpose of improving understanding between recipients and social service staff; improving understanding of human resources and of the Public Welfare Department. The primary technique is the use of the telephone in geographically distant areas. Recipients are recruited because of their connection with the informal communication network among low-income people. It has been demonstrated that recipients find it easier to seek information from their peers.

Need for this service—Public Welfare recipients are residing in areas which are geographically distant or isolated from the County Welfare Office. Most recipients do not have telephones and must borrow a neighbor's phone or use a pay phone. Telephone communications between recipients and service workers are usually lengthy and frequently in response to a crisis situation. Telephone lines into the office are frequently busy so the caller must wait. A neighborhood volunteer can channel telephone calls by knowing who to call for help. The call itself is usually briefer when the volunteer is calling in behalf of the recipient, thus saving some caseworker time. Geographical isolation from the county office presents a transportation problem. Almost no small community has adequate public bus transportation. Telephone communication is therefore more important for these people.

Recruitment of neighborhood volunteers is usually done through casework staff who are able to identify those recipients who meet the desired criteria.

The caseworker looks for recipients who: (1) have shown an interest in being of help to others; (2) have knowledge of the social and economic conditions in their specific community; (3) have some knowledge of local resources; (4) have demonstrated an identity with and commitment to their com-

munity; and (5) are in communication with other low-income people in their area. In addition, the volunteer should have reasonably good health and should be able to drive a car.

Successful recruitment depends upon how well the staff knows their clients. In some areas, client groups or CAP agencies may be able to suggest neighborhood volunteers.

Publicity about the services of a neighborhood volunteer is done through articles in local newspapers and announcements by radio stations. The primary method of notifying the recipients is done by the caseworkers who send letters or notify their clients verbally. Newspaper publicity by itself is not effective since most newspapers do not wish to print telephone numbers.

Activities

The neighborhood volunteer must be available on a twenty-four hour basis to provide advice and help to those recipients who are faced with an emergency arising from a fire, medical needs, housing eviction, and other personal or family crises.

To advise local recipients and residents about the resources of the welfare department, education and training resources, availability of housing, availability of medical care, specialized resources for children, day care and emergency baby sitters.

To advise recipients and residents on how to make use of the resources.

To accept and record messages for the caseworker as requested by the agency client, by other community residents, or by the caseworker to be relayed to a specific client.

To provide supplementary service in behalf of the caseworker and to act, when appropriate, as a liaison for the caseworker.

To provide emergency transportation or locate transportation for an agency client.

To notify the caseworker or other appropriate staff of requests for service, date and hour of the request and disposition of the request; and to provide periodic reports.

To help locate and to solicit certain items such as appliances, furniture, or clothing from the local community in order to help the recipient supplement their assistance grant.

The neighborhood volunteer is likely to be in a position to give supportive help in a wide range of situations. Examples are: death in the family, money management, utility shut off, washer breakdown, eviction notices, etc.

The volume of contacts, either in person or by telephone, varies greatly between neighborhood volunteers. Factors influencing activity are: isolation or distance from County Welfare Office, experience and personality of the volunteer, and the density of the client population.

An experienced neighborhood volunteer may record as many as 155 contacts a month. Most contacts occur during the regular working day, and most of the activity revolves around the use of the telephone.

Training the volunteers

Training consists of two parts; initial orientation and on-going training.

1. *Orientation.* Each neighborhood volunteer should undergo an intensive period of orientation for one week. Included is an in-depth review of public welfare resources and services and other human resources in the community. Each volunteer should be given a resource directory or manual which contains current information about resources. The volunteer should tour the office and meet the county staff. Duties of the volunteer should be discussed with concrete illustrations being used to teach them their functions. The basic function and role of the caseworker should also be discussed. Training responsibility should be centralized in one county staff person who has demonstrated the ability to teach and to communicate with low-income people.

2. *On-going training.* A monthly session should be planned for the volunteers during which problems should be aired and resolved. Caseworkers should also participate in these sessions, to help clarify the difference in caseworker-volunteer roles. Tours should be planned to other major resource agencies such as: Social Security, Employment Office, Mental Health, CAP, and Legal Aid. During the sessions the training goal should be focused on providing information which is specific and relevant.

Costs

Neighborhood volunteers should be partially paid volunteers. A monthly fee for service should be paid to each volunteer to help them to cover expenses of additional clothing and personal items which they believe to be important in helping them to meet the public. The fee for service also represents a concrete form of recognition for services being given by recipient-volunteers. The monthly telephone charge should be covered as well as the original telephone installation cost when the selected volunteer has no telephone. Reimbursement for private car mileage should be paid when necessary, and child care to enable the volunteer to attend training sessions or to be away from home when providing emergency transportation.

INFORMATION FORUM

On vital issues concerning large portions of welfare population such as medical care, education, food stamps, H.R. 1, etc., we felt that public information forums for welfare recipients and for the general public should be held so that the greatest number of people could have the facts. The way we went about publicizing these forums was to get public service announcements on television, write-ups in newspapers, in Democratic/Republican newsletters, flyers to students and recipients, posters, and word of mouth. In some instances more than one forum was set aside for these depending on content and interest. An example of this was an open forum held in a public hall on H.R. 1 which stimulated a great deal of interest from the general public and the recipients which required many smaller meetings, especially with the League of Women Voters. Members of the League seemed to be upset by our stand on H.R. 1, since we opposed it, so we asked to be put on the agenda of their smaller group meetings where our members presented arguments in opposition to H.R. 1. We also were asked to speak before many classes at the University of Oregon, the University of Oregon YWCA, to labor unions, social concern groups of churches, a community college, granges, honorary sororities, the Lane County Council of Governments, and the City Council. The positive response from these meetings, came in the form of volunteers, for writing letters to legislators, for carrying petitions opposing H.R. 1, raising funds for lobbying and for sending recipients to testify at hearings in Washington, D.C.

Another example: Results from an informational open forum on medical care for the underprivileged brought about a much better understanding between the medical profession and welfare recipients, an understanding of doctor's problems by recipients, and an agreement between the two groups to work on better medical services for welfare recipients in the county. A system has been devised whereby everyone who needs a doctor may call the county medical office and a doctor's name will be given and he must respond to the request. Sub-standard drug lists, i.e., no liquid penicillin, no prophylactics, no fluorides, were brought to the attention of the Association. In turn these grievances were taken to the Governor's Advisory Committee on Medical Assistance for the Underprivileged by the Association's representative and as a result these items have been added to the drug list. Also, we were asked to elect a representative to attend the meetings of the charitable division of the Lane County Medical Association. In addition the Lane County Medical Association appointed as a consultant the ADC representative from the Governor's Advisory Committee on Medical Assistance for the Underprivileged.

TELEPHONE AIDES PROGRAM

Agreement to purchase services from neighborhood aides

The Oregon State Public Welfare Commission agrees to purchase, through the Lane County Public Welfare Commission, specified services from the Lane County ADC Association, to be provided in the communities of: Leaberg, Mapleton, Cottage Grove, Oakridge and Junction City. It is intended that current members of the ADC Association who reside in these communities will be available to clients living in these communities, to provide emergency service and referral services. Services will be available on a twenty-four hour basis to provide advice and help to those recipients who are faced with an emergency arising from a fire, medical needs, housing eviction, etc. The aide is expected to notify the caseworker as soon as the county office is open. The Neighborhood Aide will also be expected to advise local recipients about the resources of the Welfare Department, educational and training agencies, availability of housing, availability of medical care, specialized resources for children, day care and emergency babysitters.

The Lane County Welfare Commission staff will prepare lists which identify resources and how to contact resources when the caseworker is not available or when the county staff has requested referral activity from the aide. The aide is expected to keep a record of these activities.

The neighborhood aide will also be expected to take messages for the caseworker as requested by the welfare recipient, by other community members or by the caseworker to be relayed to a specific recipient.

It is intended by this agreement, that the neighborhood aide be available to provide supplementary service in behalf of the caseworker and to act, when appropriate, as a liaison for the caseworker. The neighborhood aide will not act for the caseworker, unless specifically requested to represent that caseworker.

Training of the neighborhood aide will be carried out by designated staff of the Lane County Welfare Commission with consultation from Mrs. Loretta Daniel. Training will include knowledge about community resources, the Assistance and Service Programs of the Lane County Welfare Commission, telephone techniques, etc. On-going consultation will be made available by the Lane County staff. The resources of the staff of the State Public Welfare Commission will be made available. Expenses to be covered by this agreement include installation of a telephone when necessary, the monthly telephone bill and a thirty dollar fee per month. The Lane County Public Welfare Commission will be billed by the Lane County ADC Association who will handle the reimbursement of the individual Neighborhood Aide.

The period of time to be covered by this agreement will begin ——— and will continue in effect until ———.

SPEAKERS BUREAU

The Speakers Bureau was developed because of our lobbying efforts at the State Legislature. Many groups in the community were interested as to why we went to the legislature and the results of our efforts. Because the burden of the speaking requests fell on two people, it was necessary to develop more versatility in the group.

Buddy System—The simplest way to remedy the situation was to divide into two groups, with each experienced speaker taking an inexperienced member to a speaking engagement. As the member developed experience, she in turn sub-divided and took a new member along.

The least experienced member spoke before small groups and as they gained experience, moved to appearing before large groups; they started with WIN orientations, university classes, business sororities, churches, civic clubs, and to Demo forums, conferences, and eventually to participating in lobby efforts. The main things we found to develop confidence in conjunction with speaking, was to give our people vast amounts of information on welfare policy, law conditions, housing, food stamps, medical aid, and our own programs, (statistics, etc.; and, always, *to work in pairs*. We also found it essential for success, to be frank, open, and willing to discuss personal experiences in public.

The Flash Card System—People who were very timid about giving speeches, used note cards with brief reminders concerning essential points. From these notes and from the information they accumulated, it was easier to go through lengthy speeches.

Results derived from the speakers bureau have been: contributions for transportation to the legislature, for our scholarship program, donations of clothing for our students and children, and a better understanding by the community of welfare problems. In addition, a great deal of respect within the community has been generated by the self-help concepts of our organization. As an example of this respect, the ADC Association and its self-help concept was mentioned in the application of the City of Eugene for All-American City, an award it won for the year 1970.

INFORMATIONAL BACKGROUND—A.D.C. ASSOCIATION OF LANE COUNTY, A.D.C. SCHOLARSHIP PROGRAM

I. HISTORICAL BACKGROUND

The Lane County A.D.C. Scholarship Program was conceived and designed around a kitchen table by a group of A.D.C. recipients. They presented it to the 1967 Oregon State Legislature and lobbied to ensure its passage.

The program was originally designed to receive token funding from the state. When passage of the bill setting it up was in danger for lack of funding, the A.D.C. group instead, to specify that needed funds would be raised by the local A.D.C. association. Because originally no state money was appropriated for staffing, the program was poorly administered until 1970 when some staff was added at the local level to try to provide services for the large growth in numbers of students.

The A.D.C. Scholarship covers costs for tuition and books only. The Lane County Welfare Commission has appointed an A.D.C. Scholarship Committee to approve scholarship applicants and administer funds. Membership on the Committee includes welfare recipients and representatives from the ministerial association, business community, labor organizations, and educational institutions.

Most students attend Lane Community College but approximately 6 percent attend the University of Oregon.

II. PHILOSOPHY

The program operates on a philosophy that all people should have an opportunity for education regardless of financial status, test scores, professional evaluations, previous failures and past problems.

III. CASE STUDIES

These case studies of typical A.D.C. Scholarship students provide examples of some of the program successes:

Mr. M.—Age 25–30; wife and 2 children, had nervous breakdown—not eligible for other programs, one year training in Radio Broadcasting, employed 1970 in California as a radio broadcaster.

Mr. C.—Age 33; wife and 2 children, severely handicapped by polio—refused training by all other agencies and judged to be physically unemployable. Wife hospitalized for emotional problems. Two-year program in Technical Drafting. Employed 1971 as a draftsman for local construction firm.

Mrs. G.—Age 36; three children; divorced, one-year Secretarial/Social Science course on welfare on Thursday, enrolled in school the following Monday. Employed 1970 by City of Eugene as a community development worker.

Mrs. M.—Age 29; 2 children; divorced, two-year Accounting Clerical course, honor student—member Phi Theta Kappa honor society, employed 1971—ten days after graduation by local restaurant.

IV. GROWTH AND SCOPE OF PROGRAM

During the 1967–68 school year 19 people attended school on an A.D.C. Scholarship. As knowledge of the program spread, the number of students increased so that during 1971–72 between 200 and 300 people are expected to take advantage of training opportunities.

The A.D.C. student population is comprised of divorced or widowed mothers with children, children in A.D.C. homes, unwed mothers, school dropouts, men refused by other programs, foster children and physically or mentally handicapped people.

Seventeen per cent of the students are children (under 21) from A.D.C. homes and the rest are adults ranging in age from the early twenties to the forties and fifties.

At present (1971–72) we have over 200 students at Lane Community College and 20 at the University of Oregon, our students continue to succeed. This is evidenced by their grades (2.5 average) and by their increasing involvement in the community at many levels.

V. FUTURE OF THE PROGRAM

The explosive growth in the numbers of A.D.C. scholarship students since 1967 has caused a funding and service crisis. There has not been adequate counseling, follow-up, or welfare servicing. Even in light of financial difficulties, A.D.C. Association members are continuing to raise funds and adjust the program to meet current needs. However, this adjustment does not include turning away eligible applicants for lack of funds. Our policy continues to be one of enrolling the student first and raising the money afterward. This is consistent with the distinguishing characteristic of the A.D.C. program which is its philosophy of concern for the worth and success of individuals. This differs greatly from the philosophies of other programs which, when implemented, appear to be more concerned about statistical information and showing results, often to the neglect of the individual's real interest.

As a part of this concern for our students, we are constantly on the alert for possible violations of Federal and State laws and regulations. Sometimes our information comes to us through our friends, thus, illustrating the importance of establishing firm contacts within, and beyond, the community.

In one case, we received information from an educational Financial Aids officer in California through a local friend, who told us that the Welfare Department was illegally deducting school expenses (NDEA loans, grants and scholarships) from regular assistance checks. We wrote a letter to the regional HEW office in Seattle to check this information, and their replies showed us that the Department was clearly in error.

Following are copies of the letters we received. We keep these in our files, along with all other correspondence to use at any time that there is a dispute over the validity of our statement or our actions. Then, we can produce Xerox copies of whatever we need, while retaining the originals for future use.

Our issues such as this, where large groups of people are involved and legal rights are threatened, we make our information available to everyone concerned as quickly as possible.

Knowledge is protection against unnecessary distress. It is our obligation to provide an education regarding the students rights and privileges under the welfare system as well as encouraging them in an education toward self-sufficiency.

CONFIDENCE CLINIC

One of the most exciting programs we're beginning to establish in Oregon, is the Confidence Clinic Program, designed to increase the level of morale and feeling of self-worth among recipients so that they will be better able to take direction of their own lives. Although this intent of the contract itself is to prepare persons for eventual training and employment, the philosophy inherent in the Association is to make recipients aware of their full potential as human beings and to give them enough confidence to exercise that potential in whatever manner best fits their individual desires.

Programs have already been established in Medford, Klamath Falls, and Roseburg. Lane County is in the process of establishing one in Eugene. These programs vary somewhat in format, to allow for differences in regional resoures and emphasis, but all the programs share the common goal of personal self-worth.

The Confidence Clinic has tremendous potential for expanding our thinking on welfare reform and rehabilitation, by creating a program that is multi-focus in nature, and that draws from the recipient population allowing recipients to become their own change agents, we are perhaps making an even more dynamic statement about the nature of professionalism and human service in this country. We are saying, that the client is his own best resource and that paraprofessionals, as trained through active participation in our program, will be able to perform quality services to the community in areas that were formerly thought to be the exclusive province of the college educated.

With this program, we are possibly taking a critical step in answering the questions "How does a person get out of the welfare cycle?", and more important, "What can be done about the welfare problem?"

Our contract as follows:

AGREEMENT TO PURCHASE SERVICES

Whereas, Lane County ADC Association, Inc., hereinafter referred to as Association, is a nonprofit corporation of the State of Oregon, and

Whereas, the Children's Service Division, hereinafter referred to as the Division, desires to obtain services through a purchase of services agreement, from available funds,

Now, therefore, Association and Division agree as follows:

Association Agrees to:

1. Furnish the following services through the Confidence Clinic, for the purpose of providing pre-employment or pre-training services which will help the individual become better prepared for employment or training.
   a. Basic education
   b. GED training
   c. Grooming
   d. Job search techniques
   e. Individual and group counseling
   f. Referrals to Divorce Clinic
   g. Office training
   h. Speech
   i. Locate housing and child care in emergencies
2. Through the combined efforts of members of the Association to provide mutual encouragement and support to each individual

referred to them for the above services (see #1).

3. Confer and help develop an individual plan for each individual referred by the staff of the Division.

4. Provide progress reports on each individual and other reports as may be required by the Division.

5. Provide reports which will demonstrate and document individual change in response to services received from the Association.

6. Provide for a periodic internal audit following established auditing procedures to insure accountability of expenditures and costs.

7. Abide by the applicable state and federal statutes, the applicable rules and regulations of the Division, and the applicable rules and regulations of the U.S. Department of Health, Education and Welfare.

Division Agrees, through the Lane County Department, to:

1. Screen and refer AFDC recipients who appear to be in need of confidence building as part of their general rehabilitation, to the Association for the above services (see #1. through 1.).

2. Encourage the participation of the individuals who have been referred, in the services of the Association.

3. Provide information to the Association which will help the Association in providing services to individuals.

4. Arrange and provide child care costs and training allowances in accordance with current Division policies.

5. Provide consultation and technical assistance to the Association through the staff of the Division and the Lane County Welfare Office.

6. Payment for services provided for individuals referred to the Association as follows:

a. Monthly payment of service for each individual—$110,00.

b. Cost of service is based upon an average of 20 referrals each month for a period of service up to 90 days for each individual.

The Parties Mutually Agree That:

1. Association shall act as an independent agency and Division shall be in no way associated with or otherwise connected with the actual performance of this agreement on the part of the Association, nor shall this agreement in any way render the Division or its staff responsible or liable in any way for any act or omission of Association or its staff in such performance.

2. This agreement, each and every part, rights and duties, is not assignable.

3. Either party hereto may terminate this agreement by at least 90 days' written notice or it may be terminated by mutual consent, but, if not so terminated, it shall be in effect from ——— day of ———, 1971–, through the ——— day of ———, 197–, and shall be automatically renewed each year on a year-to-year basis unless ——— days' written notice is given to the other party expressing an intent that the contract shall not be automatically renewed.

J. DUANE SQUIRES—A ROAD TAKEN

Mr. McINTYRE. Mr. President, I wish to take a moment to share with Senators, a short reminiscence about a distinguished citizen of New Hampshire, Dr. J. Duane Squires. This man's life and experience came to mind as I read a recent issue of New Hampshire Echoes, a magazine for and about the people of my State.

Dr. Squires only recently concluded a full and eventful career as a professor at Colby Junior College, in New London, N.H., and his shift to new endeavors brings to mind how fortunate our State has been to count him as one of its citizens.

Dr. Squires came to New Hampshire some 37 years ago and by his own admission has never had cause to regret his choice of homes. A short passage from one of Robert Frost's better known poems typifies his path:

Two roads diverged in a wood, and I—
I took the one less traveled by,
And that has made all the difference.

It is fitting that we consider the peace of mind of men like Dr. Squires who have had the courage to take the less traveled road in life—for the times are not so different now than they were when Duane reached the fork in the road 37 years ago.

I can only hope that those who now reach that fork will be able to make a choice so filled with contribution, happiness, and peace.

I ask unanimous consent that the article published in New Hampshire Echoes be printed in the RECORD. It states well some things that we all can consider and provides a rare insight into the life of one of New Hampshire's finest citizens.

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

J. DUANE SQUIRES—A ROAD TAKEN

J. Duane Squires, retired chairman of the Social Studies Department at Colby Junior College, believes that little-known New Hampshireites "who strove mightily in many diverse careers" deserve remembrance. In a recent issue of Echoes, he wrote about some of those "who achieved distinction during their lives but who had largely faded from memory today."

Though one could scarcely say that Duane Squires had faded from memory, nor would his activities allow it, his name can surely be added to that group who strove mightily and deserve remembrance.

George Washington once wrote that "it should be the highest ambition of every American to extend his views beyond himself . . ."

Nearly two centuries later, his words were answered with the presentation of the New London Service Organization Third-of-a-Century Award:

"For professional, community and public service in the town of New London, New Hampshire, his adopted home for thirty-seven years.

"As Chairman of the Social Studies Department of Colby Junior College, he has expanded and inspired young minds;

"As the author of *Mirror to America* and many other important historical writings, he has brought distinction to this Town and State;

"As a lay preacher, he has comforted and uplifted all those who have had the privilege of listening to him speak;

"As a member of the New London Baptist Church, he has served on local, state and national boards to their betterment;

"As a husband and father, he has had in his work the cooperation and devotion of a lovely wife and the respect of two sons who, although in different fields, are filling, like their father, an esteemed place in their communities;

"As a Municipal Judge, he has tempered impartiality with understanding;

"And as a charter member and present president of the New London Service Organization, Inc., he has added immeasurably to the usefulness, dignity and beauty of our village.

"His high professional skills, his outstanding intellectual capacity and his knowledge of human needs has indeed enriched the cultural development of our Town and our State."

In his own words, Duane Squires states it simply: "For better or for worse I have attempted to live a life out from myself in helping others."

Born in Grand Forks, North Dakota, on November 9, 1904, James Duane Squires was educated in the Grand Forks public schools, received his Bachelor's degree from the University of North Dakota, his Master's degree from the University of Minnesota, and his Doctor of Philosophy from Harvard University. Before coming to Colby Junior College in 1933, he held lecture posts at the University of North Dakota and at the State College in Mayville, North Dakota.

Last year at a dinner honoring his retirement from Colby, Dr. Squires said, "A few weeks ago an article appeared in the paper that stirred my feeling. It was entitled VE Day Plus 25, and was written by a man who during 1944–45 had fought his way across Europe from Paris to the Rhine. Then it took him months of struggle to make the trip. This spring he easily motored the same distance in three hours.

"Tonight I retrace an even longer journey in an even shorter time, thirty-seven years in five minutes. The road back to 1933 is long, but we have had sterling friends on every step of the way. We have glad memories and sad memories, but the balance has been worthwhile. As Robert Frost once said in his poem about two roads which branched into woods, the one which was chosen 'made all the difference.'"

For all his years at Colby, Dr. and Mrs. Squires made a practice of entertaining his students each year at informal teas in their home. Many so appreciated the opportunity to meet with a faculty person in a setting outside the classroom that they have unfailingly written each year at Christmas time to express thanks for the courtesy. One alumna of the Class of 1935 has written each year since her graduation.

Dr. Squires himself, writes about 50 letters a month to congratulate friends on their birthdays, wedding anniversaries or other events in their lives. Some of these friends have grown to accept his letters as a part of the event itself. One octogenarian lady recently wrote that she counted her annual letter, along with flowers from her husband, and *the* two events of the wedding anniversary each year!

Modestly, Dr. Squires admits that some "high points" of his life included the thrill of nominataing Henry Cabot Lodge at the National Republican Convention in San Francisco in 1964, meeting General Eisenhower and Richard Nixon, and taking part in the 1954 World Council of Churches meeting in Chicago with more than 100,000 people in attendance.

During World War II, General H. H. Arnold appointed Dr. Squires as a member of a secret committee of historians to study Germany's war potential. It is only in recent years that existence of the committee has become known.

According to Dr. Squires, the allies had hoped to smash Germany's desire to continue its struggle by massive bombardment of its cities, factories and military bases, eliminating the need of a land invasion of Europe. However, the conclusion of the secret committee was unanimous—that the spirit of the German army and people could not be broken and that an end to the war could only be accomplished by a land invasion. Thus, Normandy.

One of Dr. Squires' several hobbies is floriculture, and he takes as much pride in his roses, peonies, gladioli and lilies as in his so-called intellectual pursuits. On one occasion at a flower show sponsored by the New London Garden Club, his flowers won a blue ribbon. It is proudly displayed in his

study at home, along with rare books and other collections of a lifetime.

He is also a devoted baseball fan. When the two Squires boys were in their teens, on one or two days each summer the entire family made the trip to Boston to see the Red Sox in action. Her older son, Vernon, made a collection of player autographs which the family still has carefully stored in an upstairs closet, of the 1940's and 1950's.

A life fulfilled? Not for J. Duane Squires. Before him lie several new volumes to be completed—The History of the Baptist Church in New Hampshire and a History of Colby Junior College. And this past year, Governor Peterson appointed him Chairman of the New Hampshire Revolution Bicentennial Commission.

Dr. Squires left Colby after thirty-seven years with these words from Alfred Noyes:

"I caught the fire from those who went before,
The bearers of the torch who could not see
The goal to which they strained.
I caught their fire,
And carried it a little way beyond;
But there are those who wait for it, I know,
Those who will carry it on to victory."

The task of carrying forward the torch from a man such as J. Duane Squires is indeed an enormous challenge, and one is reminded of a line by Patrick Henry:

"I have but one lamp by which my feet are guided; and that is the lamp of experience. I know of no way of judging the future but by the past."

James Duane Squires—historian, teacher, author and friend. Each life he has touched has been, as a result, far richer.

FINANCIAL STATEMENT OF SENATOR STEVENSON

Mr. STEVENSON. Mr. President, I have made it a practice for some years to disclose publicly my economic interests. In accordance with that practice, I ask unanimous consent that a statement of my assets and liabilities as of January 1, 1972, be printed in the RECORD. I update these statements quarterly, keeping copies in my Washington and Chicago offices available for public inspection.

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

Financial Statement by Adlai E. Stevenson III, January 1, 1972

January 1, 1972.

Real Estate:	
Fractional remainder interest in farm, McLean County, Illinois	$10,000
Home, Chicago, Illinois	90,000
Home, Washington, D.C. (cost)	125,000
One-third interest, residence, Beverly, Massachusetts	30,000
Interest in farm, Jo Daviess County, Illinois	60,000
Fractional interest, Fisk Building, Amarillo, Texas	3,200
Fractional interest, 1776 Pennsylvania Avenue, Washington, D.C.	20,000
Fractional interest, 633 Folsom Street, San Francisco, California	12,000
Real Estate—St. Maarten Island	8,000
Stocks and Bonds:	
12,640 shares, Evergreen Communications, Inc. (publishes Bloomington, Ill. Daily Pantagraph, operates WROK, Rockford, Ill. and WJBC, Bloomington, Ill., owns 10% of Bloomington, Ill. CATV)	160,000
34.1 shares, R. R. Leaseholds, Inc.	5,000
533 shares, KBA Townbuilders Group Limited, Tel Aviv	550
10,000 bonds, Baltimore, Md. 6.25%, 10–15–84 (market value as at Dec. 31, 1971)	11,346
70,000 bonds, New York State Antic Note 3/31/72 (market value as at Dec. 31, 1971)	69,979
27 shares, International Tel & Tel, $4 Cv. Pfd. (market value as at Dec. 31, 1971)	2,876
68 shares, International Business Machines (market value as at Dec. 31, 1971)	22,882
400 shares, International Tel & Tel (market value as at Dec. 31, 1971)	23,350
150 shares, Xerox (market value as at Dec. 31, 1971)	18,788
492 shares, Harris Intertype (market value as at Dec. 31, 1971)	25,338
25 shares, Doubleday & Co. (market value as at Dec. 31, 1971)	8,500
200 shares, Mesa Petroleum Co. (market value as at Dec. 31, 1971)	9,025
400 shares, U.S. Gypsum (market value as at Dec. 31, 1971)	12,950
Cash:	
Less current obligations	3,000
Personal property, including securities of nominal value, furniture, cars, paintings and clothing	$45,000
Total	776,784
Debts:	
Mortgage—Perpetual Building Association, Washington, D.C.	78,941
Mortgage—Continental Bank, Ill.	19,143
Note payable to Charles J. and Charlotte T. Whalen	5,200
Notes payable to Warwick Anderson (father-in-law)	12,000
Total	115,284

UKRAINIAN INDEPENDENCE

Mr. BROOKE. Mr. President, throughout the world are peoples who strongly desire to be recognized as free and independent peoples. Among them are the Ukrainians, who recognize January 22 of each year as the anniversary of the birth of their short-lived but nevertheless memorable Ukrainian National Republic.

In commemoration of this event, I ask unanimous consent that a proclamation issued by Governor Francis Sargent, of the Commonwealth of Massachusetts, and resolutions adopted by Ukrainian-Americans in Boston, Mass., be printed in the RECORD.

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

THE COMMONWEALTH OF MASSACHUSETTS, BY HIS EXCELLENCY FRANCIS W. SARGENT, GOVERNOR

A PROCLAMATION—1972

Whereas, January 22, 1972, marks the 54th anniversary of the proclamation of free Ukrainian National Republic, and

Whereas, The Ukrainian people continue, with fierce determination and great human losses, to struggle for a free and independent Ukrainian State, and

Whereas, The 54th anniversary of Ukraine's independence serves to dramatize the legitimate right and aspiration of all captive nations, which find themselves under Russian Communist domination, for freedom and independence;

Now, therefore, I, Francis W. Sargent, Governor of the Commonwealth of Massachusetts, do hereby proclaim January 22, 1972 as Ukrainian Independence Day and urge the citizens of the Commonwealth to take cognizance of this event and to participate fittingly in its observance.

Given at the Executive Chamber in Boston, this eighteenth day of January, in the year of our Lord, one thousand nine hundred and seventy-two, and of the Independence of the United States of America, the one hundred and ninety-sixth.

FRANCIS W. SARGENT.
DONALD R. DWIGHT.

UKRAINIAN CONGRESS COMMITTEE OF AMERICA, INC., BOSTON CHAPTER,
Jamaica Plain, Mass.

RESOLUTIONS

We, Americans of Ukrainian descent, assembled on January 23, 1972, in Boston, Massachusetts, for the purpose of commemorating the 54th anniversary of the Proclamation of free and independent Ukrainian National Republic on January 22, 1918, unanimously approved the following resolutions:

1. We declare that Moscow continues to violate human rights in Ukraine, by denying the Ukrainian people freedom of expression, assembly and religion.

2. We consider the latest imprisonments of Ukrainians, especially Ukrainian intellectuals who have spoken out against Moscow's oppressions in Ukraine, as further evidence of Moscow's genocide toward the Ukrainian people.

3. We appeal to President Richard M. Nixon to intercede, in the name of freedom and justice, before the Soviet Government, on behalf of imprisoned Ukrainian intellectuals.

4. We appeal to Massachusetts Senators and Congressmen to introduce resolutions to Congress, which would instruct our delegation to the U.N. to place the national, human and religious oppressions in Ukraine and all other captive countries before the U.N. Commission on Human Rights for investigation.

5. We appeal to the U.N. Commission on Human Rights to investigate, according to the U.N. Universay Declaration of Human Rights, Communist oppressions in Ukraine and TO DEMAND the immediate release of Ukrainian political prisoners. We especially appeal for the release of: Valentyn Moroz, Ivan Dzyuba, Vyacheslav Chornovil, Ivan Kandyba, Ivan Svitlychnyi, Evhen Sverstiuk, Halyna Didyk, Odarka Husak, Lev Lukyanenko, Dr. Volodymyr Horbovyi, Archbishop of the Ukrainian Catholic Church Vasyl Velychkovskyi.

We authorize the Executive Committee of the Boston Chapter of the Ukrainian Congress Committee of America, Inc., to bring our resolutions to the proper authorities.

KONRAD HUSAK, *President.*
M. FRANKIWSKY, *Secretary.*

ALF LANDON COMPARES NIXON FOREIGN POLICY WITH THAT of J.F.K.

Mr. PEARSON. Mr. President, the foreign policy positions of this country have, in recent days, been the subject of wide and intense partisan debate. And been known and described as a body which reacts to the issue or the crisis of the day, let me suggest that we reflect for a moment on the ideas and the wisdom of a man whose perspective in the field of foreign affairs is as broad and as deep as his experience in the political life of this Nation.

Former Gov. Alf Landon, of Kansas, in an interview with Lew Ferguson, of the Associated Press, has traced the foreign policy course of the present ad-

ministration back to the broad outlines of the strategy urged by President John F. Kennedy in his commencement address at American University in Washington, D.C., on June 10, 1963—5 months before his death. With attention to historical fact, Governor Landon, in careful and thoughtful terms, makes clear how the foreign policy decisions of our Government have been the subject and the result of bipartisan thinking. The current debate about our policy with reference to Vietnam, the Middle East, China, or the Soviet Union might well be made more sensible, it seems to me, if proper attention were paid to the historical and factual account of our foreign policby during the last decade, as made clear by the thoughts and remarks of Governor Landon.

Mr. President, I ask unanimous consent, therefore, that the interview with former Governor Landon, as written by Lew Ferguson for the Associated Press, be printed in the RECORD.

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

NIXON POLICY SAID REVISED J.F.K. PLAN

(By Lew Furguson)

Alf M. Landon said Thursday President Nixon is following a foreign policy course of normalizing relations with the world's other superpowers which was outlined in broad terms more than eight years ago by the late President John F. Kennedy.

"His foreign policy has been carefully planned from the begining," the former Kansas governor and 1936 Republican presidential nominee said in a yearend interview. "In a nutshell, the President is following the broad outlines of President Kennedy's American University speech."

STRATEGY OUTLINED

Kennedy enunciated what many consider to be his administration's foreign policy in an address entitled "The Strategy of Peace: Disarmament is the goal," at commencement exercises at American University in Washington, D.C., on June 10, 1963, just five months before he was assassinated in Dallas.

In that address, Kennedy said:

"Our military forces are committed to peace and disciplined in self-restraint. Our diplomats are instructed to avoid unnecessary irritants and purely rhetorical hostility.

"For we can seek a relaxation of tensions without relaxing our guard. And, for our part, we do not need to use threats to prove that we are resolute."

Kennedy concluded the American University address by saying:

NOT HOPELESS

"This generation of Americans has already had enough—more than enough—of war and hate and oppression. We shall be prepared if others wish it. We shall be alert to try to stop it. But we shall also do our part to build a world of peace where the weak are safe and the strong are just.

"We are not hopeless before that task, or hopeless of its success. Confident and unafraid, we labor on—not toward a strategy of annihilation but toward a strategy of peace."

Landon said he was pleased and encouraged at the time that a U.S. president would advocate such a course in foreign policy, which represented a departure from the policy of containment of communism.

KENNEDY POLICY EXTENDED

Landon said President Kennedy, "because of the untimely tragedy, did not have time to develop that policy."

Nixon's frequent references to a "generation of peace," Landon said, "are an extension of what Kennedy advocated.

"In Nixon's campaign speeches in 1968, you will find general references to it," Landon said. "The first gesture made toward accomplishing new, normalized relations was in February, 1969, 30 days after his inauguration. It was a mere gesture, a mention in a speech, but it was the first step.

"President Nixon is now taking advantage of the changes in the heads of government around the world to lead the way in abandoning the jingoism of the foreign policy of his predecessors. By that, I mean the belligerent, warlike policy of his predecessors."

ANALYSIS MADE

Landon said Nixon is "encouraging Russia and China to meet him on this new basis" in the President's visits to Peking and Moscow early in 1972.

"What we have," Landon said, "is a replacement of the containment by force and brinksmanship policies; he is taking the lead in encouraging the three major powers to abandon their jingoism."

Landon said the Nixon foreign policy may have been responsible for the India-Pakistan war not expanding and continuing longer.

"Expansion of the India-Pakistan war, which everyone feared, did not take place," he said. "His new policy may have worked there. Russia and China could have come into that situation, but they didn't."

Landon said he doesn't expect "any great sensational development" from Nixon's Peking trip, but concluded, "I don't think the establishment of diplomatic relations with Peking is outside the realm of possibility."

ELMO ROPER POLL SHOWS WOMEN AGAINST EQUAL RIGHTS AMENDMENT

Mr. ERVIN. Mr. President, one of the recurring myths that surround the equal rights amendment, or unisex amendment, is the allegation that all women are for the amendment. I know that this is not true, particularly among laboring women, because most labor unions, including the AFL–CIO, would not be so strongly opposed to the amendment if their constituency were for it.

Elmo Roper, a well-known pollster, took a sample opinion last year on women's views of women's liberation. I think the results of this poll should be very interesting to Members of the Senate because legislators sometimes fail to consider what the people want when they are constantly confronted by a highly vocal and publicity conscious pressure group, such as many of the women's organizations supporting the equal rights for women amendment.

The Roper poll shows that:

First, 69 percent of American women disagree that, "women are discriminated against and treated as second-class citizens."

Second, 83 percent of American women disagree that, "wife should be breadwinner if better wage earner than husband."

Third, 69 percent of American women disagree that, "a divorced woman should pay alimony if she has money and he has not."

Fourth, 77 percent of American women disagree that, "women should have equal treatment regarding the draft."

In interpreting these figures, it is important to recognize that these large majorities of Americans do not want the very things the ERA proposes. The primary sponsors of the ERA, including Congresswoman GRIFFITHS, maintain that: A wife should have the legal responsibility for family support if she is the better wage earner; the alimony laws should apply equally to men and women with the result that a divorced woman should pay if she has the money; the draft laws should apply equally to men and women with the result that women will serve in combat.

So what we have with the equal rights amendment is a proposition that will destroy all legal distinctions between men and women and the majority of men do not want this and the majority of women do not want this.

I hope that every Senator will have a chance to review Elmo Roper's Poll which appeared in the September 26, 1971, issue of Parade magazine. I ask unanimous consent that it be printed in the RECORD.

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

A SPECIAL ROPER POLL ON WOMEN'S RIGHTS

The Women's Liberation movement is making headlines, but seven out of ten American women feel they are not being discriminated against. What's more—seven out of ten men agree with them.

These are the findings of a special Roper Poll to determine the effects of Women's Liberation on the thinking of Americans.

Perhaps the most startling result uncovered by the poll is the close agreement of men and women on many key issues.

The survey put various questions to a large equal sampling of men and women, with this introduction:

"A lot has been said about the rights of women—in fact, there is a movement called 'Women's Liberation,' as you probably know. I'm going to read you several different statements and for each one I'd like to know whether you agree or disagree."

The results follow:

MEN'S CLUBS AND LODGES SHOULD BE REQUIRED TO ADMIT WOMEN

	Everyone	Men	Women
Agree	19	25	13
Disagree	72	67	76
Don't know	9	8	11

WOMEN EMPLOYEES SHOULD NOT EMPHASIZE THEIR FEMININITY

	Everyone	Men	Women
Agree	34	34	34
Disagree	59	61	58
Don't know	7	5	8

WIFE SHOULD BE BREADWINNER IF BETTER WAGE EARNER THAN HUSBAND

	Everyone	Men	Women
Agree	16	22	10
Disagree	76	69	83
Don't know	8	9	7

MEN SHOULD STOP APPRAISING WOMEN ON BASIS OF BEAUTY AND SEX APPEAL

	Everyone	Men	Women
Agree	43	38	48
Disagree	50	56	44
Don't know	7	6	8

IF A WOMAN CAN PLAY FOOTBALL AS WELL AS A MAN SHE SHOULD BE ON TEAM

	Everyone	Men	Women
Agree	38	42	33
Disagree	57	54	61
Don't know	5	4	6

A DIVORCED WOMAN SHOULD PAY ALIMONY IF SHE HAS MONEY AND HE HASN'T

	Everyone	Men	Women
Agree	36	52	20
Disagree	53	38	68
Don't know	11	10	12

SHOULD HAVE FREE/LOW-COST CHILD CARE CENTERS FOR WORKING WOMEN

	Everyone	Men	Women
Agree	65	61	68
Disagree	27	30	25
Don't know	8	9	7

WOMEN SHOULD GET EQUAL PAY WITH MEN FOR DOING THE SAME JOBS

	Everyone	Men	Women
Agree	88	86	89
Disagree	9	12	7
Don't know	3	2	4

PRETTY WOMEN SHOULD NOT GET BETTER JOBS/PAY THAN OTHERS

	Everyone	Men	Women
Agree	74	73	75
Disagree	21	22	20
Don't know	5	5	5

MEN SHOULD NOT HOLD DOORS OR GIVE UP SEATS TO WOMEN

	Everyone	Men	Women
Agree	4	15	12
Disagree	82	80	84
Don't know	4	5	4

WOMEN SHOULD HAVE EQUAL JOB OPPORTUNITY WITH MEN

	Everyone	Men	Women
Agree	73	71	74
Disagree	23	25	21
Don't know	4	4	5

WOMEN SHOULD HAVE EQUAL TREATMENT REGARDING THE DRAFT

	Everyone	Men	Women
Agree	24	31	17
Disagree	71	64	77
Don't know	5	5	6

WOMEN ARE DISCRIMINATED AGAINST AND TREATED AS 2D-CLASS CITIZENS

	Opinions by percentages		
	Everyone	Men	Women
Agree	24	24	24
Disagree	70	71	69
Don't know	6	5	7

CARL HAYDEN

Mr. FANNIN. Mr. President, the Arizona Republic on January 28 published three very fine tributes to former Senator Carl T. Hayden. One was an editorial written by publisher Eugene C. Pulliam; another was the reminiscenses of Republic Washington Bureau Chief Ben Cole; the third was an article by Ben Avery, a veteran reporter who is an authority not only on politics but on just about anything else connected with Arizona.

Mr. President, I ask unanimous consent that the three articles be printed in the RECORD.

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

ARCHITECT OF TODAY'S ARIZONA

Carl Hayden was the architect of Arizona's present status as one of the most attractive states in the West. He was a leader in bringing Arizona out of territorial uncertainties and giving it almost immediate national recognition as the land of opportunity with its unsurpassed natural beauty and a fresh and undying faith in the future of the United States.

Carl Hayden, more than any other man, created what America knows today as Arizona. Although a loyal Democrat, both by inheritance and conviction, he believed wholeheartedly in the two party system. He always insisted that splinter parties would destroy the republic, and he wanted none of them.

He served in Congress for nearly 57 years, and 75 per cent of his working hours were devoted to "doing something for Arizona." Almost all his service to the state was nonpartisan. He was for Arizona first, last and always. He had the courage to say yes as well as to say no. He had the respect of all senators, both Democrats and Republicans, who came to know him as an honest and faithful friend. Somehow, some way, this present generation of Arizonans must find a way to keep his memory and his service forever before our eyes and in our hearts.

E. C. P.

WARM AND WHIMSICAL: A REPORTER'S REMINISCENCES OF A FRIEND

(By Ben Cole of Republic's Washington Bureau)

WASHINGTON.—Among people of Celtic origin it is not unusual for the passing of a good man to be marked not in grief but by recalling the warm and happy and often whimsical episodes of his life.

It seems fitting to remember the late Sen. Carl Hayden of Arizona in that manner. Senator Hayden died in Mesa, Ariz., last Tuesday. He was 94 years old, had lived a rich, busy, exciting and rewarding life. He served in the Congress of the United States 57 years—longer than any man in history.

Among newsmen he had the reputation of being inaccessible, and he liked it that way. Somewhere back in the early days of his career he got misquoted, and from that day on he was disinclined to talk to reporters.

But he decided that Ben Avery of the Arizona Republic and this reporter were his friends, and for the two of use he was always a helpful and reliable source of news.

The first time Carl Hayden decided to talk to me was in the Summer of 1950 while I was sweating over a hot lawnmower in my backyard. My wife came out of the house wearing a baffled expression and said, "Somebody on the phone says he's Carl Hayden and he has a story for you."

It was too hot a day for practical jokes, and I stumped into the house with not too much joy in my heart. Then I discovered it really was Carl Hayden, breaking his silence on a particularly important legislative issue that my paper wanted to quote him on.

Evidently my quotations passed his sharp inspection. From then on I had the run of his busy office and frequently sat in front of his broad, cluttered desk wondering how long it would be before he burned off his forefinger down to the second joint by ramming it into his smoking pipe.

He used to grow restive if the congressional sessions dragged on into the late Autumn and he was deprived of a visit to his native Arizona.

"They ought to vote the money and go home," he would say abruptly, referring to the primary task of Congress to levy taxes and appropriate funds to run the government. He was convinced that if Congress sat too long, it only found mischief to do in the form of building more and more bureaucratic structures.

For all the great power that he wielded, Senator Hayden somehow always thought it was fun to be able to call famous statesmen by their first names.

One day, for my benefit, he rang up Secretary of State Dean Acheson and when the Cabinet officer came on the phone he grinned and said, "Hello, Dean. How are ya?" Then he looked at me impishly as if to observe, "How about that? I can call Dean Acheson by his first name."

You got the feeling that down in Foggy Bottom the Secretary was busy impressing his callers by replying, "I'm fine, Carl, old boy. How are you?"

For most of his years in the Senate, the venerable Arizonan and his frail invalid wife, Nan Downing Hayden, lived in the Methodist Building on First Street, a hop and a skip from the Senate Office Building and the Capitol.

Hayden's staff was given weekends off, but the senator always made it a point to visit his office on Sunday and check through the mail. Letters from Arizona always caught his eye, and he would carefully open them and read them through. Then, with a stub of a lead pencil, Hayden would meticulously write out the replies and leave them for his longtime secretary, Mrs. Edna Judge, to type the next day. He also wrote his own speeches—he didn't make many—and gave the longhand texts to Edna for typing.

One day I asked Mrs. Judge what she did with those precious hand-written documents after she finished with them.

"I throw them in the waste basket, of course," she replied.

When she was informed that she was probably breaking the hearts of every archivist in America, she started saving them. Hayden's papers are now at the Arizona State University where the Carl Trumbull Hayden Library was established after his retirement in 1969. He eschewed microfilm, despite the urging of his longtime friend and colleague, Senator Barry M. Goldwater.

When Senator Hayden's beloved wife died seven years before his retirement, Hayden's grief was silently intense. I was in Chestertown, Md., that Sunday delivering my daughter to a young people's church seminar at Washington College. It was late in the afternoon when I returned, and Senator Hayden had been trying all day to reach me.

I rushed to his office and found him there with two members of the staff. They had never confronted the situation before of dealing with the news of a beloved wife's death. Somewhat painfully, I sat down with Senator Hayden while he told me the particulars of Nan Hayden's life for an obituary. I typed out a short summary and gave it to Hayden's aides for telephoning to the local newspapers and wire services, then took care of writing the story for my own newspaper.

At Nan Hayden's funeral, the Senator sat in silent grief; but Senator Goldwater wept openly. He was devoted to both of the Haydens. By the time Hayden reached the end of his seventh Senate term, he was tired and burdened with some of the afflictions of age. His 1962 reelection campaign had been particularly bitter. Militant right-wing groups in Arizona exploited a respiratory illness that kept Hayden from campaigning. The old war-

rior, in fact, was confined in the Naval Hospital at Bethesda, Md., and while he was able to sit up and talk with a few friends he was a long way from being able to hit the campaign trail.

Moreover, his opponent back in Arizona was being helped by a telephone campaign almost nightly that spread the word Senator Hayden had, in fact, died and was hidden away in a Navy vault until after the election. The city editor of the Arizona Republic could withstand the inquiries for only so long, then about 3 A.M. Washington time he would phone with a plea, "I know it isn't true, but please make just one more check and let me know." I would phone the hospital's duty officer who in turn sent a Navy corpsman in to check on the powerful chairman of the Senate Appropriations Committee. Then I'd send back word to Phoenix, "Don't worry. He's fine—just a little weak from the flu." By the time the election drew near, nobody in Arizona believed me anymore.

Then on the rainiest Saturday of 1962, Hayden called a news conference at the hospital. Sitting between Vice President Lyndon B. Johnson on his right and Senator Richard B. Russell, D-Ga., on his left, he testified to his ability to fill out another term. He was 85 years old.

And fill out his term he did. In his latter days he even grew to like having his name in the paper and would emerge from his office to ask, "What's Ben been writin' about me?"

On one occasion—it was the only time in our long friendship—he let me feel the sting of his disapproval. It was at the time of the 1964 civil rights bill when a vote was being sought under the Senate rule providing for cutting off debate (cloture). Hayden never voted for cloture in his life on grounds his state of Arizona would have belonged to New Mexico had it not been for a filibuster on the admissions bill.

I reported (truthfully, by the way) that Hayden was caught between loyalty to his friend President Johnson and his distaste for cloture. So he sat out the vote in the cloakroom, ready to vote "aye" if necessary. It was the kind of report to bring criticism on a Senator.

Next day Hayden bearded me with, "What the hell you think you are? Some kind of an oracle or something?"

Members of Hayden's staff loved him devotedly and sought to protect his health every way they could. One youngster was assigned to follow him through the corridors and make certain he didn't fall on the marble floors. Hayden, who used to chase bandits as an unarmed Arizona sheriff, didn't like the idea. One day a terrified young man turned a corner to face a livid Hayden, heavy blackthorn cane poised for action. "Don't you follow me anymore, young man," thundered the irate Senator.

Early in 1968, Hayden decided to lay down his power and his honors and return to the warm sunshine of Tempe, Ariz. Reports circulated that he might decide to call it a day. Barry Goldwater, who had left the Senate to run for President, was ready to seek the vacant seat if Hayden retired. But he was adamantly disinclined to run against his friend.

Goldwater hopped on a plane and flew to Washington expressly to ask Hayden if he intended to seek reelection. "If you want to run, I wouldn't think of running against you," Goldwater said. Hayden assured him he was ready to go home.

When he announced his plan to retire, he chose a reception in the great hearing chamber of the Appropriations Committee which had been built to his own specifications. The room was packed. Many those present were gray haired Senate technicians whose whole careers had been served under the Senator from Arizona. Senator Russell was there again, and President Lyndon Johnson who declared with complete accuracy that Carl Hayden knew more about the Constitution of the United States than any man alive. Tears fell on Hayden's cheeks.

And so Carl Hayden left Washington to go back home. There will be other great men who will come after him. But there will never be another like him.

[From the Arizona Republic, Jan. 28, 1972]

CARL HAYDEN WAITED LONG FOR HIS PROMOTION TO COLONEL

(By Ben Avery)

Col. Carl T. Hayden (AN Ret.) had to wait until 1952 to achieve one of his secret desires—to get his retired status rank boosted to colonel.

In that year, his old Arizona National Guard fellow officer, Lt. Gen. Alexander M. Tuthill, accomplished the senator's promotion from major to colonel, retired.

In appreciation, Hayden wrote Gen. Tuthill, who was nearing the end of his own service as state adjutant general:

"I have always wanted to be a colonel, and your thoughtfulness has made it so."

But a little digging into the records of the Arizona National Guard reveals that Hayden turned down a promotion from major to lieutenant colonel when he was elected to Congress in 1911.

"I did not think that it was right to hold that rank in the regiment without performing any duty," Hayden said in explaining his refusal.

Over the long years, he never faltered from that code of honesty.

But typical of Carl Hayden, and also of Tuthill, the senator's honorary retired rank promotion was given no fanfare. And so his friends never did get around to calling him colonel.

The Arizona National Guard and America's military strength always were close to Hayden's heart. And through my own interest in marksmanship training and the fact that I served as captain of Arizona's civilian rifle team at the Camp Perry National Matches for several years, I became privy to his thoughts in these and other areas.

He was one of the first congressmen to volunteer for service during World War I and served as a major and battalion commander at Camp Lewis. He was a strong booster of the civilian marksmanship training program of the National Rifle Association of America (NRA) and made it possible for NRA clubs across the nation to provide pre-induction military training for 1.5 million young men during World War II. In recognition, he was made the first honorary lifetime member of the NRA—an honor accorded only three others.

In Washington Hayden gained quite a reputation as a western sheriff because he left the Maricopa County sheriff's office to go to the House of Representatives in 1912.

One day in 1964 when he and I were testifying before the Senate Commerce Committee against Sen. Thomas Dodd's gun bill, Sen. Strom Thurmond grilled the Arizona senator about his sheriff activities.

"I never had to use a gun," Hayden recalled for Thurmond, "and I never rode a horse."

Then, with a broad grin, he regaled the committee with an account of how he once chased down three outlaws in his Apperson Jackrabbit automobile and captured them near Chandler.

As a representative, Hayden was devoted to Arizona people.

My first recollection of him was as a 4- or 5-year-old hanging onto my mother's skirts at a gathering in Willcox when she went up to the congressman from Arizona to thank him for the garden seeds we received periodically from the Department of Agriculture with Hayden's name on them. I've always remembered that because those seeds stood between us and some pretty hungry times before World War I.

Little has ever been publicly known of the life of Sen. Hayden in Washington in the days before he became a power figure, and before the tragic illness that made Mrs. Hayden an invalid.

They were a devoted couple, but not inclined to take part in Washington social life. They lived in a small apartment across from the Library of Congress where Mrs. Hayden kept house and did the grocery shopping and cooking. Usually one of the young men from the senator's staff would drive her to a grocery store, and this chore at one time fell to Dix Price, who is now secretary of the Arizona Education Association.

"After supper Carl would almost invariably go across the street and spend two or three hours doing research in the library," Price recalled.

Price was one of a number of young men on Hayden's staff, several of whom he inherited when Ernest McFarland defeated Henry Fountain Ashurst in 1940.

Price recalls that Sen. Hayden was a strict taskmaster, insisting that every letter from Arizona be handled the day it arrived.

"But some of those letters were simply undecipherable," Price recalled. "We were instructed never to throw them away, but to put them in a box on the senator's desk. Once a week he would take them down to the Post Office Department where they had a deciphering clerk, and a few days later we would get them back with neatly typed copies.

"I remember one that came in . . . we were convinced no one could ever decipher the scrawled note. But back it came, and it was from an old prospector near Yuma who wanted a Bureau of Mines bulletin on zinc."

For many years Hayden and Ashurst formed a powerful team for Arizona.

Ashurst once put a friend on the spot by asking: "If you were going back to Washington and wanted to get some business taken care of, who would you see, me or Carl?"

The friend started to stammer.

"That's all right, I'll answer for you," he said. "You should go see Carl. But if you want to see the President, come to see me. Carl's a workhorse, and I'm a race horse. Arizona is fortunate to have this kind of team."

At the time, Ashurst was chairman of the Senate Judiciary Committee and Franklin D. Roosevelt was president. The two were very close until Ashurst opposed Roosevelt's court-packing plan.

On one of my last visits with Sen. Hayden in Washington, I was accompanied by my wife and youngest daughter, Mary. We had just left Camp Perry, where Mary had been beaten for the women's national service rifle championship by WAC Sgt. Barbara Hile. So Sen. Hayden consoled her by taking her on a personally conducted tour of the Capital while my wife and I attended to other business. He told us to join him in the senator's dining room for lunch.

After the meal, he made a futile search for his billfold, then confessed he had left it home. But he would not let me pay for the lunch. Instead he called over an ancient black waiter and asked him to charge the meal. Then the senator introduced us. These two had come to Washington as young men the same year, and had been close friends throughout the years.

One more story: During the depression a young black man from Arizona entered Sen. Hayden's office. He had holes in his shoes and clearly showed the economic impact of the depression. He asked to see the senator and was ushered into the office.

A short while later, Sen. Hayden brought him out and directed his staff to find a job where the man could work and go to school. In due time a job was found as night elevator operator in a building that was used very little at night so he could study medicine.

Dr. David M. Solomon of Phoenix remembered that episode yesterday and commented:

"All he asked was that I come back to Arizona to practice medicine and help my people."

UNIVERSITY OF CALIFORNIA LIBRARIAN OPPOSES EQUAL RIGHTS AMENDMENT

Mr. ERVIN. Mr. President, the November, 1971, issue of the Library Journal contains a letter written by a librarian at the University of California Library, Laurel Burley, on some of the drastic consequences which will result from passage of the equal rights for women amendment, or unisex amendment, as Professor Kurland of the Chicago Law School has called it.

Although I do not subscribe to all her propositions, I do believe that her statement should make some very interesting reading for the middle and upper class women who are the most vocal supporters of the equal rights amendment and who have such small awareness of the benefits of protective labor legislation for women who are performing primarily physical tasks in their jobs.

She states that—

The major danger in the proposed ERA lies in the fact that it would in one fell swoop invalidate all protective legislation enacted by the States to protect working women from exploitative employers . . . Protective legislation not only sets maximum hours and minimum wage standards, but also mandates such provisions as rest areas, toilet facilities and elevators, adequate lighting and ventilation, rest and meal breaks (including the right to eat one's meal away from the immediate work area), adequate drinking water (important for women and children who are farmworkers), and protective garments and uniforms.

Maybe the upperclass women that are pushing so hard for the equal rights amendment say, "Fine, do away with all protective legislation," but I hope their dilettantish concern for lesser well-off women will not be lost on Members of the Senate.

Mr. President, for an interesting statement on one woman's view of the effects of the equal rights amendment on laboring women, I recommend Laurel Burley's letter. I ask unanimous consent that it be printed in the RECORD.

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

PROTECTIVE LAWS

(By Laurel Burley)

As a professional librarian, working woman, and union member, I disagree strongly with the statements concerning the Equal Rights Amendment (ERA) and protective legislation in the article "The Legal Status of Women" by Kay Cassell (p. 2600–03). The amendment as it stands is destructive to all working people, would in no way guarantee equal pay for equal work, and would not extend rights to women beyond those in the 5th and 14th amendments to the Constitution. The major danger in the proposed ERA lies in the fact that it would in one fell swoop invalidate all protective legislation enacted by the states to protect working women from exploitative employers, protective legislation which has been granted de facto to working men in some cases.

Protective legislation not only sets maximum hours and minimum wage standards, but also mandates such provisions as rest areas, toilet facilities and elevators, adequate lighting and ventilation, rest and meal breaks (including the right to eat one's meal away from the immediate work area), adequate drinking water (important for women and children who are farmworkers), and protective garments and uniforms. The only other protection women have in these areas is through union contracts (only 15 percent of working women are unionized), or through the Fair Labor Standards Act, which only covers about half the women connected in some way with interstate commerce. Protective legislation, in the few states where it remains, has sometimes been extended to men, the discriminatory aspects of not giving, for example, lunch breaks or toilet facilities to men in the same plant being obvious.

Some idea of what might be expected were the ERA to pass can already be seen in the use being made of Title VII of the Civil Rights Act. In late 1969 Fibreboard Corporation in Antioch, California began to force women to work 16 hours a day and to lift backbreaking weights. Pacific Telephone in 1970 began ignoring state protective legislation relating to minimum hours. In fall 1970 Oregon took away the right of women to have two ten-minute rest breaks in an eight-hour day; and another large California corporation, Crown Zellerbach, began denying meal breaks to both men and women working in the Antioch plant. In summer 1971 a U.S. Court of Appeals struck out the sections of the California Labor Code regulating maximum weight lifting and the eight-hour day, 48-hour week for women. All these actions were justified on the basis that Title VII and EEOC guidelines superseded state protective legislation. Such instances are mounting at an incredible rate. On the basis of Title VII, 17 states have either totally or substantially annulled or repealed protective legislation covering women. The ERA as it stands will add the finishing touch.

No one should be so naive as to assume that if the ERA passes and protective legislation is wiped out, working women not protected by union contract are somehow going to be granted decent working conditions, a living wage, and a minimum work week by benevolent employers. The National Right to work Committee has already stepped up its activity in several states. The ERA as it stands will put the lot of every working person, man, woman, and child back in the 19th Century. We have fought too hard and too long for what little legislation we have which betters our working conditions. The ERA should be amended to extend protective legislation to *both* men and women. Laws dealing with equal pay for equal work and equal employment opportunity should be strengthened and enforced. Women should continue to fight for full equality under the law, not forgetting that the struggle is to better our lot, not to worsen it.

NUTRITION FOR THE ELDERLY

Mr. PERCY. Mr. President, to those of us who have taken an interest in nutrition services for the elderly—particularly for the elderly poor—the passage yesterday of the Kennedy-Pepper nutrition-for-the-elderly bill in the House of Representatives comes as welcome news indeed. This action virtually assures that a highly successful, on-going demonstration program which provides hot, nutritious meals for the elderly will be expanded and established on a more permanent basis.

The origin of this program goes back to 1968, when the Administration on Aging undertook a research and demonstration project whereby nutritious meals and nutrition education were offered to the elderly in communal dining facilities—such as schools, churches, and other public and nonprofit settings. The program operated on the premise that many elderly people suffer from inadequate nutrition, and that if their health could be improved by means of better nutritional service, so, too, could their emotional and spiritual outlook on life.

The program proved highly successful. One elderly participant described it in these terms:

It is hard for us as Seniors to put into words just how we feel about our Senior Citizens program. It has enriched our lives to the extent that we now have a real zest for living. The meals program has been a tremendous tool to get us together around a table twice a week. Besides the good we get from the nutritious meals, we also have a grand time socially.

Thirty American cities, including Chicago, were originally selected for participation in the demonstration program. As of last June, the program was still operating in 22 of the original sites. Yet despite the program's great success, it faced almost certain termination last June, as no provision had been made for funding it beyond that time.

To keep the program alive until such time as Congress could pass more permanent authorizing legislation. I offered an amendment within the Senate Appropriations Committee to extend the program for one year. My amendment passed the Senate, but subsequently failed to meet House approval when the appropriations bill went to conference. Fortunately, however, the administration agreed to save the program by refunding existing funds through Executive order.

On the second day of the White House Conference, the Senate version, S. 1163, passed the Senate by a unanimous vote of 88 to 0.

On February 3, in hearings before the Senate Special Committee on Aging, Dr. Arthur Flemming announced that the Administration is prepared to implement this legislation quickly upon House passage.

It is with great pleasure, therefore, that I take note of the House action of yesterday in passing this vitally important legislation.

Our next concern should be to assure the adequate funding of this program through the appropriations process. As a member of the Senate Appropriations Committee, and cosponsor of S. 1163, I intend to continue following its development and to make every effort to see that it is funded.

The passage of this legislation marks the logical culmination of the current demonstration project which has proved so successful. It is, in a sense, a known quantity, and I believe it offers us a partial alternative to expensive, institutionalized care for many senior citizens.

I am sure that many elderly people share my feelings of appreciation for Senator KENNEDY and Congressman PEPPER for introducing this legislation, as well as for the administrations promise to implement the program quickly.

Mr. President, I ask unanimous con-

sent that an article on the nutrition program for the elderly, published in this morning's New York Times, be printed in the RECORD.

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

HOUSE APPROVES MEALS FOR AGED

(By Majorie Hunter)

WASHINGTON, Feb. 7.—The House approved today a $250-million program to provide daily hot meals for the nation's elderly. The vote was 350 to 23.

Almost identical legislation passed the Senate unanimously several months ago. The Senate is expected to accept minor House amendments, thus sending the bill to the White House.

The program is geared primarily toward the poor, but meals and other nutrition services would be available to the more affluent elderly on an ability-to-pay basis.

Under the two-year program, the Federal Government would finance up to 90 per cent of the cost of state-sponsored feeding projects for persons 60 years old and older.

New York's estimated allocations would be $9.3-million in the fiscal year starting July 1 and $13.9-million the following year.

The projects would be operated for the states by public or private institutions, organizations, agencies or political subdivisions.

Community feeding services, offering at least one nutritious hot meal daily, would be set up in schools, churches, senior citizen centers or other centrally located facilities. Funds could be used to transport the elderly to the facilities and to provide home-delivered meals to shut-ins.

Nutrition experts have said that many of the more than 20 million elderly in the nation suffer from malnutrition.

TEA AND TOAST

Some have insufficient income. Others are too feeble to shop for food and prepare their own meals. Still others, suffering from loneliness and isolation, have no incentive to prepare nutritious meals and have been referred to as "the tea and toast" generation.

Each feeding project would be required to provide at least one hot meal a day, five or more days a week. The meals would be required to contain at least a third of the daily recommended dietary allowances established by the Food and Nutrition Board of the National Academy of Sciences, National Research Council.

Some such projects are already being conducted by church groups and other organizations, but a recent survey showed that only about 12,000 shut-ins throughout the nation were now being served by such programs.

The bill now passed by both houses was recently endorsed by President Nixon. The special feeding program was proposed by the White House Conference on Food, Nutrition and Health in 1969 and more recently by President Nixon's Task Force on Aging.

The bill was sponsored in the House by Claude Pepper of Florida and John Brademas of Indiana, both Democrats, and in the Senate by Edward M. Kennedy, Democrat of Massachusetts, and Charles H. Percy, Republican of Illinois.

WHY SPACE SHUTTLE, AND AT WHAT PRIORITY?

Mr. CRANSTON. Mr. President, America's space program has been one of this Nation's most important technological and scientific achievements. And the Apollo trips will go down as one of the greatest scientific accomplishments in man's history.

I believe Apollo was not an end, but a beginning of space exploration and space technology.

Now we are ready for the next step—the development of the space shuttle.

I welcome President Nixon's announced support of development of the space shuttle. In the Senate, I will do everything possible to make sure that this program goes forward.

For I am convinced that it is important not only to America; I believe it is vital to the future of the world.

In California, I was joined by Governor Reagan in helping to form a California Space Shuttle Task Force which has been arguing the case both for the creation of the shuttle program and establishment of the space shuttle base in California.

The task force has just published a new pamphlet entitled "Why Space Shuttle, and at What Priority?" which explains in lay terms the need for the shuttle.

This is an excellent publication. I recommend it to my fellow Senators and others interested in the future of the space program. I ask unanimous consent that the text of "Why Space Shuttle, and at What Priority?" be printed in the RECORD.

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

WHY SPACE SHUTTLE, AND AT WHAT PRIORITY?

(By James A. Cook, Executive Director, California Space Shuttle Task Force)

These are legitimate questions. In the midst of the urgency to proceed with the Shuttle, the need and the priority may not have been fully conveyed.

A NATIONAL PROGRAM

The Shuttle program is of national necessity and international influence. The need encompasses more than California's qualifications for sharing in the manufacture, interest in obtaining the testing program, and the extensive technical justifications for utilizing California's launch and landing facilities as the Shuttel's base-site.

RESOLVING EARTH NEEDS

Earth-located needs of our country and others will command the services of the Shuttle initially and for decades to come. Tasks include: assessing pollution of air and water, warning of crop disease, charting land use, evaluating the status of mineral reserves, foretelling of capricious weather, sorting out the crowded communications airwaves and . . . just as we are also observed from space . . . improving the reliability of our prudent observations of the international scene.

A major emphasis of the entire space program is increased attention toward resolving needs of earth. It is this orientation toward the earth that underscores the legitimacy of California as a launch site. From here launches rise into orbit without passing over another nation or crowded metropolitan center during ascent. Such launches go on to circle the earth from pole to pole in low or medium orbit while the earth rotates below from West to East. Thereby, all portions of this planet are viewed perpendicularly synchronized with the illumination of the sun, a conveniently desirable feature of launches from California.

By contrast, launches on several southward angles from Cape Kennedy are generall unfeasible because of overflight during launch of heavily populated southern Florida and the preference to avoid ascending overflight of Cuba. Historically, the Florida launch site was invaluable during the early years while we were still developing thrust capability and needed the eastward rotational spit of the earth to assist in lofting payloads into orbit and for safe ocean dump while we developed reliability. Flights into equatorial orbits or on toward the moon have been among the major contributions of that site.

SHUTTLE PRIORITIES

Priorities exist now. But other priorities are also arising within the short span of the Shuttle's developmental years that urge commencement now.

PRACTICAL APPLICATION

America is in the process of converting space capabilities from scientific exploration into practical application. The advantages and potential have been demonstrated. As the next logical step, the Shuttle is conceived to do these tasks less expensively, more routinely, and with the capability to satisfy a wide range of flight missions using a single space transport vehicle rather than the several sizes of missiles now required. The Shuttle will replace all but the smallest and the largest.

REQUIREMENTS OF THE 1980'S

The diversity, shapes and capabilities of space payloads of the late 1970's and 80's require Shuttle capabilities. For instance, the Shuttle could be the truck that transports to space a tug capable of moving from orbiting satellite to orbiting satellite.

NECESSITY OF MAN

Man in space provides the judgment, response, discernment, and ability to rectify problems that are otherwise costly, if not impossible, to solve in unmanned spacecraft as well as the difficulty of their retrieval can be reduced as the Shuttle is perfected to carry men safely to and from space.

FOREIGN COMPETITION

Foreign competition requires staying abreast of space transport trends which now include the Shuttle. If we are to earn a commanding respect in the modern world wherein space-ability is now equated with national capabilities we must assume the responsibility of proceeding with the Shuttle.

STRATEGIC NEED

Strategic need demands a capability to respond by Shuttle, to counter or to deter foreign space activity. As we place satellites in orbit, we will also prefer to intercept our own space packages for purposes of observation, repair and return to our base site on earth. The maneuverability of the Shuttle will provide that skill rather than abdicating that ability to another space power.

FOREIGN TRADE ADVANTAGE

Foreign trade and balance of payments competition has demonstrated that our margin of overseas sales advantage lies in aerospace products and related fallout. Without diminishing our standard of living or reducing our workers' wage level to undercut foreign competition, our most remunerative contribution to world trade could exist in Shuttle-related products, jet aircraft, exotic metals, electronic miniaturization, computer advancement and software, high technology development, etc.

ECONOMIC STIMULUS

While earth-oriented needs can be observed and evaluated by the distant view from space that "sees" conditions in relationship to the surroundings the economic solutions to those needs can be assisted and made financially attainable through a healthy, viable, tax-paying, trickle-down and "multiplier" effect inducing Shuttle industry and its employees.

CONVERTING RIDDLES TO PRODUCTS

Governmental endorsement of a program as advanced as the Shuttle provides the impetus to solve technical and scientific riddles. Solutions to those riddles often provide the follow-on revelations that can be converted into commercially feasible products. Traditionally the aerospace industry has made most of its commercial advances on the basis of programs initiated by the Government.

The Shuttle is destined to inspire solution to specific problems that could readily convert to commercial application. Among them: heat resisting metals and fibres for the Shuttle's thermal protection system, conversion of missile structures into aircraft capabilities, novel load-bearing landing gear, continued miniaturization, and long-life reusability for one of this century's most appropriate developments . . . the environmentally desirable liquid hydrogen and liquid oxygen engine wherein the only residue is a slight bit of water vapor and hydrogen.

The desirability of the liquid hydrogen engine underscores another California justification as a launch and landing site. California is unique in having the largest production capability currently in existence for the creation of liquid hydrogen from natural gas. By contrast large amounts of liquid hydrogen or natural gas would have to be made laboriously available from distant suppliers if the Shuttle's schedule of regular, frequent flights were to be maintained at a Florida location.

A NEW INDUSTRY

Modern America's economic survival hinges, in part, on the continued development of promising new industries. The Shuttle may hold the promise of another entirely new industry, without displacing an alternate one. During the past two and a half decades America has demonstrated a unique capability at development of such "new" industries as television, computerization and software, peaceful applications of atomic energy, and initial outer space endeavors. Besides lofting weights from earth to space, it is conceivable that the Shuttle may eventually return to earth some materials which are now being depleted here, such as the return of rare and vanishing gases.

RETAINING TALENT TEAMS

The retention and inspiration of America's technical talent teams can be nurtured through Shuttle development. Among this Nation's most fortuitous resources are our imaginative, creative, problem-solving scientific and technical teams. The Shuttle will challenge the outer limits of their capabilities; a more gratifying employment of those talents than diversion into less demanding tasks that utilize only a portion of their skills.

REEMPLOYMENT

Remployment of some of California's most talented technicians could occur if the Shuttle proceeds. During the six year period of development about one-half of the estimated 50,000 workers engaged in constructing the vehicles could be Californians; initially, engine manufacture will engage about 3,000 employees.

Location of the launch and land base-site in California could have a long term, follow-on, economic levelling stability for approximately 19,000 Shuttleport employees as well as hundreds of nearby payload servicing technicians. The base is anticipated to be the Western world's primary Shuttleport for many decades and could exert an economic gravitational pull toward the region in excess of that exerted by Cape Kennedy in recent years. The increasingly large components of the now-concluding Saturn/Apollo era gradually draw much intermediate and final assembly away from California to Gulf Coast ports where barges could move the large segments to the Cape. The enormity of the logistics problems involving the Shuttle could urge an efficient location of much final manufacturing in convenient relationship with the launch base site.

Despite the magnitude of the Shuttle program it still represents only about one-fourth to one-third the scope of the Saturn/Apollo program in either dollars or workers. In that respect, Shuttle development will not absorb all of the Nation's out-of-work aerospace workers, nor even all of California's. However, the Shuttle will maintain a strong nucleus of employed aerospace talent.

APPLES AND ORANGES OF COMPARISON

The forthcoming Shuttle era can be unique in its contribution. Cancellation of the program would not necessarily result in solution of the earth's ills. The modest development level for the Shuttle, in dollars budgeted, would not alternatively nor necessarily buy relief from other social problems. The apples and oranges of our varied alternatives and priorities don't readily compare. The Nation's diet is mixed. But, the apple of space can be utilized to make the orange of life on earth more gratifying.

A CURRENT EXAMPLE FORETELLS THE SHUTTLE

Our capabilities from space as well as the legitimacy of a California launch site are emphatically demonstrated by a series of orbiting space shots lofted from California in Spring 1972. This series of shots placing Earth Resources Technology Satellites in orbit symbolize the kind of activity which can be accomplished less expensively and more extensively in the forthcoming Space Shuttle era.

ERTS–A "senses" each corner of the world every 18 days for a year, recording the land use of the United States in 550 "pictures". A U–2 aircraft, sensing remotely, would need to take a million pictures to do an equivalent task.

Among the hundreds of experiments conducted, Californians will be particularly interested in those that:

Determine whether to expect shortfalls or bumper crops of grain in the northern and southern hemisphere;

A monitoring to determine how much mercury is being dumped into the Gulf of Mexico and where it is coming from;

Detection of forest insect infestation in the Sierra Nevada Mountains of Yosemite;

Study of measures to control pink bollworm infestation of cotton in the Imperial Valley;

Remote monitoring of haze over Los Angeles;

Determination of the aerosol content in the atmosphere of southern California;

The movement of sediment plumes in San Francisco Bay;

The grazing of wild and domestic animals on the public lands of the Far West;

The color of the ocean for the improvement of commercial fishing off the coast of Oregon;

The extent of snow cover for river and flood forecasting in the Sierra Nevada Mountains; and

Thermal surveillance of active volcanoes in the Cascade Range.

TOOL TO IMPROVE LIFE ON EARTH

This, then, foretells the usefulness of the shuttle. Our aerospace skill has risen to another new plateau. Awareness of the potential and our command of the technology can now combine to give us increased knowledge that provides a guide for improving life on earth.

THE CRUSH OF HABEAS CORPUS PETITIONS

Mr. GURNEY. Mr. President, discussions concerning the continuing woes of our criminal justice system seem to be appearing on a regular basis in national magazines and newspapers as well as law reviews and other legal publications.

One of the most serious problems effecting this system today is the crush of habeas corpus petitions, and its resultant burden on our already overloaded courts.

Judicature magazine is one of the better legal journals in the country and is the official publication of the American Judicature Society, an organization deeply interested in the effective administration of justice. Its December 1971, issue contains an excellent article by Attorney General John Mitchell concerning the problems of administering habeas corpus. As the article points out the serious need for reform in this area, I recommend it to Senators, and ask unanimous consent that it be printed in the RECORD.

In light of the need for habeas corpus reform, I intend to introduce proposed legislation in the near future which would expedite its procedural aspects and relieve this tremendous burden on our courts.

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

RESTORING THE FINALITY OF JUSTICE

(By John N. Mitchell)

The story is told that many years ago a bishop and a judge were arguing with one another as to who was the more powerful. The bishop said to the judge, "All you can say to a man is 'You be hanged,' whereas I can say to him 'You be damned.'"

To this the judge responded, "Yes, but when I say 'You be hanged,' you *are* hanged."

Certainly this tale proclaims its own antiquity. Fortunately the day is long past when a single sentencing judge had unreviewable discretion in determining the fate of a convicted criminal.

But today, both in the federal and state criminal court systems, we have gone to the other extreme. In federal courts alone, petitions for appeal in criminal cases more than quadrupled during the 1960's. It is not unusual for cases to drag through the courts for years. Frank Hogan of New York, the dean of American district attorneys, has said, "there is virtually no such thing as finality in a judgment of conviction."

This is a serious misdirection of justice. The process of rehabilitating offenders is seriously impeded when they never reach the point of recognizing their own guilt. Justice must be fair, impartial, and protective of human rights, but it should also have another attribute—finality.

As you know, President Nixon has been very concerned about the effectiveness of the American judicial system. Last March, at the National Conference on the Judiciary in Williamsburg, Virginia, he delivered a major address calling for court reform. The United States Department of Justice is dedicated to this cause, and is doing what it can within its jurisdiction. It drafted and promoted the passage of the District of Columbia Court Reform and Criminal Procedure Act of 1970, which is an important example of reform. The Department's Law Enforcement Assistance Administration is providing funds to states and localities for improvement of their court systems. One of the most important of such projects was proposed to LEAA by the 23rd Judicial Circuit. It suggested that it study the causes of court solutions. This project has been approved, and LEAA is granting nearly $57,000 for this purpose. The 23rd Circuit is contributing the time of the four circuit judges and courtroom staff, of County Bar Associations personnel, and other operating expenses. It is hoped that the proposals from this project will be a model for other circuits.

As you can see, court reform is in the air, and there are a number of people who are already involved in the process. In this respect, I would like to concentrate on one factor which in recent years has done more than any other to compound the problem of finality.

Today, final judgments of convictions are subject not merely to direct attack on appeal, but to collateral attack through post-conviction remedies seemingly derived from the writ of habeas corpus. This means that when a criminal defendant has been convicted and sentenced in the state courts, and has exhausted his right of direct appeal to higher courts, he may nonetheless reliti-

gate the case all over again in federal courts on claims of constitutional violations, using the theory of habeas corpus.

The writ of habeas corpus became of importance in England during the fight against the prerogative of the King to commit persons without disclosing the cause of the arrest. Without the cause of the arrest made known, the prisoner could neither be bailed nor tried. The writ of habeas corpus was used by the courts to force the jailer to bring the person arrested before the court so that the court could determine the legality of the detention. It was only a pre-trial device to force the disclosure of the cause of detention. It could never be used after conviction.

HABEAS CORPUS MISUSED

In the United States the present form of the writ bears little resemblance to its early counterpart. The federal writ was made available as a post-trial remedy for federal prisoners as early as 1789, and for state prisoners in 1867. Since then its use in this manner has been greatly expanded by court decisions, especially since 1953. Today in the post-conviction proceedings derived from habeas corpus, a single federal district judge is called upon to redetermine questions of federal constitutional law which may well have already been passed upon by the trial courts and the highest court of the state. Sometimes these involve new interpretations which change the legal concept on which the trial had been based years earlier. If he determines that a federal constitutional violation has occurred and that it prejudiced the defendant's trial, he will order the conviction overturned. His decision is appealable by the losing party to the appropriate federal court of appeals, and thereafter review may be sought in the Supreme Court.

Under existing law there is no limit to the habeas corpus-type petitions that can be filed by a prisoner. As the Supreme Court has construed the habeas corpus statute passed by Congress in 1867, a prisoner may raise a new claim at any time regardless of the number of petitions he may have filed earlier. The only limitation—and one very difficult to enforce—is that he must not have consciously and deliberately withheld the claim from his earlier petitions. Thus there are instances substantiated by federal court records in which prisoners have filed as many as forty or fifty petitions, and there is one case with 57 petitions.

It is entirely permissible under existing law for a prisoner to file a federal petition claiming that a confession given by him was coerced. Much later he may file another contending that evidence seized in his home was the product of an unreasonable search and seizure. Still later he may challenge the composition of his jury, or claim that adverse publicity prior to the trial prejudiced the result.

The federal court must consider the merits of each of these claims, notwithstanding full prior adjudication of these same issues. In short, prisoners are almost entirely free under present law to have their convictions relitigated again and again on the basis of alleged constitutional infirmities, many of which are new interpretations suggested by an imaginative defense attorney.

COURT SYSTEM EXPLOITED

This is an exploitation of the court system. Today's notions of habeas corpus are not only inconsistent with the writ's historic tradition, but serve more often than not to frustrate justice rather than to promote it. This is not to imply that we should deny the right of the prisoner to challenge the constitutionality of the proceedings that led to his conviction; however, the use of collateral attack, which was intended only as an extraordinary remedy, must be brought under manageable control in order to restore some balance to the judicial process.

The abuse of habeas corpus not only distorts the function of the courts, but gives an undue legal advantage to the offender who can afford to retain an attorney on a continuing basis to think up new modes of attack. The indigent prisoner must, without legal training think up his own grounds for attack, and the court determines whether the merit of his petition warrants assigning him a paid lawyer. In my opinion this represents an unequal application of justice.

There is another serious reason for such reform. The lack of finality has an effect on the rehabilitation of convicted persons. Writing in the *Harvard Law Review*, Professor Paul M. Bator of Harvard Law School has argued persuasively for more finality, and has pointed out its impact on the rehabilitation process. He observed that the first step in rehabilitating offenders is a "realization by the convict that he is justly subject to sanction, that he stands in need of rehabilitation. . ."

Lack of finality may well have similar negative effects on the respect for law generally. Do we not demonstrate a certain lack of confidence in our legal processes if we must keep avenues open for endless redetermination of questions long ago passed upon by competent judicial tribunals? As Judge Henry Friendly, Chief Judge of the Court of Appeals for the Second Circuit, recently observed, "It is difficult to urge public respect for the judgments of criminal courts in one breath and to countenance free reopening of them in the next." In the same vein, Mr. Justice John M. Harlan, concurring in a recent Supreme Court opinion, observed:

No one, not criminal defendants, not the judicial system, not society as a whole, is benefited by a judgment providing that a man shall tentatively go to jail today, but tomorrow and every day thereafter his continued incarceration shall be subject to fresh litigation on issues already resolved.

If some substantial percentage of the petitions filed were determined to be meritorious, perhaps there might be a basis for concluding that the expanded writ is necessary and that, on balance, it should be retained as it is. However, the statistics indicate that less than one percent of the petitions filed in the federal courts are found to be meritorious. For every sound petition, there are scores of patently frivolous ones. As Mr. Justice Robert H. Jackson noted nearly twenty years ago, "It must prejudice the occasional meritorious application to be buried in a flood of worthless ones."

MANPOWER BURDEN INTOLERABLE

The manpower burden which the abuse of habeas corpus imposes on the courts, defense attorneys, and both local and federal prosecutors is intolerable. It even contributes to the significant delays that exist in certain jurisdictions between arrest and trial. The number of petitions filed by state prisoners in the federal courts each year is staggering, and the increases in that number over the past two decades are equally staggering.

Twenty years ago, for example, the number of petitions filed annually was less than 500. By 1960 the number had risen to 900, and since then the filings have multiplied more than eightfold to more than 7,500 in 1969.

The petitions could be disposed of in only one of two ways—either by consuming a substantial amount of time of lawyers and judges, or by being relegated to a sort of second-class type of federal action, to which all parties concerned would give short shrift. Neither of these methods of disposition is a sound basis for administering criminal justice, in my view. Justice is not served when the litigation of frequently frivolous habeas corpus petitions diverts the energy and resources of the legal community from criminal cases, thus further undermining the constitutional guarantee of speedy trial.

Now, if this is a fair statement of the finality problem, what can be done about it? Three alternatives can be considered.

In his address on the subject of federal habeas corpus, Judge Friendly has proposed that certain constitutional claims be open to review only if the petitioner makes what the judge terms a "colorable showing of innocence." Since the prisoner has already had a chance to challenge constitutionality at his trial and on direct appeal, there may be something to be said for limiting habeas corpus to claims which may demonstrate the petitioner's innocence.

MODIFICATION SUGGESTED

Another alternative would be to limit the habeas corpus claims to those concerning the reliability of the fact-finding process. For example, where the constitutional claim does not affect the reliability of the evidence adduced—as in the case of unlawful searches and seizures, or the failure to warn of the right to counsel—such a claim could be made on direct appeal, but not on the use of the so-called federal habeas corpus appeal. This is the same principle applied by the Supreme Court in determining whether certain of its constitutional decisions will or will not be retroactive.

Still another response could be to establish a federal forum, other than the Supreme Court, to provide direct review of state and federal convictions. This review could be a substitute for the present-day application of federal habeas corpus. It could provide more opportunity for review than the Supreme Court now has time for, and there could still be the possibility of appeal from its rulings to the highest court. This could tighten up the review process and hasten finality.

You will note that none of these proposals contemplates revoking the federal habeas corpus statute, but only providing some modification. In identifying these various alternatives, I do not mean that we should adopt them all simultaneously or that we should choose only one. A combination of two or more, in varying degrees, might be desirable. Each has its own merits and its problems.

They have been catalogued, not to endorse any or all, but to further expand the dialogue that must occur within the legal profession if the element of finality is to be restored to the justice process. The Department of Justice is examining these various alternatives so as to make recommendations; other interested organizations are urged to do the same. The Judicial Conference of the United States, too, should play an instrumental role in developing any remedy. Views should also come from the Conference of State Chief Justices, the National Association of State Attorneys General, and appropriate representatives of the criminal defense bar. Since the present-day use of habeas corpus as a post-trial remedy stems from a federal statute, it is hoped that Congress will join in this review, looking toward meaningful amendment of the law.

Above all, some consensus must be reached without too much delay. As matters now stand, the unrestricted application of habeas corpus is robbing the judicial process of whatever finality it had a few years ago. Partly because of this abuse, our courts are fast moving toward a state of, to borrow Milton's words, "Confusion worse confounded." There is no doubt in my mind that collateral attack using the writ of habeas corpus must be brought within reasonable bounds. If so, we can restore to American justice that moment of truth in which the guilty may begin rehabilitation, and the innocent may go free.

ENVIRONMENTAL IMPLICATIONS OF GENERATION OF ELECTRIC POWER

Mr. HART. Mr. President, the environmental implications of the generation of electric power is a subject with which we are becoming increasingly familiar. Fossil, fission, fusion, geothermal, solar—each energy conversion technology has environmental costs associated with it. This state of affairs suggests three possible responses:

First. Minimize the environmental impact of existing technologies as much as practicable;

Second. Develop alternate technologies which would have fewer associated environmental risks; and

Third. Consider the methods and consequences of reducing the demand for energy.

The necessity for action in the first two areas has lead to several efforts in the Congress which hopefully will reach fruition in the current session. The third course of action is one which by its nature must confront some of the most fundamental assumptions underlying our "growth ethic," Mr. President, I ask unanimous consent to have printed in the RECORD an excellent paper which concentrates on this third alternative. It was written by Prof. Herman Daly, of the Louisiana State University economics department, and was recently delivered by him before the annual meeting of the American Association for the Advancement of Science. The paper, entitled "Electric Power, Employment and Economic Growth," provides some thoughtful analysis which I hope Senators will have time to consider.

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

ELECTRIC POWER, EMPLOYMENT, AND ECONOMIC GROWTH

(By Herman E. Daly)

"Every living thing is a sort of imperialist, seeking to transform as much as possible of the environment into itself and its seed."—Bertrand Russell

I. INTRODUCTION

The sailient fact about electric power production is that it is growing at 7% annually, doubling every ten years. Even ardent supporters of energy growth recognize the absurdity of projecting such a rate very far into the future, lest the entire environment be transformed into electric power and generators thereof. For example, Mr. John W. Simpson, president of Westinghouse Power Systems Company says the following:

"At some point in time, well before power plants crowd us into the ocean or we change the climate of the earth through the rejection of heat into the atmosphere, we will reach an energy plateau, a level at which our technology will have placed us through the super-efficient utilization of power. In other words we will have learned to do so much more with so much less power that more power plants as we know them today probably would be superfluous." (CONGRESSIONAL RECORD, vol. 117, pt. 4, p. 5429.)

How far in the future is this "energy plateau"? Mr. Simpson says only that "Well before that hypothetical 200 years from now, we will have seen a leveling off in the rate of increase of power consumption" (Ibid.) Within 200 years he forsees a "leveling off in the rate of increase"? Presumably this means a zero rate of increase rather than some constant positive rate. But the important concept of an energy plateau is left vague, and for the forseeable future (30–50 years?) he argues for more power plants as we now know them. Congressman Holifield (Joint Committee on Atomic Energy) puts a minimum figure of 30 years on the "forseeable future" in stating that ". . . the doubling factor every decade for the next 30 years is basic to our standard of living, now and in the future." (*Congressional Record*, vol. 117, pt. 14, p. 18056). According to this point of view, one can make the loose inference that at the minimum eight times our present electric power output might be enough—then we can begin to talk seriously about an energy plateau, not before. But certainly we could not abruptly decelerate from 7% to zero growth immediately at the end of 30 years. It would probably be necessary to double at least once more over a longer period, in order to overcome the inertia of growth without shaking up the economy too badly. Thus the "energy plateau" appears to be at least sixteen times the present output! Furthermore we are to grow as rapidly as we can (at least at 7% for the next 30 years, which is to say the next generation or sufficiently far in the future not to affect the capitalized market values of electric utility "growth" stocks. After us, the energy plateau—or perhaps the deluge?

For the regulated electric utilities growth and profitability are closely related. The regulated "fair rate of return on capital" has just been interpreted by the courts to involve three criteria. The rate of return must: (1) be commensurate with returns on investments in other enterprises having commensurate risks, (2) be sufficient to insure the financial integrity of the enterprise, (3) be able to maintain its credit and attract capital. The relevant criterion is the last. In order to attract capital to finance the rapid expansion of capacity the rate of return must be *higher* than in other investments of equal risk. The need for rapid growth, if established to the satisfaction of regulatory agencies, must lead to a higher allowable rate of return. Higher rates have already been granted in some cases and many petitions are pending. Furthermore, even if the regulated rate of return is held constant the utilities have abundant incentive to expand productive capacity in order to increase the base to which the regulated rate is applied, and thus increase total profits. If the rate of return must be raised to attract capital, so much the better. But in order to expand and to raise the rate, the regulatory commission must be convinced of the need for expansion. To convince the commissions the utilities must be able to point to a "shortage." To get a shortage demand must increase. To increase demand it is necessary to advertise and give lower rates for large quantities. Perhaps this explains the curious fact that the electric utilities, a public monopoly, spend eight dollars on advertising for every one dollar spent on R and D. (Neil Fabricant and Robert Hallman, *Toward a Rational Power Policy*, p. 7). Another incentive to growth beyond the optimum is that a large part of the cost of increased electric power is the social cost of environmental deterioration, which is paid by society in general, rather than by the parties directly responsible for the costs. Although one is not accustomed to thinking of electric utilities as a "growth stock," Standard and Poor now informs the investor that "electric power is not only the backbone of the American economy[!], it is also a vigorous growth industry." (Standard and Poor's Industry Surveys, *Utilities-Electric, Current Analysis* May 27, 1971).

Electric power is now used to burn neon signs in the daytime, to run electric toothbrushes and moveable sidewalks. With so many trivial uses of electricity in current vogue, one wonders just what we will do with twice as much in 1980, four times as much in 1990, etc. It is not my intention to belittle the tremendous importance of electrical energy or of production in general. The French economist de Jouvenel has put the issue very well:

"But if I do not at all object to the much enhanced status of Production, I may point out that Production has come to embrace so much that it would be foolish to grant any and every productive activity the moral benefit of an earnestness not to be found in so-called "nonproductive activities." When popular newspapers propose to bring out their comic strips in color, I find it hard to regard such "progress in production" as something more earnest than planting flowering shrubs along the highways. I am quite willing to regard poetry as a frivolous occupation as against the tilling of the soil but not as against the composing of advertisements."

"When organizers of production have to relieve a situation of hunger, efficiency is the one and only virtue. But when this virtue has been thoroughly developed and comes to be applied to less and less vital objects, the question surely arises of the right choice of objects." (Bertrand de Jouvenel, "Efficiency and Amenity", reprinted in Edwin Mansfield, ed. *Microeconomics*, W. W. Norton, 1971, p. 428).

The importance of this declining intensity of needs for increased production to satisfy is recognized also by advocates of growth, but as an *obstacle to be overcome* in order to increase the flow of output and employment. For example, economist Joseph N. Froomkin:

"The big challenge to the U.S. and other Western economies is to bring out cheaply, through automation or otherwise, new products that will tempt the consumer's jaded tastes. These new products in turn will stimulate investment. (Joseph N. Froomkin, "Automation," *International Encyclopedia of the Social Sciences*, Vol. I, p. 488)

Again, if the "big challenge" presently is to tempt the consumer's "jaded tastes" what are we going to do with sixteen times as much electricity? Population growth will absorb only a small and declining portion. The big increase will be, and has recently been, in per capita consumption. Perhaps we must all learn to imitate President Nixon's idiosyncracy of turning the air conditioner on full blast so that he can enjoy warming himself by the fireplace in mid-summer![1] This is rather logical. Central heating in the winter makes it too warm inside to enjoy the hearth fire, which man has loved from earliest times. In the summer air conditioning makes it too cold inside, and thus possible to enjoy a fire. Such self-cancelling uses are capable of absorbing great amounts of electric power, and perhaps of jading consumer's tastes to the very limit. But is such "production" more earnest than weeding a flower garden? The question of electric power for the poor is considered later.

The above considerations raise doubts about whether the impossibility of growing forever at 7% is really taken seriously, or if the notion of an "energy plateau" is not just mentioned in passing in order to fend off an easy *reductio ad absurdam* by opponents. At least the concept is left undeveloped. These doubts are increased as one reads the four main arguments by which the growth position has been defended in the media and in congressional hearings. (See previous references to *Congressional Record* for statements of these arguments.) These arguments are stated below, critically examined, and found to be grossly deficient both in their logic and premises. The growth advocates state that we must have continued rapid growth in energy in order to:

(A) increase the standard of living (level of consumption) of the present population, and extend that rising standard of living to some 70–100 million more Americans by the year 2000.

---

[1] Interview with Tricia Nixon, reported on national news.

(B) clean up the pollution and recycle the waste which inevitably result from current and increased levels of production and consumption, and which have accumulated from past production and consumption.

(C) maintain an acceptable level of employment, since (1) labor is used directly in the production of electric power, and more importantly (2) power indirectly affects employment since it is an input in most production processes which also use labor, and it is a necessary complement to many consumer goods whose production employs people.

(D) produce the devices which give us the military defense and deterrent capacity "upon which world peace depends."

Our attention will mainly be directed to reasons (A) and (C), but it is important by way of introduction to realize that the four reasons are part of a whole point of view and are not independent of one another. The tacit, unifying point of view, the unarticulated preconception, is that of open-ended growth. Although open-ended growth is sometimes denied by refusing to project the growth of the energy sector beyond one generation, it remains an implicit assumption of each of the four arguments for the "temporary" necessity of continued rapid growth.

Reason (A) postulates the goal of an increasing level of consumption with no mention of a "consumption plateau." But even the growth-oriented President's Council of Economic Advisors has told us that "growth of GNP has its costs, and beyond some point they are not worth paying" (*Economic Report of the President,* 1971, p. 88). Such a point does not enter into reason (A). Although there is a growing body of opinion that suspects that in the United States we may have already passed the critical point, reason (A) fails to recognize even the existence of such a point. As total output continues to grow and grow so does total waste and pollution. Reason (B), more energy needed to clean up, is thus guaranteed by reason (A), as well as by a backlog of accumulated pollution. Since matter and energy can be neither created nor destroyed, the more we "consume," the more waste we must clean up. Thus the first round of matter-energy degradation (production) requires a second round to clean up after the first, and in turn the second round of matter-energy degradation requires a third round to clean up after it, etc. There is an infinite series of clean-up uses of energy, although the terms of the series, like the dirt remaining after each sweep into the dust pan, probably diminish rapidly. Nevertheless there is something of a vicious circle in burning coal to power industry, and then having to burn more coal to produce the energy to blow away the smog, to clean up the buildings, to run the washing machines and dryers more hours to clean white shirts more often, to produce more washers, dryers, and white shirts to replace the more rapid wearing out of these items resulting from greater use, etc. What is ultimately scarce in the physical world is not energy but low entropy. The more energy we use, even for the purpose of cleaning up, the more rapidly we use up the stock of low entropy—i.e. the more rapidly we degrade the total environment. Thus reason (B) derives from reason (A) and also reinforces reason (A) by falsely suggesting that cleaning up *cancels* the environmental cost of production growth. Cleaning up is itself a *part* of the environmental cost of production, and while necessary, is certainly not an activity to be pursued beyond some limits. At some point the degradation cost of energy needed to clean up will be greater than the cost of the pollution which is to be cleaned up. Reason (C) argues for more energy in order to provide more employment. But inanimate energy is a *substitute* for human labor, as well as a complement. With a given total output an increasing supply of inanimate power will surely be used to substitute for labor (what else could it be used for?) and will result in higher productivity per worker, but *less* employment.

The reduced hours of employment would probably result in fewer men employed, although it could result in the same number of men working fewer hours. But since no mention is made of reducing the hours worked per man, and since this can increase men employed independently of changes in energy use, it is clear that argument (C) assumes that total output is growing at a rate faster than the rate at which power substitutes for labor. In other words we are back to reason (A) and unlimited growth in total product. Reason (D) appeals to national defense or deterrence needs for energy. But deterrence is not a thing or even a state. It is a self-escalating process of open-ended growth, a balance of power equation in which both sides continuously grow in tandem until the arms of the balance break. It meshes perfectly with the growthmania assumption of reason (A). The more the military depletes the civilian economy of resources and technical personnel, the lower will be growth in productivity of the civilian economy. The slower the growth in productivity the greater must be the growth in raw material and energy inputs to maintain a given rate of increase in product. The technical depletion of the civilian economy by burgeoning military "needs" has reduced possibilities of the one kind of growth which we all welcome, growth in productivity, or less input per output. It makes the "energy plateau" much harder to attain.

For the above reasons one cannot escape the strong impression that the fleeting mention of limits or plateaus is nothing but a base-touching digression, a debating parry, and that the paradigm underlying the four arguments remains one of "growthmania." In addition to the absurdities of projecting high growth rates of electric power into the future, we must add the absurdity of projecting high growth rates of total output, if we are to take the four arguments at their logical face value. To paraphrase Mr. Simpson, it seems that at some time in the future, well before power plants crowd us into the ocean, we will have already been crowded into an already polluted ocean by our commodities, their effluents, and their corpses! Our economy, a living thing, is succeeding too well in its imperialist drive to "transform as much as possible of the environment into itself"—i.e. into commodities and people. The electric power industry has simply been more successful in doing what all other industries are striving to do—namely to grow, and when possible to avoid paying the full social cost of the increased production. This points to serious irrationalities at the overall systems level of our economy, some radical implications of which will be treated in section III.

Further attention must be given (in section II) to reason (C), the employment argument, since it is both particularly influential in a period of unemployment, and particularly fallacious. The key argument, however, is (A), open-ended growth in consumption. If (A) falls the other arguments fall with it, so it will merit our special attention in section III.

II. ENERGY AND EMPLOYMENT

Bernard de Mandeville in the "Fable of the Bees" argued in favor of the most extravagant luxury consumption by the upper class on the grounds that it provides employment for the poor. Frederick Bastiat in his "Petition of the Candlemakers—"argued in favor of blocking out sunlight from all houses and buildings in order to increase employment among candlemakers, who in turn, through their increased expenditures, would stimulate employment in whaling, matchmaking, wick production, and in effect all industries, to the immense benefit of all the classes of the realm. These two gentlemen were of course speaking tonge-in-cheek with the object of satirizing some of their contemporaries who were making analogous arguments in all special-pleading sincerity. Whether the employment arguments of today's electric power interests belong to the same category I will leave for the reader to judge, presuming only to list a number of considerations which might be relevant in making such a judgment.

(1) Physical labor is at the margin a negative factor in the enjoyment of life. Leisure is at the margin a positive factor in the enjoyment of life. Thousands of years ago man domesticated animals to relieve his toil by substituting non-human for human animate energy in production. Later man "domesticated" inanimate energy and again substituted it for human energy and leisure previously sacrificed to production. It would appear that historically the dominant relation between human and non-human energy is that of substitution. The more of one, the less of the other, a negative correlation. Yet we find in fact a positive correlation. Historically the number of men employed has increased as non-human energy use has increased. Therefore one is tempted to argue that more employment necessitates more use of inanimate energy. But this crude empiricism will not stand up to simple rational analysis. The observed positive correlation between non-human energy and employment means only that energy use and employment are both correlated to some third factors which have been increasing historically, namely total output and total population. The positive indirect correlations via the growing third factors outweighed the negative direct correlation between energy and employment themselves. For a constant level of output and population we know that the correlation between energy and employment is bound to be negative for as we previously asked, what conceivable use of non-human energy is there besides either substituting for human labor in producing the same or a smaller quantity of goods, or complementing human labor in order to produce a greater quantity of goods? If we rule out the second we are left with the first. If we insist on more employment and more non-human energy we must also insist on more output. In the real world both substitute and complementary uses of inanimate energy are occurring simultaneously. Only if total product growth creates more jobs than are eliminated by the growth of non-human energy will employment increase. This is self-evident.

Congressman Chet Holifield, a supporter of energy growth, nearly proved too much in extolling the importance of energy.

"Our standard of living is the highest of any nation in the world because we use the highest ratio of mechanical power versus manpower."

"One man can do the work of 350 men." (CONGRESSIONAL RECORD, volume 117, part 14, page 18059).

This is a clear recognition of the overwhelming importance of increasing substitution as the major factor in increasing the standard of living. Furthermore, for one man to do the work of 350 men means that 349 men must do something else. If they are employed doing something else total product must increase. If total product does not increase they must be unemployed. Clearly what is responsible for increasing total employment is the increase in total product, not the increase in inanimate power consumption which in fact, taken by itself, must *decrease* employment.

(2) As non-human energy has replaced human energy in agriculture it has not been possible to provide much employment in this sector, even with vast increases in total agricultural product. Employment was provided by growth in the new sector of industry. As non-human energy replaces men in industry, even with large increases in total

output of the industrial sector, the major source of new employment has been the "new" service sector rather than industry. The service sector's share of total employment has grown from approximately 40% in 1929 to over 55% in 1967. Of the total net increment of 14 million jobs between 1947 and 1965, the service sector accounted for an increase of 13 million, industry an increase of 4 million, and agriculture a decrease of 3 million. (See Victor R. Fuchs, *The Service Economy* NBER, Columbia Univ. Press, 1968, p. 2). Services, the least energy-using of the three sectors, have provided nearly the entire net increase in employment since 1947. Service institutions such as banks, hospitals, retail stores, schools, insurance companies, etc. are the providers of new employment, and their energy requirements are for lighting, space heating and cooling, and office machines—perhaps no more energy intensive than the average household, on a per capita basis. The most energy-intensive sectors are also the most highly capitalized and automated, and consequently are not significant providers of new employment. Thus the alleged need for large increases in energy input to provide new jobs seems to presuppose that the average new worker will work in a steel or aluminum plant. This is counter-factual. He will work in a service institution.

What is the reason for the drastic shift of employment toward the service sector? The authoritative study by Victor Fuchs (cited above) considers three hypotheses: (1) a more rapid growth of final demand for services, (2) a relative increase in the intermediate demand for services, and (3) a relatively slow increase in output per man in services. Reason (1) could not be very important since the service sector's share of total output was the same in 1965 as it was in 1929, when measured in constant dollars. Measured in current dollars it increased only from 47% to 50%. Hypothesis (2) is examined statistically and found to account for less than 10% of the total change. The major explanation is hypothesis (3), that output per man grew much more slowly in the service sector than in the other sectors. This means that the amount of labor required for a given output fell more rapidly in agriculture and industry than in the service sector. In other words, services employ relatively more people because agriculture and industry need relatively less labor year after year.

But why has productivity per man risen more slowly in the services than in industry? Are services inherently less subject to technological improvement than manufacturing? Perhaps so, as Fuchs seems to suggest, but there is another reason which should not be overlooked. The industrial sector of the economy is characterized by much greater monopoly power than is the case with services. This power tends to be "countervailing" with oligopolistic managements offset by monopolistic labor unions. More than half the persons employed in industry are union members, while the service sector is only about 10% unionized. (Victor Fuchs, op. cit. p. 8). Unionized labor succeeeds in temporarily pushing wages above the marginal revenue product of labor (MRP$_L$). Management reacts by seeking to reestablish the equality in order to keep short run profits at a maximum.[2] As wages rise the firm would produce less in the short run, which would tend both to increase the product price and the marginal physical product of labor, and consequently the productivity per man measured in value terms. In the long run management reacts to union power by seeking to substitute capital for labor, thus further increasing the productivity of labor and reducing the number of laborers needed. In the service sector, by contrast, we witness neither much unionization nor much monopoly power, since entry into services is not blocked by high initial capital outlays as in industry. Such "cartelization" as does exist in services (physicians, lawyers) involves no conflict between labor and management with the resultant upward pressure on productivity per man. It seems, therefore, that at least a part of the difference in productivity and employment between industry and services has its origin in differential market power rather than a differential susceptibility to technological progress.

One-third of service sector employment is in non-profit institutions where the employment-limiting rule of wage equal to MRP$_L$ loses its rationale from the very beginning. Also the service sector has a much higher incidence of self-employment where the wage equal to MRP$_L$ rule applies with less force and where a decline in employment often takes the work-sharing form of fewer hours worked by the same number of people. Many small entrepreneurs in services are also, however unintentionally, "non-profit institutions" and are providing temporary employment while in the process of slowly going out of business. Retail gasoline stations are a case in point. Finally, for many services output is so hard to measure that it is estimated for national income purposes by the value of input (e.g., government services), with the result that productivity loses, all meaning. Often productivity in services, even when it can be roughly measured, depends as much on the consumer as on the producer. For example, a physician's productivity depends on the patient's ability to supply an accurate medical history, and the teacher's productivity varies according to the interest and intelligence of the student. In sum, the whole notion of productivity in the service sector is often very vague (may depend on consumer as well as producer), or completely meaningless (as when we estimate the value of output by the value of input), or of little consequence in determining employment (as in non-profit institutions, both intentional and unintentional). The upshot is that service sector employment is much less strictly limited by productivity considerations than is industrial employment.

On the demand side ever rising standards of minimum consumption levels for certain services (education, medical care, legal counsel, insurance, government welfare services) have helped to keep demand up with supply and to make possible growing employment in these areas. But there is a limit to the amount of services people will voluntarily consume. Much service consumption is already involuntary—e.g., compulsory schooling, quasi-compulsory college attendance in order to get a job, compulsory insurance and retirement services and related medical exams, compulsory psychiatric care for the "mentally ill," etc. How far such forced consumption is justifiable is now becoming a hotly debated issue. Books are written on "Deschooling Society" and on "How to Avoid Probate" and the associated legal fees. The notion of "legal insanity" and forced consumption of psychiatric services is also under attack.

It has long been argued that in underdeveloped countries the service sector, particularly government services, serves distribution more than it serves production, by acting as a sponge to absorb the unemployed. Might not the same apply to the United States?

(3) One must recognize of course that men are employed directly in energy extraction, refining, pipeline transportation, and utilities. This employment amounted to 2.6% of total employment in 1947, 2.3% in 1955, and 1.8% in 1965. The energy sector accounted for a much larger percentage of total investment; 16.1% in 1947, 22.0% in 1955, and 19.4% in 1965. The percentage of GNP originating in the energy sector was 4.5% in 1947, 4.7% in 1955, and 3.8% in 1965. Note that the share of energy in investment is very high relative to its share in total product. Note also that energy's share in employment is low relative to its share in total product. Thus it requires a relatively large investment in energy to produce a relatively small amount of employment. (See RFF, *U.S. Energy Policies*, p. 22). Energy transformation is probably the most capital-intensive, labor-saving sector of the economy. Direct employment from its growth will be very small.

(4) Indirect employment effects are another matter, and have been touched on already. We may consider two kinds of indirect employment effects: those arising from interdependence on the supply side, and those arising from the demand side. On the supply side it is undeniable that energy is a necessary input to nearly all sectors. But it does not follow that increasing the production of energy will increase the number of jobs in these sectors. To the extent that increased supply lowers the price of energy the result is more likely to be a reduction in employment as cheaper energy is substituted for human labor. Nor does it follow that other sectors cannot expand employment without an increase in energy input, except in the special case of fixed coefficients of production. In general therefore an increase of energy input to the supply side of the economy is neither a sufficient nor a necessary condition for increasing employment. Furthermore the same supply interdependence arguments would apply equally to many other sectors, not just energy. Minerals are necessary inputs to most sectors, so the jobs of all people in all sectors depend on minerals. Likewise for water. For some production processes a ¾" no. 8 counter-sunk chromium plated brass wood screw is a necessary input. Therefore the jobs of all people in those sectors depend on this type of screw. And so on, all of which proves nothing.

On the demand side there are indirect employment effects resulting from new investment in the energy sector. As we have seen the energy sector does account for a significant amount of new investment, some 20%. This high percentage of investment results from rapid growth and high capital intensity. These investment expenditures generate a chain of respending, or "multiplier effects" throughout the economy, stimulating output and employment (and inflation). But once again this Keynesian argument is perfectly general and can be applied to new investment in any sector. Indeed, it can be applied to increased expenditure of any kind (increased welfare payments, unemployment compensation, or military spending), not just investment. Arguments appealing to indirect employment effects, either via supply or demand, are therefore obvious cases of special pleading—they apply to all sectors, not just energy. Such arguments, when they rely on investment as they usually do, are also promised on open-ended growth in total product (reason A).

(5) An occasional variant of the employment argument is what might be called the "power for the poor" argument. To quote Mr. Simpson again,

"If we were to freeze our rate of power generation and consumption, we would effectively deny those millions who are below the average any chance to improve their lot in the future." (CONGRESSIONAL RECORD, volume 117, part 4, page 5428).

The statement is a non sequitur. The lot of those below the average does not depend on electric power alone, and even if it did

[2] As long as the wage is less than the marginal revenue product of labor the firm can increase profit by hiring more laborers. If the wage is greater than the marginal revenue product of labor profits are increased by hiring fewer laborers (i.e. the last laborers hired cost more than they were worth to the firm). When wage equals the marginal revenue product of labor it is impossible to increase profit by hiring either more or less labor—in other words profit is at a maximum.

their lot could still be improved by cutting down the consumption of those who are above average—evidently a thought too horrible to contemplate! No evidence is presented to the effect that the increment in power would go largely to the poor. There is reason to expect just the opposite.

Consider the same argument as expressed in the "Energy Marketing" section of *Electrical World* (March 15, 1971, p. 147). In an article entitled "Zero Growth Power Advocates Ignore Effect on the Poor" it is argued that zero growth in power is a policy "which, by sort of grandfather clause, would seek to prevent those of lower income and darker skin from sharing in the not-inconsiderable comforts and conveniences afforded by modern electric appliances. . . ." As "evidence" we are presented with the following interesting table which shows that a much larger percentage of the wealthy and white own major electric appliances than is the case for the low income and non-white.

APPLIANCE OWNERSHIP BY INCOME AND RACE (NEW YORK CITY) PERCENT OWNERSHIP

Income	Air conditioner	Dish-washer	Vacuum cleaner
$0 to $3,000	12	1	40
$3,000 to $5,000	11	2	46
$5,000 to $10,000	28	5	69
$10,000 to $15,000	48	15	89
$15,000 and over	58	36	95
White	40	12	81
Nonwhite	8	3	1

Source: Electrical World, Mar. 15, 1971, p. 148.

The "conclusion" that the reader is encouraged to draw from these statistics is that, "future growth will consist of gradual accumulation by lower income families of the more modern appliances first accumulated by their wealthier cousins." But if the latter comes about it will be because of general economic growth and the resulting growth in employment, not from growth in electric power, which taken by itself is likely to have the opposite effect, as we have already seen. More importantly the conclusion which follows from the fact that the rich own relatively more appliances than the poor is that the rich use relatively more electricity than the poor.

How can the poor use much more electricity without buying air conditioners, dish washers, vacuum cleaners, frost-free refrigerators, washers, dryers, color T.V.'s etc? And how can they buy these appliances if they are poor? If the increment in electric power were truly directed to the poor, one would expect to find the energy marketing people striving to promote mainly simple, low-cost appliances with low operating and maintenance costs, designed to be advantageous to the poor. One would expect to see research and development receive eight times as much as advertising instead of one-eighth as much, as is now the case. One would also expect to see rate discrimination in favor of the small, rather than the large, users. That the energy marketeers prefer to concentrate on production for those who can pay high prices is obvious from the articles appearing in the "energy Marketing" section of *Electrical World*.

For example, consider the other two articles in this section of the same issue. One extols the virtues of a moving sidewalk projected for Boston, the object of which is to convey consumers from the parking area to the shopping area more quickly. It would seem that since conveyor belts have speeded up production, bringing the commodity to the market more rapidly, we must also speed up consumption by putting the consumer on conveyor belts. A moving sidewalk will surely be a boon to the ghettos. The other new dimension in energy marketing is the Gold Medallion home, all electric so as to avoid pollution [!], with central vacuum systems and electronic security systems, the latter no doubt to safeguard the other electric appliances of the poor! Sandwiched between these two articles on the latest technological advance in trivializing energy consumption to "tempt the jaded tastes" of the affluent, the article defending the poor against the selfishness of the zero growth advocates raises suspicions of trumpery.

Needless to add, no consideration is given to the fact that power production pollutes, and that while the benefits of power go mainly to the rich, the external costs fall mainly to the poor. For example, in Baton Rouge, where I live, the oil refineries, petrochemical, and aluminum industries are located mainly in north Baton Rouge, which is the low income end of town, and which receives the most pollution. The executives of these companies live in southeast Baton Rouge. They drive to work along a north to southeast freeway in an air conditioned car and work in an air conditioned office. The manual laborers live in north Baton Rouge, drive with windows open through narrow streets to work in a polluted plant. The average skin color in north Baton Rouge is much darker than in southeast Baton Rouge. The external costs of energy production are distributed regressively—the poor pay more. And not only in Baton Rouge.

(6) It should be clear that growth in efficiency is not being questioned. If we can get more service from the same physical fund, that is all to the good. But increasing the physical fund is clearly a limited process. No one objects to getting "more kicks per kilowatt" or more kilowatts per BTU of primary fuel. But if kilowatts keep on growing we will witness a decline in the ratio of kicks (satisfaction per kilowatt. We have had a falling trend in the ratio of energy to GNP. But since 1966 the actual ratio has risen sharply and in 1970 was 13% greater than it would have been had the pre-1966 trend continued. (See Figure I.) Thus a dollar's worth of satisfaction) now costs more kilowatts than in 1966, and the new trend seems to be rising. Furthermore, new products and quality improvements notwithstanding, the amount of satisfaction represented by a dollar's worth of GNP is itself probably falling. We satisfy our most pressing wants first, and each extra dollar of income is dedicated to the satisfaction of a less important want.

Furthermore GNP increases currently overstate welfare increases since more and more of what is counted in GNP is the cost of defending ourselves from the unwanted side effects of production. Therefore the fact that GNP per capita has been growing means that the incremental dollars represent less satisfaction. With decreases in both satisfaction per dollar and in dollars per kilowatt it is very clear that satisfaction per kilowatt must also have fallen. This does not square very well with Mr. Simpson's prediction that "we will have learned to do so much more with so much less power. . . ." It seems instead that we are learning to use more power to do less, at least in terms of the significance of what is done. This by itself does not mean that we have overshot the optimum. Falling marginal benefits of kilowatts may still be greater than rising marginal costs. We do know that the marginal cost of a kilowatt, in terms of alternative satisfactions sacrificed, is bound to rise. There is a thermodynamic limit to the efficiency of converting energy, so improvement in kilowatts per BTU of primary fuel is limited.

Continued increases will require more primary fuel, more rivers and lakes for cooling, which implies the sacrifice of ever more important alternative satisfactions derived from these resources in their other uses. We are now learning that many such former uses were "invisible" and that the ecological services provided by the resource *in natura* are often far greater than the services rendered within the economy of pecuniary calculation. Externalities have become so important relative to internalities that monetary price calculations have become, if not blind at least one-eyed guides, deficient in depth perception and less to be trusted than common sense.

The common sense reasoning above does not prove, but does suggest that one or two, or three more doublings of electric power output will probably push marginal cost well above marginal benefits.

In any case those who are proposing the increase might undertake the burden of proving that such increases will not overshoot the optimum. The power growth arguments offered so far, and analyzed earlier, fall pitifully short of establishing even the mildest presumption that the benefits of sixteen times as much electric power will outweigh the costs. Ironically, continued growth of electric output when marginal cost exceeds marginal benefit is one case in which employment might well be stimulated. Since we would in effect be getting poorer by producing more, our experience of reduced wellbeing would probably be combatted in the traditional way of increasing production and employment even more, which would make us still worse off, etc.! Indeed, this is painfully similar to reason (B) and the inept arguments to the effect that we must grow more so that we will be rich enough to afford the cost of cleaning up. That neatly begs the question whether growth is not already making us poorer instead of richer!

III. ECONOMIC GROWTH

As noted in the introduction and seen repeatedly in section II, employment arguments for power growth (reason C) must, if they are to make any sense at all, presuppose continuing growth in total product (reason A). Reason (A) is in fact the linchpin of the whole case for continued power growth at current rates. But it is a linchpin that is rapidly being shorn. Also a number of fundamental questions have necessarily arisen about the goal of employment itself. After all labor is a cost, and like all costs it is pushed to a minimum by the long run logic of technical and economic progress. These are difficulties at a system level, but since the energy sector has no reason for existence other than its role in the total economy, its attitude toward growth or non-growth cannot be understood apart from the total context. Furthermore the electric power industry is causing problems not because it is aberrant, but because it has succeeded so well in doing what all other industries are trying to do.

Why, since labor is a cost of production, do we not rejoice instead of fret whenever jobs are eliminated, whenever one man can do the work of 350 men? Why, in the face of idle capacity do we insist on increased investment to create still more productive capacity? The answers to these questions, of course, have little to do with production but everything to do with distribution. In a profit-maximizing capitalistic economy in which most people own no productive assets save those embodied in their own person, employment, income through jobs, is the major distributive institution. The possibility of a conflict between the efficiency of production and the equity of distribution is a familiar theme in the history of economic thought. The productive efficiency of a high-energy, automated economy conflicts very sharply with distributive efficiency and equity under present institutions. To see this conflict more clearly consider the following diagram [not printed in the RECORD].

Let TP_1 represent the total product of labor for an economy (rising and then leveling off to reflect eventually diminishing returns to labor). TP_2 is the total product curve after the economy has shifted to a high-energy automated type of production—

a much higher total product is attained with a much smaller number of laborers, and beyond a certain limited number of laborers further employment does not increase total product. The slope of the total product curve at any point represents labor's marginal product at the corresponding quantity of labor employed (L). Marginal product falls to zero more rapidly on TP_2 than on TP_1. In a capitalistic profit maximizing economy wages tend to equal marginal product. But wages—unlike interest, rent, and profit—cannot be zero. There is a lower positive limit, call it a minimum acceptable wage, or "subsistence". Let "subsistence" be the (equal) slopes of line S and line S^1. The maximum number of jobs under the mode of production corresponding to TP_1 is L_1, and that corresponding to TP_2 is L_2. Assuming that L_1 represented full employment, then the distance L_2L_1 represents technological unemployment. The TP_2 mode of production supports fewer workers, even thought total output is vastly greater. A smaller proportion of total output will go to wages, a larger proportion to interest, rent, and profit. Distribution of income would become more concentrated, with a corresponding increase in luxury production.

How realistic is this "scenario"? If we apply it only to the transformation of the agricultural sector over the last 50 years it is highly realistic. If we apply it to the current changes in industry it also seems realistic. If we apply it to the service sector it is unrealistic. As noted previously the service sector now accounts for over 55% of total employment and almost all net new employment. The ability of the service sector to absorb this quantity of employment results from the fact that so far it has not experienced a shift in the product curve as shown in the diagram, and from the fact that employment is not so strictly limited by the wage equal marginal revenue product rule, for reasons discussed earlier.

What this means is that we have maintained employment by "bending" the wage equal marginal product rule in the service sector. We have also "bent" the income-through-jobs principle with the rise of the "grants economy" and increased government transfer payments. This is what has allowed the energy-using, labor-saving techniques in agriculture and industry to take place without mass unemployment. If one advocates the use of ever more energy, one should, it seems, seek to reduce the necessity of employment by advocating alternative distributive institutions, (or a further relative expansion of the service sector), rather than by trying to make the case that more energy means more employment.

There is, however, one alternative and that is to push L_2 out to the right by pushing TP_2 higher and higher. This does not mean a vertical parallel shift in TP, because that would leave the slope at each L (marginal product of labor) unchanged, and with it the maximum employment. The curve must not only shift upward, but also "lean forward"—i.e. point L_2 must move to the right as the curve shifts up. In other words the further growth in total product must not be cancelled out by further increases in labor-saving technology in terms of its effect on employment.

Thus economic growth (growth in TP) does not by itself guarantee an increase in employment, but for future argument we will grant that one can always increase employment by increasing total product fast enough. This is, at basis, the proposition on which the power growth advocates rest their case. How realistic and how reasonable is it?

We already know that physical growth is a limited process, and long-run dependence on it is unrealistic. But there are shorter run dilemmas as well, such as that noted by Evesy Domar in his classic article on growth and employment.

"In a private capitalist society where the [marginal propensity to consume] cannot be readily changed, a higher level of income and employment at any given time can be achieved only through increased investment. But investment as an employment creating instrument is a mixed blessing because of its [productive capacity increasing] effect. The economy finds itself in a serious dilemma: if sufficient investment is not forthcoming today, unemployment will be here today. But if enough is invested today, still more will be needed tomorrow.—So far as unemployment is concerned, investment is at the same time a cure for the disease and the cause of even greater ills in the future." ("Expansion and Employment," *American Economic Review*, March 1947).

The way to employ unused capacity is to build still more capacity, to grow! But how to induce businessmen and corporations to invest more when they already have idle capacity? By giving all sorts of "bribes" such as lower interest rates, faster depreciation write-offs, etc. An alternative would be to encourage consumption by those at the bottom of the income pyramid rather than investment expenditures at the top. If via tax reductions and negative income taxes new expenditure is fed in from below, it will "trickle up" as the poor spend it, without being bribed. Businessmen will then expand output and employment as they produce more of the things lower income people buy. This is indeed consumer sovereignty, subsidizing the consumer not the producer. In this way we reduce the infinite regress of ever-increasing productive capacity needed to maintain full employment, while moving the distribution of income toward equality.

The remaining gap between private saving and private investment could be filled by public investment in social goods and services, and by government purchase and stockpiling of goods. The stockpile of goods could be saved for use in disaster, or until such time as we have discovered better institutions of distribution. The real counterpart to private monetary saving would then be a stockpile of unused commodities, rather than unused productive capacity. Unused commodities can be used in the future, whereas unused productive capacity is irrevocably lost, since time cannot be accumulated. Selling from the commodity stockpile could be used as an effective anti-inflation policy, as has already been done with some strategic materials. Under such a policy productive capacity would be increased only after all existing capacity had been used, and only in response to actual demand of the lower income segregated society. This truly would be growth for the poor. Those who are so anxious to sell more electric power to the poor should welcome such a plan.

But a continually growing economy offers further anomalies. Let us start from the premise that the legitimate goal of economic activity is the satisfaction of human wants. The satisfaction of wants is a non-material service, a flow of psychic income that is rendered or yielded by the stock of all physical wealth.*

All goods and all people who perform services constitute the stock of wealth, i.e., physical capital. To maintain this nonphysical flow of services requires the maintenance of the physical stock of wealth. To maintain the physical stock of wealth requires a physical flow of production to offset the physical depreciation, or using up, of the stock resulting from wear and tear, and the mere passage of time. Let us think of the physical stock as being maintained in a steady state by a "maintenance throughput," i.e., an outflow of high-entropy matter energy (waste), matched by an equal inflow of low-entropy matter-energy (primary resources). That this maintenance throughput is a cost is clearly seen by looking at each end of the pipeline. Inputs necessitate depletion, outputs necessitate pollution. Furthermore the maintenance of the stock requires human labor, the sacrifice of leisure to production. Depletion, pollution, and labor are all costs, therefore the flow of maintenance throughput (production) is a cost. Production in the sense of a physical maintenance throughput is *not* something to be maximized.

Any technology advance which allows more service to be yielded by the same physical stock is always to be welcomed. Physic income is non-material, and its increase may be unlimited. Likewise any technological advance which allows the same stock to be maintained by a smaller flow of throughput is always to be welcomed. This kind of growth is limited by the second law of thermodynamics. But to increase the throughput for its own sake is insane, and to increase it for the sake of building up a larger stock is a limited process. It is limited physically by ecological interdependence and spatial finitude, and it is limited economically by the laws of diminishing marginal utility and increasing marginal costs.

In the light of the above observations GNP becomes a largely irrelevant number. For the goods component of GNP we may interpret the number as an index of the annual flow of quantity of goods produced (something to be minimized for a given stock, not maximized). The service component presents problems. To be logically consistent we should not even try to count services but count instead the new production of the physical things (skilled people) that yield the service—just as we do in the case of durable consumer goods. But there is no market for buying and selling skilled people, only renting them, therefore we do not know the price of say a physician, although we could take the present value of expected future earnings.

Even though service in the sense of psychic income is non-physical, service in the sense of the national income accountant measures something physical, a stock at one's disposal for a certain duration of time. Service in this accounting sense has a physical dimension, so we cannot say that GNP could grow forever because the component "services" is non-physical. Service in the sense of psychic income is non-physical, but not measured service in the sense of the participation of a physical stock for a certain duration of time. A physician cannot sell a thirty minute consultation and then just leave his disembodied medical knowledge in his office while his body is out playing golf. His services require the participation of his entire physical self. More measured medical service in the GNP requires more physical bodies functioning as physicians, more hospitals, X-ray machines, etc. Thus we do not escape physical limits on GNP by appealing to the service component.

Why this "flow-fetishism", this emphasis on the throughput which eclipses the stock dimension from view? In a society in which the stock of wealth is very unequally distributed (see Table I) demands for social justice are more conservatively "met" by focusing on the flow of income, seeking to direct more of it to the poor, but without requiring the rich to get less. This is only possible if that flow is growing. Since a stock is measured at a point in time it must always be seen as a constant as of the moment measured. More of the stock to the poor

---

* For a fuller development of the following ideas, see K. E. Boulding, "The Economics of the Coming Spaceship Earth" in Henry Jarrett, ed., *Environmental Quality in a Growing Economy*, Johns Hopkins Press, 1966, and H. E. Daly, "Toward a Stationary-State Economy" in John Harte and Robert H. Socolow, eds., *Patient Earth*, Holt, Rinehart, and Winston, 1971.

means less to the rich. Better to think in terms of the flow, the additions to the stock. Let us channel a bit more of the flow to the poor through our tax system (or rather let's pretend that is what we are doing). Still better, let's make sure that the flow grows year after year, so that even with the same relative division, the poor will get absolutely more, and after all, that is all that really counts! Furthermore welfare economics teaches us that a policy represents an unambiguous increase in social welfare only if it makes some people better off without making anyone worse off. Otherwise we are forced to make interpersonal comparisons of utility, and that is an ethical matter with which science cannot deal. Once again the policy of increasing A's income without diminishing B's requires growth in total income.

We are used to hearing that we do not have enough, and even if income were evenly distributed it would amount to mere distribution of poverty. This view has always been morally questionable since if there is really not enough for all then it is even more objectionable that the few should receive so much more than the average while the many receive much less. However, with current United States per capita disposable income in the neighborhood of $3,000, even this pseudo-argument is no longer possible. (*Statistical Abstract of the U.S.*, 1969, p. 313). The average after tax income for a family of four is now around $12,000, which would mean an income before taxes of over $15,000—not exactly poverty! Of course this is a very unrepresentative mean, since the distribution of income is so badly skewed. In 1968 the twenty million Americans in the top 10% of income recipients got around 27% of total income, while the twenty million in the lowest 10% received about 1.0% of total income. (See Table II) Contrary to the assumptions of growthmania, distribution is, at the margin, a more pressing issue than production.

Nevertheless, there are strong vested interests in growth throughout our society. The growth aspirations of any one industry, such as electric power, cannot be properly understood apart from the context of the system's overall functioning. Although an annual growth goal of 7% is high compared to other industries, the case of electric power is important not because it is an exception, but because it so clearly illustrates the general rule of growthmania.

The alternative to growthmania is the steady-state economy, and the big task for physical and social scientists is to work out the technologies and institutions which will allow us to attain such a steady-state. The even bigger task is for all citizens to find the moral resources necessary to overcome the vested interests and hag-ridden compulsions of growthmania.

TABLE I.—A2=SIZE OF WEALTH, DEC. 31, 1962

[Percentage distribution of consumer units]

Group characteristic	All units	Negative	Zero	$1 to $999	$1,000 to $4,999	$5,000 to $9,999	$10,000 to $24,999	$25,000 to $49,999	$50,000 to $99,999	$100,000 to $199,999	$200,000 to $499,999	$500,000 to $999,999	$1,000,000 and over
All units	100	2	8	16	19	16	23	11	4	1	1		
1962 increase:													
$0 to $2,999	100	1	23	19	18	15	17	7	1				
$3,000 to $4,999	100	3	8	29	20	11	17	8	2	1			
$5,000 to $7,499	100	2	1	15	25	21	22	8	5				
$7,500 to $9,999	100	2		7	18	18	36	14	3	1	1		
$10,000 to $14,999	100	1		2	13	16	35	20	10	3	1		
$15,000 to $24,999	100				3	10	21	29	24	7	5	1	
$25,000 to $49,999	100						5	8	22	27	27	7	4
$50,000 to $99,999	100							1	9	7	45	20	17
$100,000 and over	100									1	5	56	38
Age of head:													
Under 35	100	5	9	36	26	14	8	2					
35 to 44	100	2	7	14	20	21	25	8	4	1			
45 to 54	100	1	7	10	20	10	31	14	5	1	1		
55 to 64	100	1	8	7	12	16	28	16	8	3	2		
65 and over	100		11	8	13	18	25	15	5	1	2	1	

Source: Dorothy S. Projector and Gertrude S. Weiss, Survey of Financial Characteristics of Consumers, Board of Governors, Federal Reserve, 1966.

TABLE II.—SHARE OF INCOME FOR EACH 5 PERCENT OF RECIPIENTS FROM LOWEST TO HIGHEST 1, 2 TO 20, AND TOP 10 PERCENT

5 percent quintile	Year								
	1960	1961	1962	1963	1964	1965	1966	1967	1968
1st and 2d	0.64	0.67	0.71	0.77	0.77	0.85	0.94	0.94	1.03
3d	1.04	1.02	1.08	1.06	1.08	1.10	1.12	1.14	1.20
4th	1.50	1.45	1.53	1.51	1.52	1.54	1.56	1.58	1.64
5th	1.95	1.89	1.97	1.95	1.95	1.97	1.99	2.00	2.07
6th	2.40	2.32	2.40	2.39	2.38	2.40	2.42	2.43	2.49
7th	2.84	2.75	2.82	2.83	2.82	2.83	2.85	2.84	2.91
8th	3.27	3.18	3.24	3.27	3.25	3.26	3.28	3.26	3.33
9th	3.70	3.61	3.66	3.70	3.68	3.68	3.71	3.67	3.74
10th	4.13	4.04	4.08	4.14	4.12	4.12	4.14	4.09	4.16
11th	4.57	4.48	4.52	4.58	4.56	4.55	4.58	4.52	4.58
12th	5.00	4.92	4.97	5.03	5.01	5.00	5.01	4.96	5.00
13th	5.44	5.37	5.45	5.49	5.46	5.45	5.45	5.41	5.44
14th	5.89	5.83	5.95	5.95	5.93	5.92	5.90	5.88	5.89
15th	6.35	6.30	6.48	6.42	6.40	6.40	6.35	6.37	6.49
16th	7.04	7.00	7.05	7.14	7.12	7.07	7.09	7.00	6.94
17th	7.67	7.76	7.81	7.76	7.81	7.74	7.71	7.64	7.54
18th	8.61	8.73	8.73	8.66	8.71	8.65	8.61	8.56	8.44
19th	10.29	10.47	10.34	10.26	10.31	10.26	10.21	10.22	10.06
20th	17.66	18.18	17.21	17.09	17.13	17.19	17.08	17.50	17.05
Top 10 percent	6.08	6.33	5.77	5.73	5.74	5.80	5.76	6.01	5.81

Source: Edward C. Budd, "Postwar Changes in the Size Distribution of Income in the U.S." American Economic Review, Papers and Proceedings, May 1970, p 253.

POLAROID AND SOUTH AFRICA

Mr. BROOKE. Mr. President, over a year ago the Polaroid Corp., based in Cambridge, Mass., undertook an experiment unique in the annals of corporate history.

Polaroid is one of several hundred American companies doing business in South Africa. It has no plants, no subsidiaries, no investments, and no direct employees in that country. But it does have a local distributor, Frank & Hirsch, which for many years has pioneered not only in the business field of optics, but in the social field of employee benefits and relations.

In early 1971, Polaroid was requested, by a group of its own employees, to sever all connections with South Africa. Polaroid's management met with the concerned employees, and together they worked out a plan whereby four representatives of the company, representing all strata of employment and including two blacks and two whites, would visit the company's distributor in South Africa on a fact-finding mission. The employees were to look into wage and benefits scales, talk to black and white employees of the company, and try to determine the impact which Polaroid could have if it withdrew, or if it stayed in South Africa.

The four employees returned unanimous in their commendation: Polaroid should stay in South Africa.

Since their visit some months ago, Polaroid has worked closely with its local distributor in South Africa to upgrade even more the wages, benefits, and working conditions of all its employees. The result has been an even further improvement and in many cases an equalization in the wages received by the company's employees and in the working conditions and responsibilities of black employees.

Mr. President, I applaud the conscientious effort which the Polaroid Corp., has made to respond in its own way to the most crucial social question of our time. No country's racial problems are easily resolved, as we have found in the United States. But there are alternatives to violence and to higher barriers among men. Polaroid, and its South African distributor, Frank & Hirsch, have found one means to help bring down the absurd and debilitating system of apartheid.

This one company is a relatively small one; it employs less than 200 workers in South Africa, and its volume of business is minuscle compared with the giant corporations which have invested or

originated in the rich economy of South Africa. But one company which pays equal wages for equal work, and which provides equal working conditions and benefits for its employees regardless of race, can have a tremendous impact on the economy as a whole.

This is what has happened in the Polaroid case. Numerous American companies are now turning to the management of Polaroid, and of Frank & Hirsch, for advice and assistance in improving their wages and working conditions. British companies have followed suit, including the two biggest British banks in South Africa. Improvements have already been made, and more will follow. What is more, South African companies are being compelled to follow suit by the very pressures of the marketplace and of scarce labor. Polaroid, truly, is helping to effect an economic revolution in South Africa.

Mr. President, I believe that all Senators should be aware of the fine work of this one American company. Therefore, I ask unanimous consent that three articles explaining Polaroid's efforts in more detail be printed in the RECORD.

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

AN EXPERIMENT IN SOUTH AFRICA

Polaroid sells its products in South Africa as do several hundred other American companies. Our sales there are small, less than one half of one percent of our worldwide business.

Recently a group has begun to demand that American business stop selling in South Africa. They say that by its presence it is supporting the government of the country and its policies of racial separation and subjugation of the Blacks. Polaroid, in spite of its small stake in the country, has received the first attention of this group.

We did not respond to their demands. But we did react to the question. We asked ourselves, "Is it right or wrong to do business in South Africa?" We have been studying the question for about ten weeks.

The committee of Polaroid employees who undertook this study included fourteen members—both black and white—from all over the company. The first conclusion was arrived at quickly and unanimously. We abhor *apartheid*, the national policy of South Africa.

The *apartheid* laws separate the races and restrict the rights, the opportunities and the movement of non-white Africans. This policy is contrary to the principles on which Polaroid was built and run. We believe in individuals. Not in "labor units" as Blacks are sometimes referred to in South Africa. We decided whatever our course should be it should oppose the course of *apartheid*.

The committee talked to more than fifty prominent South Africans both black and white, as well as many South African experts. They heard from officials in Washington. They read books, papers, testimony, documents, opinion, interpretation, statistics. They heard tapes and saw films.

They addressed themselves to a single question. What should Polaroid do in South Africa? Should we register our disapproval of *apartheid* by cutting off all contact with the country? Should we try to influence the system from within? We rejected the suggestion that we ignore the whole question and maintain the status quo.

Some of the black members of the study group expressed themselves strongly at the outset. They did not want to impose on the black people of another country a course of action merely because *we* might feel it was correct. They felt this paternalistic attitude had prevailed too often in America when things are done "for" black people without consulting black people.

It was decided to send four of the committee members to South Africa. Since this group was to include two black and two white members, it was widely assumed they would not be granted visas. They were.

It was assumed if they ever got to South Africa they would be given a government tour. They were not.

It was assumed they would not be allowed to see the actual conditions under which many Blacks live and would be prevented from talking to any of them in private. They did see those conditions in Soweto and elsewhere. And with or without permission they met and talked to and listened to more than a hundred black people of South Africa. Factory workers, office workers, domestic servants, teachers, political leaders, people in many walks of life. They also talked to a broad spectrum of whites including members of all the major parties.

Their prime purpose in going to South Africa was to ask Africans what they thought American business should do in their country. We decided the answer that is best for the black people of South Africa would be the best answer for us.

Can you learn about a country in ten days? No. Nor in ten weeks. But our group learned one thing. What we had read and heard about *apartheid* was not exaggerated. It is every bit as repugnant as we had been led to believe.

The group returned with a unanimous recommendation.

In response to this recommendation and to the reports of the larger study committee, Polaroid will undertake an experimental program in relation to its business activities in South Africa.

For the time being we will continue our business relationships there (except for sales to the South African government, which our distributor is discontinuing), but on a new basis which Blacks there with whom we talked see as supportive to their hopes and plans for the future. In a year we will look closely to see if our experiment has had any effects.

First, we will take a number of steps with our distributor, as well as his suppliers, to improve dramatically the salaries and other benefits of their nonwhite employees. We have had indications that these companies will be willing to cooperate in this plan.

Our business associates in South Africa will also be obliged (as a condition of maintaining their relationship with Polaroid) to initiate a well-defined program to train nonwhite employees for important jobs within their companies.

We believe education for the Blacks, in combination with the opportunities now being afforded by the expanding economy, is a key to change in South Africa. We will commit a portion of our profits earned there to encourage black education. One avenue will be to provide funds for the permanent staff and office of the black-run Association for Education and Cultural Advancement (ASECA). A second method will be to make a gift to a foundation to underwrite educational expenses for about 500 black students at various levels of study from elementary school through university. Grants to assist teachers will also be made from this gift. In addition we will support two exchange fellowships for Blacks under the U.S.-South African Leader Exchange Program.

Polaroid has no investments in South Africa and we do not intend to change this policy at present. We are, however, investigating the possibilities of creating a black-managed company in one or more of the free black African nations.

Why have we undertaken this program? To satisfy a revolutionary group? No. They will find it far from satisfactory. They feel we should close the door on South Africa, not try to push it further open.

What can we hope to accomplish there without a factory, without a company of our own, without the economic leverage of large sales? Aren't we wasting time and money trying to have an effect on a massive problem 10,000 miles from home? The answer, our answer, is that since we are doing business in South Africa and since we have looked closely at that troubled country, we feel we can continue only by opposing the *apartheid* system. Black people there have advised us to do this by providing an opportunity for increased use of black talent, increased recognition of black dignity. Polaroid is a small economic force in South Africa, but we are well known and, because of our committee's visit there, highly visible. We hope other American companies will join us in this program. Even a small beginning of co-operative effort among American businesses can have a large effect in South Africa.

How can we presume to concern ourselves with the problems of another country? Whatever the practices elsewhere, South Africa alone articulates a policy exactly contrary to everything we feel our company stands for. We cannot participate passively in such a political system. Nor can we ignore it. That is why we have undertaken this experimental program.

POLAROID CORP.

AN EXPERIMENT IN SOUTH AFRICA

STATEMENT BEFORE SUBCOMMITTEE ON AFRICA OF THE COMMITTEE ON FOREIGN AFFAIRS, BY THOMAS H. WYMAN, SENIOR VICE PRESIDENT, POLAROID CORP., MAY 4, 1971

Polaroid sells its products in South Africa as do several hundred other American companies. Our sales there are small, less than one half of one percent of our worldwide business.

About six months ago a group began to demand that American business stop selling in South Africa. They say that by its presence it is supporting the government of the country and its policies of racial separation and subjugation of the Blacks. Polaroid, in spite of its small stake in the country, has received the first attention of this group.

We did not respond to their demands. But we did react to the question. We asked ourselves, "Is it right or wrong to do business in South Africa?" We studied the question for about ten weeks.

The committee of Polaroid employees who undertook this study included fourteen members—both black and white—from all over the company. The first conclusion was arrived at quickly and unanimously. We abhor apartheid, the national policy of South Africa.

The apartheid laws separate the races and restrict the rights, the opportunities and the movement of non-white Africans. This policy is contrary to the principles on which Polaroid was built and run. We believe in individuals. Not in "labor units" as Blacks are sometimes referred to in South Africa. We decided whatever our course should be it should oppose the course of apartheid.

The committee talked to more than fifty prominent South Africans both black and white, as well as many South African experts. We heard from officials in Washington. We read books, papers, testimony, documents, opinion, interpretation, statistics. We listened to tapes and saw films.

We addressed ourselves to a single question. What should Polaroid do in South Africa? Should we register our disapproval of apartheid by cutting off all contact with the country? Should we try to influence the system from within? We rejected the sug-

gestion that we ignore the whole question and maintain the status quo.

Some of the black members of the study group expressed themselves strongly at the outset. They did not want to impose on the black people of another country a course of action merely because *we* might feel it was correct. They felt this paternalistic attitude had prevailed too often in America when things are done "for" black people without consulting black people.

It was decided to send four of the committee members to South Africa. Since this group was to include two black and two white members, it was widely assumed we would not be granted visas. We were. We left for Johannesburg on November 30.

It was assumed that when we got to South Africa we would be given a government tour. We were not.

It was assumed we would not be allowed to see the actual conditions under which many blacks live and would be prevented from talking to any of them in private. We did see those conditions in Soweto and elsewhere. And with or without permission we met and talked to and listened to more than a hundred black people of South Africa. Factory workers, office workers, domestic servants, teachers, political leaders, people in many walks of life. We also talked to a broad spectrum of whites including members of the major parties.

Our prime purpose in going to South Africa was to ask Africans what they thought American business should do in their country. We decided the answer that is best for the black people of South Africa would be the best answer for Polaroid.

Can you learn about a country in ten days? No. Nor in ten weeks. But our group learned one thing. What we had read and heard about apartheid was not exaggerated. It is every bit as repugnant as we had been led to believe.

Our group returned with a unanimous recommendation.

In response to this recommendation and to reports of the larger study committee, Polaroid has undertaken an experimental program in relation to its business activities in South Africa.

For the time being we will continue our business relationships there (except for sales to the South African government, which our distributor has discontinued), but on a new basis which Blacks there with whom we talked see as supportive to their hopes and plans for the future. In a year we will look closely to see if our experiment has had any effects.

First, we will take a number of steps with our distributor, as well as his suppliers, to improve dramatically the salaries and other benefits of their non-white employees.

Our business associates in South Africa will also be obliged (as a condition of maintaining their relationship with Polaroid) to initiate a well defined program to train non-white employees for important jobs within their companies.

We believe education for the Blacks, in combination with the opportunities now being afforded by the expanding economy, is a key to change in South Africa. We will commit a portion of our profits earned there to encourage black education. One avenue will be to provide funds for the permanent staff and office of the black-run Association for Education and Cultural Advancement (ASSECA). A second method will be to make a gift to a foundation to underwrite educational expenses for about 500 black students at various levels of study from elementary schools through university. Grants to assist teachers will also be made from this gift. In addition we will support two exchange fellowships for Blacks under the U.S.-South African Leadership Exchange Program.

Polaroid has no investments in South Africa and we do not intend to change this policy at present. We are, however, in the process of creating a black-managed company in one or more of the free black African nations.

Why have we undertaken this program? To satisfy a revolutionary group? No. They have found it far from satisfactory. They feel we should close the door on South Africa, not try to push it further open.

What can we hope to accomplish there without a factory, without a company of our own, without the economic leverage of large sales? Aren't we wasting time and money trying to have an effect on a massive problem 10,000 miles from home? The answer, our answer, is that since we have looked closely at that troubled country, we feel we can continue only by opposing the apartheid system. Black people there have advised us to do this by providing an opportunity for increased use of black talent, increased recognition of black dignity. Polaroid is a small economic force in South Africa, but we are well known and, because of our committee's visit there, highly visible. We hope other American companies will join us in this program. Even a small beginning of co-operative effort among American businesses can have a large effect in South Africa.

How can we presume to concern ourselves with the problems of another country? Whatever the practices elsewhere, South Africa alone articulates a policy exactly contrary to everything we feel our company stands for. We cannot participate passively in such a political system. Nor can we ignore it. That is why we have undertaken this experimental program.

The program is well under way. Both our distributor and one of his suppliers have granted wage increases to all their non-white employees ranging from 13% to 33%.

An additional increase of 28% for a group of 20 non-white Frank and Hirsch employees was anonunced last week. Further increases are being negotiated.

Frank and Hirsch and one of their suppliers have agreed to guarantee the educational expenses for the children of all of their non-white employees through the high school level. This includes the complete cost of school tuition, transportation and books.

The first installment of a $15,000 gift to ASSECA has been made to enable them to establish a permanent office and staff.

A grant of $10,000 has been made to the U.S.-South African Leader Exchange Program and two African leaders will be spending a 3-month study period in the United States later this year.

We have been instrumental in setting up a black owned and managed distribution company in Nigeria which will handle our sunglasses there. They will be in business in Lagos as of May 21.

We have been working hard these past weeks to accomplish one more step, an educational foundation in South Africa. The legal mechanism is now complete and the six trustees have been nominated. They include four distinguished leaders of the non-white African community: Mr. M. T. Moerane, editor of *The World*, the largest black newspaper in South Africa; Chief Gatsha Buthelize, Paramount Chief of the Zulus; Mr. R. S. Naidoo, President of the Natal Indian Teachers Association; and Prof. W. M. Kgware, Professor of Psychology at the University of the North. The two white trustees are Helen Suzman, the sole opposition representative in the parliament, and Mr. Hirsch, our distributor. This foundation will be charged with selecting 500 black students and providing financial assistance for them. They will be chosen from all levels, grade school through university. Administration of this program will be handled by the highly respected Institute of Race Relations.

Reactions to our experiment have understandably been mixed. So far we have not met formal South African government opposition though we presume they are unhappy with our rejection of the apartheid system. The response from black South Africans has been very positive. Those in the U.S. pressing for withdrawal are unhappy with the experimental program. The great majority of our employees and shareholders have endorsed the program. Many companies have asked for background information on what we are doing and why we are doing it. We are not sure what the longer term decision will be regarding Polaroid's relationship with South Africa, but we are convinced that the basic approach of working for change from within deserves this kind of trial.

THOMAS H. WYMAN, SENIOR VICE PRESIDENT, POLAROID CORP.

Joined Polaroid in 1965 as Vice President, International Division. In 1966 made responsible for company's domestic and overseas sales. In April 1971 named Chairman of the Management Executive Committee and President of the International Division. Formerly with Nestle Alimentana SA (Switzerland) and The First National City Bank of New York.

Amherst College BA 1951.

Management Development Institute (IMEDE) Lausanne, Switzerland 1959–60.

United States Army (Korea) 1953–55 1st Lt.—Corps of Engineers.

A REPORT ON SOUTH AFRICA

About a year ago Polaroid Corporation undertook an experimental program in South Africa. We were challenged to stop selling our products there as a gesture of opposition to the *apartheid* system of that country. A committee of black and white employees at Polaroid was formed to study the question. They sent four members of their group (two black and two white) to South Africa to gather information first hand and to talk to black South Africans. This group returned with a recommendation which the company adopted. We publicly stated our abhorrence of *apartheid*. We stopped sales of Polaroid products direct to the government. But we decided not to turn our backs on the problem. We would continue our business and attempt to achieve some basic improvements in the lives of black people there. This is a report on that experiment.

Since it was to involve the areas of employee benefits and education, both stringently restricted by the *apartheid* system, the assumption was made by some that the government of South Africa would actively oppose this program, perhaps take punitive action of some sort against us or our distributor there, Frank and Hirsch (Pty.) Ltd. This did not happen. There was no overt government opposition to any of the steps we have taken. Our distributor's business (which includes cameras, film and sunglasses) has continued with no adverse effects.

What specifically did we do in South Africa? Our first step was to ask the distributor and his associated companies (Polaroid has no company or investments of its own in South Africa) to improve "dramatically" the salaries and benefits of their non-white employees. This has been done with diligence and some success. The principle of the same pay for the same job has been accepted and announced publicly. The average monthly salary including bonus for black employees has increased 22%. Individual increases have ranged from 6% to 33%. The average is now 91 Rand (about $127 a month) up from R75. The minimum wage including bonus has been raised to R70. Whereas there were 98 black employees in the lowest salary category a year ago, there are only 39 there now. Twenty-one black employees (out of a total of 151) now make more than R130 per month (about $182). We feel that further progress is possible in this area. Wage discussions including Po-

laroid, our distributor and the Black Employees Committee of that company have already taken place regarding next year.

Eight black supervisors have been appointed during the course of the year in the Computer, Administration, Services and Distribution departments. One of the first black computer operators in South Africa is one of this group. Some of these positions were formerly held by whites. The black supervisors are being paid on the same pay scale as their predecessors. In addition two men have received instruction outside the company to qualify them to run on-the-job training courses.

A pension plan with death benefits is already in operation with equal provisions for blacks and whites. Our distributor has also set up a plan that will pay the educational expenses of children of black employees as well as for vocational or scholastic training for the employees themselves. A loan service for black employees is in operation and applications are now screened and recommended by the Black Employees Committee.

A second, smaller company associated with our distributor has also instituted wage increases for its black employees of from 16½% to 33⅓%. They have adopted pension and educational aid plans similar to the distributor's.

Another of the goals of our experiment was to create some mechanisms for change in the area of black education. In addition to the steps taken by our distributor and his allied company to aid the children of black employees, we have attempted three specific programs. A grant of $15,000 has been made by Polaroid to a black organized and operated institution, the Association for the Educational and Cultural Advancement of the African People of South Africa (ASSECA). This group was formed to encourage and improve black education in South Africa. The grant has provided funds for staff, transport and administration. ASSECA has embarked on several ambitious schemes in the past year including coaching classes for high school examinations, lobbying for new classrooms to be built in Johannesburg, and a million Rand fund drive to aid black students.

A second grant of $10,000 was made to the U.S.-South Africa Leader Exchange Program, a private, non-governmental organization. Under this grant two black South Africans and their wives have come to America for an extended period of travel and study. Mr. Seth Manaka, who has a Master's degree in library science, spent three months in this country and visited libraries in 14 cities across the country. Dr. Noel Manganyi, a clinical psychologist, is currently here visiting hospitals, clinics and universities in various parts of the country.

A third grant of $50,000 (derived, as were the others, from profits earned by sales of our products in South Africa) was used to establish a foundation to underwrite educational expenses of black students and teachers in South Africa. This foundation, called ASSET (American-South African Study and Educational Trust) was organized in May, 1971. Its trustees include some of the most distinguished black leaders in South Africa: Mr. M. T. Moerane, Editor of *The World*; Chief Gatsha Buthelezi, Chief Executive of the Zulus; Mr. R. S. Naidoo, President of the Natal Indian Teachers Association; Professor W. M. Kgware, Professor of Psychology, University of the North; and Mr. David Curry, a leader of the "colored" community. There are two white members as well, Mrs. Helen Suzman, Progressive Party Member of the South African Parliament and Mr. Helmut Hirsch, Managing Director of Polaroid's South African distributor. ASSET has made a promising beginning. In its first nine months it has given scholarship grants to 679 students from all the major regions of South Africa. Recipients have included blacks, "coloreds", orientals and Indian students at all levels from high school through college and post graduate study. Teacher training and vocational training have also been funded. Another 2,000 students have benefited from five special grants made for teacher's salaries in various schools. The number of applications for aid, however, has been overwhelming. ASSET has hardly scratched the surface.

We have also participated in the formation of a black owned and operated distribution company in Nigeria (another of the goals we set for ourselves). The company has been operating out of Lagos since September.

This, then, is what the Polaroid experimental program has accomplished in the year it has been in existence. But what effects has it had? What conclusions have we drawn? What is the future of such a program?

Its effects have been quite visible in press reports from South Africa, England, Canada and the U.S. Apparently Polaroid has been the first company from any country to take a public stand against *apartheid* and for the improvement of black working conditions in South Africa. Literally thousands of articles and editorials have been written about the "Polaroid program". Reactions have ranged from applause and support to thoughtful criticism to revolutionary rhetoric.

In South Africa the press (which is not controlled by the government) has enthusiastically reported every detail of the program to its readers.

What have other companies done? One of the most important announcements in recent months came from the two largest international banks in South Africa, Barclay's Bank and the Standard Bank, stating that they would pay black employees the same rate for the job as white employees. About 400 black workers are affected. A major American automobile manufacturer also announced recently that they will pay equal wages for equal work, regardless of color. To date, however, whether they have instituted changes or not, most companies in South Africa have been reluctant to make any public statement of their current or future wage policies.

Polaroid has received inquiries from many American companies asking what difficulties we have encountered in South Africa and what pressures have been brought to bear on the implementation of our plans. The answer is simple. We have encountered no major difficulties, have faced no pressures that would alter what we have hoped to achieve. On the contrary, we have been surprised at how much progress has been made in a relatively short time.

Two comments that have come to us in recent months have helped to crystalize our feelings on the complex subject of South Africa and our presence there. Alan Paton, novelist, poet and a leading South African liberal, spoke at the Harvard Commencement in June.

"I'm often asked the question as to whether Americans should withdraw all investments in South Africa. I know this view is strongly held by some, and I respect it, but it is not my own. If those American enterprises in South Africa—and there are not a great many—and here I am quoting from the statement of the Polaroid Corporation entitled 'An Experiment in South Africa', would improve dramatically the salaries and other benefits of their non-white employees then I have no doubt that this would exert a moral pressure on South African employers to do the same. . . . Therefore I stand not for the withdrawal of American investment, but for this dramatic improvement in salaries and benefits."

The second was from a black African worker who met our four employees when they were in South Africa. He recently wrote a letter to one of the members of the group.

"The Polaroid program has brought about great ferment in this country and many people seem to be trying to do something about improving the lot of the African people. We have had the case of (a large) bank, which gave a directive to its employees to accord African people the same courtesy accorded the other racial groups. The policy makers of that institution banned the use of the appellation 'boy' or 'girl' when addressing adult Africans. We are to be addressed as Mr. or Mrs. now. . . . What was started by Polaroid is gaining momentum and if it goes on in this way we hope that sanity may eventually be restored to our troubled country. . . . Among the African people, the 'experiment' has been applauded and . . . become the talk of the townships. This I have been able to get from people personally. . . . We would like to repeat what we said to you in December, that we are totally opposed to (your) withdrawal from South Africa. What has happened has in fact been the thin edge of the wedge, which will—we hope—lead to a breakthrough."

We share this hope also. In our opinion relatively little has happened prior to this experiment that could encourage hope for change. The alternative courses of action, after close examination, seem equally bleak to us. Although in a year's time the visible effects on other companies of our experiment have been limited, the practical achievements in salaries, benefits and education have shown what can be done. In this respect the experiment has exceeded the expectations of many. Therefore, we have decided to continue our program in South Africa.

POLAROID CORP.

[From the Wall Street Journal, Sept. 22, 1971]

EXPERIMENT IN SOUTH AFRICA: SOME U.S. FIRMS IGNORE URGINGS TO LEAVE, INSTEAD SEEK TO UPGRADE STATUS OF BLACKS

(By Ray Vicker)

JOHANNESBURG, SOUTH AFRICA.—In an air-conditioned office here, Samuel Mokone, a balding 39-year-old black man, checks the console of an IBM 360 computer.

Sitting in the offices of Frank & Hirsch (Pty) Ltd., Polaroid Corp.'s South African distributor, Mr. Mokone grins broadly as he describes how some months ago he was promoted to computer supervisor as part of an experiment to upgrade black workers. One of the few blacks in South Africa to hold such a highly skilled job, Mr. Mokone has seen his base pay rise to $252 a month from $205; his take-home pay, with overtime, now runs close to $300 a month.

"I'm well off," he says cheerfully. Then his features cloud as he adds, "Those people who are agitating to get Polaroid out of South Africa don't know what they're talking about. If that happened, it would be black men like me who would suffer."

The Polaroid experiment is part of a campaign by a number of companies to raise wages and benefits for blacks instead of leaving South Africa in a protest against the national policy of apartheid, or racial separation. Support for the program is coming from most blacks in this country and from a surprising number of whites. The Polaroid experiment is part of a broader campaign to reduce economic discrimination against nonwhites. Some American companies are leaders in that drive; others are among the biggest foot-draggers.

ECONOMICS AND CONSCIENCES

Economic considerations, of course, are a major factor in forcing this country to make greater use of its black labor. It is impossible to determine how much influence is being exerted as a result of pressure from outside

South Africa and how much from guilty consciences within. In any case, the repercussions reach well into the $1 billion book value of the 300 companies here and beyond that into much of the nation's economy.

Such foreign investment has become a target for militant American civil-rights groups, which advocate a disengagement from South Africa. But scores of interviews with people of all races here indicate that such views have relatively little support even among blacks in this country.

"Who are these people who want foreign investments pulled out of South Africa? They certainly aren't friends of South African blacks," says M. T. Moerane, editor of the 100,000-circulation Johannesburg World, southern Africa's largest black newspaper. Mr. Moerane, a short, heavyset African of modest manner, sits behind a cluttered desk and insists that black betterment must come from efforts of blacks within South Africa rather than from outside pressure. He says he receives many letters from readers endorsing that position.

"Disengagement of foreign investments is the strategy of the African National Congress and groups like it that are headed by blacks who left this country a dozen years ago," Mr. Moerane says. "They no longer know what is going on here. They don't represent blacks in South Africa."

Sharing his opinion is Peter Mathihare, a slender, goateed 1961 graduate of the University of Witwatersrand. An articulate member of the Tswana tribe, he now handles all incoming correspondence for Polaroid's affiliate here. "You don't help a man by taking his livelihood from him," Mr. Mathihare says. "Yet, this is the program advocated by antiapartheid demonstrators and by African National Congress members who are 10,000 miles away from South Africa."

Ian J. Hetherington, managing director for the abrasives subsidiary of Norton Co., Worcester, Mass., says: "A better case can be made for the opposite approach, for pouring investments into the country to offer more jobs and opportunities for the black man." Norton has a broad program for advancing nonwhites on its payroll.

Of course, not everyone agrees. "To the extent that U.S. corporations are agents that support and strengthen the South African economy, they are also responsible for the strength of apartheid," says Timothy H. Smith, who heads southern African activities of the United Church of Christ. A healthy South African economy "strengthens white control" and "white ability to keep blacks oppressed," adds Mr. Smith, who is considered one of the principal U.S. spokesman for this viewpoint. His conclusion: "U.S. companies must withdraw from South Africa."

Groups espousing that view are difficult, if not impossible, to find in South Africa—one reason being that radical organizations are barred from this country of 21.3 million population. Of these, the 14.9 million Bantus, or blacks, face the greatest discrimination and have the lowest average pay. The pay, and status, scale rises for the two million coloreds, or persons of mixed blood; it continues upward for the 600,000 Asians, and reaches its peak for the 3.8 million whites.

GOVERNMENT TO BLAME?

Companies sometimes blame the South African government for the wide differences in pay between white and nonwhite employes. This is one of the misconceptions often cited about South Africa. These facts emerge from a study of government regulations, trade-union rules and labor-management agreements:

There is no limit on what a company may pay a black or any other nonwhite for any job. A company is free to decide to pay equal wages for equal work.

The government does insist, however, that blacks not supervise whites.

There are government job reservations that save certain posts for whites. These currently affect fewer than 3 percent of the jobs available. Reserving jobs for whites more often results from labor-management agreements.

No legal machinery prevents a company from establishing in-service training to help nonwhite workers advance.

Frequently a black produces only a fraction of what might be expected of a white worker on the same job. But many observers say the fault lies with management for providing inadequate training.

Managements are free to establish black productivity committees that can serve as valuable channels between executives and black workers.

Such a committee is a major reason that black labor relations are amicable at Frank & Hirsch, Polaroid's subsidiary here, say all four members of the black committee. "We are not alone in trying to improve the position of the nonwhite," says Helmut Hirsch, managing director of Frank & Hirsch. "Many others are aware of the fact that increases in wages commensurate to the work done are justified for blacks."

Frank & Hirsch now employs about 300 persons, nearly even split between white and nonwhite, says the 56-year-old Mr. Hirsch, who arrived in South Africa in 1935 as a refugee from Hitler's Germany. Since the first of the year, blacks at the company have received pay rises averaging 22%; the increases have ranged from a low of 6% to a high of 39%, he says. The minimum wage was raised to $98 a month from $70. Since the start of the experiment, the company has increased the number of its black supervisors to eight from two.

Only two of the company's white employes quit after the campaign was announced to upgrade black workers. "This experiment is a good thing," says one white employe, John Cawood, assistant manager of stores. "A man should be paid for what he does."

POLAROID AS A CATALYST

The Polaroid campaign is proving to be a catalyst in the drive to upgrade nonwhite workers. At least a dozen American firms have contacted Polaroid, its distributor here or Africans connected with its educational programs seeking information for possible parallel projects. Included have been J. R. Watkins Co., the Winona, Minn., cosmetics firm; Warner Bros.; Coca-Cola Corp., and Chase Manhattan Bank. Well before Polaroid announced its program, several American and some South African companies were moving in the same direction.

Norton Co., Worcester, Mass., is introducing an aptitude testing system among nonwhites at its subsidiary here to upgrade these workers. It already has a 15-man African plant committee to serve as a link between blacks and management. International Business Machines Corp. says its subsidiary here pays one scale for equal jobs, regardless of the employes' color. Kellogg Co., the breakfast-food concern, just introduced a free medical plan for all its employes. General Motors says its pay scales for nonwhites at its big Port Elizabeth facilities, the largest auto works in Africa, are "well above the average" but gives no figures. Minnesota Mining & Manufacturing Co.'s subsidiary here trains blacks for key jobs.

Harry Goldberg, chairman of Ellis Furnishers Ltd. and of Lewis Appliances, two South African companies, has been working to upgrade the lot of the black worker for many years. He is a founding father of the country's Bantu Wage and Productivity Association, a group that includes 130 companies, most of them South African.

EMPLOYING BLACKS AT WHITE SCALES

Lewis Appliances, the Norge distributor in South Africa, now employs 300 workers, 200 of them black, Mr. Goldberg says. Twenty jobs involving sheet-metal stamping and cutting were established at white pay scales of $25 to $50 a week. When no white could be found for the jobs, the company filled the posts with blacks and says they are doing well. "This is not typical," Mr. Goldberg concedes. "I merely mention it to show that it can be done."

Despite its official policy of apartheid, even the South African government is taking some steps to narrow the pay gap between whites and nonwhite workers.

South Africa's Public Service Commission is making a comprehensive study of industrial-relations policies with the intention of promoting "a more satisfactory ratio" between salaries for whites and nonwhites. Theo Gerdener, minister of the interior, says, "It is the government's intention to develop a salary structure based on international principles." Currently 130,000 nonwhites are employed in government service. Any move to raise their salaries could have repercussions on pay scales throughout the country.

Jan Loot, South Africa's minister of colored affairs, recently urged industry to pay higher wages to colored employees. He notes that the gap between colored and white pay scales can't be closed overnight, but he adds, "The government will strive to narrow the gap as rapidly as possible."

PROFIT WITHOUT PUBLICITY

The South African Medical Association is considering possible establishment of salary scales based on the job, not on color. But there's a long way to go. The white doctor in the government medical service, for example, is paid from $7,980 to $11,340 a year. His black compatriot on the same job draws from $4,872 to $7,560 a year.

The subject of pay scales causes discomfort, however, to some American companies that, while making money here, don't even like it known that they are operating in South Africa. The attitude of these firms disturbs many whites as well as blacks here. "I don't have much respect for any company that comes here, earns a big profit in South Africa, then tries to hide the fact that it is even doing business in this country," says an official of one South African trade association. "Some of these American companies don't even want to contribute to trade associations in this country for fear that their names might be on association rosters."

Other American companies say they are "conforming" to the existing pay pattern. "Unfortunately, this is often only too true," says Fred Van Wyk, director of the South African Institute of Race Relations, a liberal organization that has been focusing attention on discrimination in the country.

He reaches for a file of pay scales on his desk. It shows that in industry after industry the black worker consistently is paid far less than whites. At the end of 1970, for instance; in manufacturing—a field in which American companies are heavily concentrated—the average pay for whites was $430 a month and for blacks $73. Moreover, the gap widened during the year; wages for whites rose an average of 10%, those for blacks 8%.

Mr. Van Wyk contends that many U.S. companies resort to buck-passing when they are approached about improving the lot of non-white workers, contributing to African education or joining trade associations. Managements based in South Africa shrug and contend that such decisions are made at home offices in the U.S. On the other hand, officials in America shrug and contend that they don't interfere in operations of overseas subsidiaries.

LLEWELLYN E. "TOMMY" THOMPSON: AMBASSADOR EXTRAORDINARY

Mr. MANSFIELD. Mr. President, Llewellyn E. "Tommy" Thompson has died. It is with the deepest regret and most

profound sadness that I note his passing. If there is truly to be a thaw in the cold war between East and West, it will in large measure be because Tommy Thompson worked to reduce the tension to ease the strain, and to generate the warmth that in turn will melt the ice. Ambassador Extraordinary. That is his epitaph. A diplomat's diplomat; not an engineer, but a builder of the strongest bridges that have spanned gulfs of the widest misunderstanding.

Tommy Thompson's counsel and advice were sought by heads of state and by all who were interested in establishing peace for mankind. The trust and confidence he engendered were truly monumental. When called out of retirement by President Johnson in 1967 to assume once again the role of one who has the chief responsibility for asserting this Nation's interest within the Soviet bloc, that call went out not because he was the only man for the job but because he was the best man for the job. And that is the legacy he leaves.

Tommy Thompson was the best in his field. He was an Ambassador to whom all others in the diplomatic service and indeed all who seek to improve relationships between nations can aspire today and in the years ahead. Tommy Thompson—Ambassador Extraordinary—will be missed. His passing leaves a vacuum and void within this Nation's policymaking processes that will not be filled.

I ask unanimous consent that the following editorials and articles concerning Ambassador Thompson in which are recounted his numerous achievements and distinctions be printed in the RECORD:

An editorial entitled "Ambassador Extraordinary," published in the Christian Science Monitor, on February 8, 1972;

An editorial entitled "The Quiet Diplomat," published in the Washington Daily News, on February 8, 1972;

An editorial entitled "Llewellyn E. Thompson," published in the Washington Post, on February 8, 1972;

An article entitled "Tommy Thompson—A Diplomat With a Rare Intuitive Touch," written by Chalmers M. Roberts, and published in the Washington Post, on February 8, 1972;

An article entitled "Llewellyn Thompson, Diplomat, Long-Time Envoy to Moscow, Dies," published in the Baltimore Sun, on February 7, 1972;

An article entitled "Llewellyn Thompson, Leading U.S. Kremlinologist, Dies at 67," published in the Los Angeles Times, on February 7, 1972; and

An article entitled "Llewellyn Thompson Dead at Age of 67; Ex-Envoy to Soviet," published in the New York Times, on February 7, 1972.

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

[From the Christian Science Monitor, Feb. 8, 1972]

AMBASSADOR EXTRAORDINARY

When Llewellyn E. Thompson left Moscow at the end of his second tour of duty there as Ambassador of the United States, he remarked:

"I don't think I ever made things worse, although there are great opportunities for causing harm here."

The remark was characteristic of a career American diplomat who was outstanding in his time for what he accomplished by patience, perseverance, and keeping his personality out of the way of his work.

Too often in foreign affairs the channel of communication between governments gets cluttered or even clogged by the personality of the individual. An ambassador, at his best, is a clear channel for such useful and constructive work as the two countries involved are capable at any time of doing.

Ambassador Thompson began working at understanding the Russians when he was posted to Moscow in 1941. He studied the language and the culture of Russia during the siege of Moscow. He had been left behind to mind the embassy buildings. The people of Moscow never forgot that he stayed among them through the uncertain days of the siege when so many foreigners and high Russian officials moved to a safer distance.

After the war his first big work was on settlement of the dispute over Trieste between the Yugoslavs and Italy, with the Russians watching from the sidelines. His experience in helping bring that matter to a satisfactory conclusion led to his assignment to Vienna where his efforts were centered on negotiating the withdrawal of Russian troops from Austria. That was achieved in 1955.

In the process Mr. Thompson had come to understand the Russians perhaps better than any other American diplomat. And they trusted him to be honest with them. He went to Moscow as Ambassador in 1957 and stayed on through the U–2 crisis of 1960 and the Berlin crisis of 1961. He was in Washington advising President Kennedy during the Cuban missile crisis of 1962 and was credited with a major role in keeping that affair from turning into a nuclear war.

At the end of his 42-year career in American diplomacy Mr. Thompson was adviser to the American delegation to the SALT (strategic arms limitation) talks. Whenever there was important business to be done between Moscow and Washington he was sought as a channel because all trusted him to represent, accurately and impersonally, what the other was trying to say. He was always urging people in Washington to judge the Russians impersonally, not on the basis of preconceived assumptions.

Llewellyn Thompson had a lot to do with the fact that there has been no war between Russia and the United States in spite of the enormous strains of the "cold war."

[From the Washington Daily News, Feb. 8, 1972]

THE QUIET DIPLOMAT

Llewellyn E. "Tommy" Thompson, who has died at 67, was the most effective and successful American diplomat specializing in dealing with the Soviet Union since World War II.

A retiring, soft-spoken, self-effacing man with a strong belief in quiet diplomacy and avoiding publicity, Mr. Thompson was not as widely known as his talents deserved.

Nevertheless, in the difficult field of dealing with the Russians, he left a body of work second to none.

He negotiated the settlement that divided the Trieste region between Italy and Yugoslavia, and the Austrian State Treaty by which the Soviet Army withdrew from Austria in return for that country's permanent neutrality.

As ambassador to Moscow from 1957 to 1962, Mr. Thompson won the trust and friendship of Nikita S. Khrushchev, which enabled him to provide Washington with accurate, informed and shrewd reports on Soviet policies.

Mr. Thompson was instrumental in arranging Mr. Khrushchev's 1959 trip to the United States and his meeting at Camp David with President Eisenhower. In his quiet way, Mr. Thompson did much to push the American bureaucracy toward cultural exchanges and disarmament agreements with Russia.

In the 1962 Cuban missile crisis, his advice to President Kennedy was invaluable in helping the two superpowers avoid a nuclear showdown. Characteristically, he came out of retirement to advise President Nixon on the current round of strategic arms limitation talks.

With Tommy Thompson's passing, the country has lost a wise counselor and an exemplary public servant.

[From the Washington Post, Feb. 8, 1972]

LLEWELLYN E. THOMPSON

Those of us who stay around this town for a while, watching the passing parade of presidents and political appointees, come to put a high value on the career civil servant who makes it to the top and then serves on while the in-and-outers from academia, or the short-timers from private industry, come and go. The good careerists are a selfless breed, by and large, because they have to be; there is a ceiling on their earnings and they cannot expect to recoup the high cost of government service by moving on to comfortable jobs on the outside after a short stretch in Washington. They are also, by definition, a non-partisan, if not apolitical, breed. And so they act as stabilizers, bringing continuity and great expertise to a system largely manned at the top by political partisans who have barely mastered their jobs before they are back in private life. Such a public servant was Llewellyn ("Tommy") Thompson, who is the subject of an affectionate and admiring farewell by Chalmers Roberts in an article elsewhere on this page today. Tommy Thompson was among the most astute and accomplished and, if you will, the kindest of the diplomats who rose to prominence in the American foreign policy hierarchy through the cold war years. Twice ambassador to Moscow, he won the trust of successive Presidents for his judgment on likely Soviet turns. In the 1950s it fell to him to negotiate the Austrian peace treaty and the Trieste settlement. These agreements established his repute as a consummate diplomat, though characteristically "Tommy" deprecated his own role.

He first took over the Moscow embassy in 1957–62, establishing a personal relationship with Nikita Khrushchev which gave him—and through him, the Washington foreign-policy community—new insights into the necessities and possibilities of Soviet-American cooperation. The advice on Soviet reactions which he gave President Kennedy in the Cuban missile crisis was proven out by events, further enlarging his esteem. By holding out the prospect of a key part in strategic-arms talks, Lyndon Johnson lured him from retirement and returned him to Moscow in 1967–69. Vietnam undercut the prospect, to Mr. Thompson's keen regret.

The model of the discreet diplomat—perhaps even more, the model of the bureaucrat who by style and choice worked on the inside—Tommy Thompson kept his personal views to himself, both before and after retirement. It is not possible to say how fully he shared the postwar American consensus, now loosening, that held the chief threat to international stability to lie in Moscow. One suspects, however, that his service to his nation consisted not only of being one of the experts who "knew" the Russians but of being a man who knew his fellow Americans and their ways and who used his influence quietly, selflessly, steadily and devotedly within the councils of state for decency and peace.

[From the Washington Post, Feb. 8, 1972]

TOMMY THOMPSON—A DIPLOMAT WITH A RARE INTUITIVE TOUCH

(By Chalmers M. Roberts)

Llewellyn E. ("Tommy") Thompson's finest hour, I think, came in the 1962 Cuban missile crisis. After Nikita Khrushchev had installed the Soviet missiles Tommy confessed

that "I just didn't believe the Russians would do it." But once there was no doubt about the presence of the missiles, Thompson became, by everybody's account, almost indispensable to President Kennedy.

Robert F. Kennedy, in his posthumously published "Thirteen Days," paid Tommy the highest tribute by writing that his "advice on the Russians and predictions as to what they would do were uncannily accurate" and that his "advice and recommendations were surpassed by none."

Some diplomats write splendid cables. Some are great on the social scene. But the ones who really count, and whose accomplishments last, are the rare few who have an intuitive feel for the country to which they are assigned and to the leaders who run that country. No ambassador I have known in the past two decades had a better feel for this than did Tommy Thompson.

During the midst of the missile crisis I asked Tommy why President Kennedy had not confronted Soviet Foreign Minister Andrei Gromyko with either the facts or the photographs. Thompson said that at that time there was a question in the executive committee (the so-called Ex-Com composed of JFK's key advisers) of whether the Soviets were intending a surprise attack on the United States, whether the bases were somehow related to the internal situation in Cuba or whether they were being built to give Khrushchev a diplomatic card in a game of nuclear blackmail. Uncertainty breeds caution in the experienced diplomat and so Tommy advised caution when Gromyko came to see the President.

As Tommy put it: "It is rather like a man finding his wife unfaithful. She may know that he knows. But when he tells her, things are different. Then he had better be prepared, for things will begin to happen." He served three tours of duty in Moscow, twice added that "we went very far to give Gromyko an opening which he did not take."

Tommy Thompson never had any allusions about the Russians but he didn't believe in the devil theory of history. He served three tours of duty in Moscow, twice as the American ambassador, and his every waking moment was consumed in trying to understand that country and its leaders. He was as icily unexcitable as a man could be. And when he didn't know the facts he didn't dissemble and try to make you think he did.

He was a great believer in the efficacy of human contacts to overcome ideological blinders. He constantly promoted the idea of having leading Russians visit the United States to see for themselves and that included Khrushchev as well as lesser men. He once told me he thought it had been "a great tragedy" that John Foster Dulles had rebuffed a suggestion that Marshal Georgi Zhukov come here to visit his wartime friend President Eisenhower. Dulles hadn't bothered to let Tommy know that the idea had been proposed by the Gridiron Club and that Ike had said okay if Dulles would agree.

Thompson was a major promoter of the American fair in Moscow, the one at which then Vice President Nixon, engaged in the kitchen debate with Khrushchev. Mr. Nixon, like his predecessors, had a high regard for Tommy. When candidate Nixon, about to be nominated in 1968, announced he intended to go to Moscow before election day he added that of course he wouldn't do a thing without Amb. Thompson's full knowledge and approval.

Before he went to Moscow as ambassador Tommy was first high commissioner in Vienna and then, after the Austrian State Treaty that ended the Red Army occupation, the first post war American ambassador. He patiently sat through hundreds of meetings on the treaty. And then, when Moscow suddenly moved, he found himself being charged by the Austrians for being a roadblock. Even Dulles raised a question but bowed to Tommy who had that intuitive feeling that, if Vienna would just bargain a bit longer, more would be gained. The Austrians grumbled and did. And more was gained.

Tommy was a detente advocate. He could sense when the Kremlin leaders were in the mood or not. When they were he quietly urged a positive American response though his advice was not always heeded. Early on he saw the depth and meaning of the Sino-Soviet split. But he never lost sight of the basic Soviet antagonisms toward the capitalist world, especially the United States.

The war in Vietnam, to Thompson, seemed an interference in his hopes for Soviet American accords. In this he was "big power" minded. Asia was his forte for in 1966 he told me he felt Vietnam would be over in a year. Here hope exceeded judgment.

Tommy's last task was as a member of the American delegation to the Strategic Arms Limitation talks (SALT) and there his health kept him from the most recent sessions. But a SALT agreement, in a way, would be a fitting monument.

Tommy Thompson was one of those largely unknown but highly indispensible servants of the national interest. He could distinguish between fact and propaganda. He was a superb poker player—at the table with friends or in the conference room negotiating with the Russians. He could be most useful to newsmen or he could keep totally silent. He was, indeed, a paragon as a career foreign service officer and the most decent of human beings one will ever meet.

[From the Baltimore Sun, Feb. 7, 1972]

LLEWELLYN THOMPSON, DIPLOMAT, LONG-TIME ENVOY TO MOSCOW, DIES

WASHINGTON.—Llewellyn E. Thompson, a former United States ambassador to the Soviet Union whose foreign-service career spanned four decades, died yesterday at age 67.

Mr. Thompson died at the National Institutes of Health in Bethesda, Md., where he had been hospitalized since January 31 for an undisclosed illness.

Mr. Thompson, a quiet and unassuming man, served six presidents and had three tours of duty totaling 11 years in Moscow, a longer period than any other American diplomat has spent in the Russian capital.

The length of residence was not all that made him one of the top American Kremlinologists. Mr. Thompson, his peers acknowledged without reservation, had more success in negotiating with the Russians than any U.S. envoy since the United States established diplomatic relations with the Soviet Union in 1933.

Mr. Thompson was appointed high commissioner to occupied Austria by President Truman in 1952 and served in Vienna for five years. There his cool patience and unflappable negotiating style helped bring about the 1954 agreement on Trieste and the 1955 Austrian State Treaty that ended the four-power occupation of that country.

For nine years the Russians resisted a settlement of the Austrian question, but finally, after 380 sessions, in the spring of 1955 an agreement was reached ending the occupation.

Mr. Thompson then became the first post-war U.S. ambassador to an independent and neutral Austria.

Mr. Thompson was born at Las Animas, Colo., August 24, 1904. He graduated from the University of Colorado in 1928 and joined the Foreign Service the following year.

After holding several minor posts abroad Mr. Thompson was sent to Moscow in 1940. Four years in the Soviet capital gave him a working knowledge of Russian and his reputation as a courageous diplomat was established during the grim winter of 1941 when the Nazis threatened Moscow.

Mr. Thompson refused to leave, though most of the diplomatic corps followed the fleeing Soviet government.

In 1944 he was transferred to London and between 1946 and 1949 he worked at the State Department, ending as deputy assistant secretary for European affairs.

Between 1950 and 1952 he was counselor at the embassy in Rome, before Mr. Truman sent him to Vienna.

In 1957, Mr. Thompson returned to Moscow as ambassador, replacing Charles E. Bohlen, another of the State Department's four top Kremlin-watchers. The other two were George F. Kennan and Foy D. Kohler.

During the five-year tour in Moscow Mr. Thompson managed to establish an unusually friendly relationship with Premier Nikita S. Khrushchev who even during the U.S.-Soviet tensions in 1960 repeatedly and publicly stressed that he had nothing against the diplomat.

This sometimes resulted in strange situations.

Mr. Thompson once told of a Kremlin reception where, after delivering one of his angry tirades against the United States, Khrushchev asked Mr. Thompson to join him in a toast.

"What shall I drink to after what you have said?" the diplomat asked, and he put down his glass without touching its contents.

The late Soviet leader did not seem to be offended.

While in Moscow, Mr. Thompson reached the top of the ladder in the Foreign Service: In 1960 he was named a career ambassador.

He returned to Washington in 1962 as an ambassador-at-large, in effect the administration's resident Kremlinologist.

Though Mr. Thompson wanted to retire, former President Johnson persuaded him to go back to Moscow in 1966 for another three years as ambassador.

Mr. Thompson finally retired in 1969, after 40 years in the Foreign Service, but when the strategic arms limitation talks started, he was asked by the Nixon administration to participate as a consultant.

[From the Los Angeles Times, Feb. 7, 1972]

LLEWELLYN THOMPSON, LEADING U.S. KREMLINOLOGIST, DIES AT 67; FORMER AMBASSADOR TO SOVIET UNION SERVED SIX PRESIDENTS OVER FOUR DECADES, INCLUDING THREE TOURS OF DUTY IN MOSCOW

WASHINGTON.—Llewellyn E. Thompson, former U.S. ambassador to the Soviet Union whose foreign service career spanned four decades, died Sunday. He was 67.

Thompson died at the National Institutes of Health in nearby Bethesda, Md., where he had been hospitalized since Jan. 31 for an undisclosed illness.

Thompson—Tommy to his friends—a quiet and unassuming man, served six presidents and had three tours of duty in Moscow.

But it was not the number of years that made him a member of the exclusive club of top American Kremlinologists. Thompson, his peers acknowledged without reservation, had more success in negotiating with the Russians than any U.S. envoy since the United States established diplomatic relations with the Soviet Union in 1933.

Thompson was appointed high commissioner to occupied Austria by President Harry S. Truman in 1952 and served in Vienna for five years. During this period his cool patience and unflappable negotiating style resulted in the 1954 agreement in Trieste and the 1955 Austrian State Treaty which ended the four-power occupation of that country.

Both problems had defied solution since World War II ended. Trieste, the port city on the Adriatic, belonged to the Austro-Hungarian monarchy until the end of World War I, then it became part of Italy, and Tito's Yugoslavia claimed it after World War II.

In eight months of quiet negotiations Thompson persuaded everybody, including the Russians, to accept partition of the Trieste area, leaving the city and port in

Italian hands, but giving most of the Istrian peninsula to the Yugoslavs.

For nine years the Russians resisted a settlement of the Austrian question, but finally, after 380 sessions, in the spring of 1955 an agreement was reached ending the occupation. Thompson became the first postwar U.S. ambassador to independent and neutral Austria.

Thompson was born at Las Animas, Colo., Aug. 24, 1904. He graduated from the University of Colorado in 1928 and joined the foreign service the following year.

After several minor posts abroad Thompson was sent to Moscow in 1940. Four years in the Soviet capital gave him a working knowledge of the Russian language and his reputation as a courageous diplomat was established during the grim winter of 1941 when the German armies threatened Moscow. Thompson refused to leave, though the diplomatic corps followed the fleeing Soviet government.

In 1944 he was transferred to London and between 1946–1949 he rose in the ranks at the State Department, ending as deputy assistant secretary for European affairs. From 1950 to 1952 he was counselor at the embassy in Rome, before Mr. Truman sent him to Vienna.

In 1957 Thompson returned to Moscow as ambassador, replacing Charles E. Bohlen, another of the now-legendary foursome of the professionals who had dominated the State Department's Kremlin-watching. The other two were George F. Kennan and Foy D. Kohler.

During the five-year tour in Moscow Thompson managed to establish an unusually friendly relationship with Nikita S. Khrushchev who even in the period of the U–2 incident in 1960 repeatedly and publicly stressed that he had nothing against the diplomat.

This sometimes resulted in strange situations.

Thompson once told of a Kremlin reception where, after delivering one of his angry tirades against the United States, Khrushchev asked Thompson to join him in a toast.

"What shall I drink to after what you have said?" the diplomat asked, and he put down his glass without touching its contents.

The late Soviet leader did not seem to be offended.

While in Moscow, Thompson reached the top of the ladder in the foreign service: in 1960 he was named a career ambassador.

He returned to Washington in 1962 to be ambassador-at-large, in effect the resident Kremlinologist of the administration.

Though he wanted to retire, former President Lyndon B. Johnson persuaded him in 1966 to go back to Moscow for another three years as ambassador.

Thompson later said he was disappointed by the men who ousted and replaced Khrushchev: he never could establish personal contact with Leonid T. Brezhnev, the party boss, or Alexei N. Kosygin, the premier.

Thompson finally retired in 1969, after 40 years in the foreign service, but when the strategic arms limitation talks started, he was asked by the Nixon Administration to participate as a consultant.

Thompson did not marry until he was 44 years old. He leaves his wife and three daughters.

[From the New York Times, Feb. 7, 1972]

LLEWELLYN THOMPSON DEAD AT AGE OF 67; EX-ENVOY TO SOVIET

WASHINGTON, February 6.—Llewellyn E. Thompson, former Ambassador to the Soviet Union, whose diplomatic career spanned four decades, died today. He was 67 years old.

Mr. Thompson had been hospitalized at the National Institutes of Health in Bethesda, Md., since Jan. 31 for treatment of cancer.

The diplomat's retirement in January, 1969, was short-lived, for President Nixon soon named him to the United States delegation to the strategic arms limitation talks (SALT) with the Soviet Union. He took his customary self-effacing part in both the Helsinki and Vienna sessions, which made tentative progress toward curbing the arms race.

Mr. Thompson leaves his wife, the former Jane Monroe Goelet, and two children, Jenny and Sherry, as well as a step-daughter, Fernanda.

COLD WAR ENTENTE

(By Alden Whitman)

Perseverance, patience, a willingness to talk and a capacity for friendship were all qualities that served to make Llewellyn E. Thompson Jr. one of the nation's most effective diplomats in often-difficult dealings with the Russians during the cold war. As an exponent of the art of quiet diplomacy, he managed to keep open the channels of communications between the United States and the Soviet Union at times when the two superpowers were barely on speaking terms.

For almost 30 years, starting in 1940, Mr. Thompson was involved with the Russians. He was twice Ambassador to Moscow—from 1957 to 1962 and from 1967 to 1969. For 10 years, ending in 1955, he talked with the Russians about an Austrian State Treaty. There were 379 meetings before the accord was finally worked out, a feat of endurance for which he received the United States Distinguished Service Award.

Once asked how he managed with the Russians, Mr. Thompson replied:

"I am a great believer in quiet diplomacy. I think that in the long run it gives a better chance for finding successful solutions to our problems."

The tall, slim, rather reserved envoy might have added that he was a great practitioner of personal diplomacy. When he was in Moscow, a day seldom passed when he did not meet high-ranking Soviet officials in one social setting or another and engaged them in conversation. He was on cordial terms with Andrei A. Gromyko, the Foreign Minister, and on friendly ones with Nikita S. Khrushchev, the Premier, often talking with him for hours on end.

EXONERATED BY KHRUSHCHEV

In the severe Soviet-American crisis in 1960 over the U–2 flight, Mr. Khrushchev publicly exonerated Mr. Thompson from responsibility for the incident. And during the Berlin crisis of 1961, the Soviet leader went out of his way to drink a toast to the Ambassador.

Soviet confidence in Mr. Thompson's integrity (which did not always extend to his Government) sprang in part from the fact that he spoke fluent Russian, that he took the trouble to see as much of Soviet life as possible and that he entertained thousands of Russians at Spaso House, his official residence.

Keeping himself at low pressure professionally produced many strains on Mr. Thompson, who was widely known as Tommy. One evidence was the glass of milk and the package of graham crackers that were prominent amid the clutter of his desk and attested his stomach ulcers. He also sought relief from his tensions in skiing, golf and poker.

"Tommy had the patience of a marble statue at the poker table," a fellow player recalled recently. "I've never seen anyone fold so many hands while waiting for the right cards. His judgment was superb."

HIS OWN ASSESSMENT

Although Mr. Thompson's achievements in Moscow were considerable—the cultural exchange agreement, paving the way for the nuclear test ban treaty, setting up the Vienna "summit" between Mr. Khrushchev and President Kennedy—he himself thought they were essentially negative.

"I don't think I ever made things worse, although there are great opportunities for causing harm here," he said at the end of his second Moscow mission in 1969.

As a Soviet expert, Mr. Thompson ranked with George F. Kennan and Charles E. Bohlen, who also served in Moscow. Unpretentious and conservative in dress and manner, Mr. Thompson was almost the reverse of the confident, elegantly casual Mr. Bohlen. And he was more down to earth than the rather intellectually arrogant Mr. Kennan, who was an author of the American containment policy toward the Soviet Union.

Discussing Mr. Thompson's ambassadorial role, Prof. Adam Ulam of Harvard, the Soviet affairs specialist, said recently:

"Within the limitations of American policy toward the Soviet Union, Mr. Thompson was the most effective of our Moscow envoys over the last 20 or 25 years. He understood Soviet motivations very clearly, as he demonstrated in the Cuban missile crisis of 1962. He recalled then that the Russians were not so much concerned with Cuba or missiles as with obtaining a bargaining position on other matters. His advice to President Kennedy was more profoundly based than that of many of his counselors."

BORN IN COLORADO

The son of a rancher, Mr. Thompson was born in Las Animas, Colo., on Aug. 24, 1904. As a youth, he worked on his father's spread, in a general store and in a logging camp in western Washington. On a boat trip from Seattle to Los Angeles, he met a retired consul, whose account of his life as diplomat excited and inspired the young man. Back home, he enrolled in the University of Colorado and worked his way through.

After receiving his bachelor's degree in 1928, he attended the Foreign Service School of Georgetown University in Washington and was appointed a Foreign Service officer in January, 1929. He began his career as a vice consul in Ceylon, shifting to Geneva in 1933 and moving up to consul in 1937. Meantime, he served as an American adviser at conferences in Geneva of the International Labor Office. During most of 1940, when the war in Europe was escalating into World War II, Mr. Thompson attended the Army War College in the United States.

The following year he was posted to Moscow as second secretary and consul at the American Embassy. In the summer of 1941 the Germans were hammering at the gates of Moscow, and the diplomatic corps moved with the Foreign Ministry and most of the Soviet Government to Kuibyshev on the middle Volga. Mr. Thompson was assigned to stay in Moscow to look after the embassy and other United States property and interests.

"VERY GRIM PERIOD"

In what he later called "a very grim period," the diplomat studied Russian and attended the theater. The Nazi siege was lifted in August, 1942, but the Russians did not forget that Mr. Thompson had shared their hardships in good part. Their special feeling for him traced to his having stuck it out in the menaced capital. From the United States he received the Medal of Freedom for handling the embassy "at the risk of capture" by the Germans.

In 1944, Mr. Thompson was assigned to London and two years later he was brought to Washington. There he was given a series of increasingly important administrative jobs—chief of the Division of European Affairs, deputy director of the Office of European Affairs and Deputy Assistant Secretary of State for European Affairs. In his progression up the ladder, he acquired the professionalism that was to distinguish his diplomacy. He also gained a reputation for

imperturbability, which was to help advance his career.

In June, 1950, Mr. Thompson was assigned to Rome as counselor of embassy, and two years later President Harry S. Truman sent him to Vienna, first as High Commissioner and then as Ambassador. Much of his time was occupied in negotiations for a Trieste settlement and with the Austrian State Treaty.

Both Italy and Yugoslavia claimed Trieste, the key port at the head of the Adriatic. It took nine years, ending in 1954, to divide the region between them on terms both could accept.

"EVEN RUSSIANS APPROVED"

He spent the climactic eight months of the talks in London, meeting regularly and quietly with Italian and Yugoslav representatives.

"It [the accord] was one of the few things we have done that even the Russians approved of," Mr. Thompson said at the time.

Simultaneously, he was working behind the scenes on the Austrian treaty, by which Austria regained her independence in 1955, in return for a pledge of neutrality. The military forces of the United States, Britain, France and the Soviet Union were also withdrawn under the treaty. Its final terms were worked out in 11 days of furious and arduous bargaining, during which Mr. Thompson lost 17 pounds.

The experience with the Austrian treaty and the Trieste accord reinforced his belief in the value of careful negotiation out of the spotlight of publicity. Mr. Thompson often referred to these pacts as "open covenants secretly arrived at."

At one of the peaks in the cold war in 1957, President Dwight D. Eisenhower chose Mr. Thompson as Ambassador to Moscow. Within a few months the Soviet leaders began to press for a summit conference, and the new envoy was called up to undertake the sensitive reporting and negotiating job that cautious United States policy required.

URGED KHRUSHCHEV TRIP

Although a formal summit did not eventuate, Mr. Thompson urged on the State Department the wisdom of inviting Premier Khrushchev to the United States. This trip, which required months to arrange, took place in 1959 and resulted in a notable relaxation of Soviet-American tensions. Mr. Thompson accompanied Mr. Khrsuhchev on his visit, which culminated in a meeting with President Eisenhower at Camp David Md. "The spirit of Camp David," hailed by Mr. Khrushchev, was a fruit of Mr. Thompson's patient and tenacious diplomacy.

Mr. Thompson also helped lay the groundwork for the Paris summit of 1960, which was aborted after a U–2 overflight of the Soviet Union that was directed by the Central Intelligence Agency. The envoy's relations with Soviet leaders remained good despite the episode, and he was continued at his post for almost two years by the Kennedy Administration.

Having been made a Career Ambassador in 1960, he was retained as a State Department adviser when he left Moscow in the fall of 1962, and he was Acting Deputy Under Secretary of State for Political Affairs from 1964 to 1966, when President Lyndon B. Johnson appointed him to Moscow again. Arriving there in January, 1967, he helped to arrange the meeting later that year between the President and Premier Alexei N. Kosygin in Glassboro, N.J.

SECOND TOUR DIFFICULT

Mr. Thompson also sought to deepen the détente by keeping alive the possibility of limiting the Soviet-American nuclear missile race. But his second tour in Moscow was difficult, owing chiefly to the Vietnam war, and he never had a single serious talk with Leonid I. Brezhnev, the principal Soviet leader.

FILLING OF VACANCIES FOR FEDERAL JUDGESHIPS

Mr. COOK. Mr. President, yesterday, the senior Senator from Iowa (Mr. MILLER) spoke at the 59th midyear breakfast meeting of the American Judicature Society at the Roosevelt Hotel, in New Orleans, on his use of a merit plan in the selection of nominees for appointment to fill a vacancy in the Federal district judgeship for the southern district of Iowa. As the president of the society, Mr. Robert Hall, observed in announcing Senator MILLER's appearance, this was "the first time such a procedure has ever been used for a Federal judgeship, and a milestone on the path to nationwide acceptance of the merit plan for the filling of all judgeships, Federal and State."

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

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

THE IOWA STORY—REFORM IN THE EXERCISE OF SENATORIAL COURTESY

In April of last year, the U.S. Department of Justice commenced the active processing of a prospective nominee for the Eighth Circuit Court of Appeals. Inasmuch as the nominee was a sitting Federal District Judge in my State who enjoyed a high reputation, it appeared probable that he would be nominated and confirmed, leaving the Federal District Judgeship open for appointment.

It is well known that the senior United States Senator from the Party in control of the Administration has a great deal to say in such an appointment. Of course, the Administration may see fit to indicate a preference; but if the Senator specifies a preference, it will customarily be honored if processing by the Department of Justice, which includes evaluation by the American Bar Association's Standing Committee on the Judiciary, results favorably. If it doesn't, the Senator will usually be asked to provide another name. If he declines to do so, the President may simply do nothing, or he may send over the name of the individual whom the Senator had designated, with the understanding that the Senator bears the burden of obtaining confirmation by the Senate. Such a burden may be a heavy one, as was the case with Francis Morrissey of Massachusetts, whose nomination was on the point of rejection by the Senate when it was withdrawn on October 21, 1965. (I might add that, since then, no President has sent over a nomination following an unfavorable report from the ABA Standing Committee on the Judiciary.)

Of course, a President is not going to send over a name which is objectionable to the senior Senator from his Party. Senatorial courtesy extended by the Senate Judiciary Committee to that Senator would preclude favorable action on such a nomination.

The real question is how should the Senior Senator from the Party in control of the Administration go about having a great deal to say" when it comes to the President's sending over to the Senate a nomination to the Federal bench. Although it might be conceded that the processing by the Department of Justice, which includes an FBI check and evaluation by the ABA's Standing Committee on the Judiciary, tends to prevent appointment of incompetent or undesirable individuals, there is no guarantee that it won't happen. The Morrissey case is an example of one that nearly happened—even after an *unfavorable* report by the Standing Committee on the Judiciary. And the nomination of Abe Fortas to be Chief Justice was blocked in the Senate notwithstanding a *favorable* report by the ABA Standing Committee, which stated: "Our Committee is of the view that Associate Justice Fortas is highly acceptable from the viewpoint of professional qualifications." The Committee Chairman at that time pointed out, however, that the Committee's responsibility is to express its opinion "only on the question of professional qualification" and "to express no opinion at any time with regard to any other consideration not related to such professional qualification which may properly be considered by the appointing or confirming authority". Thus, what could be vital matters of judgment and outside activities are left for the consideration of the President or the Senate.

More importantly, however, is the fact that these procedures are negative. They are calculated to avoid bad appointments; whereas what is needed to obtain maximum confidence of the public is the appointment of people with the capacity to be outstanding judges.

And so, it seems to me, this should be the guideline of a Senator when he undertakes to "have a great deal to say" about a nomination to the federal bench. At any rate, it was the guideline I chose. The next question was how best to follow it.

I suppose I could have looked over the field of lawyers and state and local judges in Iowa, many of whom I know personally, and come up with one, two, or three names to send over to the Department of Justice for processing; and I like to think that the people of Iowa would have ended up with an outstanding judge. I could have informally contacted Party officials or community leaders or bar association officials or all of them and come up with one, two, or three names; and I like to think the people of Iowa would have ended up with an outstanding judge. However, there was another question that needed to be answered: "Would the people of Iowa *think* they were getting an outstanding judge?" And I couldn't help but recall a Gallup poll in 1968 which showed that 60 percent of the people held an unfavorable view towards the Supreme Court. Add to this the special concern of many of our new, young voters over the need for reform in our system of justice, and it seemed to me that the time was most appropriate to follow a selection procedure which would be calculated to not only result in the appointment of an outstanding judge, but to cause the people of Iowa to *think* they were getting an oustanding judge.

The best approach that came to mind was to call upon my own State bar association to make the selection of three names for me to send over to the Department of Justice. Not only has the Iowa State Bar Association long maintained an outstanding reputation for integrity, but it has been in the forefront of support for improved procedures in the selection and retention of judges. For example, it provided great leadership in securing ratification of a constitutional amendment and the implementing legislation under which nominees for our State Supreme Court and District Court judgeships are selected through a screening process involving judicial nominating commissions, with final appointment by the Governor, and stand for retention in office by popular vote which coincides with their terms of office.

Accordingly I formally requested the State bar association, through its president, to select three names for me to furnish the Department of Justice for the purpose of deciding upon a nominee to fill the upcoming vacancy for the Federal District Judgeship. I stated that the guidelines furnished me by the Department of Justice were age fifty or under and extensive trial experience, but I added these words: "I believe the age factor would be subject to some variation, particularly if other factors are strong, although my feeling is that someone age sixty or very

close to that age would not be favorably considered."

I also noted that it was not necessary to limit selection to someone residing in the particular judicial district and pointed out that we presently have a sitting Federal District Judge who, at the time of his appointment, resided in another district.

Finally, I expressed my belief that this was a most appropriate undertaking for the association and would be consistent with the need to maintain public confidence in our judiciary.

The President of the State Bar Association promptly called a special meeting of the members of the Board of Governors to consider my request. The Board reacted favorably and directed the President to appoint a special committee of seven from the Board itself, such committee being charged with the responsibility of promptly submitting to the full Board a list of recommended names. From this list, the Board would then select the three names to be furnished me.

The President, who happened to be a Republican, appointed the Committee and named, as Chairman, one of the Members of the Board, who happened to be a Democrat. The Committee met promptly and determined upon the procedure it would follow: four-page questionnaires, being those used by the State Judicial Nominating Commission with respect to Iowa Supreme Court Justice vacancies, would be provided each member of the Board of Governors for distribution to those lawyers in their districts who, in their opinion, were qualified or wished to be considered. These were to be mailed back to the special committee within a few days for its consideration in preparing the list for the Board of Governors.

Information about this action and the procedures adopted was provided every member of the Iowa State Bar Association in a special letter from the President, who advised that any member of the Association who wished to be considered by the special committee should contact the Board member in his district and obtain the required questionnaire for completion and mailing direct to the special committee by a specified date. The President expressed his confidence that, under the procedure to be followed, the three names finally selected would have been determined with no partisan or political considerations involved. The concluding paragraph of his letter, I thought, set the tone which befitted the occasion:

"In this time in our history when our judiciary and the selection thereof is being criticized nationwide, we here in Iowa can be grateful for this opportunity to display for all to see a conscientious and impartial method of finally arriving at the appointment of a Federal District Court Judge and also that our lawyers and our Senator can and will rise above personal or selfish considerations."

I might point out that the four-page questionnaire is very comprehensive, covering such factors as state of health, legal, writing, court experience, including jury trial experience, a description of ten of the more significant litigated cases along with their citations, personal law violation charges and convictions other than traffic violations involving a fine of $25 or less, and outside business interests.

The special screening committee received a total of thirty-three questionnaires and, after most careful deliberation, submitted twelve of these to the Board of Governors. The Board held a special one-day meeting and, after thorough analysis, proceeded to vote by secret ballot to drop one name from the thirteen. This was followed by successive secret ballots until ten names had been dropped and three names remained. These three, along with their questionnaires, were then sent to me, listed in alphabetical order, by the bar President, who wrote:

"You would have been proud, Senator, of the impartiality and dedication demonstrated by the screening committee of the Board in the first instance and by the full Board itself when it finally reached its determination. The entire procedure was as fair as humanly possible and was done without regard to race, creed, color or political preference."

I thereupon wrote to the Attorney General, outlining the procedure that had been followed and presenting the three names, along with the questionnaires, in alphabetical order. I noted that this was an unprecedented procedure which had evoked very little criticism and a great amount of favorable reaction. I concluded with the statement: "I am satisfied that each of these nominees is fully qualified for appointment as Federal District Judge for the Southern District of Iowa."

The three nominees were two State District Court judges and one of our State Supreme Court justices. All of this had been covered by the press, and the typical comments around the State was that the people would be well served by any one of them.

Of course I still retained the option of designating a preference. However, I had decided to refrain from exercising it pending the outcome of the processing by the Department. In due course, I was notified that investigation revealed that all three were possessed of outstanding qualifications. I asked the Department whether it had a preference and was advised that its preference was the State Supreme Court justice who had, prior to his appointment to the Supreme Court, acquired extensive trial experience and had served in the Iowa State Senate for several years. That was good enough for me, and I requested that the Department forward his name to the President for nomination.

I am pleased to say that my junior colleague, who is a member of the other major party, was in full agreement with the nomination. This is important, because both Senators, regardless of party, must at least acquiesce in such a nomination before the Senate Judiciary Committee sets hearings promptly. If one Senator declines to acquiesce, the result will be, at the very least, a long, drawn-out process; and if the dissenting Senator can come up with some persuasive evidence, a nomination can be blocked.

The President quickly sent over the name of our State Supreme Court Justice, a hearing was promptly held, and the Senate confirmed the nomination, without dissent, in short order.

In striking a blow for reform in the exercise of senatorial courtesy with respect to federal judge appointments, I recognze that the procedure I followed is not the only one that could be adopted. The suggestion has been made that one could name a selection advisory board, which would consist of lawyers, judges, and laymen. However, if I had undertaken to name such a board, I can visualize a reaction by some members of the public that political connections had something to do with the composition of the board. Furthermore, I am not at all sure that laymen would possess the background and objectivity rquired for merit selection of judges. Professional qualifications are matters which would seem best left to the expertise of leaders of the bench and bar. "Popularity" of a State District Judge, for example, could be a major factor in a layman's decision; whereas, historians tell us that a "good" judge or a "great" judge has not always been a "popular" judge.

Reform, which is change for the better and not simply change for the sake of change, is needed if our political institutions are to regain the confidence of the public which must exist in a democratic system. Chief Justice Warren Burger has spoken out strongly for reform in our judicial system to make it more responsive to the need for both fair and prompt justice. The selection of judges is a very important part of the judicial reform picture, and essentially this means a process which will merit public confidence that professional qualifications rather than political connections are determinative in judicial appointments. I believe this is particularly important to the younger voters of the nation whose idealism should be matched by the reforms we can accomplish.

I well know that, during its fifty-nine years, the American Judicature Society and its members have been dedicated to reform in our system of justice, including reform in the procedures for the selection and retention of judges. I strongly feel that reform—voluntary though it must be—in the exercise of senatorial courtesy when it comes to appointing members of the federal judiciary is a major step that should be taken in achieving the goal to which you are dedicated—a goal which must be attained if ours is to be a "good" society.

CONGRESS MUST TAKE ACTION ON DOCK STRIKE

Mr. PERCY. Mr. President, I am gratified that the Committee on Labor and Public Welfare has reported emergency legislation to end the dock strike. The legislation before us today is vitally needed to end a strike which has caused grave harm to the economy of this country.

I am not in favor of the Government arbitrarily or capriciously involving itself in the collective bargaining process. But in this case, when the damage to the economy is so great and the national interest is so clearly involved, I feel the Congress must act and with dispatch.

Although the current dock strike has had repercussions on all parts of the American economy, its impact on American farmers has been particularly great. Secretary of Agriculture Butz has testified that the dock strike cost American farmers $750 million in lost export sales in 1971, compared to the same period in 1970. These lost sales are continuing at the present time. Every day that the strike continues, the American farmer will be hurt. This is especially crucial to the State of Illinois, which is the largest agricultural exporting State in the country.

The dock strike is resulting not only in lost export sales, but also in reduced farm prices, increased marketing costs, and spoiled crops. The dependability of the United States as a supplier of agricultural commodities is being severely damaged. Countries which formerly bought American agricultural commodities are now turning to other countries, such as Canada and Australia, for their food requirements. Markets lost now by American farmers may never be regained.

Mr. President, the Congress must act today. We must pass the President's special legislation to end the current dock strike and then move on at the earliest time to pass legislation to establish procedures to deal with all such disputes in the future. We must insure that we prevent such crippling strikes in the future. I commend my colleagues, Senator JAVITS, Senator WILLIAMS, and Senator

PACKWOOD, for their diligent efforts toward this end.

I ask unanimous consent that certain material on the subject be printed in the RECORD.

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

[From the Wall Street Journal, Feb. 8, 1972]

HOUSE UNIT, SENATE ARE SET TO ACT TODAY TO SPEED AN END TO PACIFIC DOCK STRIKE

WASHINGTON.—The Senate is expected to take up legislation that would force a settlement of the West Coast dock strike.

But quick action will be required of both the Senate and House if Congress is to pass strike-settling legislation before the lawmakers head home tomorrow night for the long Lincoln Day recess.

The House Rules Committee meets today to consider sending a bill aimed at resolving the dispute directly to the floor for a vote.

In San Francisco, negotiations were continuing between the International Longshoremen's and Warehousemen's Union and the Pacific Maritime Association, the employers' bargaining group.

The bill scheduled for floor action in the Senate today was cleared yesterday by the Labor Committee. It's basically similar to the legislation proposed by President Nixon Jan. 21 for settling the strike, with one exception. The Senate bill would permit the parties to choose an arbitrator, or panel of arbitrators, to fashion a binding settlement instead of leaving the selection to the Secretary of Labor.

Labor Committee Chairman Harrison Williams (D. N.J.) and Sen. Jacob Javits of New York, the ranking Republican on the panel, said the Senate is expected to take up the bill this afternoon. Both agreed the Senate could complete action on the bill before tomorrow's recess, but they declined to make firm predictions about final congressional passage.

The Nixon administration proposal, which will be one of the possibilities mulled by the House Rules Committee this morning, would halt the walkout and empower a three-member panel of arbitrators, picked by the Secretary of Labor, to impose a settlement within 40 days of its selection. The arbitrators' settlement would remain in effect for at least 18 months.

The Senate version would put pressure on the parties to chose a single arbitrator within three days of the bill's enactment. If that were impossible, the legislation spells out a complicated process in which a federal judge would pick either a single arbitrator, or name the chairman of a three-member arbitration panel.

There were indications that the procedure was calculated to encourage the parties to pick San Francisco arbitrator Sam Kagle to settle their dispute. Mr. Kagle was called into the talks by mutual agreement last week to serve as a mediator.

Events were more confused on the House side of the Capitol yesterday. A House Labor subcommittee cleared a measure that would authorize President Nixon to go into federal court to seek an injunction halting portions of the ILWU strike that are holding up military goods, agricultural cargo and shipments to and from Hawaii.

The full House Labor Committee will meet this morning to consider the measure. But it can't send the legislation to the floor for at least six days without unanimous consent, committee sources said, and that isn't likely to happen, they indicated.

This means any hope for speedy House action probably rests with the Rules Commitee. Provoked by what they believed was the Labor Committees' slow action on the administration's bill House GOP leaders and some farmstate Democrats are pressing the Rules Committee to take the legislation out of the Labor Committee's hands and bring it directly to the floor for a vote. But late yesterday, there apparently was little consensus on what bill would be best.

Backers of the administration's bill were the ones who initially pressed for Rules Committee action. But one nosecount indicates there are seven votes committed to the Nixon bill and seven against it on the 15-member committee. It's understood the swing vote could be that of Hawaii Democrat Spark M. Matsunaga, who may come up with his own alternative.

[From the Washington Post, Feb. 8, 1972]

PANEL VOTES TO END DOCK STRIKE

(By Sanford J. Ungar)

The Senate Committee on Labor and Public Welfare last night unanimously approved President Nixon's emergency legislation to end the West Coast dock strike, with only minor revisions in the administration's plan for compulsory arbitration.

Acting at 6 p.m. at a closed meeting that lasted all afternoon, the Senate panel revived the prospects that Congress may force an end to the seven-month-old docks dispute before breaking Wednesday afternoon for a Lincoln's Birthday recess.

Earlier in the day, a House Labor Submittee rejected the administration bill and approved a substantially weaker measure that would force only a partial resumption of work on the waterfront for 60 days while negotiations between shippers and longshoremen continued.

That measure, sponsored by subcommittee chairman Frank Thompson Jr. (D-N.J.), is expected to come before the full House Committee on Education and Labor this morning.

At the same time, however, the powerful House Rules Committee will meet this morning to consider rushing the administration bill to the House floor for immediate consideration.

Secretary of Labor James D. Hodgson, continuing the administration's pressure on Congress to end the strike, issued a statement last night denouncing the Thompson bill as "clearly unsatisfactory."

He implored Congress once again to adopt the administration approach.

In San Francisco, meanwhile, negotiators for the Pacific Maritime Association (PMA) and the International Longshoremen's and Warehousemen's Union (ILWU) were reported to be striving for an agreement that would circumvent congressional action.

Congressional leaders in both parties said they would prefer to drop all legislation if a voluntary settlement of the strike can be reached.

They were skeptical, however, of new reports that the PMA and ILWU were "terribly close" to resolving all issues remaining in dispute.

"We have been terribly close before," said Rep. John Dellenback (R-Ore.), chief sponsor of the administration bill in the House.

Unless the shippers and dock workers reach agreement by early this morning, they may be unable to have a settlement pact endorsed by both sides before Congress acts.

Testifying before the House and Senate committees last week, Harry Bridges, president of the ILWU, suggested that the longshoremen might defy the Administration bill if passed in its original form.

Thompson, who spoke with Bridges after the subcommittee session yesterday morning, said the union leader also opposed even the limited return-to-work legislation adopted by the subcommittee.

Edmund J. Flynn, president of PMA, on the other hand, endorsed the administration proposal last week, saying collective bargaining had failed.

The administration bill, as approved by the Senate Labor Committee last night, would provide for compulsory arbitration over a 40-day period, with even those issues already agreed upon by the shippers and longshoremen opened for renegotiation.

The arbitration board's findings would be binding for at least 18 months, but no more than 24 months, and the wage increase for the longshoremen would be exempt from approval by the Pay Board.

At the insistence of Democrats on the Senate committee, however, the bill provides that the arbitrators would be selected by the parties to the docks dispute themselves, rather than by the Secretary of Labor as proposed by President Nixon.

If the parties could not agree on a panel, the arbitrators would be chosen by the chief judge of U.S. District Court for the Northern District of California.

The Senate bill also drops the Teamsters Union from the compulsory arbitration plan.

The administration originally proposed that the Teamsters be included since they are in dispute with the longshoremen over who should perform some of the work on container shipping at West Coast ports.

Thompson's bill, in contrast, rejects compulsory arbitration, and provides only that the government may seek court action "to enjoin such portion of a strike or lockout concerning military cargoes, agricultural cargoes and shipments to and from Hawaii" for 60 days.

Any such court action would require a finding that "the national health or safety" is endangered and would permit negotiations to continue during the injunction. Any wage settlement reached would be subject to the approval of the Pay Board.

The preamble to Thompson's bill notes that "partial operation of the industry will . . . permit the major part of the strike or lock-out to continue."

Thompson's bill was adopted by the subcommittee on a 5 to 1 vote after a brief open session, with only Dellenback voting against it on grounds that it was "purely cosmetic."

The two other Republicans on the subcommittee, John M. Ashbrook of Ohio and Ogden R. Reid of New York, voted "present."

Earlier, the subcommittee voted 5 to 3 along strict party lines to reject the administration bill.

Thompson said of his bill, "cosmetic or not, it will do the job" of getting essential commodities to and from Hawaii and permitting U.S. agricultural exports to be shipped overseas.

The Senate committee acted after a morning caucus of its Democratic members, who overruled chairman Harrison A. Williams Jr. (D-N.J.) in his efforts to prevent any compulsory arbitration legislation from reaching the Senate floor.

Congressional sources said later that only Williams and Sen. Claiborne Pell (D-R.I.) held the line against the administration bill.

Twice during their afternoon-long session, the Democratic majority on the committee emerged from the meeting room to caucus.

The second caucus was prompted by the threat of Sen. Bob Packwood (R.-Ore.) to use the emergency dock strike legislation as a vehicle for bringing up on the Senate floor the administration's long-range legislation to end transportation strikes.

That administration bill has been before the Senate Labor Committee for two years.

To the chagrin of his colleagues on the committee, including ranking Republican Jacob K. Javits of New York, a defiant Packwood said after yesterday's meeting that he would attempt to force consideration of the long-range bill by the Senate today.

YOUTH FOR UNDERSTANDING

Mr. PERCY. Mr. President, I take great pleasure in extending my congratulations to Youth for Understanding on the occasion of its 21st anniver-

sary. This remarkable program, which seeks to promote international understanding by sponsoring world-wide student exchange programs, began its activities in 1951 by selecting 75 German teenagers for placement in American families in the Detroit area. Since 1951, the organization has greatly expanded its efforts. Youth for Understanding now gives high school graduates the opportunity to participate in a 13th year abroad program, placing them with host families in foreign countries to study at foreign secondary schools. For college students, the program offers the opportunity to tour Europe on special study programs. For musically inclined students, Youth for Understanding sponsors a chorale, a string ensemble and a wind ensemble which travel on concert tours each summer.

Over 30,000 students from 45 foreign countries have now participated in Youth for Understanding programs. In addition, American students from 42 States have been given the opportunity to expand their horizons through international living experiences.

I commend Youth for Understanding for its fine efforts to promote international understanding and world peace and wish it continued success in the years to come.

SENATOR MILLER SPEAKS ON TAX REFORM

Mr. GRIFFIN. Mr. President, last Friday, the senior Senator from Iowa (Mr. MILLER) spoke on the subject of "Reform in the Taxation of Foundations" at the Eighth Annual Conference on Federal Tax Problems of Nonprofit Organizations which was held at the Washington-Hilton Hotel under the auspices of Organization Management, Inc.

Senator MILLER outlined the problems which Congress sought to meet in the Tax Reform Act of 1969 in a particularly knowledgeable way because of his position on the Senate Finance Committee and the conference committee which produced the final version of the act.

I ask unanimous consent that his address be placed in the RECORD.

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

REFORM IN THE TAXATION OF FOUNDATIONS

(By JACK MILLER, U.S. Senator, Iowa)

Two years ago, you graciously honored me with an opportunity to speak at this luncheon. I undertook then to analyze the major problem areas of concern to the Congress on the subject of private foundations.

What I would like to do today is return to those major problem areas and discuss what the Congress did about them.

Let me repeat two premises which I set forth in that address and which, I can assure you, undergirded the action of the Congress. First, our public policy long has been and continues to be that private philanthropy should be encouraged through tax exemptions for charitable organizations and tax deductions for contributions to such organizations. Otherwise, the legitimate activities of these organizations would have to be taken over by government. Second, the loss of revenue from such tax exemptions and tax deductions should be matched by a reasonably concurrent benefit to the charitable purpose.

SELF-DEALING

In my statement two years ago, I said: "It would appear that self-dealing transactions have no relevance to the purposes of tax exemption for foundations and tax deductions for donors, and the conclusion is clear that present law does not prevent them. Moreover, since we are talking about only a relatively small percentage of foundations and donors, the benefits to charity and the public interest (not to mention public support of foundations) from a tightening of the law would seem to outweigh any losses which might result from such action." I also noted that limitations in the law as it then stood—prohibiting loans by a foundation to a donor which do not have adequate security and do not bear a reasonable rate of interest, or substantial purchases of property by a foundation from a donor for more than an adequate consideration—were terribly difficult and time-consuming to administer.

To minimize the need to apply such subjective arms-length standards, to avoid the temptation to misuse private foundations for noncharitable purposes, to provide a more rational relationship between sanctions and improper acts, and to make it more practical to properly enforce the law, the Finance Committee went along with the House in removing private foundations from the arm's-length self-dealing requirements and, in prohibiting self-dealing altogether.

The specific transactions between a private foundation and a disqualified person which are now prohibited are:

1. The sale, exchange, or leasing of properties;
2. Lending of money or extension of credit;
3. Furnishing of goods, services, or facilities;
4. Payment of compensation;
5. Transfer to or use by, or for the benefit of, disqualified persons of the income or assets of a private foundation; and
6. Agreement by a private foundation to make any payment of money or other property to a government official (other than an agreement to employ such individual for certain periods after termination of government service).

The Senate added a seventh category, namely: payment by a private foundation of the taxes imposed upon any disqualified person for engaging in self-dealing. This was dropped by the Conference Committee as already covered by the prohibition against the transfer for the benefit of a disqualified person of income or assets of a private foundation. The Senate Finance Committee Report also noted that "use by, or for the benefit of," a disqualified person may consist of securities purchases or sales in the open market by a foundation in order to manipulate the prices of the securities to the advantage of a disqualified person.

The House and Senate were in harmony over establishing a graduated series of sanctions against the self-dealer and against a foundation manager who willfully engage in the prohibited transactions. In the case of willful repeated acts or a willful and flagrant act, the Internal Revenue Service can require the foundation either to pay back to the Government the income, estate, and gift tax benefits (with interest) which the foundation and all of its substantial contributors had received; or it can require the foundation to distribute all of its assets to a public charity or to operate as a public charity. Also, a foundation from engaging in self-dealing.

DELAY IN BENEFIT TO CHARITY

My comments two years ago included the following: "Inasmuch as charitable undertakings are looked upon with favor because government would otherwise have to assume the burden, it would be logical to expect that a current tax deduction for a contribution to a foundation, or exemption from tax of a foundation's current income, both of which result in loss of revenue to the government, would be accompanied by a current benefit to charitable activities. . . . The 1950 Act sought to deal with the problem by denying tax exempt status to an otherwise qualifying organization for the year that its accumulated income is unreasonable in amount or duration, used to a substantial degree for purposes other than charity, or invested in such manner as to jeopardize the carrying out of charitable activities." As in the case of the self-dealing provisions, I noted the administrative difficulty in enforcing standards of "unreasonable" and "substantial" as a result of which there were problems of foundation lending to private parties, foundation speculation, and "capitalizing on the tax exemption."

As many of you know, the Senate and House agreed to opt for simplified administration by providing that, to avoid tax, a private foundation must distribute *ALL* net income (other than net long term capital gains) currently, with graduated sanctions for failure to distribute; and with the further requirement that not less than the following annual payouts be made: 4½ percent of investment assets for 1972, 5 percent for 1973, 5½ percent for 1974, and 6 percent for 1975 and later years. However, the Secretary of the Treasury is authorized to adjust the rate prospectively from time to time based on changes in money rates and investment yields using as the standard the 6 percent rate in relationship to rates and yields for 1969. The lower payout rates for 1972, 1973, and 1974 would be adjusted proportionately. We made it clear that these minimum payout requirements do not preclude a foundation from investing in low-yield investments; but, if it does so, it may have to sell capital assets in order to meet the payout requirements. Also, the words "payout" or "distribute" include distributions to a foundation or public charity, direct expenditures for charitable purposes, and costs of assets used for charitable purposes.

Assets used directly for the active conduct of the foundation's exempt purposes are not included in the investment base for computing the minimum payout requirement. Payouts in excess of the minimum can be carried forward to be applied against required payouts for the next five years. The payout must be made in the year in which the foundation's income is received or during the following year, except that it may be set aside (with advance approval of IRS) for periods of up to five years for certain major projects where relatively long-term grants must be made to assure continuity of projects or where the continuity of a matching grant program is involved. An additional year's delay in benefit to charity can be obtained if the foundation makes a payout to another private foundation or Sec. 501(c)(3) exempt organization if the funds so distributed are used for charitable purposes by the end of the taxable year after the year of receipt by the donee organization. The donee cannot, in turn, obtain a further year's delay by following the same procedure.

Provisions for penalties for repeated or flagrant violations are the same as those for self-dealing violations.

FOUNDATION INVOLVEMENT IN BUSINESS

I noted two years ago that there were four policy problems in this area: (1) unfair competition with taxpaying businesses; (2) possibilities for subtle and varied forms of self-dealing not readily covered by legislation; (3) deferral of charitable benefits through accumulations by the business itself rather than by the foundation, and (4) preoccupation of officers and directors of a foundation with business rather than charitable activities for which the tax break accorded foundations was intended. And I pointed out that action by Congress in 1950 to tax the unrelated business income of foundations and to remove the immunity formerly enjoyed by

so-called "feeder" organizations had not resolved the problem of competition with taxpaying businesses. For example, because contributions to foundations are deductible, capitalization of foundation business could be achieved with tax-free dollars rather than, as in the case of other business, after-tax dollars.

The Senate Finance Committee vigorously declined to go along with the House limitations insofar as they pertained to existing holdings. The House proposed to limit to 20 percent the combined ownership of a corporation's voting stock which may be held in the future by a foundation and all disqualified persons together, with the proviso that if it could be demonstrated that some unrelated party has effective control over the business, the 20 percent limit is raised to 35 percent. We changed this to permit a holding of up to 50 percent in the case of existing holdings. We added a provision that stock in a passive holding company is not to be considered a "business holding"; rather, the foundation is treated as owning only its proportionate share of the underlying assets of the holding company. We also provided that passive investments generally are not to be considered business holdings—for example bonds, or stock in a company which itself receives income in the nature of a royalty. And we further provided that business holdings do not include investments in small businesses in central cities or in corporations which are formed to assist in neighborhood renovation in connection with a foundation's charitable program.

The House went along with a more liberal approach to existing holdings, but it was over the divestiture rules that the principal arguments arose. The House bill called for divestiture to reach the 20 percent (or 35 percent) holding requirement within 10 years, with interim requirements of progressive partial divestiture at the end of 2 years and 5 years. The Senate changed this to provide that if existing holdings exceed 50 percent, there would be 10 years allowed for divestiture down to 50 percent; and if the holdings exceeded 75 percent, an additional 5 years would be allowed. If the holdings were between 20 and 50 percent, no divestiture would be required, but no additional holdings would be permitted.

The Conference Committee reached this compromise: Where existing holdings are in excess of 50 percent but not in excess of 75 percent, ten years will be allowed to get down to 50 percent. If the holdings are in excess of 75 percent, but not over 95 percent, 15 years will be allowed to get down to 50 percent. If the foundation itself holds over 95 percent of a corporation's stock, 20 years will be allowed to get down to 50 percent. If, at the end of the 10, 15, and 20 year periods provided for, the foundation and all disqualified persons combined have holdings that do not exceed 50 percent, and if the foundation's own share does not exceed 25 percent, no further divestiture is required. If the foundation's share exceeds 25 percent, and the disqualified persons combined hold no more than 2 percent, the foundation's holdings within the 50 percent rule can exceed 25 percent, but it must get its holdings down to 35 percent within another 15 years. If the foundation's share exceeds 25% and disqualified persons combined hold more than 2%, the foundation must divest sufficiently to get down to 25%.

I realize these conference provisions are somewhat complicated. I personally authored the Senate amendment in this area and quite naturally regarded it as both perfect and infinitely better than the House provisions. However, one learns in a Conference with the House—especially with Wilbur Mills chairing the Conference—that improvement over House provisions rather than perfection is an achievement.

FAMILY USE OF FOUNDATIONS

In my discussion of two years ago, I noted that some taxpayers had contributed voting stock in a corporation, which their family controls, to a foundation which the family also controls; that they had received income and gift tax deductions for the donations, cut down their estate tax, and secured tax-free control of a corporation to the younger members of the family by later shifting control of the foundation to them. It was my reaction that any abuses in such situations relating to self-dealing, excessive investment in business, and delay in benefit to charity could be dealt with regardless of who the contributors are or who controls a foundation or business, instead of condemning family-type foundations per se as Treasury had apparently felt at one time. This is exactly the way we met the situation.

FINANCIAL TRANSACTIONS UNRELATED TO CHARITABLE FUNCTIONS

One of the problem areas I discussed here was foundation lending to private parties—not in the self-dealing category—which bears no relationship to the needs of charity for protection of the foundation's investments. The House and Senate agreed to prohibit investments of corpus of a foundation in a manner which would jeopardize the carrying out of its exempt purposes in accordance with the "prudent man" rule. However, we made it clear that a program-related investment, such as low-interest or interest-free loans to needy students, high risk investments in low-income housing, and loans to small businesses where commercial credit is not available, is still permitted. There are sanctions provided for violation.

Two other problems areas I discussed were "capitalizing upon the tax exemption" and investment in unproductive property. I believe we covered these problems adequately under the new minimum payout requirements.

I also called attention to the problem of expenditures of foundations which were of questionable "charitable," "scientific," "literary," or "educational" value. We sought to deal with this problem in the 1959 Act.

The standards of permissible political and legislative activity under prior law were quite vague and subjective; and so-called "educational grants" had, upon investigation, sometimes turned out to be more in the nature of paid vacations abroad. One of the responses of Congress was to specifically prohibit the incurring of expenses in connection with local campaigns or other attempts to influence legislation through an attempt to affect the opinion of the general public; also to prohibit direct attempts to persuade members of legislative bodies or government employees to take particular positions on specific legislative issues, except in the course of technical advice or assistance furnished in answer to a written request from a legislative committee or similar body, rather than from a single official. The Conference Committee makes it clear that these prohibitions are not to prevent the examination of broad social, economic, and similar problems of the type the government could be expected to deal with ultimately. By "broad" we did not intend to include specific matters proposed for legislative action. Nor do these prohibitions preclude making available the results of nonpartisan analysis, study, or research covering such subjects as air and water pollution, population growth, and the welfare picture.

The Senate Finance Committee's report proposed to exempt from these prohibitions a noncommercial educational broadcasting station's operations in adherence to FCC's regulations and the fairness doctrine; also the grants by a private foundation to such a station for the presentation of issues, without editorializing, in accordance with the fairness doctrine. The House agreed.

The House had proposed to prohibit voter registration drives. However, the Senate decided to permit such activity on the part of 501(c)(3) subject to certain guidelines. These were tightened up in Conference as follows: (1) the organization's principal activities are non-partisan; (2) the organization's activities are carried out in five or more States; (3) not over 50 percent of the organization's support is derived from gross investment income; (4) no more than 25 percent of the support (other than gross investment income) may come from any one exempt organization in five consecutive years (this was calculated to preclude undue influence by such a supporting organization); and (5) voter registration drive contributions may not be subject to the condition that they are to be used in only one election period, but rather are for a continuing type program.

Congressman Patman's ire, over the Ford Foundation's study grants totaling $131,000 for travel throughout the world by eight staff members of the late Senator Robert Kennedy, was soothed by a provision which imposes sanctions on the making of grants to individuals unless the grantees are chosen in open competition or on some other objective and nondiscriminatory basis in accordance with procedures approved in advance by the Internal Revenue Service.

Another provision requires what we termed "expenditure responsibility" on the part of a private foundation with respect to its grants to organizations, other than public charities, to see that funds are spent for the purposes of the grant and also to enable it to make full and detailed reports to the Internal Revenue Service. Our report suggested that independent audits of donee organizations covering use of the funds would be one way of exercising "expenditure responsibility."

For violation of these provisions, an initial sanction is imposed of 10 percent of the amount improperly spent plus a tax of 2½ percent up to a maximum of $5,000 on the foundation manager who knowingly made the improper expenditure. A heavier sanction of 100 percent is imposed if the foundation refuses to correct the earlier improper action to the fullest extent possible; and of 50 percent up to $10,000 on the manager if he refuses to agree to take corrective action. Penalties for repeated or flagrant violations are essentially the same as those applying in cases of self-dealing or violation of the payout requirements.

CONCLUSION

There are, of course, several other provisions in the new Act which are important; the excise tax on investment income to cover the cost of a comprehensive audit system of private foundations and exempt organizations; more comprehensive reporting and publicity requirements of activities, contributors, and highly-compensated employees, and repayment to the government of tax benefits upon termination of an exempt organization's status. However, I have covered what I hope most of you will regard as both the most important and the most glamorous areas.

I would be the first to concede that our wide-ranging changes in the law probably are considered unduly harsh in certain specific cases. In others, a trial period will probably reveal that we did not adequately deal with some problem areas. Such results are inevitable when there is a change in philosophy, from one of broad provisions which leave an almost impossible burden of discretion upon the administrators, to specific provisions which seek to lift that burden from the administrators. I do believe, however, that the net result will be avoidance of most of the abuses which seemed to be getting out of hand, with the inevitable result of loss of

public support. Absent the abuses, I believe that public support will be assured.

Meanwhile, Treasury has no proposals for change, and most of us feel that a reasonable trial period of two or three years will be required before any changes should be considered. Congressman Patman has returned to his favorite subjects of high interest rates and the abolition of the Federal Reserve system, the Senate is engaged in a filibuster, Senator Ribicoff and Governor Reagan have teamed up to defeat the Administration's Welfare Reform bill, and it looks like things may get back to normal in Ways and Means and Senate Finance, whatever that means.

CARL HAYDEN

Mr. GOLDWATER. Mr. President, the RECORD has thoughtfully been kept open for additional tributes to former Senator Carl Hayden who passed away last month.

Because so much has been said of the influence on Senator Hayden by his father, Charles Hayden, and his wife, Nan Hayden, that it would be appropriate, in my estimation, to include résumés of both of these wonderful peoples lives.

I ask unanimous consent that the résumés be printed in the RECORD and subsequently be included in the Senate Document. They are an article entitled "Charles Trumbull Hayden," by Bert Fireman, and an article about Mrs. Hayden, by Carolyn Woodard.

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

[From the Mesa Tribune, Jan. 29, 1972]

WIFE DIED IN 1961; DESIGNED STATE FLAG: LOVE, DEVOTION SHARED BY HAYDENS

(By Carolyn Woodward)

As public funeral services are held today for Sen. Carl Hayden in Grady Gammage Auditorium the state flag will fly at half-mast and remind the knowing that it was the senator's mate of 53 years who designed it.

Theirs was a love story told in both devotion to each other and their country.

The romance began on the campus of Leland Stanford Jr. University, Palo Alto, Calif. where the senator was a budding football player and facing his first and only electoral defeat. He lost the post of student body president by just two votes.

He loved to recall his first glimpse of "Nan" in the fall of 1899, a tall good-looking girl striding across the campus quad.

A mathematics major, Mrs. Hayden lived in the Kappa Kappa Gamma sorority house. One of her sorority sisters and classmates was Lou Henry . . . who became Mrs. Herbert Hoover. It was through the girls that Hoover and Hayden met and became fast friends.

Sallie Hayden, the senator's sister, lived on campus at Stanford and was another girl friend of Nan's. She invited her to visit the Hayden ranch and the whole family soon fell in love with her.

Then on Feb. 15, 1908 Hayden and Nan were married in San Bernardino, Calif. The bridegroom was sheriff of Maricopa County and the couple honeymooned at the Grand Canyon.

Just a few days after their fourth wedding anniversary in 1912, Hayden was elected to the House of Representatives as the state's first Congressman.

His bride, who taught school at Los Angeles High before becoming Mrs. Hayden, decided to buy some material and create a flag while her husband attended a match in Camp Perry, Ohio as captain of the state rifle team.

The legislature adopted the exact flag as the official banner just three years after the state was born.

Affectionately, the senator referred to his mate as his 'pal" and "blocker." He said they bought their first car in 1915, a four-cylinder Overland. When it would stall on a hill, "Nan would jump off the running board and put a rock under a wheel until the engine started again."

At the age of 68, Mrs. Hayden suffered a stroke and until her death on June 25, 1961 required round the clock nursing service.

One of these nurses, Florence Doll, has remained with the Haydens since that time. She is now tenderly putting together the couple's mounds of scrapbooks, correspondence and cherished mementoes.

Like the note from Mamie Eisenhower inviting Nan to a buffet luncheon, Christmas greetings from LBJ and Lady Bird, the Kennedys, Nixons and Agnews; notes from FDR, Harry Truman and Herbert Hoover, and a letter from Jaqueline Kennedy expressing thanks for the Senator's part in securing funds for and the naming of the John F. Kennedy Center for the Performing Arts in Washington, D.C.

It was Miss Doll who watched the Haydens share their precious hours together at the capitol and at home in Tempe, the way "his eyes would light up just to hear her voice on the other end of the phone line . . . and the way he would say to her 'kid, you can have anything you want'."

Some men shrink from their wives when they are stricken with illness, remarked Miss Doll, but the Senator and his wife became "a picture of love and devotion that few who saw will ever forget," wrote one admirer.

Together they criss-crossed the country twice a year, "the senator lending her physical and moral support of the sort she had so often given him in his senate fights."

CHARLES TRUMBULL HAYDEN

(By Bert M. Fireman)

The oldest building of the Anglo-American period in central Arizona has for two decades been a prospering restaurant. Far from degrading the historic significance of the site, the owners of the popular establishment have capitalized upon its heritage without resort to ugly exploitation. True, with typical exaggeration of the advertising art, they proclaim with variants that Monti's La Casa Vieja, at the foot of the bridge in Tempe, is a "bit of Americana, the original birthplace of Senator Carl Hayden." One may wince at the syntax and redundancy of the slogan, but examination of the establisment is more pleasing. The pioneer mode has been retained in original portions of the building erected nearly a century ago, and has been added thoughtfully in a recent enlargement. The plastered outside adobe walls bear imperfections of indigenous workmen as contrasted to the slick craftsmanship of neo-modern buildings at the Arizona State University a half mile away.

Beside the Salt River, where Tempe began, the boyhood home of Carl Hayden clings to the riverbank and nestles close to the twin eminences of the Buttes which attracted his father to the location in 1871. Charles Trumbull Hayden was then a Tucson merchant. Family tradition holds that on a business trip from the Old Pueblo to Prescott he was delayed on the south bank of the Salt River, so swollen by spring floods that he could not cross. While waiting for the flood to recede he climbed a nearby hill, and from that vantage point his vision and perception conceived the advisability of erecting a water-powered grist mill at the foot of the hill and a ferry to carry travelers and their rigs across the river when it was in flood.

A few months later he was back with workmen, surveying the line of a projected canal and erecting a shelter of willow poles and brush that soon had been enlarged into an adobe house. It was on the site of the steak house called La Casa Vieja—the old house. Actually, it was the first unit of the structure that became a rambling manor house with the passage of years. That initial building in 1871 with nearby corrals and the millsite first was dubbed Butte City, but soon was being called Hayden's Ferry for the most important facility on the Salt River east of the new farming settlement of Phoenix. The larger of the twin buttes bears the name officially of Hayden's Butte, although usually it is called Tempe Butte.

La Casa Vieja stands on the west side of Mill Avenue at the south foot of the Salt River bridge at Tempe. Traffic is heavy at the location, with U.S. highways 60 and 70 passing between the restaurant and its twin landmark on the other side of the street. There, almost anomalous in a university town so far from the nation's grain belt, rise the multiple elevators of the Hayden Flour Mills. Looking eastward as a pilot does on the main runway of Sky Harbor airport, six miles away, the white elevators and buildings of the mill resemble the front sight of a rifle aimed precisely at Hayden's Butte. Planes taking off follow the bed of the Salt River, passing only a few hundred yards above and north of La Casa Vieja and the Hayden Four Mills. Each time a jet plane thunders into the sky to the east, the streamer of smudge it leaves behind seems to punctuate the lively biographies of the two men, father and son, whose remarkable achievements and careers have revolved about this site.

Within two generations for the Hayden family the full span of the history of the American Southwest has unrolled. The father, buried at Double Butte Cemetery about three miles from the old family home, had helped create that pioneer chapter of Western history characterized by oxen pulling wagonloads of merchandise westward along the Santa Fe Trail more than 120 years ago. The son, who served longer in the United States Congress than anybody in our national history—from February 1912 to January 1969—recently retired to Tempe, flying back to his birthplace from Washington in less than half a day.

The splendid, unprecedented service of Carl Hayden to Arizona as its Representative in Congress from 1912 to 1926 and as United States Senator for 42 years more will be felt in Arizona for generations to come. Revered beyond the strictures of partisanship in his native state, his retirement came when he was 91 years old. Returning to his home town, he opened an office in the handsome new library at Arizona State University, named the Charles Trumbull Hayden Library in honor of his father. There, surrounded by mementoes of his political career, he turned his attention to the hobby that had engaged his leisure during the fifty-seven years he spent in Washington. All during that time Senator Hayden had collected information about the pioneers of Arizona. His focus was upon these residents of Arizona listed in the federal censuses of 1860 and 1870 and the special census of 1864 taken a few months after the Territory of Arizona was erected separate from New Mexico. These pioneers who interested Senator Hayden and whose life stories he has collected were his father's contemporaries, many of them old friends of the family when Carl was a small boy, and visitors to their home in Tempe.

Senator Hayden's avid appreciation of pioneer accomplishments is an extension of his respect and admiration for his father. It is no less than amazing that two generations within one family could encompass and be involved in such a wide scope of regional history, from the days of Apache terror before the Civil War to times of racial and educational unrest during the unpopular war in

Vietnam. This was in part due to the longevity of Senator Hayden, but also because he was a child of a September marriage. Senator Hayden's father was 52 years old and his mother 34 when Carl was born. By then his father already had spent 30 years on the Western frontier in important pioneering roles. He was a pioneer among pioneers, well known from the Missouri River to the Sea of Cortez as a freighter and a Yankee merchant.

Charles Trumbull Hayden was born in the little village of Haydens near Windsor, Connecticut on April 4, 1825. "His ancestors were of the good old Puritan stock and had lived in or near Windsor for seven generations before him." His father died of a fever when the boy was only six. He grew up on a small farm, but at sixteen began clerking in a store in Warehouse Point on the Connecticut River. At nineteen he went to New York to prepare himself for the law but his health failing him he soon afterwards went south by sea to Old Point Comfort near Hampton Roads, Virginia, and there engaged himself in teaching school. At the end of the year he returned home but soon left for the West again, this time over the Alleghenies by stage coach, passing through Kentucky where he met Henry Clay at his home.[1]

Young Hayden continued his travels to New Albany, Indiana, where he taught school the following winter. Then, significantly, he crossed the Mississippi to teach near St. Louis, Missouri, where by sheer force he subdued a difficult gang of boys. Hayden did not relish strife in the classroom. Abruptly, he turned his back on the teaching profession at the age of twenty-three, entering upon his career as a merchant by accepting a position as clerk in the store of William G. Moore at Wayne City, Missouri.

Missouri flourished in the commerce that had developed with the opening of the Sante Fe Trail. This was further stimulated by the activity of the Mexican War which sent Missouri Volunteers all the way to California and southward into Mexico, and with the increasing caravans of travelers moving westward toward the Rocky Mountains and along the Oregon Trail. St. Louis, where Hayden had first paused, had become the pioneer trading center in the opening of the Great West. It had grown strong with the fur trade and as the central hinge of steamer commerce on the heartland river systems of the Mississippi, Missouri and Ohio. By the time Hayden reached Missouri the fur trade was in decline, but ordinary trade continued to expand. The riverbank was crowded with goods to supply restless Americans steaming southward toward emerging Texas or northwesterly into the Oregon country. Manifest destiny now was the doctrine of American expansion. From pulsating St. Louis the flow of goods and men and the mainstream of opportunity lay to the west. Young Hayden moved with the tide. At Independence, Missouri, from which the metropolis of Kansas City grew, he worked as a clerk, carefully noting that freighters were returning from Sante Fe rich with profit from the New Mexicans' passion for American goods.

Hayden decided to give up the security of his paid job for the greater risks and opportunities of trading to Santa Fe. He ventured out on the Trail when its courageous wagon masters were the Western thrust of American enterprise. First he went down to Santa Fe as the representative of his Missouri merchant employer, but soon afterwards was shipping his own goods and finally bought his own wagons and more than a dozen span of oxen to dare the dangers of Indian raids and extremes of weather on the plains. It was a calculated risk, that could yield handsome returns—if one returned.

On March 14, 1848, only a few weeks after the accidental discovery of gold in California but considerably before the fact was known in the Midwest or East, Hayden wrote to his mother from Independence that he planned two trips across the prairies to Santa Fe that summer.[2] He asked her to purchase and ship to him by June 1st if possible, an order of goods that included two dozen clocks, a dozen pair each of hip boots, thick boots, thick shoes, and calf boots, pocket dictionaries in Spanish and English, four dozen playing cards, novels of the day and other trade goods—and also for himself, one fine black Italian cravat, one pair of fine kid gloves, a pair of suspenders and other personal items.

That letter was a testimonial of the young man's supreme confidence in himself; it was also a token of Yankee trading ingenuity, and a prophesy of the path Charles Trumbull Hayden would follow for the remaining years of his life. He was to be a trader and merchant, an exponent of free enterprise, an investor and builder, a man of thrift and also of generosity, a person of great vision and foresight but sadly one also to suffer many shattered dreams. A pioneer who endured danger and personal disaster, Hayden overcame these odds to leave Arizona a name everywhere respected and revered—a legacy more valuable than his physicial estate. He was survived by his wife, two daughters, and by the one son whose own career was to merit the fond hopes that his father bequeathed him along with but a fraction of the worldly goods he had earned.

This paper can do no more than barely introduce the highlights of Charles Trumbull Hayden's remarkable career. Sadly, no biography—and only a brief newspaper article or two—have been published which attempt to record his contributions to Arizona.

Having profited by his foray into the Santa Fe trade, Hayden in the next several years penetrated into the Comanche and Seminole country as a wagon trader in the closer Indian Territory. He was a man of considerable wealth when again he turned westward to New Mexico in the mid-1850s. The next year or two we find his teams and wagons coursing up and down the Rio Grande Valley, reaching the Mesilla Valley and even Chihuahua, Mexico. Following the Gadsden Purchase and the establishment in the area of mining by the Sonora Exploring and Mining Company, we find Charles Trumbull Hayden arriving in southern Arizona in 1858 on the first overland mail coach. Thereafter, to the end of his life, he was an Arizonan, but never a sedentary one. He traveled widely, to Guaymas on the Gulf of California; to San Diego and San Francisco; to Kansas City and Chicago; even to his old home in Connecticut with stops in New York to purchase goods for the stores he established everywhere he saw opportunity beckoning.

Hayden is remembered in Arizona mainly in four branches of enterprise: As a miller, a freighter, a merchant and a farmer. He was an incomparable entrepreneur. It was as a miller that he made his greatest success. He established the Hayden Mills, a landmark on the south bank of the Salt River at Tempe, and ninety-eight years later Arizona's only major flour mill.

As a freighter: the Hayden teams of mules and oxen crisscrossed the Southwest before there were roads and while the Apache scourge took the lives of both freighters and stock. It was as a freighter he first came to Arizona, hauling U.S. Army supplies and mining equipment. Every shipping center in the Southwest knew the Hayden outfits—Santa Fe and Tucson, Chihuahua City, Guaymas, Hermosillo, Fort Smith, Ark., Independence, Mo., Port San Vaca, Texas, Prescott, Phoenix, San Diego, Los Angeles, Hardyville, Ash Fork, Globe, Fort Apache. The newspapers of the last century were filled with accounts of Hayden teams hauling barley and flour to Prescott and bringing back sawn lumber for houses of Phoenix and Temple; of hauling manufactured goods from Guaymas that had come around the Horn to San Francisco and then were shipped back to the Gulf of California; of at one time 125 tons of Arizona freight being loaded at the San Diego docks, at a time when a freight wagon could be loaded with only four or five thousand pounds. In the days before the railroad, Charles Trumbull Hayden recalled, "I always hauled my goods in my own wagon trains."

Beside his mill at Tempe he always had a blacksmith shop and a wagon shop. Once he employed five blacksmiths and six carpenters. They were busy repairing the damage done on the nameless trails and roads that the Hayden outfits followed.

He was a Yankee trader who came to the mining country of the Southwest to provide the needs of the miners and the military—not to hunt for gold or silver himself. He had stores in a succession of Arizona towns. In Tubac soon after his arrival in Arizona and well before the Civil War his partner was the well-known Palatine Robinson, reputed to be a Secessionist. During the war Hayden threw his hat in the Union ring, but the movements of his teams once raised some doubts in military circles about his allegiance, so he was induced to haul and trade only for the North.

Hayden opened a business in Tucson just before the Civil War but along with other Union sympathizers left the city when it was occupied by Rebel troops for a few months in 1862. He came back after the California Column had driven the Southern forces back into Texas and made it possible once more for freight outfits to bring in needed goods from Santa Fe and Independence. An early issue of the *Arizona Miner* on March 23, 1864, carried an advertisement for Hayden's store that was as simple as a professional * * * stating simply in a small space:

C. Trumbull Hayden
Merchant
Tucson . . . . Arizona

Four weeks later Gov. John N. Goodwin announced the appointment of civil officers for the ninth Judicial District, comprising the southern part of the new Territory, and Hayden was named probate judge. The office required but little of his time, and that could be spared from his business because he again had acquired a partner, Matthew J. Flournoy, an old friend from Hayden's days of trading with the Comanche and Seminole Indians in what is now Oklahoma. Their relationship was dogged with tragedy, the events best told in columns of the *Weekly Arizonian* of Tucson in the consecutive issues of June 26th and July 3rd, 1869:

"Strange Affair:—Mr. Matthew J. Flournoy—firm of Hayden and Flournoy—of this city, has been drinking freely of strong liquors for some time past, and, on Wednesday night last, he arose from his bed and in a half nude condition, mounted a horse and rode away. A party of men went in search of him on the following morning and has not yet returned. The direction which he took, as indicated by a trail discovered by some Mexicans, is toward the mountains west of the valley."

* * * * *

"Mr. Flournoy, who, it will be remembered rode off from this city on the night of the 23d ult., lost his life in the event. A reward of $200 having been offered for his recovery, the greatest diligence was exercised in searching for his whereabouts. The return, upon the third day of his absence, of the horse upon which he rode, was regarded as evidence that he had perished; and on the fifth day of his absence he was found dead among the mountains, some twenty-five miles from town. Mr. Flournoy was a shrewd businessman when not under the influence of liquor."

Three years later Hayden had a new partner in his Tucson enterprises, which included

---

Footnotes at end of article.

wholesale and retail trade in every variety of merchandise. The partner was Newton G. Flournoy, apparently a brother of his former unlucky associate. That partnership was also to be dissolved by tragedy. The younger Flournoy, only 21 and employed by Hayden as his bookkeeper at the time of the 1870 census, was in poor health, and had been for some time when Hayden placed the following notice in the *Arizona Citizen* on August 23, 1873:

TO THE PUBLIC

"The long continued illness of Mr. N. G. Flournoy, junior partner in charge of our house at this place, makes it necessary to close out our stock of goods at Tucson."

"To ladies needing elegant bonnets, dress goods and ornaments; gentlemen needing neat and useful hats, coats or suits; farmers, mechanics, artisans, owners of trains and merchants, our great variety of goods selected for you by the experience of the oldest house in the Territory, enables us to offer you all a great variety of articles exactly suited to your wants, while the necessities of liquidation places them at your disposal for prices that are sure to attract your interest and attention.

Charles T. Hayden & Co."

By the time the advertisment was printed in the Tucson paper, young Flournoy had been dead eleven days, passing away at Independence, Missouri, but word had not yet reached Hayden in Arizona Territory.

From December 1873, when he sold the store on Main Street in Tucson to Theodore Welisch, Hayden made Tempe his home and operated a large mercantile store adjacent to La Casa Vieja. The store was in an adobe building that stood just to the south of the family house, and within the area now included within the enlarged steak house at the same location.

Hayden also found time to establish stores with partners or agents at Prescott, where Judge Hezekiah Brooks was his associate; at the mining boom town of Tip Top and its milling adjacent, Gillette; at Sacaton where he was represented by the noted Presbyterian missionary and teacher, Charles H. Cook; and at Wickenburg. In Tempe, he had several kinds of business establishments—the flouring mill; his wholesale and retail stores which sold everything from Electric Soap to medicine and fancy lace; a meat market; a feed yard and livery stable; the blacksmith and wagon shops already mentioned, and several other undertakings.

Hayden's fourth foundation stone in pioneering achievement was as a farmer. While a merchant in Tucson he had raised some foodstuffs and feed on the Torreon Ranch. At Tempe he saw farming and stock-raising as a necessary adjunct to his milling operation, anticipating correctly that his freighting and mercantile endeavor would be supported in part by abundant crops that could be grown in the fertile valley. At the end of his first full year of residence in the Salt River Valley his crews slaughtered 1500 hogs, making them into bacon, hams, lard and soap. The bran from the mill was a major part of their diet. For several years he farmed the full section of land where downtown Tempe now stands, until the demands of the growing town and Territorial Normal School cut into the acreage. Just to the northwest of Las Casa Vieja, in the area now occupied by the picnic grounds of Tempe Beach, he planted an orchard that was the showplace of the Salt River Valley. He was the first farmer in the area to venture seriously in citrus culture, putting out 400 trees in the season of 1880. He grew as much as 500 acres of wheat at a time, and a hundred acres of alfalfa to fatten his hogs and keep his mules trim for their pulling chores. A dozen varieties of fruit trees grew in his orchard and several kinds of grapes in his vineyard. There was also that gentle side of Charles Trumbull Hayden which provided grass and flowers, vines and shrubs, a picket fence and a terellis with roses for the large courtyard of his home.

Charles Trumbull Hayden was not a businessman to the exclusion of civic interest. He had a strong feeling of personal responsibility for the advancement of his community and territory. In 1864 he had served as probate judge in Pima County. In 1874 he accepted a contract to carry the U.S. Mail from Maricopa Wells to Phoenix. He served as foreman of a memorable grand jury in Tucson in 1871 only a short time after the Camp Grant Massacre. The scorching comments of the grand jury reflected the public fervor which had led citizens of Tucson in an attempt to rectify Apache depredations with the equally-depressing attack upon the Indian encampment along Aravipa Creek. He showed equal fortitude as foreman of a grand jury at Phoenix which criticized the citizens for a double lynching in 1879, at the same time calling on the courts for speedier and more realistic application of justice to make lynch law unnecessary. He was elected to the Maricopa County Board of Supervisors in 1881. When he resigned 15 months later it was with enthusiastic editorial praise from local newspapers. Soon afterwards his popularity was demonstrated when Hayden, a lifelong Democrat, was nominated for councilman by a Republican county convention attempting to find some way to victory. He declined that honor with humor but was defeated soundly when he ran for a seat on the Territorial Council representing Gila and Maricopa Counties.

He was chairman of the first Board of Trustees of the Territorial Normal School at Tempe which he had so much to do with creating. Several newspaper items at the time praised him for selling 20 acres of choice land in the heart of Tempe to the Territory for only $800 when the fair market value was at least $2000. In 1882 he was the fourth largest taxpayer in Maricopa County, exceeded only by the Southern Pacific Railroad and Central Arizona Mining Company which had now opened the Vulture Mine, and the mercantile firm of Goldman and Company.

Hayden headed a committee challenging the attempted Spanish land grant fraud of James Addison Reavis. He was rewarded with public scorn for proposing, following the great flood of 1891, that the new iron railroad bridge that was to be built across the Salt River at Tempe should include a wagon road—although his would doom his own ferry business. He was so enthusiastic about the nomination of William Jennings Bryan after the Cross-of-Gold speech in 1896 that Hayden, by this time growing old and in ill health, wrecked his buggy after a breakneck, whoop-it-up dash down the main street of Tempe. He gave careful attention to a plan to form Butte County out of the eastern half of Maricopa County in 1897. Only a few months before his death he accepted appointment as a delegate to the National Irrigation Congress being held in Montana.

His life was busy, energetic, and productive. He did not marry until he was 50 years of age and his bride, Sally Davis, was 32. They had four children: Carl Trumbull; Sara who was called Sallie and who for many years after her graduation from Stanford University was a member of the teaching faculty at the college her father helped to establish; Mary, whom Tempe knew as Mapes; and another little girl, Annie, who died in 1885. Hayden was a tender father. Perhaps late parenthood gave him this great capacity for affection. Certainly it provided him with the poise and strength to deliver a graveside tribute at his daughter's funeral as his many friends, including Indians, and Mormons from the new settlements of Jonesville and Mesa City, gathered for that service on September 10, 1885.[3] Few men have the courage to speak so eloquently in an hour of grief. The grave of little Annie was opened in the garden of the Hayden home, as he spoke these words:

"Friends and Neighbors:—What is the lesson of the hour? Less than forty hours since the beautiful form that is now consigned to the grave was bright with life and activity, the joy of us all.

"She ate too much fruit; we were not wise enough to relieve her of the surfeit and in less than twenty hours her sweet spirit had left us. We need knowledge. Let us earnestly seek, find and impart it to mankind.

"To those dear friends that have with us enjoyed the dear two and one half years of her sunny life and through her drank in the spirit of love I would say her spirit will now hover around you urging you to good works.

"To the dear brother and sister I would say Annie is an angel now. The love you bore her will inspire her bright spirit to lead you on to deeds of love and charity.

"To the dear mother to whom every sound of those tiny feet, the graceful motion of those beautiful arms, the gentle touch of those tiny hands, the sprightly face alive with intelligence, and eyes that spoke their love through the accents of light, all called forth the fathomless love of a mother's heart that will soon draw around her that angelic spirit who will be her companion for all eternity, and who is now enjoying the love of our friends who have gone before us over the river we call Death.

"From the supreme power of the boundless love of a mother's heart, that has ever been the bright unfailing star that leads all near on to noble deeds and actions, we know God is love. This richest inheritance comes to all born in cottage, palace, or under a tree.

"As in this sweet child we can read in her life the bounteous flow of love she has inspired, we know she will ever shine as an everlasting blossom in heaven."

Fifteen years later in 1900, as Charles Trumbull Hayden himself was buried at Double Butte Cemetery, his son Carl, a recent graduate of Stanford University who had taken over the family business only the year before, showed equal spirit when with profound respect he eulogized his father as a pioneer builder. Carl evidently wrote notes for the funeral message as he waited in the Williams Hotel at Maricopa for the arrival of the Southern Pacific train bringing his sister Sallie home for their father's funeral. His first three pages of those notes have survived the passage of years. They are now preserved as a cherished part of the Hayden Family Papers in the Arizona Collection in the Charles Trumbull Hayden Memorial Library at Arizona State University.

Studies of Arizona history have revealed no pioneer who was more ambitious for the advancement and progress of Arizona than Charles Trumbull Hayden. The list of plans and schemes and undertakings to which he gave support and funds is almost endless. To mention a few:

On November 17, 1870—more than three years before he was able to terminate his Tucson business affairs and move to Tempe, and a year before the date generally given for Hayden's entering business life in Tempe—he joined with three other men in organizing the Hayden Milling and Farming Ditch Company.

NOTICE

Notice is hereby given that we, the undersigned, have taken up and do claim for milling, farming and other purposes, sections 28 and 29, Government survey, on the south side of Salt River, taking in two Buttes on either side the main road from Phoenix to Gila River, and all persons are hereby notified of the same.

Charles T. Hayden
J. W. Fields
A. F. Garrett
E. K. Brown[4]

Their announced plan was to homestead

Footnote at end of article.

the two sections of land which included the buttes, and to dig an irrigation ditch to bring much of that land under cultivation as well as furnish water power for a grist mill. Thus the Hayden milling enterprise was launched. Shortly thereafter Jack Swilling was in charge of a crew of men hired by Hayden to start bringing water to the land. He purchased shares in the McKinney-Kirkland Ditch, the first to be taken out of the Salt River along its south bank. To obtain delivery of the water Hayden directed Swilling and his workmen to bring it around the south flank of the buttes to the west side, where a drop of 23 or 24 feet was to furnish power to turn the stones of the mill. After emerging from the mill race the water would be directed westerly in a ditch that was to irrigate crops and the orchard that was being planted by summer.

Having begun his investment in the Salt River Valley with the Hayden Milling and Farming Ditch Company, he never ceased efforts to broaden the economic base of the community. All his lifetime he was the town's principal employer. Newspapers frequently told of new enterprises he had undertaken, either alone or with working partners. He traveled a great deal promoting and advertising buying and selling. In the winter of 1873 the Hayden Ferry was in operation making it possible for travelers to cross the river during the flood-swollen months when the Salt carried the melting snow of the high mountain country. During one rainy summer in 1884, the ferry was pulled loose from its mooring and lost downstream three times. Each time it was towed back to the crossing and new cable and ropes were strung across the river to restore traffic. Once a smaller boat owned by Hayden was pirated by boat-thieves. Since they were not caught, history fails to tell whether in pioneer Arizona the penalty for piracy was the same as for horse thieves. The boat was found at Gila Bend, which shows that the Salt and Gila were running strong. At another time he had that boat hauled by wagon to the Gila River on the road to Maricopa Wells when the Gila was in flood and its ferries had washed away.

As early as 1874 Hayden was energetically urging citizens of Arizona to give support to projected plans of the Texas-Pacific Railroad to extend its lines westward from Texas through southern Arizona, advocating a river crossing at Ehrenberg because that would bring the main line through the Salt River Valley.

Even before the flour mill was in operation at Tempe, Hayden had led a party eastward along the Salt River into the Sierra Anchas to cut logs and float them down the Salt River to Tempe. He hoped to have the Hayden Ditch at the same time provide waterpower for a flour mill and a sawmill. High up-river the men cut Ponderosa pine logs. They fashioned one into a canoe, then took to the canyons of the Salt in an attempt to drive the logs down to the Salt River Vally. The effort failed, the narrow canyons and boulders of the river jamming and tearing the logs and upsetting the improvised canoe. Ever resourceful, Hayden turned up the Verde, thinking it the next-best stream to provide logs for the needs of central Arizona. When this effort failed also, he salvaged part of the idea, at least, by devising a power take-off at the mill to operate power saws in his carpenter shop.

During his boyhood in Connecticut he saw the potential of using flatboats to haul goods. Before the Hayden Mill was ready to grind wheat, a flatboat loaded with five tons of grain at Hayden's Ferry was floated down the Salt to the point where the Swilling Canal took off from the north bank of the river, and then was poled along that canal for delivery to Helling's Mill at the present site of the state asylum. It was a unique effort, possibly one of the few times when canals in Arizona were used to transport farm produce.

Notwithstanding the fact that the small village on the Salt was first called Butte City and then Hayden's Ferry, a Tucson newspaper credited Hayden himself with giving it the name of Tempe. On April 23, 1892, the *Tempe News* reprinted a long article that had appeared in the *Tucson Citizen* a few days before reporting on a visit Hayden had made to the southern city. After recalling Arizona's battle for existence, the writer turned to comments on Hayden's involvement in the development of Tempe:

"He it was who settled that country first and gave that beautiful locality its classic name, after a narrow valley or gorge, about four and one half miles in the northeast of Thessaly, between Olympus and Ossa, through which flows the river Peneus. The classic poets praise it for its matchless beauty, and hence the name became with them a synonym for any lovely vale. The scenery of the classic valley of Tempe, above named, is characterized by wild grandeur rather than by soft sylvan charms. How appropriate the name. And how readily did Mr. Hayden conceive the idea of giving the valley by the buttes the name of Tempe. His conception was classic, and his home has not been misnamed."

This corrects the tradition that Tempe was named by Darrell Duppa, the sodden English remittance man who named Phoenix. Hayden's education was the equal of Duppa's. He too knew the Greek classics, and moreover, was a man of absolute sobriety. Hayden wouldn't sell liquor in his stores, ever, possibly a reaction to his unhappy experience with his Tucson partner. Matthew Flournoy, whose death came during a drinking bout. Although Hayden would not sell liquor, newspaper accounts of the many gala social affairs held at Hayden's first home in Las Casa Vieja and later in the Hayden country home two miles east of the town mentioned cake being served with wine. He was not a prohibitionist, but believed in moderation.

La Casa Vieja was the first house in Tempe to have running water and the first with wooden floors. The first pressure water system in town was developed by Hayden with tanks on the butte to provide fire protection for his mill, and water for his home and stores.

Sugar cane was one of the early crops grown in the Salt River Valley. In 1878 Hayden imported a cane crusher and soon had a sugar factory in operation, turning out the brown bar sugar the Mexicans call panoche. He maintained a business agent in Mexico—Don Antonio Perez—to look after his freighting interests and to purchase goods for his stores in Arizona.

By 1880, as the fields of grain spread with the development of more canals on the south side of the river, Hayden imported a steam threshing machine and headers and reapers. He hired crews to do custom threshing for farmers who lacked such equipment.

Several books and articles on the Mormon colonization of Arizona have paid high honor to Hayden for the liberal credit and the jobs he provided the early settlers of Lehi and Mesa. At one time the town of Mesa was called Hayden in his honor.

In March of 1880 Hayden hired eleven residents of the Mormon settlement, headed by Bishop A. F. Macdonald, to begin building the first road to extend eastward from Mesa toward the new mining camp of Globe. He and Macdonald surveyed a wagon route that substantially is the path followed by U.S. 60 today, and at his expense that first bit of mountain road was clawed out of the resisting rock with pick, shovel and crowbar.

A mile and a half west of Hayden's Ferry, he developed a lime kiln. A rock quarry at the northeast corner of the easternmost of the two buttes provided stone for foundations of Old Main, the largest of the Normal School buildings for a long while, a building still standing on the Tempe campus.

As the town began to grow he built a new blacksmith and wagon shop and added a second story over them to provide an office for the town's first newspaper, initially published by James H. McClintock and then for a half-century by the tireless Curt Miller. He had a livery yard and feed yard in partnership with J. T. Dennis. He planted carp in a fish pond to give some variety to the diet of local residents. When 20 families of Mormon colonists arrived from Utah in 1883 seeking homesites, he sold them half a section of his land—on credit, of course—and then smiled tolerantly when they started their own cooperative store and no longer patronized his mercantile establishment.

He took the leadership in promoting and financing railroad called Quijotoa, Tempe and Phoenix Wagon and Railroad Company. He sent work crews at his own expense to build a wagon road to serve the new mining boom town of Quijotoa in the Papago country. He accepted the chairmanship of a committee to undertake proper efforts to defeat the "iniquitous fraud" perpetrated by James Addison Reavis.

He imported, at different times, purebred Galloway and Pole-Angus cattle to improve the herds of the Salt River Valley. He shipped cattle as far as Chicago, making Tempe one of the first centers in Arizona for feeding range animals imported from Mexico, fattening them on the alfalfa of the local farms. The Tempe Free Liberal Library was established in one room of his own home in 1888, free to anybody who could read. He shipped carloads of home-grown raisins to St. Louis and Chicago, and went to the Columbian Exposition in Chicago in 1893 to sell several carloads of honey from Tempe apiaries.

With Charles D. Poston—who was born in Kentucky the same year that Hayden was born in Connecticut—he went into the mountains east of Mesa to survey a railroad line to supplant or supplement the wagon road to Globe. The two men, then 68, took a team as far as Superior but from there on rode burros on their exploration of the rugged mountains.

After building a new home on a farm two miles east of town, he converted La Casa Vieja into a hotel, adding a second story with eight rooms that, unfortunately, did not pay for themselves. Earlier he had added a row of rooms along the north side of the structure for the many single men employed in the Hayden enterprises. As many as 30 employees sat down for dinner at the huge table supervised by Mrs. Hayden and her Mexican helpers.

Hayden sold 305 acres of his holdings to the pioneer Tombstone lumber dealer, L. W. Blinn, for development of a townsite and subdivision at the site of present Tempe. This led to rather far-fetched plans for building a hotel on top of Hayden's Butte and a cable tramway to take customers to a restaurant there, but Hayden withheld the butte from the sale. Blinn and his associates were to develop the present Tempe townsite. Soon there was a Bank of Tempe, with Hayden as one of the stockholders and directors.

In association with his old friend, Charles D. Poston, Michael Wormser, the Valley's largest landowner, and Charles Goldman, another merchant Hayden was an incorporator of the Arizona Sugar Company which in 1892 hoped to build a large sugar factory on the southside. He had many business dealings with Wormser, who had come into possession of vast tracts of lands south of the river and became sole owner of the Broadway Ditch, which derived much of its water from the Hayden Mill tail-race.

The tragic death of little Annie in September 1885 marked the beginning of a period in which the Hayden enterprises suffered several setbacks. He traveled so much that actual day-to-day operation of his business efforts had to be entrusted to hired hands. Some of these were dependable and honorable, like Albert J. Peters, but there

were several others who embezzled and absconded with funds belonging to Hayden. One pretended to drown in the Salt River but turned up later in Argentina and then in New Orleans. Several were caught but only one was ever convicted, and he for only a 15-months term in prison. In most instances Hayden refused to file charges. Hayden was not careful about credit. He shared the problems of his neighbors and extended credit often beyond their ability to repay. The *Arizona Republican* put it succinctly, saying Hayden's "business methods have at times been severely criticized on account of his lavish benevolence coupled with eccentricities . . ."

Without dams to hold back the winter and spring floods, the rampaging Salt River cut into his orchards and melted adobe buildings near the mill, at the same time destroying crops of farmers who subsequently could not pay their bills. Fire wiped out a warehouse. Trusted employees stole from him, and when hardship hit his customers he burned up the ledgers showing their indebtedness to give them a new start. Three times creditors had to take a hand, temporarily at least, in the management of the Hayden enterprises. Once his friends Michael Wormser and Neils Peterson took charge until accounts were collected and bills paid. Twice the San Francisco firm of Murphy, Grant & Co. placed Joseph A. Ford in charge of the properties. But each time the business was restored by the efforts of creditors who respected Hayden's integrity and understood his generosity. He might not have been a hard-nosed collector and businessman, but he was a tower of strength in a town that gradually grew larger and more prosperous with his leadership.

But Hayden had not always been popular. Debtors are not universally appreciative of their benefactors. Doers suffer the criticism of those less energetic. His business rivals sometimes circulated unfavorable comments. Hayden was outspoken. Although he was the beloved friend and patron of the Mormon colonists in the Salt River Valley, in 1885 he felt compelled to denounce publicly their practice of polygamy. As late as 1891 he was still trying to obtain compensation from the federal government for Apache destruction of a wagon train in 1866. He was a loyal friend of the Puma Indians living along the Salt and Gila, but urged punitive action against hostile Apaches. He became involved in water litigation in the trying years when farmers in the Salt River Valley were overdrawing the available surface flow and in that dilemma were trying to find a just method of dividing the stream's flow, a plan that could not be achieved until the Theodore Roosevelt Dam was built. These controversies, added to the business reverses and failing health, robbed his last years of the pleasure and glory he deserved.

Carl Hayden was graduated in the class of 1896 from the Territorial Normal School and then went to Stanford University. In 1899 he was back in Tempe, taking charge of the family business and incorporating as the C. T. Hayden Co., with himself as president and his sisters as Vice President and Secretary. His father was now 74 and failing. Charles Trumbull Hayden died in February of 1900, after giving 42 years of sterling life to the upbuilding of Arizona.

"The funeral of Hon. Charles T. Hayden took place Tuesday afternoon and not withstanding the disagreeable weather the procession was the largest ever seen on the southside. The services were conducted by W. A. Macdonald of Mesa, an old-time friend of the deceased. Carl, the eldest child, delivered a five-minute address which embodied a sketch of his father's life from the time he left his New England home and entered upon his struggle with the world, up to the time of his death. The story was one of manful struggle and honorable and useful achievements—a story that any son might well be proud to relate of his father. The music was conducted by Prof. James L. Johnston. The remains were laid to rest in Double Butte Cemetery." [5]

Young Carl was thrust into mercantile enterprises he did not particularly relish, and was burdened with large debts resulting from his father's generosity and bad luck. He operated the business only a few years before returning to a political career. Fortunately, he was able to sell the stock of goods in the general merchandise store to John S. Armstrong who was a merchant in Tempe at that time. Later he leased the flour mill to Alfred J. Peters, one of his father's former partners, at a good rental. He began his political career by being elected Maricopa County Treasurer, then its sheriff, and in 1912 became the new state's first Congressman. His own career has also been filled with dedication to Arizona's development. It is an epilogue of triumph to the remarkable pioneering successes of his father.

NOTES

The material for this sketch of the life of Charles Trumbull Hayden was drawn largely from items appearing in Arizona newspapers and from original documents in the Hayden Family Papers at the Charles Trumbull Hayden Memorial Library, Arizona State University. Many of the newspaper items are to be found in the Charles Trumbull Hayden folder. Hayden Files, Arizona Pioneers' Historical Society, Tucson. The pictures are from the Hayden Family Papers. The author is Curator of the Arizona Collection in the Hayden Library and a former Sheriff of the Phoenix Corral of The Westerners. He is a Lecturer in History, Arizona State University; Executive Vice-President of the Arizona Historical Foundation; a director of the Arizona Pioneers' Historical Society; and a member of the Arizona Historical Advisory Commission.

FOOTNOTES

[1] Holograph notes of Carl Hayden of Eulogy delivered at the funeral of Charles Trumbull Hayden, February 7, 1900. Hayden Family Papers, Charles Trumbull Hayden Library, Arizona State University.

[2] Letter from Charles Trumbull Hayden, Independence, Mo., March 14, 1948, to his mother, Mrs. Mary H. Heath, Warehouse Point, Conn. Hayden Family Papers.

[3] *Weekly Phoenix Herald*, September 10, 1885, 2:5.

[4] *Weekly Arizona Miner*, December 10, 1870, 3:4.

[5] *Tempe News*, February 10, 1900: 3:5.

APPRAISAL OF AMERICA'S CONDITION

Mr. GOLDWATER. Mr. President, in these days of change and war, it is sometimes very difficult for us to maintain a proper perspective of just where we stand in this country and just where we may be headed. And every now and then a leader comes along who devotes the time and the thought to an appraisal which provides a correct view of the American condition. One such appraisal was provided recently by the Honorable Jack Williams, Governor of Arizona, in a speech before the National Federation of Republican Women Convention at Scottsdale, Ariz.

Governor Williams listed 1972 as a "year of decision" for the American people and he depicted the Republican Party as that political unit which represents best the commonsense of America. At the same time, he described the many candidates for President in the Democratic Party as "a bewildering array of aspirants" who have mounted their steeds and are riding off in all directions across the land.

Mr. President, because of its timelessness and importance, I ask unanimous consent that Governor Williams' speech of January 21, 1972, be printed in the RECORD.

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

REMARKS OF GOV. JACK WILLIAMS OF ARIZONA

Voltaire once said that history is velvet shoes going downstairs and wooden shoes going up! The ebb and flow of great nations can be represented by its moments of highest courage and greatest heroism. Then the doldrums when it dons velvet slippers.

Not too long ago, in our history, heroes walked our land and were aware of honor, duty, country. Other heroes walk again today, but unknown to most, save in a few instances. These are men who promise no glittering, easy path of affluence and national cynicism, but instead, the blood, sweat and tears that Churchill once talked about.

Out of the crucible of the uneasy and ravaged sixties, when mobs stormed our streets and burned our buildings and shouted crude slogans against our national honor, will again come America's greatest hour.

This nation has faltered, of late, on the shoals of self-despair and criticism. No great nation can long endure when its traditions are twisted as Kipling once wrote, "To make a trap for fools; and knaves are allowed to carry banners, shout slogans and flaunt divisive symbols, that have their roots in foreign ideologies."

Since history's dawn, blight, pestilence and trouble have visited themselves upon both civilized and uncivilized people of the world. One by one, society has attacked these problems with force and energy and a great many of them have been solved.

Make no mistake about it. This is the year of decision, and you represent the Party of American common sense.

A bewildering array of aspirants for the presidential nomination, like Stephen Leacock's headless horsemen, have mounted their steeds and are riding off in all directions across our land. They extravagantly promise to better the things that have been commenced over the past thirty-seven months.

Free Angela Davis shouts one! Stop the war, I want to get off, screams another. Cut our defenses, shrieks still another. Their proposals have a ring of desperation as each candidate tries to outpromise the other contenders. They propose spending money as though it's going out of fashion. And they propose humiliating our nation by crawling on our stomachs to the peace talks at Paris.

Let me recall a moment not too long ago. The scene was the Dan Carmel Hotel atop a high bluff overlooking Haifa Harbor, and I was talking to a vice president of Technicron, the M.I.T. of Israel. Professor Herman Fenkel was curious about the United States.

"There is a desire for isolation abroad in our land," I said. "The peaceniks are on the streets, shouting—Peace at any price. A strong defense is to have no defense, they say. Make it evident to everyone that we offer no threat of any kind."

"You go back, Governor Williams," gravely remarked Herman Fenkel. "You go back to America and tell them that we tried that in Germany and six million of us went to the ovens!"

It's a hard prophecy to deny.

There is a tide in the affairs of men, that taken at its crest leads on to victory. As a friend said recently to me, "The waves recede, but the tide comes in."

History does repeat itself. And this nation has always had the right men at the right time to save it.

There is an excitement and a sense of des-

tiny that we should feel today, in this Republican Party. And, you should feel it first. We have some surface symptoms of difficulty, but adversity is the spur to great success.

It's wooden shoes going upstairs that counts. I am an eternal optimist. I know, from the public prints and the electronic media, that we should be depressed and gloomy. But I can remember when things were really tough. Today, we are rich enough to afford to worry about the smoke coming out of smokestacks that indicate men are working. I can remember when the smokestacks across this land were not smoking and men were not working, and the cardboard was in the shoe; and the depression was upon the land.

Strangely enough, then, in extreme poverty we had faith, and in extreme unemployment we had neighbors.

Those who say that poverty is the seedbed of crime don't know what they're talking about. Affluence is. And those who say that a weak America will be a better America fail to understand the lessons of history.

It is only when we succumb to self-pity and despair that we encourage the possibility of failure. It is important to remember that lack of faith is the keystone to the arch of despair, and despair forms the framework for failure.

There are many who claim everything is wretched. I say that all is not wretched. I say a lot of things in this country aren't wretched at all. We have done wonderful things and left some ragged edges in the process. I trust that coming generations will smooth these ragged edges and, hopefully, go on to greater things.

Let us list some of our problems, painted and gilded into works of dishonest art by our opposition:

The false dream that one-third of the population can support the other two-thirds.

The abandonment of the family unit as the backbone of our society.

Respect for authority is under attack on all sides.

Respect for law, the courts, and more important, the parents, has become a joke with some.

The dope scene with the real cop-outs who refuse to face reality.

These are the ones in velvet slippers going downstairs.

Dishonesty is dishonesty, whether it is stealing from the income tax form or from your employer by failing to produce an honest day's work, but accepting a full wage.

An early criticism of our country related to the weakness of a democracy. We were warned when people learn they can vote themselves benefits from the public treasury, there is no stopping them until they have plundered it in its entirety.

Today, the motley crew of Democratic aspirants who have visited us, recently, have had one common theme. They have promised more from the public treasury.

My friends, the American people are not stupid. They know the old shell game very well. Those who have been running the shell game have tried to tell us otherwise.

But history shows over and over again, and the facts of life demonstrate it in our own time, that the only goal we can offer with any realistic promise of fulfillment is equality of opportunity. Let each put on his wooden shoes and go to work, climbing the long, hard, but exciting, stairs which lead to greatness in a nation and in man.

We are told, today, that America is the richest nation on earth. And somehow we swallow that guff. Actually, we are more in debt than all the other nations of the world combined, but our Democratic spend-thrifts keep promising more.

Do you know what a debt of four hundred billion dollars plus, is?

Let me try to describe it. If you stacked up one million dollars in thousand dollar bills, you'd have a stack eight inches high. If you stacked up a debt of four hundred plus billion dollars in thousand dollar bills, you would have a stack over fifty miles high.

But, we can handle this debt, and we can have a full employment budget, if we will but go back to work and produce. If we'll put on those wooden shoes and start climbing.

Essentially, America is a good nation, and a great nation. And we are a great people. We are almost without number in our infinity of skills, talents and abilities.

These national doldrums we face today result from prodigious, exhausting efforts in the past that won two world wars, put out a score of brush fires, spent two hundred billion dollars in feeding the poor around the world and restoring the ravaged. No nation has ever tithed itself so generously to help others. We may be disappointed that there is little, if any, gratitude from those we helped. But we didn't rebuild Germany and Japan's economy, expecting their thanks. We didn't send our foreign aid around the world to make ourselves rich. We did it because we have been taught that one does the decent thing and helps one's neighbors to fight communism.

Now is a moment that could have been predicted. Our former foes are challenging us, and our former friends are criticizing us, and within we are torn by conflicting ideologies only the unchallenged can afford. Our national goals have been lost in an euphoria of helping everybody and everything and being all things to all people.

It is time again to reset our compass and our course.

We have a destiny among nations. It is clear, shining and magnificent as when it was first voiced in that Declaration of Independence almost two hundred years ago.

Two hundred years isn't very old for a nation. Recently, in Spain, I saw the ruins of Moorish greatness that lasted six hundred years, until the French defeated the Moors at the Battle of Tours and decided at that moment the future of Europe, whether it would be a Moslem or a Christian future.

We are only beginning to sense our greatness and that greatness is to be found today in the article of our Republican faith. For too long have we wandered from the pathway outlined for us by those men who penned our Constitution and gave us the chance to be free. Men of industry teamed up in research and development to produce the necessities and the luxuries of life that some scorn today, even while they enjoy them. Millions of Americans have died and millions have suffered in the wars of this Republic that we might have greater freedom than any other citizen of any other nation in any other period in the history of mankind.

We should cherish those freedoms—to work, to love, to learn, to play; freedom to compete, to invent, to save, to invest, to create, to promote and to own; freedom to choose, to join, to vote, to speak, and to walk erect with head held high; freedom to be ourselves and to be free to glorify our God. Life would be a void, without a sense of purpose, if we were to lose these things.

We shall not lose them because the Republican Party stands ready to defend them. Mankind hasn't changed in a thousand years and more. Common sense tells us that. That is why I say that our Party is the Party of common sense and as the Party of common sense is really closer to the people.

The common sense I talk about should prove that people haven't changed. Aesop's Fables, written over two thousands years ago, depict our same foibles and personality, the laws of Leviticus apply today, as they applied when written.

If we are to base our decisions on common sense, we must recognize that each of us serves a particular purpose in our Party, and that the re-election of Richard M. Nixon is of paramount importance, whether you agree with every nuance of his political judgments or not!

Having some knowledge of the Executive demands related to the other two branches which represent checks and balances in our form of government, I know his dilemma. We have been taught in the past thirty years to believe that the President of the United States runs the country, should be credited with all useful advances and charged with every failure. Yet, common sense admits we are a nation of checks and balances; the Legislature and the Courts have a profound influence.

We blame the President if there is a slight recession in the economy.

We blame the President if war breaks out anywhere on this globe.

We blame the President for the price of bread or the cost of shoes.

The truth, my friends, is that the President is the administrative head of this nation. Congress determines the policy, and recently the Supreme Court has trimmed the sails.

You know—even those most strident conservative critics surely can't say that the President is all bad when he appoints a man like Arizona's Bill Rehnquist to the Supreme Court.

If you judge a man by the enemies he makes, Bill has a magnificent record.

In fact, the knockers give little credit. They never have, but, if there is one great achievement on the part of Richard M. Nixon, it could be in our eyes his shifting the balance of the Supreme Court away from its far left ideologies.

Some of the other criticisms, common sense tells us, are the inevitable result of being a doer. And, during the past year especially, none can accuse our President of not acting boldly, courageously and vigorously. The leadership of this world today demands such decisiveness and action if it is to be saved from drowning in a sea of confusion and cross purposes.

Indeed, we have a President who is leading our country with courage, intelligence and with a dignity and an assurance that we have not witnessed for some time, would that he had more support in the United States Senate and the House of Representatives.

Comes now that time of travail for any political leader, when the purveyors of calumny and slander have a field day, when the publishers of untruths and half truths start the presses, when the electronic media paints the picture of the little girl picking daisies. Remember?

Be prepared for even more slanders, half truths and outright lies.

A strange coterie of opponents are gathering. The party of the opposition is fielding men who have an ideological difference with us. But, that difference plays into the hands of those who would destroy us.

We should remember the man in the fable riding the little ass who tried doing everything the passersby asked him to do, wound up carrying his son, and his donkey, and his burden across the bridge and lost his little ass and everything.

The American people should remember how the world's most powerful military establishment was reduced to second-rate impotence, how inflation was permitted to soar, and how a welfare state that enslaved us all, either with debt or dependence, was encouraged.

At the turn of the 17th century, England under the leadership of King William, according to Churchill's Chronical, seemed to be laying, after generations of religious, dynastic and territorial wars, the foundations of a lasting peace for the whole world. (Does that sound familiar?) But, Churchill continued, at the very moment when all that the hearts of men desired was coming with-

in their reach through his exertions, the King was woefully and even fatally weakened by the action of the House of Commons. They rejoiced in peace and clamored for freedom. Groaning and impatient, Commons plunged into a career of disarmament and constitutional assertiveness that found them vowing to break up the standing army. An orgy of insult and abuse, in which the civil population heartily joined, began around all uniformed men. (Doesn't that sound familiar?)

This nation has gone through it. History is replete with just what is happening. And common sense should tell us that those who advocate—Better Dead than Red, or any lesser interpretation of that slogan—either fail to learn from the lessons of history and lack common sense or are serving that worst of all roles, the role of the witting, or unwitting, traitor.

The party of the opposition has, unwisely, weakened our nation. They fought the ABM—a weapons system which the experts believed essential to our national survival. It passed by a single vote—the tie-breaking vote of Vice President Ted Agnew.

There was an honest difference of opinion about building an SST. The program was stopped. France, as a gesture of significance, flew its own SST to the meeting with President Nixon in the Caribbean recently, and Russia plans to bring its proto-type to the next air show. These gestures are not missed by those who want to believe that our nation is destined for a second-rate status.

Obstructionism is a giant industry in America today, and hundreds and thousands of men and women are being penalized.

The idea of wage and price controls is repugnant to a great many people, especially to most conservative thinkers. The President's critics in Congress called for such controls and passed the authorization necessary to give the President the power to invoke them. Now, these same forces are his most violent critics, and with a relaxation of some controls, everyone is complaining. Yet, he said over and over he would show us the way, and then ask for voluntary compliance. He did. And everywhere that the shoe pinched, the patient squawked. But the controls had an effect. It reminds me of a classic dictum: Those who will not control themselves from within must be controlled from without by force.

The Vietnam War has divided this country as all wars which are unwinnable must. It has dragged on interminably. MacArthur once said this: "War is a terrible thing, and a tragedy when resorted to to settle the differences between nations. However, once that decision is made to resort to war, then it is important to win it, to resolve the matter. If you don't resolve it, you simply will have to fight again later."

How true that the Korean sacrifice settled nothing and twenty years later we still meet at the peace table at Punmonjon. With Vietnam, there are those who support Hanoi and those who support Saigon. Most of the liberal criticism today is aimed at Saigon—corrupt, ineffective, and incapable of defending herself without our aid. Who points out that Hanoi cannot defend herself without Moscow's aid? In effect, why is Hanoi so pure, and if she is claiming purity, what is she doing in Cambodia and Laos? Common sense tells us that Moscow is on a fishing expedition and will absorb as much of the Far East as is permitted. Why do you think China is concerned today? She doesn't want to see the Pacific a Red Soviet lake.

Yet, in Philadelphia, one of the President's political critics declared it has taken Nixon longer to get us out of the war in Vietnam than it took us to defeat Adolph Hitler.

What he conveniently forgot to say was that from 1962 to 1968, when his Party was in power, they imposed a "no-win" policy on our military leaders and that in an agony of frustration we have sacrificed the lives of almost fifty thousand Americans, fighting in a war they were not permitted to win.

My friends, it is time for the American people to speak effectively against such unbelievable charges which not only frustrate our national life, but threaten our national future.

If we don't care enough to survive ourselves, we will be a very small footnote on the pages of history.

What has disappeared from our national scene is not only a sense of purpose, but a reverence for this country and its basic ideals. Thirty years ago, when the ominous cloud of World War II loomed on the horizon, we could truthfully say that politics ended at the water's edge. Many of us disagreed with President Franklin Roosevelt's domestic policies, but I would remind you it was the Republican leadership in the Senate and the House, joining hands with the Democrats and the President, which made it possible for the free world to survive that terror.

Don't ever forget the enemy at that time was intent upon world domination and extermination of all minorities that couldn't be used as slave labor. To the young today, World War II sounds like ancient history. But, from it we should learn one great lesson. Professor Herman Fenkel said it; I say it again. Six million Jews were exterminated in the ovens and the concentration camps.

War is an ugly thing, but not the ugliest thing. The decayed state of moral and patriotic feeling which insists there is nothing worth a war, is worse.

We forget that if we abandon the South Vietnamese before they can defend themselves, we deliberately condemn millions to the most brutal of deaths and retaliation. The same politicians who strongly condemn Richard Nixon's efforts in Southeast Asia to extricate our forces, appear to applaud the brutality which accompanied the recent difficulties in East Pakistan.

You saw the News and television shots of brutality and horror which accompanied India's armed intervention in East Pakistan.

Let those who complain about South Vietnam raise their voices in protest over the little boy kicked to death in East Pakistan. Let those who piously ask what we are doing in South Vietnam ask North Vietnam what they are doing in Laos and Cambodia.

As our Democratic friends trek the hustings, remember they were there when the Senate and the House voted appropriations which put us so deeply in debt—a federal debt, incidentally, which is largely responsible for the inflation that robs every man of a part of his paycheck. They were there when the Gulf of Tonkin Resolution was passed. They have been there during the whole dreary exercise that President Nixon is trying so desperately to correct under our system.

It is time for common sense again, the common sense that framed the words and actions of those great patriots who formed our country.

The common sense that is represented in the Republican Party's policies and participants today.

The common sense that reminds us to give up the velvet slippers of the welfare state and the impotence of disarmament and the breakdown in patriotism, respect and loyalty, and the common sense to don the wooden shoes of work . . . for duty, for honor . . . for country.

EQUAL RIGHTS FOR MEN AND WOMEN, 1972

Mr. BAYH. Mr. President, the full Senate Judiciary Committee will soon take up the equal rights amendment, and shortly thereafter the amendment will come to the floor of the Senate. I want to take this opportunity to bring to the attention of my colleagues several items of interest: first, the views of two distinguished constitutional scholars on the Ervin substitute for the equal rights amendment; and, second, a partial list of those organizations which support the equal rights amendment in its original form.

The equal rights amendment reads in operative part as follows:

> Equality of rights under the law shall not be denied or abridged by the United States or any State on account of sex.

This is the language which has been introduced in Congress ever since 1923. It is the language of House Joint Resolution 208, which was overwhelmingly approved in the House last October and which is presently pending before the full Senate Judiciary Committee, and it is the language of Senate Joint Resolution 8, which I introduced on behalf of myself and 48 other Senators.

Unfortunately, the Subcommittee on Constitutional Amendments, which I serve as chairman, jettisoned the traditional form of the amendment by a close vote last November. In its place, and over the strenuous objections of the Senator from Kentucky (Mr. COOK), the Senator from Florida (Mr. GURNEY), the Senator from California (Mr. TUNNEY), and myself, the subcommittee substituted language proposed by the Senator from North Carolina (Mr. ERVIN), which reads in operative part as follows:

> Neither the United States nor any State shall make any legal distinction between the rights and responsibilities of male and female persons unless such distinction is based on physiological or functional differences between them.

I opposed the "Ervin substitute" in the subcommittee because it seemed obvious to me that, if approved, the language would permit and encourage the very sorts of sex discrimination which I am dedicated to eliminating in this country. I am glad to report that this view is shared by Thomas Emerson, Lines Professor of Law at Yale University Law School, and Norman Dorsen, Professor of Law at New York University Law School. Both Professor Emerson and Professor Dorsen are distinguished constitutional scholars. And both are deeply opposed to the "Ervin substitute" because it would undermine the cause of equal rights for men and women.

I commend to every Senator the penetrating analysis in the letters I received from these scholars. Professor Emerson demonstrates in his letter that the "Ervin substitute," far from being an equal rights amendment, in fact "contains no substantial guarantee of equal rights whatsoever." First, the substitute would give a constitutional basis to State action which discriminates against women in a variety of areas, including business and employment, criminal law, and education. Second, the substitute would reverse the minimal advances which have been made toward convincing the Supreme Court that sex discrimination is suspect under the 14th amendment. In short, to quote Professor Emerson's conclusion:

The Ervin substitute would not only destroy all hope of achieving equal rights for women through constitutional amendment, but would seriously impair such rights as now exist. A vote for the Ervin Amendment is nothing more and nothing less than a vote against equal rights for women.

I ask unanimous consent that the letters I have received from Professors Emerson and Dorsen be printed in the RECORD.

I also wish to call attention to the persons and organizations lined up in support of the equal rights amendment in its traditional, unamended form. Both the Republicans and the Democrats have repeatedly supported this proposal in their national party platforms. It has received the endorsement of Presidents Eisenhower, Kennedy, Johnson, and Nixon. The Citizen's Advisory Council on the Status of Women and the President's Task Force on Women's Rights and Responsibilities have recommended in strongest terms approval of the equal rights amendment. At least 11 States—California, Connecticut, Delaware, Florida, Louisiana, Maryland, Minnesota, Nebraska, New York, North Dakota, Pennsylvania—have taken official action in support of the amendment. And a great many national organizations have given their support to our efforts, too, among which are the following:

American Association of College Deans.
American Association of University Women.
American Association of Women Deans and Counselors.
American Association of Women Ministers.
American Federation of Soroptimist Clubs.
American Home Economics Association.
American Medical Women's Association.
American Nurses Association.
American Society of Microbiology.
American Society of Women Accountants.
American Society of Women Certified Public Accountants.
American Women in Radio and Television.
Association of American Women Dentists.
B'nai B'rith Women.
Council for Women's Rights.
Ecumenical Task Force of Women and Religion (Catholic Caucus).
Federally Employed Women.
General Federation of Women's Clubs.
International Brotherhood of Painters and Allied Trades.
International Union of United Automobile, Aerospace & Agricultural Implement Workers UAW.
Ladies Auxiliary of Veterans of Foreign Wars.
League of American Working Women.
National Association of Colored Women.
National Association of Negro Business and Professional Women's Clubs.
National Association of Railway Business Women.
National Association of Women Lawyers.
National Education Association.
National Federation of Business and Professional Women's Clubs.
National Organization for Women.
National Woman's Party.
National Women's Political Caucus.
Professional Women's Conference.
St. Joan's Alliance of Catholic Women.
Unitarian Universalist Women's Federation.
United Automobile Workers.
United Methodist Church—Women's Division.
Women's equity Action League.
Women's International League for Peace and Freedom.
Women United.

Mr. President, there is a broad base of public and scholarly opinion in favor of the equal rights amendment. The need for the amendment has been demonstrated in three sets of hearings in the Congress in the past 18 months. The time has come for the Senate to stand up and be counted for in favor of equal rights for men and women.

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

YALE UNIVERSITY LAW SCHOOL,
New Haven, Conn., January 13, 1972.

Hon. BIRCH BAYH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR BAYH: I am writing in opposition to the proposed constitutional amendment offered by Senator Ervin as a substitute for the Equal Rights Amendment. In my judgment the Ervin Amendment would nullify the whole purpose of the Equal Rights Amendment. More than that it would put women in a worse position than they are now.

The Equal Rights Amendment, as passed by the House of Representatives, provides that "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex." The fundamental objective of the Amendment is to eliminate sex as a permissible factor in determining the legal rights of women or of men. It contemplates that the law may make legal distinctions based upon characteristics or functions of individual persons, but not by grouping all members of one sex into a single overclassification.

The Ervin Amendment proceeds upon a totally different, and indeed opposing, principle. It provides that "Neither the United States nor any State shall make any legal distinction between the rights and responsibilities of male and female persons unless such distinction is based on physiological or functional differences between them." It thus authorizes discrimination against an individual solely by reason of sex, in any situation where it can be said that a majority of one sex are different in some physiological or functional characteristic from a majority of the other sex. This means that the legislative rights and responsibilities of an individual are determined not by his own traits or functions but by those of his sex considered as a group.

To take a concrete example, if a legislature found that men on the average could lift heavier objects than women on the average, it could on that basis pass a law that no women could be employed in a job requiring the lifting of weights over a certain limit, regardless of the capacity of a particular woman to lift heavier weights. Or if the legislature determined that more women than men performed functions which required them to remain in the home, then it could provide that all women be excused from jury duty, regardless of the actual function performed by any particular woman.

To make the determination of rights and responsibilities depend on an arbitrary classification of this sort, rather than upon individual differences, runs squarely contrary to the basic principle that each individual has the right to develop his or her own potentialities. Equally important, as past experience has shown, it inevitably results in relegating women to an inferior status in our society. No effective guarantee of equal rights for women can be achieved upon such basis.

It should be emphasized, further, that the Ervin Amendment authorizes such unfair discrimination not only in a limited category of situations but in almost every area of the law. The term "physiological differences" would include not only average physical differences such as weight, height, or strength, but average psychological differences such as aggressiveness or sensitivity. Any characteristic of body or mind, in which some sort of measurement is alleged to indicate that men and women differ in terms of group averages, could serve as a basis for different treatment by the law.

Similarly, "functional differences" would embrace virtually the entire spectrum of human activity. If it were determined that more men than women, or vice versa, were engaged in the care of children, in other functions in the home, in clerical or secretarial positions, in executive positions, in particular forms of recreation, in a particular style of living, or in any other kind of work or leisure, such a finding could be used as grounds for imposing special obligations on members of that sex or granting them special benefits. The Ervin Amendment thus contains no substantial guarantee of equal rights whatsoever.

It would be possible to give hundreds of examples of how the Ervin Amendment would authorize a legislature, executive official, or court to maintain and in fact expand discriminatory treatment of women. In addition to the two examples noted above, perhaps three others will suffice to illustrate the consequences of adopting Senator Ervin's proposal:

(1) If the legislature were to find that women as a whole were less able to defend themelves against physical assault than men as a whole, it could prohibit employment of women in jobs requiring them to be out of the house at night.

(2) If it were determined that more women than men failed to pursue professional careers because they married and became occupied with household work, the government could give preference to men over women in admission to law, medical and other professional schools.

(3) If a study should reveal that, on the average, women had different psychological propensities for rehabilitation than men, a legislature could provide different criminal penalties for men and women for the same offense.

All of these results, and many similar ones, would be authorized by the Ervin Amendment. It is clear that this proposal would perpetuate, not eradicate, the whole range of inequities between the sexes which the Equal Rights Amendment is designed to eliminate.

In addition, it should be noted that adoption of the Ervin Amendment would leave women in a worse position than they are now. The Equal Protection Clause of the Fourteenth Amendment, and the similar guarantee embodied in the Due Process Clause of the Fifth Amendment, now require that differences in treatment on account of sex be justified as constituting a "reasonable classification". In deciding what is a "reasonable classification" the courts do more than simply determine whether the difference in treatment is "based on" some alleged "physiological or functional differences" between the sexes on the whole. They take into account such factors as the weight to be given the government interest alleged to justify the discrimination, the unfairness of treating all members of the sex alike regardless of individual differences, and other considerations which enter into the complex question of determining "equal protection of the laws". It is possible, also, that the courts will eventually come to the position that classification by sex is a "suspect classification," presumptively invalid and requiring a showing by the government of the most "compelling" reasons if it is to be sustained.

Under the Ervin Amendment this treatment of the constitutional right of women to equality under the law would no longer be

possible. The Ervin Amendment, if adopted, would supercede existing law and require the courts to uphold differentiation in treatment so long as the law is "based on", that is, is reasonably related to, any average physiological or functional difference. The result would be to put in jeopardy even such slight advance as women made in the recent decision of the Supreme Court in *Reed v. Reed*, outlawing discrimination because of sex in the appointment of an administrator of an estate.

It is not unlikely, also, that the Ervin Amendment would undermine existing statutory provisions, such as Title VII of the Federal Civil Rights Act of 1964, prohibiting discrimination against women in employment, and various State anti-discrimination laws. Although the Ervin Amendment would not appear to prevent leigslatures from passing laws affirmatively prohibiting discrimination on account of sex, were they so inclined, the impact of the Ervin Amendment would undoubtedly tend to discourage legislatures from doing so and to encourage the courts to give a very narrow interpretation to existing anti-discrimination statutes.

In summary, the Ervin Amendment would not only destroy all hope of achieving equal rights for women through constitutional amendment, but would seriously impair such rights as now exist. The Committee must face this fact squarely. A vote for the Ervin Amendment is nothing more and nothing less than a vote against equal rights for women.

Sincerely,

THOMAS I. EMERSON.

NEW YORK UNIVERSITY SCHOOL OF LAW,
New York, N.Y., January 14, 1972.

Senator BIRCH BAYH,
United States Senate, Committee on the Judiciary, Subcommittee on Constitutional Amendments, Washington, D.C.

DEAR SENATOR BAYH: I am responding to your letter of January 7, 1972, inviting my comments on the language accepted by your subcommittee in place of the original Equal Rights Amendment.

Although one cannot be confident about how the new language would be interpreted were the Amendment to become part of the Constitution, my view is that the substitute version should be opposed both because of its vagueness and because of the likelihood that it would not lead to a substantfal elimination of sex discrimination beyond what the Constitution already forbids.

The nut of the issue of course is the qualifying phrase in Section 1, which would authorize legal distinctions between the sexes if they are based on "physiological or functional differences between them." The quoted phrase is obviously ambiguous; in particular, I am at a loss to understand what might be meant by a "functional difference."

Given the ambiguity, it follows that courts and legislatures would be capable of interpreting the language broadly or restrictively and thereby attack sex discrimination in a strong or weak way. This uncertainty is common in constitutional interpretation, but the particular difficulty here is that the Fourteenth Amendment's equal protection clause is already capable—if judges are willing—of being employed as an effective mechanism to end or sharply limit sex discrimination. There is, in other words, no need for an additional constitutional provision couched in vague language.

Accordingly, I conclude that it would be preferable at this stage to reject any formulation that is not cast—as was the original version of the Equal Rights Amendment—in unequivocal terms plainly designed to terminate sex discrimination.

Sincerely,

NORMAN DORSEN,
Professor of Law.

YOUTH FOR UNDERSTANDING

Mr. BAYH. Mr. President, I wish to commend the educational international exchange program, "Youth for Understanding." Begun in 1951 by the Detroit, Mich., area Rotary Clubs, its administration was soon shared by the Ann Arbor Council of Churches, with advice of the State Department.

In 1964 the Youth for Understanding was incorporated as a nonprofit corporation, in view of its increased size. As one indication of its size, the program has placed students from 45 different countries in 42 States of the United States.

A constituent of mine, Mrs. Kathryn Y. Hartman, from Hartford City, Ind., has hosted nine foreign students since 1959 and is particularly warm in her praise of the program. As Mrs. Hartman noted, Indiana has the privilege of hosting over 100 foreign students each year and of sending about 40 high school students abroad each year under the auspices of "Youth for Understanding."

I ask unanimous consent that the stated purpose and bylaws of "Youth for Understanding" be printed in the RECORD so that those interested can share in recognition of a fine program.

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

PURPOSE

Youth for Understanding is the largest and fastest growing organization in the field of teenage exchange programs. More than 30,000 students from 45 countries have participated in Youth for Understanding programs since its establishment in 1951–52. Youth for Understanding is one of the three teenage exchange programs officially recognized by the United States State Department.

The statement of purpose of Youth for Understanding is contained in Article II of its By-laws. It shall be the purpose of this corporation to:

A. Promote international understanding by sponsoring, developing and carrying out international student exchange programs, to arrange for international cultural exchanges and for exchange of youths desiring to accomplish needed services in other countries, and to do all things necessary to achieve these purposes, including raising and investing necessary funds, soliciting, receiving and accepting funds, gifts, grants, bequests and devices, in any form, acquiring, holding transportation and facilities, setting up auxiliary committees and organizations for these objectives, and cooperating with existing organizations and interested persons toward these ends.

B. To acquaint teenage students brought to the United States from other countries with American family and community life by having them live with American families for approximately one year and to enable the students to gain an understanding and appreciation of the American way of life through participation in typical high school, family and other aspects of community life.

C. To carry out, finance and implement fully an educational and cultural exchange program contemplating the sending of teenage youths from the United States to other countries for various periods of time, arranging for and administering their activities, and contemplating bringing teenage youths from other countries to the United States for educational and cultural purposes in the interests of international understanding and good will.

D. Recognizing that Youth for Understanding has had definite religious undergirding, both in the broad objectives for which it has stood and in the personnel connected with the program, it is to be understood that this aspect shall be retained in the corporate structure.

E. These purposes are meant to secure an interfaith and interracial approach to international good will by providing qualified young people with broad experience through living with families of other countries.

BATTLING WITH THE ATOMIC ENERGY COMMISSION

Mr. GRAVEL. Mr. President, what sort of mockery of fair play do we in Congress tolerate, when we tell citizens to go defend their own safety in contest against the combined power of the Atomic Energy Commission, the electric utility industry, and some of the country's largest manufacturing corporations including General Electric and Westinghouse?

The AEC's current "public rulemaking hearings" on nuclear safety are loaded in every way against the citizen participants.

FINDING HALF A MILLION DOLLARS

Let us consider the ability to intervene at all in a local or national AEC safety hearing. On the opening day of the present hearing, January 27, Dr. Ralph Lapp testified as follows:

In order to match wits with the nuclear utility, the [citizen] intervenor needs time, money, and availability of competent technical authority. I would estimate that perhaps $500,000 is the sum needed to fund an adequate intervention.

Very often an intervenor finds it almost impossible to obtain the services of qualified persons to serve as experts. Too often, the intervenor has felt that he was in contest with not only the utility and the nuclear vendors, but also with the Atomic Energy Commission.

If local intervention is to serve as a check on deployment of unsafe reactors or on unsafe siting, then intervenors must have access to some independent authority with which to challenge the organized technical resources of the utility.

Of course, no such independent authority is likely to exist unless the Government realizes that public funding for independent adversary scientists is not only required by justice, but also by prudence.

GETTING THE BAD NEWS EARLY

Unless we fund scientists to oppose technological programs as routinely as we fund them to support such programs, there is simply no likelihood of uncovering bad news in a timely fashion. The adversary process, which reveals inconvenient information so effectively in many court procedures, could perform the same function in technology.

Of course, bad news will uncover itself sooner or later even without adversary science, but it would be better both for business and the general public to learn about the problems sooner. This is particularly so in the nuclear power industry, where one big nuclear accident could ruin the economy of several States overnight, and where near-perfection is required in handling the radioactive by-

products if this planet is going to remain habitable.

The protection of public health and safety is a duty of Government, but we see the Government recklessly licensing nuclear powerplants prior to a single integrated test of their most important safety system, and prior to any demonstrated ability to cope with the perpetual storage of their radioactive waste.

WHO HAS THE FAR-OUT IDEAS?

It certainly should not be up to the public to prove that the nuclear power program is going to be a disaster; obviously when the subject is a technology with which we could inadvertently poison the planet forever, the burden of proof belongs on the AEC and the nuclear industry to prove to the public that the program will not be a disaster.

Every person in this country—and of course that includes businessmen—owes a debt of gratitude to the citizen intervenors in AEC hearings. They are trying to do the job of public defense which the Congress and the AEC have failed to do.

For citizen intervenors, it means blood, sweat, and tears, as well as crushing dollar-debts and loss of precious lifetime. For some people, waking up month after month to face another day in a hearing room is like a Chinese water-torture.

FOURTEEN STATES REPRESENTED

Mr. President, so that my colleagues can more easily appreciate the coast-to-coast extent of citizen opposition to the premature licensing of nuclear powerplants, I ask unanimous consent to have the following nine items printed at the end of my remarks:

A State-by-State list of more than 45 citizen groups which have formed the coalition known as the National Intervenors. This is just a partial listing. More groups are joining the coalition all the time. I might add that the attorneys general of the States of Maine, Minnesota, and Vermont have also intervened in the current rulemaking hearing, and the State of Kansas, where the AEC has been hoping to bury the radioactive waste, has intervened in license hearings on some individual nuclear powerplants in other States.

The January 29 news release stating the position of the National Intervenors.

"Environmentalists Urge Reactor-Cooling, Tests," from the Washington Post, February 2, 1972.

"A-Plant Safety Will Be Debated," from the New York Times, February 2, 1972.

"Groups Ask AEC To Halt Licensing of Powerplants," from the Evening Star, Washington, D.C., February 2, 1972.

"Critic Wins Point at AEC Hearings," from the New York Times, February 3, 1972.

"Warn of Atom Power Leaks," from Chicago Today, February 6, 1972.

"Find Secret Memo at AEC Hearing," from Chicago Today, February 6, 1972.

"Charge AEC Muzzled Safety Panel," from Chicago Sun-Times, February 6, 1972.

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

CITIZEN GROUPS WHICH CONSTITUTE THE NATIONAL INTERVENORS

CALIFORNIA

The Sierra Club, San Francisco.
The Peoples Lobby, Hollywood.

WASHINGTON, D.C.

Environmental Action, Inc.
National Wildlife Federation.

ILLINOIS

Businessmen for the Public Interest, Chicago.

INDIANA

Community Action to Reverse Pollution, Gary.
Porter County Izaak Walton League, Chesterton.
Save the Dunes Council, Munster.

MARYLAND

Chesapeake Environmental Association, Edgewater.
Chesapeake Bay Foundation, Inc., Annapolis.

MASSACHUSETTS

Union of Concerned Scientists, Arlington.

MICHIGAN

United Auto Workers of America, Detroit.
Saginaw Valley Nuclear Study Group, Midland.
West Michigan Environmental Action Council, Inc., Grand Rapids.
University of Michigan Environmental Law Society, Ann Arbor.
Kalamazoo Nature Center, Kalamazoo.

NEW JERSEY

Delaware Valley Committee for Protection of the Environment, Moorestown.
Pompeston Environmental Committee, Cinnaminson.
Anti-Pollution League, Allentown.

NEW YORK

Natural Food Associates of Westchester, White Plains.
Mapleton Intervenors, Babylon.
Lloyd Harbor Study Group, Babylon.
Joint Schools Committee for Academic Excellence Now, Inc., New York City.
Ecology Action of Oswego, Oswego.
Cortlandt Conservation Association, Inc., Croton-on-Hudson.
Citizens Committee for the Protection of the Environment, Ossining.
Citizens Rights Committee, Hicksville.
Independent Phi Beta Kappa Environmental Study Group, New York City.
Rockland County Conservation, Spring Valley.
Citizens League for Education about Nuclear Energy, Inc., New Rochelle.
Rockland Ecological Coalition, Inc., Spring Valley.
Protect Your Environment, Albany.
Natural Resources Defense Council, New York City.
Citizens Committee to Save Lake Cayuga, Ithaca.
Citizens for Gregory Pond, Peekskill.

NORTH CAROLINA

Metrolina Environmental Concern Association, Inc., Charlotte.

OREGON

Oregon Environmental Council, Portland.
Eugene Future Power Committee, Eugene.

PENNSYLVANIA

Environment: Pittsburgh, Pittsburgh.
Society for Social Responsibility in Science, Pottstown.
Environmental Coalition on Nuclear Power, Morristown.

VIRGINIA

Federation of Homemakers, Arlington.

VERMONT

Conservation Society of Southern Vermont, Bennington.
Vermont Natural Resources Council, Bennington.
Lake Champlain Committee, Bennington.
New England Coalition on Nuclear Pollution, Inc., Brattleboro.

WISCONSIN

Protect Our Wisconsin Environmental Resources, Two Rivers.
Wisconsin Environmental Decade, Racine.

[News release from National Intervenors, Washington, D.C., Jan. 29, 1972]

CITIZENS' COALITION CHALLENGES A-PLANT SAFETY

WASHINGTON.—The National Intervenors, a coalition representing 60 citizen environmental groups from across the nation, is challenging the Atomic Energy Commission to suspend all licensing of nuclear power stations until it proof-tests the safety of reactors.

In a statement, the Coalition said:

"The AEC insisted that it had to conduct the Cannikin test to prove that the anti-ballistic missile warhead would work. We fail to see why the AEC refuses to insist upon the same precaution when it comes to proving that emergency reactor core cooling systems will work and remove all risk of a catastrophic accident in a nuclear power plant.

"As matters stand today, the AEC is proceeding with the licensing of large nuclear electric plants without having conducted realistic, operational tests of a system to prevent a reactor from running out of control and melting down. In the absence of valid experimental data on which to base the design of emergency shut-down systems, the AEC is needlessly jeopardizing the lives of hundreds of thousands of Americans.

"There should be a total suspension of all nuclear plant operating and construction licensing by the AEC until the research work is done to prove beyond all doubt the reactors and associated facilities will present absolutely no hazard to the public.

"Today, the AEC cannot guarantee the safety of the reactors it is licensing, yet it is permitting 22 nuclear power stations to operate right now and is allowing construction to proceed on 99 more, many of them near population centers.

"Our need for electricity can in no way justify or tolerate the operation of nuclear power stations having no proven safeguards. We must not permit the AEC to entertain the slightest risk of accident when we know there is enough radioactivity in one reactor to wipe out an entire city.

"Presently, the AEC is planning to conduct tests of emergency core cooling systems in 1975. That is three years from now—a period of time when more nuclear plants will be built and operating with no proven safeguards. It is also a time when the nuclear industry will be expanding when the financial stake by utilities will be growing—entirely in the dark as regards safety.

"The National Intervenors believes this course is the height of folly. If our government was as concerned about the safety of Americans as it is about the workability of ABM warheads, it would shut down the nuclear plant program today and await the outcome of the 1975 tests.

"We could spend the next three years profitably in examining our national energy needs and policies and developing alternate—safer—sources of electricity, such as the fusion process and solar energy."

The National Intervenors, a grass roots coalition, has formed in Washington to intervene in two consecutive AEC rule-making proceedings now underway. The first hearing, starting Wednesday, February 2, concerns interim acceptance criteria for reactor core emergency cooling systems. The second hearing concerns the setting of as low as practicable limits on radioactive emissions.

The Coalition is bringing to Washington numerous scientific authorities, including members of the Union of Concerned Scientists, Cambridge, Mass., to cross-examine AEC and nuclear industry witnesses and present expert testimony. Coalition members are raising the money for legal fees and to pay for the housing of witnesses over the duration of the hearings, which will extend about six months.

This is an unique undertaking. It is the first time local environmental groups have banded together to intervene in a national rule-making proceeding by the AEC. Previously, the organizations have intervened in individual nuclear station projects in their areas and have technical or other qualifications to contribute to the hearings in Washington.

The Coalition hopes to bring to the attention of the American public both the extent of the hazards inherent in nuclear power stations and the AEC's lack of proven knowledge in dealing with them. Until now, the AEC has been able to hide its ignorance from the general public because of the highly technical nature of safety design. It also has refused to tell the public the true nature of the hazards, claiming only that the reactors are "safe."

In the hearings Coalition scientists will focus first on the dangers arising from a reactor losing its cooling system—perhaps through the rupture of a pipe—and causing the reactor to melt down. Most present reactors use water as a coolant, circulating through the core much like the cooling system in an automobile engine. It is imperative that a reactor have an emergency core-cooling system should the primary one fail. Otherwise conditions could arise where radioactivity could burst from a reactor containment vessel.

A group from the Union of Concerned Scientists contends from recently conducted AEC experiments that present emergency core-cooling systems "may well be unable to perform the functions for which they are designed." And they add "the margin of safety previously thought to exist in these systems' operations during a loss-of-coolant accident is very much smaller than has been expected or may, in fact, be non-existent."

In a critique published in October, 1971, the UCS group pointed out that the AEC itself was disturbed enough by these experiments to temporarily delay nuclear power plant licensing last year and set up a review task force within the agency. However, the AEC not long afterward resumed its licensing without waiting for the task force to report.

Moreover, the agency adopted an interim set of criteria for emergency core-cooling systems as part of the licensing process without subjecting them to outside scientific scrutiny.

The Union of Concerned Scientists group said they found "abundant evidence of weakness in the Interim Criteria . . . they are substantially inadequate and, we believe, cannot add even marginally to the present narrow or possibly non-existent margins of safety."

The second phase of hearings will go into the AEC's standards to keep the levels of radioactive releases from nuclear power facilities "as low as practicable." The National Intervenors contends the AEC must first make a finding on what radiation level is unequivocally safe. Only when this has been done can the commission determine what levels of radioactive release will be as low as practicable in view of economic, technological and energy need factors. Otherwise it will be compromising the health and safety to the public.

[From the Washington Post, Feb. 2, 1972]

ENVIRONMENTALISTS URGE REACTOR-COOLING TESTS

(By Thomas O'Toole)

A coalition of 60 national environmental organizations yesterday asked the Atomic Energy Commission to suspend licensing of nuclear plants until it has proof-tested an emergency cooling system for atomic reactors.

"The AEC insisted that it had to conduct the Cannikin test to prove that the ABM warhead would work," said the National Intervenors in a statement. "We fail to see why the AEC refuses to insist upon the same precaution when it comes to proving that emergency reactor core cooling systems will work and remove all risk of a catastrophic accident in a nuclear power plant."

The statement referred to a method of supplying cooling water to a nuclear reactor if it overheats and its prime cooling system should suddenly fail. The AEC itself has expressed some doubts about the secondary cooling.

"Presently, the AEC is planning to conduct tests of emergency cooling systems in 1975—three years from now," the National Intervenors said. "This is a period of time when more nuclear plants will be built and operating with no proven safeguards.

"We believe this course is the height of folly," the Intervenors said. "If our government was as concerned about the safety of Americans as it is about the workability of ABM warheads, it would shut down the nuclear plant program today and await the outcome of the 1975 tests."

The AEC said it was holding hearings about the emergency cooling system, not the primary system that is the safeguard to the public against reactor hazards.

[From the New York Times, Feb. 2, 1972]

A-PLANT SAFETY WILL BE DEBATED; STRINGENCY OF RULES FACES PROLONGED DELIBERATIONS

(By Richard D. Lyons)

WASHINGTON, February 1.—The Atomic Energy Commission and 46 environmental groups will begin debate tomorrow on the safety of nuclear power plants, an issue that promises to rival, in duration if not intensity, the fight over the Amchitka bomb test.

The debate, which probably will extend well into the summer during rule-making hearings and commission deliberations—and possibly into the years ahead in the courts—involves the following basic questions:

Of what value is an atomic power plant safeguard apparatus called the emergency core-cooling system in preventing potentially catastrophic accidents?

What is the permissible limit of escaping radioactivity from a nuclear power plant to neighboring areas?

The A.E.C. has, in effect, opened to public challenge its current regulations along with proposed changes in them that are being made by the commission. The hearings that start tomorrow give the public a chance to present evidence that stricter standards are needed before the commission issues final safety regulations later this year.

The commission's position is that stricter guidelines may be needed, but the question is how strict.

The questions are directed more at the future, rather than the here and now, since only 23 nuclear power generating units are currently in operation throughout the country.

However, 100 plants are either under construction or on order, several hundred more are on the horizon, and in the two decades ahead almost half the nation's electric power is foreseen as being generated by various types of nuclear equipment.

Daniel F. Ford of Cambridge, Mass., a spokesman for the coalition of environmental groups, told a news conference here today that "the basic decisions affecting nuclear power plants should be made now, before 20 to 25 per cent of the nation's power is atomic."

STRINGENT RULES URGED

Mr. Ford said stringent safety standards must be set and put into effect now, rather than the years ahead when scores of plants will be in operation and it would be all but economically impossible to change their safety features.

Mr. Ford, an economist and a member of the Union of Concerned Scientists, one of the 46 groups that seek strict standards, said the coalition was not against atomic power as such.

"Nuclear power offers environmental advantages over fossil fuel, but nuclear plants have got to be safe," he said, adding that aside from the loss of life or property that a major accident might incur, it also might mean the end of the nuclear power industry.

The coalition, he said, challenges, the A.E.C.'s belief that the possibility of a major accident in a nuclear power plant is small. He cited one analysis that held that under the commission's current regulations one major mishap could be expected to occur every decade among American nuclear generating stations.

One type of safety equipment installed to prevent accidents from getting out of hand is the emergency core cooling system, or E.C.C.S. for short. This is designed to support a reactor's primary cooling system so that a rupture would not lead to overheating of the reactor, the melting of its radioactive core and the subsequent release of radioactivity into neighboring areas.

The system includes pumps, piping and a water supply to quench the reactor, should the regular water supply fail.

The A.E.C. has, in effect, itself questioned the safety of E.C.C.S. models and is asking concerned groups and individuals to offer suggestions for improvements.

CRITIQUE OF MODELS

A critique of the models offered by the Union of Concerned Scientists, based in part on tests at the commission's national reactor testing facility, at Idaho Falls, said:

"Recently developed evidence suggests that emergency core cooling systems may well be unable to perform the functions for which they are designed, and that the margin of safety previously thought to exist in these systems' operations during a loss-of-coolant accident is very much smaller than has been expected or may, in fact, be nonexistent."

The Union of Concerned Scientists and its allies in the coalition, known as the National Intervenors, also want the commission to stop issuing operating licenses for reactors under construction until the E.C.C.S. question can be resolved.

After all the evidence and testimony has been presented by the Intervenors, the atomic power industry, public utility corporations and other groups, it will be weighed by the five-man commission, which will issue new regulations. But both sides feel that the final decisions are many months away.

[From the Evening Star, Feb. 2, 1972]

GROUPS ASK AEC TO HALT LICENSING OF POWER PLANTS

(By Judith Randal)

A coalition of more than 60 citizen groups—ranging from the United Auto Workers and Chicago's Businessmen for the Public Interest to the Sierra Club and the Izaak Walton League—has urged the Atomic Energy Commission to halt further licensing of nuclear power plants, pending definitive de-

velopment of dependable and safe emergency reactor core cooling systems.

The coalition, known as the National Intervenors, is depending on the technical expertise of a Boston group called the Union of Concerned Scientists to represent it at hearings the AEC is holding on the emergency core cooling issue. The hearings, begun last week in Germantown, Md., where AEC offices are located, continue today in Bethesda and will last about six months.

The AEC has acknowledged that its safety standards for the systems are only interim, the licensing of nuclear power plants is going ahead.

END NOT SOUGHT

The coalition does not seek to end the development of nuclear power in the nation, Anthony Z. Roisman, one of its lawyers, said at a news conference yesterday. Indeed, many of its members believe that in the long run nuclear power presents fewer threats to the environment than fossil fuels.

Its concern, rather, he said, is that the lack of reliable emergency core cooling systems will lead to a nuclear accident which could permanently discredit atomic power as a source of electricity.

A number of studies and scientific opinions, he said, support the belief that such an accident could—under some weather conditions—create a cloud of radioactive gas that would travel over a corridor up to two miles wide and 100 miles long and, in a matter of days or weeks, kill at least half the population in its wake. In all, he predicted, some 150,000 people might die—100,000 in the short run and an additional 50,000 of cancer and other long-term effects.

SIZE A FACTOR

The fact that the plants now beginning to open are in the 800–2,000 megawatt range—larger by a quantum factor than many of the 22 nuclear power stations now in operation—increases the likelihood of accident, he and Daniel Ford, a Harvard economist also at the news briefing, agreed.

At present, less than 1 percent of the nation's electricity is generated by nuclear power. But AEC plans, said Ford, call for 50 atomic plants by 1975 and about 500 by 2000. "The whole momentum of the program is such that unless you slow down now until the safety data is in, you get to the point of no return," he said.

Although fraught with technical intricacies, the issue of emergency reactor core cooling systems is a basically simple one, explained by Ford as "how to contain the genie in the bottle." The purpose of the core systems is to use water to contain radioactivity within a nuclear power plant should it escape from the reactor. If a system is incapable of doing this, it has failed.

"VANISHINGLY SMALL"

Dr. Glenn Seaborg, former chairman of the AEC, has said the chances of such failure are "vanishingly small." But Ford and Roizman maintain that many officially recorded near misses and the investigations of the Union of Concerned Scientists have demonstrated that the complex components of the systems, as presently constituted, are anything but reliable.

The danger is the greater because the systems must work within a minute to head off an accident, they said. And chances are good that there will be one failure of the safety system per decade unless it is approved, they said.

As the hearings get underway, however, the coalition is not discouraged. The complexion of the AEC has changed since Seaborg's resignation in 1971, they say, and his successor, Dr. James R. Schlesinger, impresses them as "a subtle and intelligent man" who—because of his experience as a weapons expert for the Rand Corp.—believes in the idea of "test first and then use," rather than vice-versa.

And they view William Doub, former chairman of the Maryland Public Service Commission, who became an AEC commissioner when Schlesinger succeeded Seaborg, as an advocate of the public's right to participate in making the decisions about issues of this kind.

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

CRITIC WINS POINT AT AEC HEARINGS; GRANTED RIGHT TO PARTICIPATE IN REACTOR SAFETY TALKS

(By Richard D. Lyons)

WASHINGTON, February 2.—The Atomic Energy Commission's hearing into the safety of the nuclear reactors of the future opened today with about six hours of wrangling over legal issues.

Lawyers, who were almost as numerous as spectators among the 100 persons at the hearing, devoted most of the time to procedural arguments, primarily on the right standards to take part in the legal and technical presentations.

The critic, Daniel F. Ford, an economic and environmental researcher at Harvard University, was allowed to take part in the hearing as an "expert interrogator" even though each of the three members of the hearing's presiding board said they did not believe him to possess sufficient scientific and technical background.

Mr. Ford is associated with a group called the National Intervenors, a coalition of 46 environmental groups that is seeking to have stricter standards set for reactor safety equipment and to prevent the escape of radioactivity from the atomic power plants.

The coalition's position is that strict standards must be put into effect while relatively few nuclear power plants are in operation, before hundreds are generating electricity and when it would be all but impossible to change their design.

The A.E.C.'s position is that stricter standards may be needed, but the question is how strict. The commission has appointed the presiding board to oversee the debate, has provided experts to give technical testimony and lawyers to argue the legal points, and eventually will set new safety regulations.

A third group at the hearing is composed of legal and technical representatives of nuclear equipment makers and public utilities, such as the Consolidated Edison Company of New York.

The interest of the vendors and utilities is primarily financial since stringent safety regulations would force increases in the prices of the power plants, which would be passed along to the utilities buying the reactors, and eventually to the consumers of power.

The questions on new regulations are not expected to be resolved until this summer.

[From Chicago Today, Feb. 6, 1972]

NUCLEAR CUTS URGED—WARN OF ATOM POWER LEAKS

The Nation's 23 nuclear power plants should be ordered to operate at 40 per cent capacity until their untested safety devices are proven adequate, a spokesman for a Chicago-based environmental group said yesterday.

The demand was made by David D. Comey, environmental research director for Businessmen for the Public Interest.

Failure of a cooling system of the type used by nuclear plants today could cause the plant's atomic core to melt, blanketing the surrounding area with a lethal cloud of radioactive debris, Comeny charged.

All present plants are equipped with emergency core cooling systems to avert such an accident, tho the Atomic Energy Commission admits that the fail-safe system never has been tested. Tests of the safety system have been in preparation for eight years, but are not scheduled for completion until 1974.

B. P. I. is one of 45 national environmental groups demanding that the AEC order interim safety measures until the tests are performed.

At a press conference yesterday in R.P.I. offices, 109 N. Dearborn St., Comey and Myron M. Cherry, an attorney for the 45 groups, said the AEC is "suppressing crucial information" on the safety issue.

The charge resulted from hearings on the safety of emergency core cooling systems opened in Bethesda, Md. last week by the AEC, which invited participation by interested public groups and nuclear plant manufacturers.

Cherry said the AEC has refused to let any witnesses appear from an AEC-appointed scientific advisory committee which has been urging tests of the emergency cooling system for several years.

"Are they afraid of what the advisory committee will tell the public about the reactor safety? The refusal of the AEC to produce witnesses from this committee is tantamount to suppressing important information on the safety and reliability of these emergency systems," Cherry said.

The emergency cooling system at the heart of the safety controversy was designed by AEC and industry scientists by methods based on mathematical analysis and computer projections.

Emergency core cooling systems include pumps, pipes and a supply of water to douse the 4,000 degree heat of a reactor core in the event that a plant's primary cooling system fails.

The safety of the emergency system was first questioned in 1970 following tests at the AEC's Idaho Falls, Idaho reactor testing facility which indicated that at least one of the calculations on which the system was based was incorrect.

A special test facility is under construction at Idaho Falls to put the emergency system thru its paces in a simulated reactor overheating incident. The $75 million test program will not begin until 1974.

In the meantime, 23 nuclear plants are operating with the emergency system, including Commonwealth Edison Company's Dresden station near Morris, Ill.

If the current AEC hearings raise sufficient doubt about the emergency system, the AEC will be forced to shut down all present reactors, Comey said.

"This would result in a temporary power shortage, especially in the Chicago area," Comey said. Commonwealth Edison Company, which supplies nearly all of Chicago's power, plans to generate 40 to 50 per cent of its electricity by nuclear power by 1990, he noted.

[From Chicago Today, Feb. 6, 1972]

FIND SECRET MEMORANDUM AT AEC HEARING

Witnesses at a hearing on atomic power plant safety were given "secret" hints on how to testify by the Atomic Energy Commission, a Chicago participant said yesterday.

David D. Comey, research director of Businessmen for the Public Interest, said an unsigned memorandum titled "Hints At Being A Witness" was discovered among AEC documents at the opening session of the hearing Thursday in Bethesda, Md.

Comey produced copies of the memo at a press conference yesterday at B. P. I. offices, 109 N. Dearborn St.

The memo presumably was given to AEC staff members and scientists employed at AEC laboratories who were slated to testify in support of the AEC position on the adequacy of a crucial nuclear power plant safety device, Comey said.

Among the memo's 15 "hints" were:

"Never disagree with established policy."

"Never fraternize with the other parties during the recess."

"Never discuss the case with anyone but your own staff."

[From the Chicago Sun-Times, Feb. 6, 1972]

CHARGE AEC MUZZLED SAFETY PANEL

(By Bruce Ingersoll)

The Atomic Energy Commission was accused Saturday of muzzling its own scientific advisers and suppressing crucial information on the safety of nuclear power plants.

The charges were made by a national coalition of 45 environmental groups that have intervened in a hearing, called by the AEC, on the reliability of current safeguards against a major nuclear accident.

Myron Cherry, a Chicago attorney representing the intervenors, said the AEC has refused to let any witnesses from its Advisory Committee on Reactor Safeguards (ACRS) testify at the hearing, which began last week at Bethesda, Md.

Cherry pointed out that the ACRS—an elite panel of 15 scientists that reviews the safety of every nuclear plant—long has been pressing for more tests on the emergency cooling systems of nuclear reactors. The AEC does not plan such tests on a full-scale reactor until 1974. By then, Cherry said, the nation will have about 60 nuclear plants in operation.

"After five days of hearings, it appears the AEC is still attempting to pursue its policies of illegally promoting the nuclear power industry without adequate regulatory safeguards," Cherry asserted at a press conference in Chicago.

"Are they afraid of what the ACRS will tell the public about safety? Why has the AEC instructed its witnesses never to disagree with established policy when the very purpose of the hearing is an evaluation of that policy?"

Cherry produced a "secret AEC memorandum" spelling out, point by point, what AEC witnesses should never say or do in a hearing. His translation of pointer No. 10—never disagree with established policy—was, "Don't rock the boat."

Martin Hoffmann, general counsel of the AEC, said in a telephone interview that such a list of "hints" exists. He added, however, that another memo, drawn up by his staff, says AEC personnel and consultants are free to express disagreement with the AEC consensus on nuclear safety.

Hoffmann conceded that the AEC won't let individual members of the ACRS appear at the Bethesda hearing.

"Appearance in an advisary proceeding is not consistent with the committee's function," he asserted. The intervenors should submit written questions to the ACRS instead, he said.

Cherry said the environmentalists are convinced the emergency cooling systems on all existing reactors, including those of Commonwealth Edison Co., are not capable of preventing the "melt-down" of nuclear fuel and the release of lethal radioactivity from the reactor.

What Cherry described as "a loss of fluid" to cool the superheated reactor core would cause such a major accident.

"We're confident we can win on the scientific case, but it's starting to look as if the AEC is playing legal games with us," Cherry said.

Cherry and David D. Comey, environmental research director of Businessmen for the Public Interest, 109 N. Dearborn, one of the intervenors, said the AEC is frightened of the implications of the environmental arguments.

"At stake is the future of the $40-billion nuclear power industry," Comey claimed.

"If the national intervenors prove their case, the AEC may have to stop licensing new light-water reactors and shut down or operate at reduced power the 22 nuclear plants already constructed.

"The only way to guarantee nuclear safety is to run these plants at 40 per cent capacity and that would render them uneconomical."

The AEC and the nuclear power industry must face the prospect of having to "phase out the present generation of reactors as bad technology," he said.

And the power-hungry public must be prepared for what Comey called a "temporary power crisis" that would come with limited operation of nuclear plants.

Because of Commonwealth Edison's huge commitment to nuclear power, Comey said, Chicagoans would be hardest hit of all. "I don't know of any U.S. city so dependent on nuclear power."

SMITH, JONES SPEAK UP

Mr. PROXMIRE. Mr. President, Richard L. Strout, of the Christian Science Monitor, eloquently has explained the regressivity of the valued-added tax.

His Washington dispatch on the front page of the Monitor of last Friday uses fictitious dialog to take the fiction out of the VAT.

Mr. President, I ask unanimous consent that Mr. Strout's piece be reprinted in the RECORD.

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

EXPLAINING VALUE-ADDED TAX, WITH SMITH AND JONES' HELP

(By Richard L. Strout)

WASHINGTON.—No reporter can hope to explain intricate things—let alone the value-added tax—without Mr. Smith and Mr. Jones.

"Smith, Jones—will you please step forward?"

"With families?"

"Oh, yes, with families, of course."

Two bright-faced families of four—the standard family for economists and sociologists—appeared.

"Very well, Mr. Jones, for today's exercise you represent the affluent family with income of more than $20,000; Mr. Smith, you and Mrs. Smith are the under-the-poverty-line family, with income around $3,500."

Mr. Jones at once looked as though he had just stepped out of a Buick, while Mr. Smith took on a chastened and hungry look.

"As you are aware, the value-added tax, in effect, is a mass national sales tax. President Nixon appears to be moving closer and closer to it. He hinted a comprehensive tax change in his State of the Union message. The White House says specifically that Mr. Nixon has a 'positive' approach to the value-added tax. America's great annual ritual of making out its income tax is hardly known abroad—"

"CAN I SIT DOWN?"

"Sir," interrupted Mary Smith, age 4. "Can I sit down while you talk?"

"Certainly, but don't make a nuisance of yourself. Where was I? Now Smith—you're the poor one, remember—how much of your meager income goes to consumer items?"

"Practically all of it, sir. It's terrible; we spend it as fast as we get it. We can't save a thing."

"Stick to facts, Smith, my good man. Virtually all of it, eh? And now Mr. Jones, I admire that $20,000 of yours; how much goes to consumer expenses?"

"Food, clothes—that sort of thing?"

"Yes, and all the rest; heat, rent, cost of living generally?"

"Oh, about 62 percent, that's according to latest figures."

"Exactly, so if we have a national sales tax on consumer goods it will apply 100 percent to your expenses, Smith, and only 62 percent to Mr. Jones here."

"That's the way it always is," complained Mrs. Smith wistfully.

[The Nixon administration indicates that the regressive effects might be alleviated by rebates to taxpayers at or below certain income levels.]

INCOME TAX DIFFERENCE

"If the tax were raised by the graduated income tax, which is progressive—adjusted upward with income—how much tax would you pay, Smith?"

"None, sir," said Mr. Smith cheerfully, "I'm under the tax."

"Mr. Jones?"

"It's a despicable tax!" he replied: "Still I pay it from duty. I'm in the 25 percent bracket even after those tax-exempt bonds, and the reductions my lawyer showed me. Thank goodness Mr. Nixon is reducing the tax! In his economic message he said he'd cut it $22 billion in three years."

"Stick to the facts, please. You know a lot of economists are sorry to see the income tax cut; they say it helps narrow the gap between rich and poor. Now we will go on to the matter of dividends, dividends from common stock. Smith, what part of your paltry income comes from dividends?"

"Oh, none at all, sir."

"So you aren't taxed on what you don't get. . . . Mr. Jones?"

"Income from dividends in the over-$15,000 income rate averages around 6.7 percent, said Mr. Jones complacently. "I've done very well with my Xerox stock."

"Very good. So far as we've come, VAT or the national sales tax, probably would hit you a lot harder, Smith, than a rich man."

"Oh, yes sir," interrupted Mrs. Smith. "You should see the city sales tax we pay!"

"You're a jump ahead of me. The White House says a federal value-added tax to raise $16 billion is contemplated, probably to be called a 'school tax,' to pay about one-third of the cost of public and elementary schools. It would pay some of the property taxes. A 1 percent rate on a national sales tax would raise $5 billion—it's a gusher—so presumably a VAT of 2 or 3 percent is contemplated. Probably food and clothing would be exempt. That's in deference to all you low-income people, Smith.

"You say you have a city sales tax?"

"Three percent for the state and 4 percent for the city!" said Mr. Smith.

"Exactly. Right now 44 states have retail sales taxes, over 97 percent of our population lives in those states, with 97 percent of all retail establishments. The usual rate is 5 percent, but some run to 8 percent. They are regressive, and if you include concealed costs of property taxes, and taxes on social security—which are regressive, too—they are quite a burden. Smith, what is your tax rate—as a ratio of total income?"

In a sing-song voice Mr. Smith recited: "Families in the under-$2,000-a-year bracket paid 50 percent of their total income in taxes. Those between $2,000 and $4,000 paid 34.6 percent, of which 18.7 percent was federal—income tax 3.5; corporate profit tax, 4.3; and social security, 6.5—and 15.7 was state and local—property 7.5 percent and sales tax 4.9 percent."

"Very good; and that was for 1968?" Mr. Smith nodded.

"Now Mr. Jones?"

"I'm a self-made man," he said, swelling a little. "My income is $20,000. I pay about 30 percent in taxes."

"Why—that's less than Smith."

THE GENOCIDE CONVENTION: THE LEGACY OF LOCKE

Mr. PROXMIRE. Mr. President, in the days of America's struggle for independ-

ence, our Founding Fathers were confronted with a challenge as imposing as the battle itself, the formation of a new republic. Searching for the perfect form of government, these dedicated men were caught in the dilemma between the rights of individual freedom and the necessity of individual responsibility.

The American Revolution was fought to obtain the natural rights of life, liberty, and happiness. These were concepts kindled by the writings of John Locke and ignited by the British Commonwealth in the 1640's. But the goal was not so clear cut. For the American revolutionists were inescapably heirs of the Puritan tradition, the products of Winthrop and his pious brethren. The quest for freedom was tempered by this strict sense of temporal and spiritual duty. By the time the Constitution was penned, however, a unique republic had been constructed which resolved this tension through a revolutionary balance between individual freedom and responsibility.

But, of paramount concern is the fact that Washington, Franklin, Adams, and their compatriots welded together a union of 13 colonies which ultimately served the world as a model upholding human rights and dignity. The very words of Locke, which European intellectuals had debated a generation earlier, became reality for the American people. Tyranny and injustice were left behind, and a democracy predicated on the rights of man was constituted by an independent republic.

The history of the American people has been one of diligent support for human dignity at home and abroad. Enriched by the legacy of Locke we have long been in the vanguard for liberty and justice. Today, however, we have arrived at a moment of indecision. For over two decades the nations of the world have supported the Genocide Convention while we remain idle. Tragically the United States refrains from restating its true commitment to human life, liberty, and happiness by not endorsing the articles of this humanitarian convention. Tragically the principles for which Americans have lived and died, throughout history, remain unclaimed by our Government.

The time to reawaken the principles of Locke is long overdue and, therefore, I strongly urge the Senate to ratify the Genocide Convention and recommit itself to the natural rights of all men.

DRUG ADDICTION

Mr. GURNEY. Mr. President, perhaps the greatest problem confronting American society today is the curse of drug addiction. Our young people are faced by the infamous pusher in our pleasant suburbs as well as in the grimiest urban ghetto. The pusher, who can make $195,000 for each pound of heroin sold in tiny nickel and dime bags on the street, is a hateful individual, one who ruins lives and fortunes by plying his trade.

The men of the Bureau of Narcotics and Dangerous Drugs—BNDD—are engaged in a daily battle against the drug trade, from the individual street-corner pusher to the kings of organized crime, who import and distribute vast quantities of illicit drugs from abroad. These brave NARCS—as the agents are known—seized 226 pounds of heroin—worth an incredible $51,991,764—in fiscal 1971. In doing so, they risk their lives, helping to rid our country of the curse of illegal drugs.

Mr. President, on December 18, 1971, the National Observer reported on the tremendous work being done by these new tough guys, in an article by that name. So critical is this issue of drug addiction to all of us today that I ask unanimous consent at this time to have the article printed in the RECORD, and recommend careful consideration of it by my colleagues.

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

NEW TOUGH GUYS

(By John Peterson)

Don't look now, Cosa Nostra, but "the legitimate brotherhood" is muscling in on your brotherhood's tough-guy reputation.

But wait! These new tough guys are on *our* side. They're young. They're flinty-eyed. They're courageous. They're mean. They battle the Mafia, kick down back-alley doors in gun-slinging raids, and work undercover in situations where discovery means certain death. They track their quarry through the mountains of Mexico, the jungles of Southeast Asia, and the arid dunes of the Middle East. They negotiate at the highest levels with foreign governments.

They're cops. Not plain cops, but agents of the Bureau of Narcotics and Dangerous Drugs (BNDD), the elite, gutsy Justice Deparment agency that is fighting narcotics traffickers under rules that would make the Marquis of Queensberry blanch.

ADDICTION MOVES TO SUBURBIA

Their mission is to shut off the flow of illicit drugs that in the past few years has increased the U.S. addict population by 100,000, to a BNDD-estimated total of 315,000. "This trend shows no signs of abating," says Charles Rhodes, BNDD statistician in Washington, D.C. "Every month we see the addicts coming more and more from the white middle class, from suburbia."

Such statistics make it obvious that the narcs aren't close to victory yet. In truth, perhaps no agency can ever completely stop the traffic in narcotics such as heroin, which brings pushers $195,454 a pound on the street. But the BNDD is making measurable headway in seizing illicit drugs, in arresting dealers, and in its crucial goal of identifying and infiltrating the illicit-drug networks.

"RIP OFFS" COMMONPLACE

Created by President Johnson and infused with money and manpower under President Nixon, the BNDD has become the Government's grittiest law-enforcement agency. "We're truly 'the legitimate brotherhood,'" says agent Bobby Canales, who is paralyzed from the waist down after being shot by a heroin peddler in East Los Angeles last summer. One of Canales' colleagues adds: "We've always been tough, but now we're getting mean because of guys like Bobby."

Their rough profession is getting rougher. This year five narcs have been shot, none fatally, compared with three shootings last year and none in 1969. "Ten years ago most crooks would never consider taking a shot at a Federal officer," says Larry Katz, BNDD intelligence officer in Los Angeles. "Today it's nearly commonplace, probably because there is so much violence between dealers, one 'ripping off' the other."

Not quite four years old, the BNDD has grown apace to meet the increased—and increasingly vicious—drug traffic. Its initial budget was $14,000,000; its proposed 1972 budget is $64,000,000. Manpower has more than doubled, to about 2,000 agents from 800. The burgeoning narcotics traffic, prompted Congress to direct the BNDD, which was already growing fast enough to double its strength this year, to add yet another 300 agents.

President Nixon also put his full weight behind the antidrug effort last summer. As a result, says one narc: "We ask for anything, and we get it. The pressure on us is severe. We had been crying for funds and support for years; now we get everything at once, which means too many rookies at one time. That's one of the reasons for our casualties: Agents need training and experience."

YOUNG, WELL-PAID AGENTS

The average narc is 29 years old, and most have some previous law-enforcement experience. Some switch to the BNDD from the FBI, the CIA, or the Defense Department. "It is *the* job today where an enforcement official can really believe that he is accomplishing something, a job that is essential and necessary," says one narc.

The pay isn't bad either. Inexperienced men start at $10,727 a year and can reach $17,919 in four years. Experienced investigators or men with law or master's degrees start at $13,087 and can reach $17,919 in three years.

They earn their money, as agent Bobby Canales can testify.

Earlier this year an informant who was in jail told Canales that a certain young Mexican-American was a heroin dealer. Canales telephoned the alleged dealer and set up a "buy," agreeing to meet him on a street corner.

The two met, talked briefly, and struck a deal. With the suspected dealer seated behind him, Canales drove his motorcycle—part of his cover—to an apartment building. While Canales waited outside, the dealer went inside to fetch the heroin.

REASONS FOR DANGER

"There were agents in two cars and another agent on foot keeping me under surveillance," Canales recalls. "I had $350 in my wallet and $700 in another pocket with a small pistol. The longer I waited, the less I liked it."

Canales knew that the risk of double-crosses, or rip offs, is high. "The average armed robber gets $1,500 or $2,000 if he is fortunate," says intelligence officer Katz. "But if you are going to sell several ounces of pure heroin, you know that the buyer probably has several thousand dollars on him. There are as many rip-off artists as righteous dealers on the streets. That's the big reason this job is so dangerous today."

This went through Canales' mind as he saw two young Chicanos walking diagonally across the parking lot in front of him. "They were about 25 yards away," he remembers, "and I watched them until they were almost behind me. The minute I turned my head, they pulled guns and came running up to me.

SHOT, BUT NOT AFRAID

"Maybe I had thought about staring into the muzzles of two pistols enough before, but for some reason I really wasn't afraid. I knew they were going to shoot me, though. One asked for my wallet, and I eased it out of my pocket. I can't really remember the sequence of things, but the one behind me shot and missed. I got off the motorcycle, but I hadn't even taken one step or gotten my pistol out when the other one shot me.

"I thought I had bought it, that I was bleeding internally," Canales recalls. The bullet lodged against Canales' spine, paralyzing him below the waist. He says that he is slowly regaining use of his muscles, "but the doctors simply cannot say how much I will get back."

Canales' assailants fled, but were arrested later that day. Late last month they were convicted of assault and armed robbery and sentenced to prison. Although those men "might not be back on the streets," Canales says grimly, "too many (narcotics dealers) are out on bail and pushing again the next day."

On the day that the doctors told him he would never walk again. Canales had a special vistor: BNDD Director John E. Engersoll. "He told me that I would always have a job with the bureau," Canales smiles. "I told him that I'd be back working on the street again, that I wouldn't need a desk job. He's a helluva man."

Canales' spirit and experience are typical of most narcs. He had worked as an investigator for an insurance company, a salesman for a pharmaceuticals house, and a Honeywell representative before applying to both the BDNN and the Secret Service. "I had offers from both at the same time," he says. Does he regret his choice? "Even now," he answers, "there's no question but that I made the right decision."

A graduate of San Diego State University, Canales married his high-school sweetheart when he was 21. They have an 8-year-old son, and Canales doesn't plan to be an invalid father. "If I can get my legs under me—and I'm optimistic—I'm ready to return to full service," he says. "I think that I would be a better agent because of what I've been through. My wife understands, and she believes in what I'm doing as much as I."

FROM RIVALS, A NEW AGENCY

BNDD agents say that this kind of spirit permeates their entire organization, coming down from the top—from Director Ingersoll. He was the 38-year-old police chief of Charlotte, N.C., when Lyndon Johnson created the BNDD in April 1968. Johnson merged the Treasury Department's Bureau of Narcotics and its rival, the Food and Drug Administration's Bureau of Drug Abuse Control, into a new Justice Department agency.

Until then, says BNDD Deputy Director John Finlator, "our effort was badly splintered, with more petty jealousy and corruption than direction and purpose." Ingersoll "took over a tough job at the worst possible time," adds Arthur Fluhr, an assistant regional director in L.A. "I believe the reason we have such dedication and commitment among our agents is because of the example he sets."

Ingersoll, a direct and candid man, returns the admiration. "I don't think the public knows just yet how fine a group of men are in this organization," he said recently at Lake Arrowhead, a resort east of here where he had called together his top lieutenants from around the world. "It takes a real commitment to get into this work. If a man thinks he can hang up his job in the locker room at quitting time, it's a gross error. It is a job you live and breathe."

DIPLOMATS AND ADMINISTRATORS

The narcs' director demands unremitting effort because, he says: "We're being visited with a tremendous tragedy among our young people, and our men realize it. And you have to remember that the nature of the agent's mission has been changing too. We now demand much more: that he be a diplomat and an administrator as well as a cop."

The BNDD has already learned, in other words, that having its agents play cops and robbers with small-time pushers isn't going to stem the flow of illegal narcotics. To do that requires stopping narcotics at their source, through both diplomacy and police action; identifying the suppliers and infiltrating their networks; and maintaining vigorous intelligence activities both at home and abroad.

Under Ingersoll the bureau has begun maturing into a sophisticated, international organization of diplomats, intelligence experts, and indispensably—law enforcers.

"DIRTY WORD" NO LONGER

Two years ago President Nixon agreed with Ingersoll that numbers and arrests and quantities of drugs seized meant little if the illicit drug-distribution channels remained intact. "Before, narcotics was a dirty word in our embassies abroad," smiles Daniel Addario, who will direct BNDD's antidrug efforts in Latin America beginning next month. "I could have expected a basement closet for an office in the embassy before, but now we are part of a 'country team.' "

The BNDD now has 125 agents working out of 43 U.S. embassies abroad, triple its strength of two years ago. This effort, combined with high-level diplomatic discussions, has already been markedly successful.

Turkey, for example, has traditionally been a major source of opium poppies, from which comes the morphine base that is refined—often in France—to make heroin. After U.S. assurances of financial and technical aid, Turkey has planted its last legal poppies. The Turks will now insist that their farmers, helped by U.S. experts, convert to other cash crops, and that Turkish police crack down on farmers planting illegal poppies.

INTERNATIONAL EFFORTS PAY OFF

The drug traffic from Mexico has been sharply curtailed within the past two years because of "Operation Co-operation," a joint Mexican-U.S. effort. Mexico now has a federal narcotics law, and Mexican federal police have destroyed thousands of acres of marihuana and poppy fields in Mexico. The United States has footed the bill for this too.

The BNDD has pushed hard to get other nations to develop specialists in enforcing narcotics laws. The result: numerous training sessions directed by BNDD officials in a score of countries; international conferences and agreements; and, in France alone, an increase in the number of narcotics agents to 100 from 4 and greater effort to shut down heroin-refining laboratories in France.

This ferreting out of heroin's raw material has had dramatic results. In fiscal 1969, narcotics agents seized overseas 568 pounds of morphine base worth $58,163,000; in fiscal 1971 agents seized overseas 2,693 pounds worth $526,357,622. Since morphine base refines into heroin pound for pound, this means more than a ton of potential heroin was kept out of distribution in fiscal 1971 alone.

The narcs have been pushing just as hard against domestic narcotics. In fiscal 1969 they seized 140 pounds of heroin worth $14,336,000 on the street. Fiscal 1971's seizures: 226 pounds worth $51,991,764. Cocaine seizures have soared from 73 pounds worth $7,964,000 in fiscal 1969 to 427 pounds worth $46,582,000 in fiscal 1971.

Still, the narcs are prouder of the toehold they have gained in shrinking the U.S. drug-distribution network. A fatter budget has helped, agents say. Joe Borkas, the narcs' communications expert in Los Angeles, says that he had only cast-off CIA equipment to work with until 18 months ago. "Now we can even design our own equipment," Borkas smiles. Three years ago the BNDD didn't even have a teleprinter; today it has a modern, international communications system and is able, for the first time, to utilize computers.

With this communications and intelligence network, says intelligence officer Larry Katz, "We have concentrated on identifying who the big peddlers are, how they get their drugs into the country, and how drugs are then distributed." Katz's principal concern is the flow of drugs across the Mexican border. "We know, for example, that there are 21 peddlers in Tijuana alone who deal in half-ton or larger quantities of marijuana," he says.

The narcs have identified 10 major U.S. "systems," either organizations or loose affiliations of individuals, that are responsible for nearly all of the nation's illicit drugs.

Mafia members have been identified in several systems dealing in heroin. Another heroin channel is the "Cuban System," which is run by former members of deposed President Batista's secret police. Perhaps the best-established is the "Maestre System," which is responsible for the still-huge quantities of heroin manufactured in laboratories near Marseilles, France.

The narcs say they have crippled 2 of the 10 major U.S. systems. One, run by members of five Mafia "families" in New York, was effectively shut down earlier this year when agents arrested more than two dozen alleged *mafiosi* in a series of raids dubbed "Operation Flanker." In another crackdown, "Operation Eagle," the BNDD "seriously disrupted" the system run by refugees from Castro's Cuba. "We think we got most of them, though we didn't destroy the system entirely," says John Warner, BNDD intelligence officer in Washington, D.C.

During both operations, BNDD Director Ingersoll moved into his "war room" on the fifth floor of a nondescript office building in downtown Washington. While honky-tonk music blared from the bars clustered near the building, Ingersoll directed his men throughout both operations.

The BNDD's frustration, like that of other lawmen, is that the real powers of the illicit-drugs racket are almost impossible to catch. Still, the narcs now have organizational charts for all the systems, and the names—even though hard evidence to convict them is lacking—are all filled in. "We find that we are having to move toward conspiracy and income-tax-evasion cases to get the 'big' guys," says Richard Brand, the San Francisco office's intelligence officer.

Brand explains the operation of the domestic system that manufactures hallucinogenic drugs, including "orange sunshine" and other types of LSD. "At the top you will have the financiers, men who never get close to the operation. Usually the man who runs the laboratory—which often costs as much as $100,000—has a big piece of the action too. He will have his consultants in marketing, chemistry, perhaps security, and often he will have an agent to procure his chemicals.

"Usually there is a 'front' business, such as land development. There will be a lieutenant in charge of transportation. They'll either have a fleet of airplanes, boats, or trucks and campers. And, finally, there might be as many as a dozen wholesale distributors with their own retailers."

Ingersoll concedes that the BNDD has been "playing catch up" in battling the international, well-organized, well-financed drug peddlers. Now that the BNDD is itself international, well-organized, and well-financed, he says, "There are signs that we are beginning to move ahead.

"We now know how it is manufactured and trafficked and who the people are. And we are receiving more and more assistance abroad. It isn't nearly enough yet; still, all of the training we have been doing in foreign countries and at home will start making a much bigger difference. But you must realize," Ingersoll adds, "that so long as there is a great demand for the drugs here and the profit remains so high, there will always be men supplying the product.

"It is much more than an enforcement problem. I was talking to a member of the National Council on the Arts about getting a variety of artists interested in education programs. It may sound silly for a law-enforcement official to talk with a sculptor, but if I can stimulate interest I'll chase all over the world to do it." So will his agents.

LIBERAL AND CONSERVATIVE

Mr. BROCK. Mr. President, the distinction between what is liberal and conservative in today's world has become increasingly unclear in the context of modern history. These two labels pass

glibly from many lips without thought of their real meaning and significance. In order that further light may be shed on the true definition and derivation of these terms, I ask unanimous consent that the following article by Mr. George A. Reimann, executive vice president of the Tennessee State Rifle Association, be printed in the RECORD.

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

LIBERALISM—CONSERVATISM

When the terms "Liberalism" and "Conservatism" are bandied about, it is evident that few Americans fully comprehend the concepts associated with these terms. The dictionary yields: Liberalism—favorable to progress or reform, as in political or religious reform; noting or pertaining to a political party advocating measures of progressive political reform; Conservatism—noting or pertaining to a political party whose characteristic principle is opposition to change in the institutions of a country. Boiled down to the residue, Liberalism equals innovation and Conservatism equals opposition. Satisfied?

An encyclopedia may be more enlightening, but here the emphasis is not on any uniqueness of American Liberalism and Conservatism, but on their histories. And as the evolution of these philosophies is traced, the trail grows colder as it nears the present time. A lingering impression persists of innovation vs. opposition, or good guys against bad guys.

Now it's our turn, and if you have already wagered that liberals will come in second, you can collect now. The term "liberal" stems from the word "liberalis"—pertaining to a free man. "Free man" in the context of current American Liberalism is largely based upon the philosophical theories of Jean-Jacques Rousseau (1712–1778). Rousseau did not invent Liberalism, however, he was an author and political theorist of considerable intellect and his philosophical forays included advocacy of popular sovereignty and a theory of democratic government. But having given credit where it was due, it must be observed that Rousseau became increasingly alienated from the established social and political order of his time. His "Discourse on the Origin and Bases of Inequality Among Men" (1754) indicted the political state and the concept of private property while it glorified "natural man". As Rousseau saw it, "natural man" was inherently good and feelings and emotions were the "primary values" in life. But natural man's primary values were corrupted by his own relationships, his institutions, and his environment. Civilization itself was to blame for man's impressive inventory of vices.

Today's intellectual elite dismiss Rousseau as some kind of nut, while at the same time cling tenaciously to Rousseau's romantic premise of inherent goodness. To question this premise is to commit high heresy and the intelligentsia react unintelligently, considering such questions to be outside the realm of rational discussion.

One is reluctant to invite Karl Marx into a critique of Liberalism, for to do so is to cause hysterical howls of indignant protest which drown out all subsequent discussion. Yet Karl Marx must enter, even if uninvited. Marx was one of many convinced of man's inherent goodness, believing that when the victims of capitalism, the working class, overthrew the owning class by violent revolution, wisdom and justice would miraculously accrue to the workers, thereby enabling them to rule the world beneficently. Marx concluded: "Qualities of human intelligence, personality, emotional and religious life merely reflect man's economic environment. The evil man does is just a reflection of his environment." Thus, if man's environment were corrected, his nature would automatically transform so that he would work according to his ability and desire to receive only according to his needs. Derision may greet Rousseau, but not Marx.

The Fabian Socialists organized in 1884, a year after Marx's death. The Fabians planned to reorganize society by gradually transferring control of property and capital from individuals to the "community" for the "general benefit", thereby establishing a socialistic, one-world order. George Bernard Shaw, a Fabian founder and its most articulate spokesman, endorsed Marx's Utopian concept of compulsory equality of condition but deplored open class warfare and violent revolution. Why chance open warfare and risk defeat when the alluring premise of inherent goodness can almost sell itself and guarantee victory? Also, in contrast to the gospel according to Marx, Shaw believed that the middle and upper classes should run the show rather than the workers.

So the Fabians began working for change by indoctrinating the young scholars. Eventually, they believed, these "intellectual" revolutionaries would acquire great power and influence in the opinion making and power wielding agencies of the world. In practice it meant slow, piecemeal changes in established concepts of morality, law, government, economics, and education. The Fabians rejected all suggestions that they form their own party, preferring to impose their influence and to change everything by administrative infiltration of existing educational institutions, political parties, civil service, etc. Salvation by subterfuge!

Thus, while Rousseau set the cornerstone, Marx and Shaw were architects of the socialistic monument built upon it. In an age of conditioned reflexes, Fabianism was to be the opium of the masses.

Liberalism is said to have matured in America during the social and economic changes wrought by the industrial revolution in the 19th century. Free enterprise and self reliance were in high esteem. Relative to earlier times, a high degree of individual liberty and freedom of action were achieved. But things were far from perfect. Inequalities and injustice were still evident everywhere in various forms. Liberals of that time brought pressure to bear on government to restrict individual freedom where it appeared to cause inequality. But inequalities persisted. Answer: More coercive government control.

Into these furrows plowed across the face of liberty were sown the seeds of Fabianism. The Fabians learned to couch sinister objectives in benevolent terms and keep euphemisms several steps ahead of general comprehension. They perfected their system of buying the vote of the electorate with its own money. And the seed of Fabianism grew and flourished. As the roots grew deeper, patriotism, religion, morality, and law competed for nourishment, so Fabianism began weeding them out. Reading, 'riting, and 'rithmetic were shown to retard emergence of inherent goodness in natural man by enabling him to organize his ingenuity and compete successfully with others. The 3 R's were inappropriate experiences—tools to further greed, aggression and brutality. Again, weed them out. Substitute appropriate corrective interventions. Condition the reflexes.

The earliest blossoms matured into the first Fabian fruit, and when they became overripe and fell, we perceived the image of the inherently good, natural man. Greed, aggression, half-witted hatred. Boulders through windshields from freeway overpasses. Razor blades and drugs in Halloween candy. Terrorism and murder for fun. Natural man is a delinquent, Cain's child, who pauses to sneer at his bewildered progenitors as they contemplate, in ineffective introspection, their immaculate misconception.

Were the definition of Conservatism restricted to its being the opposite (or opposition) of Liberalism, then the preceding text might pass as a definition, with apologies for indicating what something is by describing what it is not. But such a restriction assumes the pre-existence of Liberalism in order that Conservatism may rise to oppose it when in fact Conservatism signifies the established order which Liberalism seeks to change.

Scholars credit Edmund Burke (1729–1797) with laying the foundation for modern Conservative thought. Burke's philosophy does not lend itself readily to a summary, and a condensation risks injustice. Burke held to Christian theology and morality in expressing a coherent view of social order based on natural law. He believed that to achieve liberty and justice, a government must be in harmony with historical experience; that an enduring government is a contract of the eternal society, a willing obligation to the dead, the living, and those yet unborn. A viable government is not an artificial contrivance of the intellectual whims of the moment. Individuals are foolish but the species is wise, and the wisdom of the species, the natural aristocracy, should govern, preserving the method of nature in the conduct of the state, while blending the best of the old order into the changes required for society's survival.

Conservatism extends beyond Burke's views of the proper relationship between the government and the governed. Conservative tenets recognize that men are unequal in terms of ambition, ability, intelligence, and character; that human reason is prone to error, of limited reach, and often governed by emotion; that liberty takes precedence over equality, so that one cannot infringe upon the liberty of another in the name of equality; and that one must be free to choose between right and wrong and accept responsibility for the consequences of his actions.

In most recent times we have unearthed a wealth of information on the human heritage which in its own way buttresses the tenets of Conservative wisdom. Robert Ardrey—Skeptics are invited to read Ardrey's "African Genesis" (1961), "The Territorial Imperative" (1966), and "The Social Contract" (1970)—and other investigators have compiled accounts of discoveries little-known heretofore, and the conclusions drawn therefrom have troubled the waters in the Age of Pavlovian Salivations. Ardrey has assembled numerous pieces of the evolutionary puzzle and sketched an outline of many factors that contribute to the human condition.

Human and animal societies have many parallels. The need for territory, a society, and levels of dominance are concluded to be prime prerequisites for a species' survival. The superior cerebral equipment of prehistoric man enabled him to use weapons, and these weapons, combined with his memory and foresight, enabled primitive man to overcome his physical inadequacies and become a successful predator. Man has survived awesome prehistoric adversities, and his instinct for a code of order is a hereditary hand-me-down. This instinct is evident in the stone age taboos. But recorded history has enabled a transmission of heritage and has passed on to us the Ten Commandments, the Magna Carta, and the U.S. Constitution. Burke seemed to allude to all of this in 1970: "Each contract of each particular state is but a clause in the great primeval contract of eternal society, linking the lower with the higher natures."

All dynasties originate from the simple need for order, where members of a society willingly submit themselves to the leadership of the most capable of their group—the natural aristocracy. This leadership accumulates power and influence with the

passage of time, but if it cannot maintain simultaneously the willing respect and submission of its followers, authority must be perpetuated by force. Leaders become rulers. Natural aristocracy becomes titled aristocracy. When willingness to follow becomes inclination to rebel, and force can no longer keep order, anarchy results. Scattered limbs and mutilated corpses. The survivors regroup, settle their differences, select leaders, and renew the cycle.

The fabric of our Constitution, the oldest written document still in force, was not woven from the theories of warm and inexperienced enthusiasts, but from the Conservative wisdom of the natural aristocracy of that day. Their firm grasp of the past and clear vision to the future wove a system of checks and balances into natural law to ensure society's survival against itself—against natural man, whose intellectual capability has never completely dominated his instinctual inclinations. Our Constitution is man's best effort to achieve a civilized accommodation with our evolutionary heritage.

Our system of elections, our periodic review and renewal of leadership, has, in the name of continuity and in spite of checks and balances, established a titled aristocracy. Permanent bureaucracies, fashioned in the image of those temporarily in elective office, have become the equivalent of monarchies of days past, always accumulating more power to do more "good". Legions of do-gooders, armies of sob-sisters, all independent of the will of the governed. It is a supreme paradox that entrenched Liberalism rises in opposition to the "innovations" of Conservative wisdom. Which shall prevail, natural man or natural law?

To summarize, a Liberal strives to achieve equality among men and believes that inequalities result from factors in man's environment. Various "unfavorable" experiences during a lifetime cause a person to misbehave. If a suitable environment were devised (presumably by the Government), man would cease being such a difficult creature and would become instead equal and agreeable. A Conservative accepts man's inequalities as part of his heritage and considers liberty and property to have priority over equality. Man must be free to make his own choices, not intrude into the affairs of others, and be responsible for his actions. Government should be guided by the sure footing of proven philosophies, and minimize its control over one's private affairs by functioning only to maintain the order and justice required to perpetuate a well-organized society.

And what has all this to do with firearms? Man's desire for weapons to defend himself and his territory is as old as man himself and is fundamental to his nature. It is part of natural law. Our Constitution recognizes the right of individuals to be secure in their persons and houses as well as the right to keep and bear arms to preserve this security. Natural law cannot be dissected to operate as separate, independent fragments. It is whole law or no law. It is whole law or scattered limbs and mutilated corpses. But a Liberal considers humanity to be more civilized today than when the Constitution was drafted, so the 2nd Amendment is obsolete and therefor unnecessary. In addition, firearms are an undesirable element in man's suroundings and cause him to be hostile and predatory. If firearms could be eliminated, then the aggressiveness man receives from this cause would be eliminated also. Since most Americans are still too uneducated to realize this, a Liberal politician often conceals these views in order to become elected. The educational process can begin after election.

A Conservative believes that man is essentially the same creature today as he was in 1787, so the reason for preserving the 2nd Amendment is quite clear and it cannot be severed from the Constitution without seriously weakening the rest of the structure. Man's right to defend himself and his property is basic, and personal firearms enable such defense to be effective. A person loses his right to own firearms only on an individual basis and as a direct consequence of his own actions.

Some among us advocate that we support "single issue" candidates, meaning in our case those who emphasize only our right to keep and bear arms. Such a position is tantamount to accepting taxation into poverty, dissipation of the family, and perversion of our offspring in exchange for our right to arms. It is equivalent to a surrender of several basic rights in order to keep another and indicates how our fundamental principles have been obscured by neglect. It indicates our willingness to accept rulers, not leaders; to submit to a titled aristocracy rather than respect a natural aristocracy. It invites the spectacle of scattered limbs and mutilated corpses.

U.S. JAYCEES

Mr. MILLER. Mr. President, for the 11th consecutive year, a group of concerned young Americans is meeting in the Nation's Capital to study the processes of our Federal Government.

This organization, the U.S. Jaycees, has been actively involved with social and individual progress for many years and, since its beginning more than 50 years ago, has increasingly taken an active position of leadership in helping find positive answers to many of society's problems.

This leadership has been translated into concrete action programs, involving more than 300,000 young men between the ages of 21 and 35 in more than 6,400 communities across the Nation. They demonstrate the great vitality, ingenuity and cooperation that can be achieved from within the private sector; together, they are working toward the betterment of mankind in many ways—through programs dealing with health, human improvement, the environment, community involvement, crime, and drug abuse.

The 11th Annual Governmental Affairs Leadership Seminar is characteristic of the increasing scope and changing direction of the U.S. Jaycees. They believe that meaningful progress must be effectuated within our framework of government which, for so long, has upheld the dignity of man.

To these young men, we wish continued success in their stated goal of service to humanity and in finding new ways to contribute to our society.

TRIBUTE TO THE LATE SENATOR A. WILLIS ROBERTSON

Mr. FONG. Mr. President, I pay my respects today to the late Senator from Virginia, A. Willis Robertson, a great man and good friend whose passing last November I deeply grieve.

Senator Robertson represented the people of Virginia well. He served for them in Congress for 34 years, first in the House of Representatives and then in this distinguished body.

Among his many accomplishments while in Congress was the recodification of our banking laws. Willis Robertson worked hard to insure proper legislation on the matter, and he was justly proud of the Banking Act which resulted.

He will also be remembered for passage of the Pittman-Robertson Act, which has done much to protect America's wildlife.

Willis Robertson was a man who loved and was loved by the people of beautiful Shenandoah Valley. He was their and his State's very able spokesman. Virginia is better and the Nation is better because of him.

For me, it was a special honor and privilege to have known him well. His warmth and friendliness I will always remember and cherish.

Willis Robertson had many good qualities. He was, among other things, deeply religious and especially devout.

Perhaps the best compliment I can pay him is to say that he was a Christian in the full sense of the word.

Mr. President, to Willis Robertson's sons, A. Willis, Jr., and Marion Gordon, and to other members of the family, my wife, Ellyn, and I extend our deepest sympathies and our most sorrowful aloha.

THE DEATH OF SINCLAIR WEEKS

Mr. BROOKE. Mr. President, the Nation, the Commonwealth of Massachusetts, and the Republican Party are diminished by the passing of Sinclair Weeks who died yesterday, fittingly enough, in Concord, Mass.—where American patriotism had its beginnings.

Sinclair Weeks was a patriot and a public man in the best sense of those overused words—always committed to a cause in which he believed, always caring, always giving of himself.

He was a versatile man, a wise man, a good man, who never lost his zest for and love of politics and business. He cherished his family. And he gave unstintingly of his time and talents to Harvard, Northeastern University, and—in the last years of his life—to the university of his adopted State—New Hampshire.

Sinclair Weeks did not hold public office, he filled the assignments he undertook with matchless esprit and a sure grasp of what needed to be done and how to do it.

It is comforting to know that the Weeks tradition of and for public service has been and will be carried on by his children. The trail of constructive and imaginative political action which their father and grandfather blazed will, I know, continue to be an inspiration to the children, grandchildren, and great-grandchildren Sinclair Weeks leaves behind.

THE PEACE CORPS IS WORTH SAVING

Mr. BENNETT. Mr. President, I am by nature a conservative man. Perhaps this is why I must speak out against attempts to destroy the Peace Corps—an agency that has come down from the idealistic ivory tower it was born in a decade ago and today is helping to meet the real needs of individuals in 55 countries.

Undoubtedly, we can all cite instances in the agency's history when mistakes

of overeager or underdedicated Peace Corps volunteers have resulted in black eyes for the United States. However, the goodwill that has been generated for this Nation through the agency far surpasses the importance of these instances.

Under President Nixon's guidance, Peace Corps Director Joseph Blatchford has recruited older, more experienced men and women who are able to make genuine inroads in solving basic problems of the host countries. Rather than simply teaching people, these volunteers are able to teach teachers—thereby multiplying their influence and productivity.

Mr. President, it is well known that there are those in Congress who are bent on putting the Peace Corps out of business. Through failing to appropriate the $77.2 million we authorized the Peace Corps to spend this year, they can do just that. When the Senate conferees on the foreign aid bill meet with House conferees, it is vital that the $77.2 million figure passed by the Senate also be approved by the conference.

If the $68 million passed by the House prevails in conference, the Peace Corps will be forced to close its doors—since all of the savings will have to be realized between now and the end of the current fiscal year, which ends less than 5 months from now. In fact, I understand the Peace Corps would even require a supplemental appropriation on top of the $68 million to ship the 8,000 Peace Corps volunteers home.

At the present time, the Peace Corps is operating under a $72 million annual budget authorized in a continuing resolution. Director Blatchford has said that unless this level of funding is increased, he will be forced to bring home half of our Peace Corps volunteers within weeks, and close operations in 15 host countries.

Mr. President, we simply cannot allow this to happen. If America is going to continue to exert a strong moral force in the world, we must strengthen—not kill—those programs such as the Peace Corps which hold out the promise of a better life for all citizens of the world. We must save the Peace Corps.

IN-SHORE LEASING POLICIES NEED SERIOUS STUDY

Mr. HANSEN. Mr. President, our country is facing a very real energy supply crisis.

What must be done in this regard is to take steps to alleviate this crisis, not add to its impact.

One of the most devastating blows that could befall the oil industry, in the opinion of many experts, is proposed legislation to amend the Mineral Leasing Act of 1920.

The Senate Interior Committee may hold hearings on S. 2726, to substantially alter the Mineral Leasing Act.

While some changes may be needed in leasing regulations, provisions of S. 2726 would not be in the public interest.

Mineral production must be fostered by reasonable, long-range policies, not short-circuited by Federal fiat.

Unfortunately, S. 2726 contains language which could stifle exploration and production rather than encourage domestic activity. It is my feeling that continued mineral development on the public lands is absolutely vital to avoid excessive dependency on foreign supplies.

The bill's declared policy is to "foster, promote, and encourage the exploration for and the production of the mineral deposits in the leasable lands." However, certain provisions in the bill appear to be in direct contrast to that declaration.

The most obvious are the stipulation for issuance of leases through competitive bidding, the imposition of high bonus bids, and the suggested annual rental of $5 per acre.

Taken in total, the legislation as introduced would add to, not alleviate, the critical shortage of oil and gas and significantly contribute to the national energy crisis. It would increase the flight of risk capital from the continental United States to offshore sites and foreign areas. We just cannot afford for that to happen.

Because this is such an important area of concern in Wyoming, I have written the Secretary of the Interior today urging him to request the National Petroleum Council to undertake a study on Federal on-shore leasing policies before any final decisions are made on S. 2726.

Mr. President, I ask unanimous consent that my letter to Secretary Rogers Morton on this subject be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., February 8, 1972.

Hon. ROGERS MORTON,
Secretary of the Interior,
U.S. Department of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: During this session of Congress, a number of bills have been introduced which would drastically change federal on-shore leasing policies from those established by the Mineral Leasing Act of 1920.

Let me urge that you request the National Petroleum Council to conduct a study and prepare a report thoroughly investigating federal on-shore leasing policies. Such a report should include the history and performance under the Mineral Leasing Act of 1920, as well as projections of the impact of proposed changes.

There is no doubt that the 1920 Act has provided a great incentive for the exploration and development of oil and gas on public lands. The Act itself is dedicated to the promotion of exploration and development of the public lands of the United States through the leasing of these lands to private enterprise. Since the passage of the Act, vast areas of public lands have been leased, making possible the exploration of millions of acres with the consequent development of production which has not only provided substantial income to the federal government, but has given a tremendous boost to economic development at the state level.

As we are all aware, we face in this nation today an ever-increasing demand for the development of oil and gas to satisfy the energy needs of our people and industry. More than ever before, we have a need to create additional incentives wherever possible to promote further exploration and production. For this reason, any proposed changes in Mineral Leasing Act policies should be carefully examined and their impact evaluated. It is imperative that every aspect of any change be analyzed before action is taken to change the 1920 Act which has served us so well.

A study of our nation's on-shore public lands leasing policies should include at least the following subjects:

1. A history of the federal on-shore leasing policies as promulgated in the mineral leasing act of 1920. It is important to document the accomplishments in the area of exploration, not only under the terms of the original Act, but also the effect of the amendments upon the actual leasing process.

2. A close examination should be made of any weaknesses or abuses, tracing these back to those particular sections or paragraphs that appear to have caused specific problems.

3. Any examination of present federal on-shore leasing policies should include a factual study of the effect of this legislation upon our economy. From the federal viewpoint, all income derived from leases and royalties over the 50 year history of the Act, should be analyzed, comparing the level of revenues motivating exploration. A summarization should be made of all disbursements of mineral royalty and leasing income, distributed by the federal government to evaluate the aid and assistance that it has provided to reclamation, education, highways, and projects in the general public interest. Further, economic evaluations should be made in the major public land states of the impact of present mineral leasing policies on state and local economic activity.

4. In those major public land states where mineral activity has taken place since the passage of the Mineral Leasing Act, an evaluation should be made of the effect that the Act itself has had upon the states, themselves, and their individual communities. It would be important to measure changes in population numbers together with the growth or reduction in business that has occurred as a result of leasing mineral rights on public lands under the present policies.

5. A careful examination should be made of the impact upon the environment of present policies. In addition, conservation practices of oil and gas commissions in public lands states should be carefully examined as to what part the mineral leasing act has played in the development, maintenance and adequacy of existing policies, practices, rules and regulations.

6. Present mineral leasing policies call for simultaneous drawings, open filing, and competitive bidding in areas of known geological structures. Every aspect of these particular leasing policies should be examined and analyzed to determine all the advantages and possible disadvantages of the present system.

7. The National Petroleum Council should also include in its study an examination of all proposed changes to present federal on-shore leasing policies. Each change should be examined in depth, taking into consideration not only the economic impact at the federal and state levels, but also the effect that any possible change might have on the promotion of exploration and development, recognizing the tremendous need we now face for additional energy reserves.

8. Careful consideration should be given to the history of mineral leasing practices at the state level, evaluating the various methods used to lease state lands for mineral development, together with an assessment of these practices as to their impact, not only upon the economy of each state, but the effect of the various state policies as an incentive toward development and production.

This list of contents is not suggested as all-inclusive, but with the purpose of making the point that we do not really have a careful, in-depth analysis of our present federal on-shore mineral leasing policies.

If the Congress should approve changes of any kind, then such changes should only follow a careful study done in conjunction with the Department of the Interior after

receiving a report by its advisory body, the National Petroleum Council.

There is a limited amount of available information that relates to the subjects I have proposed for inclusion in a study by the NPC. In view of the number of bills that presently exist and the drastic changes that some of these bills demand, I sincerely believe there is a great deal of work to be done before members of Congress have as complete a picture as they should of the impact of proposed changes.

Sincerely yours,

CLIFFORD P. HANSEN,
U.S. Senate.

SOLID ROCKET MOTORS FOR THE SPACE SHUTTLE

Mr. MOSS. Mr. President, the Nation's principal space objective of the past decade was to demonstrate leadership in exploration by accomplishing a manned lunar landing and return. Our capability to bring together great national resources in undertaking and carrying out this bold and intricate task resulted in great technological advances and lifted our national spirit. The Nation's space objective in the forthcoming decade now must be directed toward a beneficial utilization of space with greater application to science, communication, business, medicine, and education. If we are to realize the full promise of space, however, the enormous costs of space flight must be reduced substantially.

The development of the space shuttle, I believe, is an important national objective that permits substantially reduced costs of space operations in the 1980's and beyond. The space shuttle is a viable program, however, only if development costs in the 1970's are held to a minimum and if cost per flight estimates in the 1980's are accurate. Moreover, it seems to me we should look to the future with the ultimate idea of developing a fully reusable booster. With this objective in mind, I believe it imperative that we develop the current shuttle system at the lowest possible development cost, so that excessive funds are not expended developing a booster that may be replaced after only limited operational use.

The major unresolved decision on the space shuttle program since the President's announcement is whether solid or liquid rockets will be used for the booster. This decision will have a major impact on development cost and risks.

It has been brought to my attention that the accepted cost estimate to develop a solid propellant boosted shuttle is $4.8 billion as compared to $5.5 billion for the liquid boosted version. Thus, the cost of developing a shuttle system with a solid propellant booster will cost approximately $700 million less than the liquid system. This represents a significant savings in development costs.

Moreover, because of the advanced demonstrated technology of large solid propellant rocket boosters, the development risk would be less.

The feasibility of large solid propellant rocket motors—100 through 260 inch diameter—has been demonstrated in a 4-year-long series of demonstration programs funded by the Air Force and National Aeronautics and Space Administration. Successful static tests of motors incorporating technology advancements were conducted by Thiokol Chemical Corp., Lockheed Propulsion Co., Aerojet-General Corp., and United Technology Center between 1964 and 1968. Further effort, especially directed at lowering costs of components, demonstrating new nozzles, and improving case and nozzle fabrication techniques, has been completed in the years since that time.

Development and extensive application of cast in place, case bonded solid propellant in strategic and tactical weapons systems, beginning in 1948, led to solids application in such long range strategic ballistic missiles as Minuteman, Poseidon, and Polaris, as well as a wide array of smaller tactical weapons systems. Their reliability and long shelf life prompted an assessment of possible applicability for space boosters.

Extensive studies were conducted in 1961 following successful development of the Minuteman to determine the feasibility of using motors ranging in size from 90 through 300 inches in diameter as a source of first stage booster propulsion. They were considered both for primary application and as a source of thrust augmentation when coupled with liquid first stage boosters. Weighing from 100,000 to 5 million pounds, these motors were to deliver single unit thrusts ranging from 300,000 to 15 million pound-foot.

As a result of the investigations, development of segmented motors 120 inches in diameter to augment the Titan II vehicle first stage liquid engines, and demonstration of 156- and 260-inch diameter motors were initiated during the 1962–63 time period.

The large motor programs were launched in 1960 with a 1-year study program. No specific mission requirements were used as guidelines other than that the motors being studied would fill future possible applications for military-missile and space launch programs. Large-motor development was initially managed by the Air Force, with NASA monitoring. Later, 156-inch motor-development was retained by the Air Force, while NASA assumed direction of the 260-inch program.

Ten motors were built and statically tested to demonstrate 156-inch-diameter motor technology. All of these motors incorporated flight-weight cases and nozzles, and all but two used head-end-ignition systems. Both monolithic and segmented cases were demonstrated using 4128 steel, 18 percent nickel maraging steel, and fiberglass reinforced plastic.

Nozzle types tested included gimbal, fixed ablative, and submerged movable. Thrust-vector-control methods demonstrated include gimbaling, jet tabs, liquid injection, secondary hot gas valve injection, and flexible bearing omniaxially movable nozzles.

Both 120-inch motors demonstrated under Thiokol's program contained submerged nozzles, one a gimbal type for thrust vector control, the other using hot-gas secondary injection.

Segmented 120-inch motors have been used as zero-stage boosters for the Titan IIIC vehicles since June 1965, when the first flight was launched. One of the most successful of all space programs, the Titan IIIC was launched 17 times without a failure in the R. & D. phase.

The Titan IIIC, part of the program managed by the Air Force Systems Command's then Space Systems Division—SAMSO—is the standard military heavy-duty-launch vehicle. It consists of a three stage common-core vehicle with two five-segment solid propellant booster motors as the zero-stage booster. The solid boosters have a combined liftoff thrust of 2.4 million pounds. The Titan IIIC has sent into space such payloads as the complete Initial Defense Satellite Communications System, the LES experimental COMSAT, a variety of USAF orbiting vehicles, Dodge, DATS–1, and the Hughes-built TACSAT. Other configurations include the Titan IIIB, known officially as the SLV–5B, which consists of the basic two-stage vehicle with a third stage, which may be Transtage, Burner II, Centaur, or Agena D. Prior to 1969, Titan IIIB had been used approximately 20 times to orbit classified USAF payloads.

Work also was accomplished under the Titan III/M—MOL—program toward qualification of the seven-segment configuration of 120-inch motors.

To date, approximately 200 million in production contracts have been awarded to United Technology Center for manufacture of solid motors for Titan strapon applications.

All three 26-inch motors demonstrated by Aerojet-General Corp., used 18-percent nickel steel in a monolithic case. All used fixed nozzles, none with TVC. And all were ignited from the aft end.

In addition to the already-demonstrated case, nozzle, and TVC technology, several additional technology areas have been investigated. Several low-cost ablative and carbonaceous materials for applications in large nozzles have been developed, and nozzles using them have been fabricated and tested. Improved manufacturing techniques applicable to segmented fiberglass reinforced plastic rocket motor cases have been developed. Explosive forming of solid rocket motor domes for steel cases has been demonstrated. And the flexible bearing omniaxially movable nozzle TVC system has been demonstrated on a 156-inch diameter motor.

Because of the amount of demonstrated technology, only minimal development work would be required to develop the large motor size for application as a source of booster power.

Numerous application studies conducted for NASA have shown the feasibility of using large solid motors to uprate existing launch vehicles and form new ones.

Mr. President, I strongly urge that NASA follow the philosophy of minimizing development costs and risks for the space shuttle program. To my thinking, this would lead to the selection of a solid propellant booster.

MANAGING OUR FOREST

Mr. BENNETT. Mr. President, I have received a copy of a recent resolution adopted by the Color Country Chapter of

the Society of American Foresters concerning management practices on our Nation's forests. The Color Country Chapter is headquartered in Cedar City, Utah.

So that my colleagues may be aware of the Society of American Foresters earnest desire to be involved in future decisions concerning forest management policy in the United States, I ask unanimous consent that the resolution in its entirety be printed in the RECORD.

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

SOCIETY OF AMERICAN FORESTERS, COLOR COUNTRY CHAPTER

"Be it hereby resolved by the Color Country Chapter, Intermountain Section Society of American Foresters in congress assembled that we are unalterably opposed to any Executive Order or Congressional action that would ban clearcutting in the Nation's forests as a management practice. Clearcutting is needed and often necessary as a management prescription for specific tree species and conditions.

"Be it further resolved that we strongly recommend that any future Executive or Congressional action which may affect the management of the Nation's forest resources first secure the prior involvement and advice of America's professional foresters—the Society of American Foresters.

"Adopted this twenty-first day of January 1972 at Price, Utah."

Adopted by unanimous voice vote at annual Business Meeting, Twenty-First Day of January 1972.

PRISON REFORM

Mr. BROCK. Mr. President, today's overcrowded prisons breed epidemics, perversion, and suicides.

In two of his most informative of a series of eight articles, Mr. Ben Bagdikian describes the injustice of an overloaded bureaucracy and the frightening inhuman experience of spending a week in a maximum security cell in Pennsylvania.

Mr. President, I ask unanimous consent that these Washington Post articles be printed in the RECORD.

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

[From the Washington Post, Feb. 1, 1972]

BUREAUCRATIC OVERLOAD TURNS JUSTICE TO MISERY

(By Ben H. Bagdikian)

They look like a Norman Rockwell painting of democratic American life—kindergarden kids, some Orientals, some black, some Caucasian, cheeks rosy in the morning cold, skipping and laughing, paired hand-in-hand, with two good-natured teachers guiding them along the sidewalk of Baxter Street.

A few of the children look curiously at the scene across the street. Fourteen men, all blacks, handcuffed in pairs, shivering in their shirtsleeves, jump out of a police van and disappear into a steel doorway of the Manhattan House of Detention, the Tombs.

The first thought prompted by the sight of innocent eyes watching the gray scene is, "Thank God they don't know what it's like inside." The second thought is, "Perhaps they should. Some of them, some time in their lives, will be held in a jail."

Of all places of restraint, jails are the worst. They are detention centers where men, women and children get their introduction to the criminal justice system, where they are held after their arrest, where they stay awaiting trial unless they have bail money, or where they serve short sentences for minor crimes. Most are designed for only short stays; prisons are for sentenced people.

But for people too poor to make bail, an overloaded and creeping bureaucracy of justice keeps them in compacted misery for weeks, months or years, the majority of them not yet convicted of anything.

The Tombs is famous: 12 floors of cages, the scene of a spectacular series of prisoner rebellions in 1970 against overcrowding, racial abuse, vermin, court delays. It is now more than a year after the rebellions were put down with promises of reform.

I enter the public door.

Minutes later, the chairman of the City's Board of Corrections, William Van Den Heuvel, arrives, an old Kennedy hand in the Kennedy manner, big, shell-rimmed glasses, full of bounce. We are admitted and start taking elevators to various floors.

Each floor has a double tier of cells with adjoining small concrete and steel enclosure where prisoners spend the day playing solitaire or dominoes. As guards let us inside, Van Den Heuvel is surrounded by men, like a feudal lord beseeched by beggars inside the castle wall.

"Mr. Van Den Heuvel, please help me. They've lost my papers and I've been here four months. . . ."

"Mr. Van Den Heuvel, I'm afraid I'm gonna go out of my mind. They transferred me from Rikers a week ago but they didn't bring my medication and these headaches I can't stand. . . ."

"Please help me. I'm an addict. I been on heroin 17 years. I got on a methadone program on the outside and got off heroin. But I got arrested and brought to the Tombs. I'm on methadone now but they tell me that when I get out tomorrow I can't get back on the street program because I missed a treatment and they got a waiting list that takes 30 days. I'm afraid I'll go back on heroin. . . ."

"Please help me"—his hands reached through the bars of his cell—"I'm locked up because I'm a homicide case. But the sink here leaks and there's water on the floor all the time. My feet are wet. Can't you do something. . . ."

One whole floor holds homosexuals. On another floor a dozen young blacks do calisthenics in military formation. Our escort, Capt. Paul Feltman, 17 years a guard, says, "Look at 'em Panthers. Black Panthers. Killers."

An older white man with a painted smile cries out from a locked cell. "Hey, come here. I'm here by mistake. I'm locked up by mistake. I'm a native New Yorker. I know my way around. I've been to Harvard. I've been to Harvard twice. I know my way around. They made a mistake. Hey, hey, listen . . ."

I ask Van Den Heuvel what they do with psychotic prisoners. "If the psychiatrist says a man is psychotic, the man goes to Bellevue. Bellevue will hold him only while he's acute, meaning physically unmanageable. Then they send him back."

Why isn't he sent to a mental hospital?

"No way. They're full, too."

He guesses that 15 percent of the prisoners are mentally ill. That would be about 220 men. There is one full-time phychiatrist.

EPIDEMIC OF SUICIDE ATTEMPTS

There have been 11 suicides and over 100 attempts in the last year. In the last few months, there has been an epidemic of men breaking the toilets in their cells and attempting suicide with the pieces. It takes the city nine months to replace a toilet.

Memory of the riots is still strong among prisoners. One shouts at us, "Hey, newspaperman. Ask them about the roaches and the rats. Ask them!"

Capt. Feltman yells at the prisoner, "Show me a rat! Go ahead, show one to me. Those aren't rats, they're mice. Don't you know the difference between a rat and a mouse?"

The day the riots began, the Tombs with a rated capacity of 902 men, had 1,416 prisoners, 57 per cent overcrowded, the day I visited, 13 months later, the rated capacity was 837 because of damaged cells, and there were 1,463 prisoners, 68 per cent overcrowded.

After the riots, the city somehow found $2 million in emergency funds. It added 24 tons of steel on each floor to increase protection of the staff.

Outside, the school kids were long gone. Over the door of the Tombscourt complex is the inscription:

"Justice Is the Firm and Continuous Desire to Render to Every Man His Due."

And under that a bronze plaque notes that this building was erected on the site of the underground railroad that helped free black men from slavery.

New York City is not alone in the misery of its jails. Last year a group of inmates in Baltimore City Jail petitioned the city court for relief from the following claimed treatment:

Officers in the jail regularly forced some retarded inmates to perform sexual acts on the officers; other retarded inmates were chained to the bars of their cells and beaten with keys; inmates in Sections N and O, while confined and peaceable in their cells, were Maced by guards because inmates had protested their treatment; when an inmate told a guard he was suffering from narcotics withdrawal the guard Maced him; inmates had been warned not to talk or write about conditions in the jail.

Riots over overcrowding and all that means—dirt, disease, homosexual rape, hysteria, exposure to psychotics—bring promises of relief.

In Wayne County Jail in Detroit, conditions did not lead to riots. Instead, there were 33 suicide attempts in two months.

Bad as city jails are, rural jails have their own special morbidity. Forrest County Jail, in Hattiesburg, Miss., isn't the worst but it isn't the best. The building may collapse. The cells are filthy, full of vermin, dirty rags and paper. The brick walls are so porous that some prisoners escaped by scraping away the mortar between bricks with a spoon.

In one year, the jail held 2,657 drunks, 688 people accused of felonies and 52 believed insane and awaiting commitment proceedings. It has held 12-year-old runaways and lost children in the same jail. Trials are held only every three or four months and it is not unusual for a person to wait in jail nine months before anyone decides if he is guilty.

Until this year, the sheriff in charge of Forrest County Jail got no salary. Instead, he got $4 for every arrest he made, 10 cents a mile for transporting the prisoner from place to place of arrest to the jail, $2 for logging the prisoner into the jail, and $2 for every prisoner held each day in the jail. There was no public money for food and other maintenance of the prisoners, so it came out of the sheriff's fees.

The state of Mississippi, as of this year, ended the fee system for sheriffs. But the practice continues in hundreds of counties across the country, rewarding sheriffs economically for making maximum arrests and jailings, and punishing him economically if he feeds and maintains the prisoners decently.

Forrest County is better than most in one respect. Its grand jury has regularly condemned the jail for years. Typical was their finding in 1968: "The grand jury is of the unanimous opinion that both the city jail of Hattiesburg and the county jails of Forrest County are unfit for human habitation."

Both are still being used.

No one knows how many jails, lockups and county camps there are in the United States. There is no way for inspecting them or imposing civilized standards on them.

The U.S. Law Enforcement Assistance Administration has counted those that are authorized to hold persons two days or more, and there are 4,037 with 161,000 men, women and children in them on a given day (5 per cent women and 5 per cent children).

LEAA says 86 per cent have no exercise or recreation for inmates; 90 per cent have no educational facilities; 50 per cent have no medical care; and 1.4 per cent have no flush toilets.

There are over 100,000 cells in these jails and more than 5,000 of them are over 100 years old. About 25 per cent of these cells are over 50 years old.

More people than ever are headed for such places. The President's Crime Commission in 1967 said that 40 per cent of all male children now living in the United States would be arrested for a nontraffic offense some time in their lifetime. Most of those will spend some time—hours or days or weeks or months—in a local jail.

THE PLANNING OF PRISONS

Unlike jails, prisons are built with the knowledge that they will hold inmates under sentence, usually for more than a year and sometimes for life. These institutions, usually for adult males are not accidental in their design and operations but are elaborately planned and constructed and operated by large bureaucracies of fulltime careerists.

It is depressing to consider what some men will plan and operate. It took a lawsuit in Virginia to expose the following treatment in the state penitentiary:

An inmate who attempted suicide had his neck taped to his cell bars for 14 hours and then was left naked in his cell for 17 days; a black prisoner screamed for help in solitary confinement for one week before dying unattended of sickle cell anemia; one inmate was locked in his cell without being let out for 743 days.

Federal Judge Robert R. Merhige ordered drastic changes in the Virginia prison system to eliminate atrocities by protecting prisoners' rights. The head of the state prison system said these rights are "not practical in the prison situation."

The State of Alabama, proud of refusing all federal aid, built a new maximum security prison, the Holman unit, in Atmore, Alabama.

Holman was originally planned for 500 men; it now holds 800. There is not one classroom, no gymnasium, no auditorium, no hospital, no teachers, no psychologists, no social workers. There are very few guards—about 18 to a shift—and they are paid $3,900 a year. The prison is heavily monitored by television and watched by a guard at a station with 30 monitor screens.

The prison is organized with some open dormitories, some multiple-occupancy cells and special cells for punitive segregation. Unfortunately, the television monitors show only shadows at night and men in dormitories make tents of blankets that the television can't see through. Homosexuals roam the dormitories freely and there are fights, stabbings, homosexual rapes and homosexual prostitution.

Rather than risk assignment to dormitories or to work details under brutal conditions, men sometimes prefer punitive segregation which is not exactly luxurious: the punitive cells have four men to a 5½-by-7½-foot cell with nothing in it but a single blanket and a five-inch-wide hole in the floor for a toilet. On one day, there were 145 men in segregation.

To avoid assignment to dormitories or segregation or work details with guards who are especially brutal, prisoners often cut their own Achilles tendons, an act that occurs about once a week.

The prison is shoddily built, leaks in the rain and leaks between floors. One official who works there says, "It must have been designed by a psychotic." The present warden was not associated with its design or construction.

Asked how he survived at Holman, one inmate said:

"One, you shoot dope. Two, you find yourself a boy and make out sexually. Three, you burn yourself out reading. Four, you just sleep."

THE RULE OF SILENCE

The deliberate debasement of human beings is not limited to Alabama state prisons.

The enlightened state of Wisconsin forbids prisoners in its maximum security penitentiary at Waupun to speak in their cells in the evening. In a special cell block, inmates may not speak at all and one inmate said he had spent 11 years without speaking except when spoken to by a guard.

Portsmouth County Jail in Virginia is a handsome, new high-rise structure overlooking the beautiful Elizabeth River and Norfolk harbor. It has a peculiar architectural feature: outside each barred window is a concrete slab held eight inches from the exterior wall. Its purpose is to prevent prisoners from seeing the view.

The most carefully designed prison system in the country is the Federal Bureau of Prisons. It has often been run with enlightened, humane administrators in Washington who recognize the prisoners are human beings who will return to mingle with their fellow citizens.

But Congress is the real boss of the federal prisons. In the past this has resulted, at best, in near-neglect. There has been a Senate committee on prisons since 1924. Its annual appropriation of $5,000 was usually turned back minus the cost of a few senatorial trips to a federal penitentiary for what the senators informally called "cockroach counts."

Many politicians, including some of the most fervent rhetoricians against crime in the street, have been shaping prison systems in ways that make it harder to protect society from crime.

A major problem in American prisons is their isolation in rural places, usually without public transportation. Families of prisoners cannot visit; marriages of inmates break up and normal ties are lost. The prison cannot find rural staff members who have rapport with the inmates, who are overwhelmingly urban and after a majority black. The prison has difficulty getting professionals—teachers, psychologists, psychiatrists, vocational trainers, social workers—to move to remote country locations. And if a prison decides to educate its prisoners or teach them marketable skills before their release, there are few local schools or factories where this can be done.

Nevertheless, prisons continue to be built in precisely the wrong places. The usual reason given is that land is cheaper and the isolation is better for security. Land is usually cheaper but that is not always a large factor; prisons are full of expensive hardware and cost as much as $22,000 a bed to construct. And most rural prisons have had periodic escapes, while there never has been an escape from the most urban of all institutions, the Tombs, in the heart of Manhattan.

The real reason prisons are located in the country is that legislatures used to be controlled by rural politicians who placed the prisons there as profitable industries and opportunities for patronage.

Federal prisons have not escaped. Convenience for visitors is a difficult problem for any federal prison, since it holds inmates from all parts of the country, (though location near a big city would simplify travel). But federal prisons, like state and local ones, also suffer from rural locations in obtaining professional staff from the surrounding countryside and providing access to work, study and volunteer contacts for its programs.

The newest penitentiary in the federal system is the maximum security prison at Marion, Ill.

The prison was planned in 1958 and opened as a maximum security unit in 1969. It is eight miles from the town of Marion, which has a population of 11,000. The nearest city of any size is Evansville, Ind., 75 miles away. The nearest metropolis is St. Louis, 100 miles away.

The formal reason for putting it there was the availability of a federal wildlife preserve and security, since it replaced Alcatraz. The real reason is that the late Sen. Everett Dirksen, in addition to being Senate minority leader, was ranking Republican on the Judiciary Committee, which has jurisdiction over federal penitentiaries. And he wished a federal facility in the southern tip of Illinois, where his strength lay and which at that time was suffering from economic depression.

For the first time, the past year has seen interest by some committees and individual members of Congress in the basic problems of prisons, prisoners and criminal justice. A few have gone into prisons for the first time to talk to inmates.

Their nearest stop is Lewisburg federal penitentiary, impossible to reach by public transportation, spacious, improbable Gothic arches and hand-carved stone in the dining room, carefully but bureaucratically run (visiting rules: one kiss at the start, one kiss at the end), not without the pathology of most prisons (an officer told one militant prisoner, "Why don't you get yourself a boy and settle down") but better than most.

Not all prisons in America are grim dungeons with iron idleness. Here and there, the system has produced amenities that begin to resemble outside life. At California Men's Colony East, at Los Padres, a medium security prison, one inmate was disciplined for breaking a window when he hit a golf ball too hard on the prison's miniature golf course.

But this does not eliminate the morbidity or the punishment. A survey of 871 inmates showed that most thought that from 30 to 50 per cent of the men would become involved in homosexualism before they left the prison.

At Leesburg, N.J., and Vienna, Ill., state prisons are designed to avoid the concrete-and-steel cage atmosphere.

There are many Americans, including many legislators, who feel that softening the harshness of male prisons will diminish the punishment and therefore encourage crime. A major theme of congressional appropriation hearings for prisons is the fear that inmates will be placed in "country clubs." It overlooks the fundamental punishment of any prison: to be deprived of liberty.

No. 50061, INSIDE MAXIMUM SECURITY: SIX DAYS IN STATE PRISON THROUGH THE EYES OF A "MURDERER"

(By Ben H. Bagdikian)

The aging forger slid over the bench where we were watching television.

"Did you really do it?"

"Do what?"

"You know. The murder."

I looked at him in astonishment. Prisoners don't say things like that to each other. It's the kind of question a clumsy informer asks.

"No," I told him coldly, "I didn't."

It was true. I was in a maximum security penitentiary for murder. But I hadn't killed anyone. No one at the prison—warden, guards, inmates—knew that. All they knew was that one night, two state policemen delivered me in handcuffs as a "transfer" from a distant county jail.

Huntingdon State Correctional Institution is a fortress behind high brick walls and gun towers in the mountains of central Penn-

sylvania. It was designed to make sure that no man would break out. It had been hard for me to break in. But finally I was here, in crumpled institutional uniform, Prisoner No. 50061, sitting in Cell Block A with my fellow inmates—murderers, rapists, armed robbers, forgers, burglars.

For three months, I had looked at the American prison system as an outsider, observing men behind bars and talking about them the way a tourist visits a zoo. Prison experts agreed that perception of what it means to be imprisoned in America remains dim unless you are on the other side of the bars. They were right. Months of interviewing prisoners, former prisoners, corrections administrators and research scientists, as well as reading dozens of books and reports, had not prepared me for the emotional and intellectual impact of maximum-security incarceration.

On the night of Friday, Dec. 17, two undercover Pennsylvania state policemen delivered me to the state penitentiary.

When they were gone, there was no one inside the prison who knew that I was not really "Benjamin Barsamian," county prisoner awaiting grand jury action for murder.

A trusty, an older prisoner, led me to cell No. 114. The door didn't close behind me with a "clang" as it does on television. It clicked, Firmly.

The cell has no window. It is about seven feet by eight, with a steel cot, small wooden table and chair, a metal shelf on the wall. In one corner near the door there is a porcelain seatless toilet and directly above it a porcelain sink with spring-loaded push-buttons for hot and cold water. Above that a square of shiny metal is riveted to the wall for a mirror.

Two sheets and blankets are on the cot. I make up the bed. The mattress is about an inch thick.

A guard puts a piece of paper on my cell door. "That has your name on it—in case you get lost."

The only light inside the cell is a square fixture above the door, aimed into the cell, casting a pale, yellow light into the eyes.

The corridor lights go dim. A turnkey comes by to double-lock each cell door for the night.

Suddenly I am very tired. I remember that I didn't have dinner. There is nothing to read and nothing in my pockets. It is hard to sleep.

The new sounds fill the mind. Unseen prisoners snore or call out in their sleep. Periodically, someone is heard urinating, followed by the explosive flush. Or there is the percussive bang of the faucet springs in the sinks. The telephone on the guard's desk rang all night. From time to time there is a quick footstep as a guard shines a five-battery flashlight into the cell for bed checks.

Sleepless, I experience the first surprise of imprisonment: it is difficult mentally to create the outside world. The prison is so drained of normal clues that it is hard to connect, even in the imagination, the reality of inside with the strangely remote reality of outside.

It takes a conscious act of will to recreate the events of that same day.

INFILTRATING A PRISON

The day started with a normal morning at The Washington Post; lunch in a favorite Washington restaurant with a favorite person; driving to Pennsylvania in the late afternoon with the long, yellow light of the setting sun lying gently on the golden stubble of cornfields and the still-green meadows; being stopped by a Pennsylvania State trooper for speeding and being unable to tell him I was late for my imprisonment for murder, and later laughing at myself for driving to the penitentiary in a rented automobile.

In my cell, it is hard to make vivid the memory that only four hours earlier I was in the Pennsylvania State House in Harrisburg, in the office of Attorney General J. Shane Creamer, who made the imprisonment possible and who, with his top assistants, gave me a rapid-fire briefing on my cover story. And the cold, two-hour drive from State House to state pen, arguing the pros and cons of capital punishment with the two undercover state policemen.

I worry for a moment if my project has been secret enough. Weeks earlier I was about to enter the Oklahoma State Penitentiary at McAlester when an ex-convict visited me and said, You'll never get out alive. Too many people know about it and the grapeline down there has picked it up."

A prisoner entering under false pretenses is automatically assumed to be a planted informer, an occupation with high mortality rates.

I also make sure that I remember Creamer's private home phone number, the only thing I might use in a jam to convince a guard that I'm not a real prisoner. A week earlier as we left Creamer's living room he asked Allyn Sielaff, his director of corrections, whether in the event that trouble developed at the prison I couldn't tell a guard I was really a newspaperman and wanted to speak to the attorney general. Sielaff broke into a grin.

"Oh, he could do that, all right. They'd just think he was crazy."

Only when the difficulty of vivid recollection of the outside world recurs day after day do I realize that it is not because of fatigue or tension or a bizarre day. In prison, the outside world quickly becomes unreal.

Around 5:30 in the morning, the turnkey comes by turning the bolts on each door. It does not release the door. Every cell on the tier is automatically locked by a 200-foot-long bar. Only when that moves about four inches, with an almost inaudible rattle, does it release the doors.

"New men—chow!" I was told last night to ignore that call. The bar moves and after 30 seconds closes the tier again. Five minutes later, at about 7 a.m., there is another shout, "DCCH—chow!" That's it.

Like all entering inmates, I am in DCCH, Diagnostic Classification Center, Huntingdon, the first weeks of prison when there is recording of personal and criminal histories, some testing and assignment to a permanent cell block and permanent prison work in the soap factory, printing plant or clothing mill. The bar moves to the open position and I step out of my cell.

SOME UNFIERCE COMPANIONS

I see my group for the first time, about 25 men with rumpled hair shuffling to line up along the wall. Mostly in their twenties, mostly with long hair, sideburns and some beards. Three blacks. All looking unfierce.

The guard says, "Let's go," and we walk in loose formation through the Center, the hub of the prison. I fall in next to an older man who nods briefly.

At the dining hall, a large room with about 20 rows of ten tables, each table with four wooden seats attached. All 700 prisoners eat together.

At the entry is a table with a large container of utensils. A uniformed guard wearing transparent plastic gloves picks up one knife, one spoon and one fork and hands them to each prisoner. We shuffle to the cafeteria line, taking metal, welled trays from a rack. Inmate workers hand out the food, sometimes helping it into the tray with hands encased in the surgical-looking clear plastic gloves: one fried egg, a cookie, box of dry cereal with milk, grits, coffee.

Each group occupies a single row of tables. The kid next to me asks if I'm new and I asked what it's like here.

"Guards here are pretty good. Used to be a lot of head-knockers here. Real rough. Used to hit you with pipes and clubs. But they got rid of most of them. A few ——— left, though.

SELF-SEGREGATION OF RACES

The dining hall is strictly segregated, self-segregated I'm told. Blacks all together, whites in their own rows.

At a sign from our guard we return our trays to the cafeteria line, rinsing our steel coffee cups. We carry our utensils to the door where another guard watches as each man deposits one knife, one spoon and one fork. No retention of weapons material.

We walk back to the cell block and are locked into our cells. There is nothing to do. Nothing to read. Razor and toothbrush and other personal effects were sealed up last night.

At lunch I sit next to Mack, a tall Hell's Angel type, unbuttoned shirt showing masses of tattoos long hair in the neck, chin whiskers, a cross tattooed on the left cheekbone.

He speaks with a curious Southern accent. As a black prisoner walks by he says loudly, "There goes a prince." Another black walks by, "There goes the king." He looks at me and laughs. I don't laugh. He scowls.

He eats a spoonful of ice cream from his paper container and then offers me the rest. I decline. He looks at me steadily and says, "Gettin 'pretty ——— in' bad when a man cain't give away some ——— ice cream just because he took a bite on it." Back at the cell block his cell is directly above mine on the second tier. As we wait in front of our cells for the bar to move, he drops a match on me. I figure I'll have trouble with him. He turns out to be my best friend.

In late afternoon. I am called to the hospital again. Still no pills and no razor. Return to cell block. As Christmas week extra, can watch television.

Mack is on the bench behind me. I remember some last-minute advice given me, "Don't turn your back to anyone's cell; they can stab through the bars. And keep your back to the wall." I remain conscious of Mack.

After supper comes the daily exercise in prison democracy: inmates vote on television programs. Between 6:30 and 9 prisoners have a choice of activity. They can watch television at one end of the corridor. They can play pinochle at tables at the other end. They can sit on the concrete floor and talk in the middle. Or they can choose to remain locked in their cells.

If men choose to watch television they can vote as a guard reads out the six choices for each half-hour segment. Men on the other side of the cell block join us, so there was close to 50 per cent blacksitting on the benches. Relaxed but separate.

The first vote is on "Hee Haw," an all-white country-and-western program. It's on racial lines, most whites for it, all the blacks against it. Whites win. Overwhelming vote for "All in the Family." On subsequent nights "Gunsmoke" is another big favorite. Also Dragnet.

CONVERSATIONS FULL OF DARING

Then begins what was to be repeated day and night, the catechism of prison conversation: daring crimes taking incredible chances, violent fights, big hauls on robberies with the money quickly spent. "So I put the muzzle of that ——— .38 right against the neck of the ——— and said "Jess drop your wallet . . ."

Psychological conquest of prison is an important theme. Long sentences are greeted with respect. If a man faces five years he says, "I can handle it." Someone asks how Huntingdon compares with other joints. "Man, I've seen 'em all, and I don't really see that much difference. I can get along in any of them. You just go in, don't ——— with anyone, pick your own group and stay with them." Or, "The hole? Why in Ohio State I was in the hole for 30 ——— days for fighting. First day I got out I find the same ——— and Phoom? I bust his jaw. Back in the hole for 60 days . . ."

A standard story told by a half dozen men on different occasions in various forms is the inmate's version of a profane and defiant speech to the judge who sentenced him.

"'Send me up for life if you want, you ———. I don't give a ——— what you do.' And I turned my back on the ——— and walked right out of the ——— courtroom." Like the sex fantasies of barracks life in the Army, it's almost certain most of the speeches were never made.

In personal conversations without an audience there is less bravado, less violence.

"See that guy over there from B block? He's the greatest escape artist ever."

"Yeah? Just escaped from the street into Huntingdon State Penitentiary?"

Toward the end of the evening, Ollie limps over and sits on the floor. He says he might have to be transferred for an operation. One of the group says, "Don't let them send you to Pittsburgh." Ollie asks what was wrong with the state pen at Pittsburgh.

"Niggers control that. This is our place."

Mack shakes his head.

"Ah'll tell you wherever the niggers are, they try to take over. Indiana State, the ——— weren't even a majority and they took it over. You got to fight them or they'll do it every time. They ain't taking this joint over I'll tell you that."

That afternoon during the movie, the villian is shown fullface on the screen during his most despicable moment. From a black group of prisoners comes the shout, "That's a white man for you!" From a white group: "He's probably a Jew."

Although something like half the prison population is black, I see only one black officer on the staff. Most of the guards seem relaxed, able to small-talk their way around tense moments, avoiding harsh confrontations, establishing an atmosphere of easy relations with most of the prisoners.

Two or three of the guards are noticeable by contrast: rigid personalities, barking orders, speaking in contemptuous tones. It is remarkable how easy it is for a single harsh order to put everyone's teeth on edge. Prison is depressing and demoralizing, the walls and bars and guards and gates and steel and concrete remind one every moment that he is not free, that he is not a whole man because his whole physical being is under someone else's control. Easy-going guards keep that from being an intolerable challenge. A few barked orders in a harsh tone raise the level of felt hostility.

It makes you realize that a couple of guards could bring the place to a crisis in a short time. At Huntingdon, the guards do not seem very sophisticated or educated—many of the prisoners are obviously more so than the staff—but this doesn't seem related much to their effectiveness at preventing confrontations. Most are skilled at easy relations and relaxed manner. With whites.

There is little or no visible antagonism to blacks among staff, merely an evident lack of communication.

One day one of the blacks in my section is sweeping the catwalks, singing in a high-pitched voice like Ray Charles.

"What the hell are you doing?" the guard, an older man, yells harshly.

A young white inmates sitting on the floor near the guard says, "Oh, he's just that way, you know," and he twirls his finger around his ear, indicating nuttiness. The guard mutters, "They're all like that."

Up on the catwalk, the black continues his zany singing in a thin voice and only if you listen carefully can you hear him singing phrases that included, "goddam ——— honky . . ."

In the exercise yard a few days later the same young black, a Muslim, is not jiving as he argues with a white prisoner:

"Ours is *the* religion. God is in *us*. We have the power of God in us. You never see the guards ——— with any Muslims, do you? You know you haven't. Why you think that is?"

At 9 o'clock, the television set is turned off, its plywood container locked, the floor swept and everyone locked and double-locked in his cell for the night.

HUSBANDS AND WIVES

The second day, a large homosexual inmate is moved into the cell next to me. He is an outstanding athlete, which may explain why he is treated with some deference.

Homosexualism is evident. In the auditorium the queens are obvious, some primping their hair, others walking in tight trousers with swaying hips. Some arm-in-arm and referred to casually as husband and wife.

My neighbor is referred to as "she" and "her" and plays the role of woman openly. The first night he is on the cell block, he borrows a razor blade from me, saying, "My husband will pay you back tomorrow." At supper one night he says to me, "Does my lipstick show?" Back at the cell block he has a quarrel with another homosexual, shouting at him, "You walk around here like you are God's gift to men."

Later my neighbor turns hostile to me. One night he asks, "Are you a Jew?" and when I said I was not, said, "Then why have you got such a crooked nose."

There are jokes about my neighbor, but in anger they center on his blackness, not his sexual role.

At 2 a.m. one morning, my neighbor begins singing in a falsetto. Curses come from around the cell block as men wake up. "Shut up!" "For Christ's sake, stop it!" The whites refrain from too open anti-black epithets. But my neighbor shouts back, "white ———" When the other prisoners keep shouting, my neighbor goes to his cell door and rattles it, calling, "Guard! Guard! Come here. Hack! Hack! I need you."

The prison is not on the edge of racial conflict, at least to this eye. But hostility is near the surface.

We take daily showers in a room with two rows of shower heads controlled and observed by a guard behind a plate-glass window. Again there is self-segregation. Blacks shower together at one end, including my neighbor.

EARNING 25 CENTS A DAY

I still have no reading material on the third day. Mack gets some correspondence forms and lends me a ball-point pen.

Most of the time I still sit in the cell and stare at the standard view: the steel latticework on my cell door, silhouetted against the lighted corridor wall beyond. When you close your eyes you still "see" the scene, but in reverse like a photographic negative, the image burned into your retina.

Almost all the visible lines are straight and rectilinear, all the colors subdued, from the tan walls to the guard's grey uniforms. For some reason, my eye keeps going to a pipe entering my cell through the latticework and later I realize that it is one of the few curved lines in my scenery. Everything soft or tender of complex has been eliminated. Surfaces are all hard: tile, steel, concrete, brick. So sounds echo, harsh but indistinct.

Even the steel mirror on my wall is in a shadow and reflects only a blurred gray image. On the third day, still unshaven, I walk by a clear mirror on the cellblock wall that lets guards look around a corner and I see "another prisoner" appropriately crumpled and grim. It is my own image. Shocking.

One morning at 8, I hear the whistle from the prison soap factory. I envy the inmates their work. Shortly afterward a trusty comes to the cell door.

"Hey, want to work?"

As an unsentenced prisoner, I cannot be forced to work.

"You can make 25 cents a day."

I leap at the opportunity.

I mop the concrete floor of the cell block. As we work around the guard's desk, one young inmate says he's going to California when he gets out.

The kid next to him said, "What'll you do if you can't make it and you're on the West Coast?"

"I'll just pull another armed robbery."

An older guard, tipping back in his chair, said:

"That's where you're wrong. You better not do that in California. Ronald Reagan, he don't ——— around. He'll just put you in the gas chamber."

I'm called to the hospital to see the prison doctor. He has seen my shaving kit with the medication in it.

"I don't see any problem with giving him the synthroid," he says to no one in particular. "If he takes them all he can't kill himself."

He turns to some sleeping pills and then to me.

"I don't see why anyone needs medication to go to sleep at night. If he gets off his ——— and does some work he won't have any trouble sleeping."

I decide not to tell him that we're locked in our cells from 17 to 20 hours a day.

A HINT OF THE OUTSIDE WORLD

Even volunteering for work does not prevent the hours of idleness. But the idleness produces less clearness of thought than I expected. It is hard to think of life on the outside with any immediacy. Important places become blurred in memory in an alarmingly short time.

Prison is total. It strains out clues to normal life and in the void every petty detail on the inside becomes important. Relations with other inmates take on a profound quality. Nothing outside the wall seems real any more. It may be no accident that television news is voted down every night.

Yet what fragments of the outside world do intrude become desperately alive. In the early morning hours, if I go to the door of my cell, I can see a small patch of sky through a window in the upper corridor wall. In the predawn hours there is a strange anxiety because the sky is not visible, an uncertain grasp of time and reality. The first light of dawn becomes exciting, the sight of drifting snowflakes intensely moving, the shadow of a bird in flight miraculous.

The first time we are permitted outdoors is an almost explosive experience, an enormous view of blue sky. The yard is an asphalt surface 50 feet by 200, surrounded by the wall.

Another man and I walk the continuous oblong for two hours in bitter cold, but it seems like five minutes. He had been a woodcutter in Pennsylvania and a hunting guide in Montana and is doing 1-to-6. "I can handle it," he says. "If I do the six I'll only be 30 years old."

The guard on the tower watches us and when we begin taking larger corners into a blind spot, he has to come outside the glassed-in enclosure and stand on the outer parapet huddled into his coat. As we walk we talk about woods, animals in Montana, airplanes, cities, rural life.

When I return to my cell, Mack has deposited, through his genius at mobility and delivery, two eight-month-old Time magazines, one old Argosy, an old TV guide for Pittsburgh. I read them all, cover to cover.

The next day is library call. Practically every prisoner goes and some of them make surprising selections. After meticulous analysis of the October TV listings for Pittsburgh, it is exotic reading Dean Acheson, Simone de Beauvoir and Gore Vidal.

"YOU HERE FOR YOUR HEALTH?"

Anxiety about my cover, which means my safety, doesn't develop until the fourth day. It is at lunch. At my table is a man from our section who was friendly at first but then cooled off. He is well educated, likes to whistle Mozart and Bach themes, and has

lots of reading material which he promised me but never delivered.

He has been increasingly suspicious of me and I have stayed clear of him, especially after I found out that he worked in the front office and has access to an outside telephone. If he called the county jail I was supposed to have come from they would never have heard of me. If he discovered that, the word would get to my friends who would make an unfriendly assumption.

"You here for your health?" he asks as we eat.

He means was I sent here to protect me from threats of other prisoners. I replied that I wasn't.

"What are you charged with?"

"Murder."

"Where?"

"Adams County."

"This is a long way from Adams."

"They think it will be a long wait before I get to the grand jury."

"They usually transfer men to Camp Hill."

I shrug. But I have a feeling time is running out.

I worry about confidences other prisoners had shared with me; they might be remembered if they heard I was under an assumed name. I begin walking away from crucial conversation.

But conversation is hard to avoid. It has special meaning in prison relations, where men are thrown together almost at random and must make crucial decisions about each other.

Prisoners live in fear of each other and in trust at the same time. They have fear because everyone is under total control of the authorities, who can influence whether a man will serve two years or six, or live in a savage cell block or a civilized one, have a pleasant job or distasteful one, avoid punishment or be sent to maddening isolation. The prisoner is forever navigating this jungle. Some do it with weapons for self-defense or for coercion, weapons usually fashioned from scavenged metal. But the more common weapon is information that can win a recommendation for parole or pleasant assignments. So fear of betrayal is constant.

But inmates need each other and need to trust each other. They are united in common hatred of the criminal justice system. They are united in loneliness. Wives, girl friends, parents, working colleagues, friends, the usual universe by which a man finds his identity and humanness, all are gone. In the void, fellow inmates become indispensable.

There is a code of etiquette in prison. You can ask a man what offense he is in for, how long his sentence is, maybe where he comes from and what other prisons he has been in.

After that, it is up to him to volunteer information. The result usually is a great deal of talk, personal history and reactions to people and life. You enjoy the trust of others but at the same time fear it. Everyone is trapped together and each man has the power to harm the others. Trust and betrayal are potential in every relationship.

After I feel the twinge of paranoia, I stay out of the blind spots in the exercise yard, the spots in the corneres out of view of the guard in the guntower two of which I have found in the mental game of "escape" that everyone plays. I stay away from bunched-up lines at the dining hall. All unneeded, no doubt.

THE VALUES OF PRISONERS

In his own way, Mack is a puritan. "There was that m—ing car, free and clear, not a cent owed on it, and I couldn't drive it. I didn't owe a m—ing nickel on it, not a dime. Took me two armed robberies to get it, but I owned it free of debt."

I wonder why my best friends are men whose social values I abhor. They are mostly racists who in their careers hurt innocent people. They are often liars and braggarts, not only in their dealings with the authorities, which was required, or in bull sessions, which is forgiveable, but also in their personal lives. Their talk is full of killing, shooting, pimping, treachery, treachery avenged and the endurance of suffering.

They exist beyond the bravado and toughness that in prison is necessary for self-defense. They have other feelings but they had no vocabulary for them. I marvel that for some unfathomable reason, after years of being bruised by their parents (Mack's mother laughed at him when he was arrested at age 14; thereafter he had four stepmothers and five stepfathers), by their families, after years of chaos and abandonment, years of imprisonment in various degrees of savagery and subjugation, their spirit is unbroken. They refuse to be beaten. Some are strange and withdrawn. Most are not.

One day, as I watch the population file out of the auditorium, they suddenly strike me as not so different-looking from the students I had seen a few months before at the University of Wisconsin: same cool shuffle, beards, sideburns, the quick quizzical eyes, clothes worn shaggily—prison clothes don't look so different any more—but very cool.

Most of the men are in their low 20s. If the men at Huntingdon had four more grades of median school achievement and $3,000 more in parental median income, they could be filing out of the auditorium of the state university instead of the state penitentiary. There is much talk about their experience at "Indiana State" and "Ohio State." But they mean state pens. The universities of the poor.

The morning I am supposed to be pulled out of prison I go to work as janitor in the schoolroom. I begin to wonder if they will pull me out today. Maybe there is a big crisis on the outside and everyone will forget.

Just before lunch, I am ordered to the identification office. They are finally going to complete my records, take my mug shot and fingerprints. Time is running out.

I give the man my name, charge, county and hearing judge. He asks my Social Security number. I remember the briefing in the attorney general's office: "You don't remember your Social Security number. Be clear on that. If they have your Social Security number, they can pick up their phone and in 30 seconds know everything they need to know about you."

The fingerprint man is working on me when a clerk walks up. "Hey, one of these guys has to go back to the county today. They're coming for him at 2 o'clock."

Two hours later, after my sixth day, two men in plain clothes issue the prison a "Body Receipt" for prisoner Benjamin Barsamian who, 40 feet beyond and two minutes later, outside the wall in the unlimited air, ceases to exist.

DEFAULTS AND FORECLOSURES

Mr. SPARKMAN. Mr. President, for some time I have been concerned about rising rates of defaults and foreclosures under the various FHA programs. To get more information on this subject, I wrote to Hon. George Romney, Secretary of the Department of Housing and Urban Development, requesting data on the extent of this problem and information on remedial and preventive measures which his Department is taking relative to it. I requested the information in two parts, the first part to be made available in January to enable the Subcommittee on Housing and Urban Affairs to use the results, if appropriate, in marking up 1972 housing legislation, now pending before the subcommittee. The second part could be submitted at a later date to assist the subcommittee in completing its study of this matter.

The Secretary's response to the first part of my request is a very interesting report on a number of facets of this subject. I believe it is of interest to many other Members of the Senate, I ask unanimous consent to place in the RECORD my request to the Secretary of Housing and Urban Development and his reply, with attachments.

Mr. President, the subject of FHA foreclosures is not new to the subcommittee. As part of its oversight function, the subcommittee keeps a watch on the experience of the programs for which it legislates. The last full investigation of this subject by the subcommittee was made in the mid-1960's when conditions, in some respects, were similar to what they are now.

Two big differences prevail today which the attached report emphasizes. One is the high rate of default on mortgages insured by the FHA to provide decent housing for lower income families. This was not entirely unexpected.

In fact, in 1968, a special reserve fund was established in anticipation of a higher loss due to the greater risk intentionally taken to enable the FHA to reach down and provide decent shelter for these lower income people heretofore living in slums and blight.

The other difference causing a higher rate of default is the rapid deterioration of inner city areas in most of the Nation's large cities. Like a cancerous sore, the disease of inner city areas is spreading and causing hundreds of millions of dollars of losses in value of properties of all types. FHA's losses are partly related to this widespread problem, which is not solely a housing problem but one encompassing a whole range of social and economic deficiencies of concern to the entire Nation.

I believe that much of the current problem of foreclosures could have been avoided by better administration and stricter adherence to regulations on inspections, appraisals and management. I have been told that HUD has tightened up considerably on these and that we can expect improvement on avoiding foreclosures in the future.

Mr. President, the Housing and Urban Affairs Subcommittee is deeply engrossed these days in marking up 1972 housing legislation which we hope will provide solutions to some of the problems highlighted by these foreclosure statistics.

The subcommittee has some 50 bills before it and countless amendments from which we hope to put together an omnibus housing bill for consideration of the Senate early next month. As Secretary Romney says in his letter:

There are no panaceas.

Nevertheless, I am confident that, once the new legislative proposals are implemented and Secretary Romney persists in his efforts to tighten up on administration of the programs, we can look forward to many of today's problems disappearing and moving closer to our national goal of a decent home for all.

There being no objection, the following letters and attachments are ordered to be printed in the RECORD, as follows:

DECEMBER 28, 1971.

Hon. GEORGE ROMNEY,
Secretary, Department of Housing and Urban Development, Washington, D.C.

DEAR MR. SECRETARY: I have been concerned for some time about the trend towards higher rates of defaults and foreclosures among Government-assisted mortgage loans. My interest in this area has been heightened by the press coverage of the foreclosure situation in Detroit and the recent hearings there by the House Government Operations Committee. Discussions between my Committee staff and various HUD officials seems to indicate that the problem in not unique to Detroit and may be found in greater or lesser degrees in Philadelphia, St. Louis, Chicago and other large urban centers.

I am interested, therefore, in obtaining some information from your Department in two parts, the first to be submitted in mid-January and the second as soon thereafter as possible. First, I would like to receive your views on precisely what the current default problem in Detroit and other areas amounts to. Specifically, I would like you to address the following points:

1. What is the extent of the problem by program, and what trends are apparent? It would be helpful if summary data could be compiled to show single and multi-family experience, subsidized and unsubsidized, new construction and existing housing.

2. What do you believe are the underlying causes of the current problem? To what extent do they vary by area and program? Do you anticipate any change in the default situation in the near future?

3. What cities in addition to Detroit have had, and can be expected to have major default problems? Do you have any notion of which cities may be expected to have Detroit-like press coverage?

4. Given the seriousness of the present situation, what remedial actions does HUD contemplate to reduce abuses that may play a role in defaults and to ameliorate as much as possible any adverse impact on low and moderate income homeowners who might face foreclosure? What will be the effect of recent Michigan law which reduces the redemption period for vacant lots to thirty days?

5. What preventive measures are being considered by HUD to reverse the present default trend? Do you expect that these measures can be accomplished by a re-affirmation of existing policies, institution of new policies and/or adjustments in the existing housing legislation? What experience is there to indicate the utility of an intensive counseling program in conjunction with home-buying?

As a second part of my request, I would like to have any relevant information which you might be able to gather in the form of reports, studies, policy papers and the like which would be useful to my Committee staff in their investigation of the overall problem of defaults and foreclosures. Furthermore, I would appreciate any available information addressing the following topics as they relate to defaults and foreclosures: counseling, abandonment, forebearance procedures, mortgage banker v. thrift institution servicing, and appraisal policies.

When Congress returns in January, I expect that the foreclosure issue will be brought up before the Committee fairly early. So that I might be better prepared for this occurrence, I would appreciate your prompt reply to the above points. If the availability of the statistics or any other information would unduly delay your response, I would like to have whatever is readily available as soon as possible. The missing pieces may be filled in at some not too distant time.

Sincerely,

JOHN SPARKMAN,
Chairman, Senate Subcommittee on Housing and Urban Affairs.

SECRETARY OF HOUSING AND URBAN DEVELOPMENT,
Washington, D.C., February 1, 1972.

Hon. JOHN SPARKMAN,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your timely letter of December 28, 1971, inquiring about the defaults and foreclosures among HUD-assisted mortgages. For your convenience, I have attached separate responses to each of your five questions. Additional information, including the studies and reports which you requested, will be sent to you shortly.

I share your concern about increases in the frequency of defaults and foreclosures in HUD mortgage insurance programs. In general, increased defaults and foreclosures have occurred in those programs designed to assist lower income families. In the single family programs these problems have been concentrated in several cities, particularly Detroit and Philadelphia. In the multifamily programs the problems are not concentrated in particular localities but are more geographically dispersed. The problems, while critical in some localities, are not as serious as a nationwide basis as some press reports have indicated. This is particularly true in light of the higher degrees of risk and probability of defaults and foreclosures which were anticipated by the incumbent HUD Secretary and the Congress when the Special Risk Insurance Fund was established for mortgages insured under Sections 235, 236 and in declining inner city areas.

We are continuing to take remedial steps and initiate preventative measures to eliminate abuses and to insure that the Congressional mandates are carried out equitably and efficiently. The addition in the near future of 400 persons to area office staffs, particularly those offices with the greatest problems, should enable us to more effectively monitor and carry out program operations. The stress on quality production, the new project selection criteria, and increased input by management staffs in feasibility determinations should also assist in reducing default and foreclosure problems.

In Detroit, however, we are dealing with a situation which cannot be corrected by merely improving the administration of our housing programs. In Detroit as well as in many other metropolitan areas, the problem is loss of confidence and withdrawal from our central cities, resulting in neighborhood abandonment.

I call your attention particularly to our responses to Questions four and five which outline the need for a metropolitan approach to solving the social, economic and physical problems which have resulted in abandonment. I believe that it is time to bring these problems to the attention of state, suburban, and private leaders, as well as central city officials, in order to determine whether a metropolitan-wide strategy can be worked out. Through the meeting described in those responses, I plan to outline the possibilities for utilizing Federal programs on a metropolitan basis in order to provide the broad based effort which is required. There are no panaceas. Only a concentrated and coordinated approach will provide the restoration of confidence which is vital to the prevention of abandonment.

Sincerely,

GEORGE ROMNEY.

DEFAULT TERMINATIONS UNDER SEC. 221(D)(2) SELECTED LOCALITIES, 1967–71 [1]

Locality [2]	Cumulative mortgages insured	Default terminations, 1967–1971 [1]: Actual number	Percent of insured mortgages [3]	Standardized expectations: Based on actual national experience [4]	Based on actuarially standardized national pattern [4]
San Bernardino					
Riverside	4,683	677	14.46	178	202
Wilmington	2,410	305	12.66	104	134
Boston	444	42	9.46	14	17
St. Louis	2,144	185	8.63	82	107
Detroit	50,345	2,978	5.92	2,110	2,609
New York	3,571	194	5.43	225	251
Dallas	5,103	272	5.33	121	236
Los Angeles	21,372	1,123	5.25	669	793
Philadelphia	42,772	2,172	5.08	2,079	2,554
Seattle	17,349	882	5.08	652	999
Houston	11,627	501	4.31	446	597
Camden	4,860	191	3.93	189	270
Washington, D.C.	1,308	30	2.29	31	44
Chicago	4,462	85	1.91	165	260

[1] Through June 30, 1971.
[2] County or counties, including the city named.
[3] Related to cumulative mortgages insured.
[4] Related to the age distribution of mortgages outstanding in each year.

QUESTION NO. 1

What is the extent of the problem by program, and what trends are apparent? It would be helpful is summary data could be compiled to show single and multifamily experience, subsidized and unsubsidized, new construction and existing housing.

This response discusses nation-wide default and foreclosure trends for all insurance programs combined and also focuses on individual default and foreclosure trends in each of several of our major programs—subsidized and unsubsidized. A brief discussion of the number and types of units in the housing inventory owned by the Department is also included. An analysis of the rate of defaults and foreclosures in various localities is contained in the response to Question No. 3.

We are unable at this time to comply with your request for a summary table breaking out new construction and existing housing. Current mortgagee reporting of defaults does not provide this information.

We are analyzing some special tabulations of Section 221(d)(2) default terminations in an effort to develop meaningful data distinguishing new and existing construction. We will report the results to you as soon as this analysis is complete. We are also re-

questing field input on this subject, which will be summarized for your information.

A brief glossary of terms used in this response and in the summary tables is attached. It may prove helpful to briefly review the defined terms before proceeding.

Defaults and default terminations

In 1971, defaults and default terminations increased above 1970 levels in both absolute numbers and as a percentage of insurance in force both for multifamily and single family insurance programs. While the number of defaults and default terminations in Departmental programs not specifically designed to serve lower income families remained relatively stable, there was a marked increase in the number of defaults and default terminations for both the multifamily and single family Departmental programs which assist lower income families.

Home mortgage programs

In summary, the combined home mortgage data show constantly rising levels of insurance in force, a significant increase in defaults (as a percent of insurance in force) above 1969 year-end levels and a modest increase in default terminations (as a percent of insurance in force) over the last two years.

Outstanding defaults increased from an all time low of .45% in 1957 (not shown on the tables) to a rate of 1.57% at the end of 1965. Following the tightening of credit conditions in 1966 outstanding defaults declined to a 1968 year-end level of 1.35%. Thereafter, outstanding default levels moved upward to a 1970 year-end level of 1.84% and increased again to a 1971 level of 2.31% (based on initial estimates from three-fourths of the required reporting offices).

The trend of default terminations through 1969 is essentially similar to the trend of outstanding defaults through that year: default terminations rose from 7,900 (.28%) in 1960 to a peak of 48,700 (1.19%) in 1966. From 1966 through 1969, the default termination rate declined at a far more precipitous rate than outstanding defaults. It was not until 1970 that the rate of default terminations turned upward, increasing to 31,000 in 1970, (.65%) and 34,900 (.69%) in 1971 (estimated), increasing at a far slower rate than the increase in the rate of outstanding defaults.

The difference in trends between defaults and default terminations in the period 1966 through 1971 is noteworthy and also significant for the future. The increase in interest rates after 1966 evidently enabled many borrowers with mortgages in default after 1966 to market their properties by selling them subject to a low interest mortgage, thereby avoiding foreclosure losses in spite of the outstanding defaults. As the time interval since 1965 increases, progressively fewer of the current defaulted mortgages can be expected to carry low rates of interest. With mortgagors unable to sell, mortgagees are forced to foreclose on the mortgage and file a claim for insurance proceeds. Since many defaulted mortgages now undoubtedly carry interest rates in excess of current market rates it can be expected that the trend of default terminations will be more similar to the trend of defaults.

The subsidiary tables for Table I–H reveal two important elements in this summary. Through the end of 1968 the combined home mortgage data is similar to Section 203 experience. In 1968, over nine-tenths of the homes covered by insurance in force were insured under Section 203 or more seasoned mortgages insured under other programs before 1960. After 1968, the expanding higher risk 221(d)(2) and 235 programs raised the total default levels above the Section 203 experience.

Under Section 221(d)(2), the yearly volume of insurance written, after declining from 1965 to a low of 30,535 in 1967, has risen progressively to a 1971 total of 115,400. Default levels, after declining from 2.49% at the end of 1965 to 2.13% at the end of 1968, reached 4.27% at the end of 1970 and an estimated 5.65% at the end of 1971 (based on three-fourths of required reports). A relatively large part of operations under Section 221(d)(2) is carried on in declining neighborhoods under the relaxed "acceptable risk" authority of Section 223(e) (about 13.5% since the latter part of 1968 compared with 6.0% under Section 203). In addition, a large proportion of the remainder covers properties only marginally different from areas where 223(e) is utilized.

Because of the short period of time that Section 223(e) has been operative, we do not yet have statistically meaningful nationwide default termination experience. However, in Detroit a GAO analysis of 221(d)(2) cases insured under 223(e) in 1968 and 1969 shows a default termination rate of 16.1% for such mortgages.

Because of the relatively short period of time that Section 235 has been operative, no firm conclusions can be reached concerning the validity of trends which have thus far emerged. However, the estimated default ratio of about 4.26% for this program is approaching the current Section 221(d)(2) default ratio of 5.65%. Both of these rates are well above the Section 203 default ratio of about 1.9% at the end of 1971. The 1971 default termination ratio for the Section 235 program of 4.45% is well in excess of the Section 203 ratio (0.64%) and is also in excess of the Section 221(d)(2) rate of 2.54%.

Project Mortgage Programs

In all project mortgage insurance programs combined (Table I–P), the annual levels of default terminations fluctuated between 1963 and 1968 within a narrow range of 9,418 units in 1967 to 10,817 in 1963 except for a high level of 17,526 in 1966 during the "credit crunch"—when some mortgages were very possibly liquidated for reinvestment purposes. In 1969, with rising interest rates and following a period of lower levels of multifamily activity, default terminations declined to a very low level of only 2,416 multifamily units under all programs.

In 1970 these terminations once more began to rise, totaling 5,348 units in that year—about half the level of the mid-sixties—and rose further in 1971, to a total of 14,900 units. This higher number in 1971 is at least partly reflective of the increase in project insuring operations since the 1968 enactment of new programs, especially under Section 236. The biggest increases in multifamily default terminations since the mid-sixties have been under the Section 221(d)(3) BMIR program, which rose from zero in 1967 to 5,500 units in 1971, and the Section 221(d)(3) market rate program (including rent supplement projects, which rose from zero in 1967 to 3,400 units in 1971. These two programs thus accounted for three-fifths of the 1971 multifamily default terminations.

The trends of outstanding defaults (which have roughly paralleled the patterns of default terminations)—ranged between a year-end 1962 ratio of 1.11% of outstanding insured units under all project programs and 1.88% at the end of 1967. In 1968 and 1969 this default ratio declined (to a low of .56% at the end of 1969), rising thereafter to 1.50% at the end of 1970 and to 2.77% at the end of 1971.

At the end of 1969, as indicated Table 1–P and its subsidiary tables, the Section 207 and Section 221 (market rate) programs had current default ratios which approximated the rate for all programs combined (.56%). The Section 221 BMIR program had a somewhat higher ratio of 1.60% at that date. (It may be noted parenthetically, that, because of the relative size of individual projects and the practices regarding modification agreements which eliminate defaults, default ratios for individual programs may move rather erratically from time to time.)

Recently under Section 207, default ratios have moved moderately upward and at the end of 1971 about 1.3% of these projects were in default.

The upward trend in outstanding defaults has been most apparent for the Section 221(d)(3) programs—upward from 1.60% at the end of 1969 to 9.7% at the end of 1971 for the Below Market Interest Rate program and up from .49% in 1969 to about 3.33% in December 1971 for the Market Rate program (including rent supplement projects). As completions of Section 236 projects have increased, initial delinquencies are being reported for this program—reaching 2.52% at the end of 1971.

About half of current outstanding defaults are accounted for by the Below Market Interest Rate program under Section 221(d)(3) and a sixth of the total each in the Market Rate program under Section 221(d)(3) and Section 236.

Housing inventory

The latest figures for 1971 indicate that in both the single family and multifamily insurance programs, there was an increase in units acquired and a decrease in units sold.

As of November 30, 1971, the national acquired home property inventory on hand was 37,708. The November figure cannot at this time be broken down by programs. However, as of August 31, 1971, out of a home property inventory of 34,203, 7,407 were insured under Section 221, 2,389 under Section 235, and 3,264 under Section 223(e).

The current trend indicates an increasing number of properties in inventory under Section 221, 235 and 223(e) of the Act. In addition, many of these properties are large, older homes built prior to 1920. These houses generally require extensive repair because of age and vandalism, and result in larger losses to the reserve funds. Such properties frequently are found difficult to resell.

As of December 31, 1971, the national inventory of acquired multifamily property was 180 projects containing 23,467 units. The current trend indicates an increasing number of multifamily properties in inventory out of the subsidized programs, principally Section 221(d)(3), with a December 31 inventory from this section of 21 projects with 2,009 units.

Glossary

A "default" in an FHA insured mortgage occurs if payment is not made within 30 days following the due date. Because many transactions are briefly in technical default before payments are brought current default statistics for the single family programs are collected only for mortgages which are in arrears for 90 days or more. Since the absolute number of defaults in the multifamily programs is far less than in the single family programs and since there is a greater need for monitoring of project mortgages, information on multifamily project defaults is received from mortgages no later than 60 days subsequent to the payment date.

"Foreclosures" are generally under the direction and control of the insured mortgagee. In those situations where mortgages are assigned to the Secretary, however, foreclosure proceedings (if any) are instituted by the Department. This is particularly significant in the multifamily housing program since mortgagees may assign defaulted mortgages to the Secretary as a matter of right. In the single family home program a mortgage can generally only be assigned to assist a homeowner presently experiencing difficulty making his payments who has the potential of straightening out his financial problems. In addition, mortgages on properties insured under Section 235 which are abandoned may be assigned to the Secretary. Most of the single family assignments fall in this latter category. No separate foreclosure statistics are included in this response

since information on mortgagee-initiated foreclosures as well as assigned mortgages is included in the category of "default termination."

"Default terminations" include mortgages which have been foreclosed with title tendered to the Secretary, mortgages which have been assigned to the Secretary, and mortgages foreclosed by a mortgagee who decides to retain title to the property instead of making a claim for insurance proceeds.

"Property acquisitions" includes the following: Titles transferred to the Secretary after foreclosure or the means of acquisition by the mortgagee; titles acquired by the Secretary through foreclosure of assigned mortgagees; and titles voluntarily transferred to the Secretary by mortgagors of assigned properties.

Properties included in the category of "property dispositions" include only those sold by the Secretary. Properties in the process of sale where no formal transfer of title has been made are not included.

Statistics on "insurance in force" include only those mortgages for which insurance is presently outstanding. Default terminations, maturities, prepayments (which usually occur when a property is sold and the mortgage is not assumed) and voluntary terminations of insurance contracts have been excluded from this category. The category of "insurance written" includes the total number of dwelling units covered by mortgages insured during a specified period of time for a particular program or progams.

QUESTION NO. 2

What do you believe are the underlying causes of the current problem? To what extent do they vary by area and program? Do you anticipate any change in the default situation in the near future?

As discussed in our response to Question No. 1, we have not yet completed our analysis of the data on defaults and foreclosures. However, based on experience, and the information presently available, we are addressing the following problems:

Central city environment

The problems of defaults and foreclosures are most visible and contagious in decaying neighborhoods of our central cities where they are related to the increasing problem of housing abandonment. It is important to emphasize that in these neighborhoods, where the problems are concentrated, abandoned, vandalized buildings are symptoms of the social, economic and physical ailments of our cities. Housing programs alone cannot solve the problems of these neighborhoods nor can unilateral actions by HUD solve the problems of foreclosure and abandonment. In fact, the availability of HUD financing for inner-city sales may, in some cases, be a cause as well as a cure for these problems.

Abandoned buildings are the end product of a depressing spreading process of blight which, though started earlier, frequently becomes discernible with the movement of middle income black families into older, but still good areas of the city. All too often the ugly pressures of racism cause white families, with sufficient economic flexibility, to flee to other neighborhoods in the city or the suburbs. This exodus is made possible for many homeowners by the recent inner-city availability of HUD programs which enables them to get money out of the homes they are selling through HUD financing, as well as finance their new homes with HUD or VA assistance in the suburbs.

Tenants also flee, creating vacancies which sometimes become burdens on landlords. Rather than maintain these vacancies while waiting for a family with adequate income to move in, a landlord may accept lower-income families, or welfare families. This adds social and economic differences to the racial differences and tends to accelerate movement out of the neighborhod by white families and middle income black families who had moved in to find better living circumstances. The neighborhood quickly becomes a low-income area. Early in the process, property owners and investors see reduced return and increased risk. They begin to disinvest. Those who do not sell out, frequently cut back or eliminate maintenance, the easiest cost to control. Buildings deteriorate—fulfilling a self-created prophesy.

Associated with these changes is the declining availability of public services in these neighborhoods, too frequently coupled with a substantial increase in crime. Increased risks of fire and crime are accompanied by the increased unavailability of property insurance. Fear—a lack of perceived and actual security—further accelerates the process of abandonment by economically mobile homeowners, tenants, and landlords.

In many neighborhoods, the process is well advanced. In others, it has only begun. It is clear, however, that this widespread disinvestment in a neighborhood, if not arrested, leads directly to defaults, foreclosures and abandonment, not only of FHA insured properties, but of other properties in the neighborhood.

We must address ourselves to the basic afflictions of our urban centers—social problems of crime and drug addiction, inadequate health, education and other public services, and the economic problems of soaring taxes and increasing unemployment caused by the flight of industry and business to the suburbs. The rot continues to spread, even beyond the boundaries of the central city, while a multiplicity of autonomous governments impedes or prevents the development of metropolitan solutions. The failures of government are clear at all levels. In the face of inadequate municipal efforts, state governments have provided insufficient leadership and resources while the Federal response has been characterized for too long by a confusing jumble of numerous uncoordinated single-purpose programs run by various Departmental bureaucracies from Washington.

Of course, part of the problem is a physical one. Many urban areas contain a large number of uneconomic, functionally obsolete housing units. These units are simply worn out. They cannot be rehabilitated or satisfactorily maintained at reasonable cost. Where such housing units exist in large numbers, the neighborhoods in which they are found will continue to run down and bring down with them the value of nearby housing which today may be standard. In some urban areas, the housing may not only be worn out, it may no longer be needed where it is located. The factories, the businesses, the transportation networks which originally provided the impetus for the construction of those now outmoded housing units may long since have disappeared or substantially diminished.

Homeownership programs

In our homeownership programs we must acknowledge the high risk in carrying out Congressional mandates to provide homeownership opportunities to very low income families and to insure high risk mortgages in older declining urban areas. Our foreclosure experiences in Detroit under the relaxed "acceptable risk" criteria of 223(e) among welfare families illustrates this vividly.

Inadequate Income

More and more the clientele served by HUD low income homeownership programs includes families where defaults must be anticipated. The low down payment, in many cases as low as $200, permits inclusion of families with little financial management experience. With limited financial resources many have difficulty surviving periods of unemployment, illness or unusually high expenses. For those with a very low inflexible income such as public assistance, unusual expenses lead almost inevitably to difficulties. When a homeowner is faced with inadequate income his only alternative to default is to sell the house. In the first years of mortgage amortization a sale may not be possible because the costs of sale, even assuming stable values, simply exceed the homeowner's investment in the property. Selling a home may be particularly difficult if the interest rate on the owner's mortgage exceeds the current market interest rate, thereby making an assumption of the mortgage unattractive to a potential buyer.

Inadequate Understanding of the Responsibilities of Homeownership

Many low income buyers are uninformed and unprepared to assume the responsibilities of budgeting and maintenance that go with homeownership. Not only must these new homeowners become accustomed to making regular monthly payments on their mortgages, they must also assume the new burdens of maintenance expenses that are customarily handled by landlords. For those lower income families moving to suburban areas, a new dimension of expenses arises from the need to maintain suburban standards of living in automobiles, clothing, house furnishings, education, lawn care, etc.

For those who strive to meet these tests, the financial burden is heavy. For those with less motivation, the low amount of equity required reduces incentive to change.

Physical Condition of Property

The problems of low income homeowners can increase very substantially when major repairs must be made to a house. Such a homeowner must either borrow the necessary funds for repairs at high interest rates, increasing the expenses beyond his financial capacity, or permit the house to deteriorate, perhaps to a stage where it becomes unlivable. Some families have been victimized by unscrupulous speculators. The failure of some HUD personnel to properly appraise and inspect older properties and to require necessary repairs compounded the problem. Also, in some cases defects in older homes are latent and cannot be discovered even by careful inspection. Usually as a result of a combination of these factors home buyers simply stop paying on their loans leading to default and ultimately foreclosure.

Multifamily programs

In the multifamily programs, both subsidized and unsubsidized, several factors have contributed to the rising default and foreclosure rates. They are frequently found in combination.

Inadequate Demand

A shortage of prospective tenants within the required income range may result because of a change in the local economy between the time the project was initiated and the time it is marketed. Other competing units may be built conventionally creating an excess supply in that segment of the market. In a few cases HUD has inadvertently contributed to this problem by exercising poor underwriting judgments in reviews of project proposals.

Locational Factors

Location of projects too great a distance from suitable community services and employment centers, and concentrations of low income housing, have both created difficulties leading to defaults. The site on which a project is located is crucial since success of a project, particularly one located in areas of dense population, depends not only upon the physical facilities included in the project, but also on the living environment surrounding the property which is created by the adequacy of public services and the accessibility to community facilities and employment. Our default experience with some rehabilitation projects which are not accompanied by a large scale neighborhood

rehabilitation effort demonstrates the negative influence of deteriorating neighborhoods on what otherwise might have been good projects.

Escalating Operating Costs

Taxes and maintenance costs are frequently rising faster than anticipated. HUD has sometimes approved projects as feasible on the basis of operating budgets which subsequently proved inadequate. Frequently such costs rise faster than tenant income in the subsidized projects. We are finding it necessary to approve substantial rental increases for sponsors to enable them to generate sufficient income to operate their projects even though this forces many tenants to move out or pay inordinately high percentages of their incomes. In a recent survey of the Section 236 program, for example, we found that many tenants in a cross section of projects throughout the country are paying substantially more than 25% of their adjusted income for rent.

Poor Management

The problem of spiralling operating costs is compounded by the shortage of experienced capable managers, particularly those skilled in handling problems of low income tenants. HUD personnel and project sponsors have too frequently given insufficient attention to such problems. It has become clear that housing management must be professionalized and given greater emphasis in project planning and processing.

Construction Defects and Delays

In a number of instances, contractors have exceeded their capabilities both in regard to the size of the job and in the financial resources necessary. Unrealistic cost estimates lead to overruns, liens and work stoppages. Defects have caused delays resulting in further excessive expenses, disrupted rent-up schedules and uninhabitable units.

The Near Future

Changes in the default situation in the near future cannot be predicted with precision. We believe that the actions, described below under Question No. 5, will reduce the type of situations in which hindsight has told us we may anticipate defaults.

However, changes in underwriting policy do not produce an immediate turn around in default rates. Mortgage insurance claims being paid today are most likely the result of actions taken one to four years ago. (Actuarial tables indicate that in only about 2/10 of 1% of mortgages insured is there an acquisition of title by FHA in the first year.)

(The actuarial rate is more than three times as great in the second through the fourth years diminishing thereafter but not falling below the first year rate until the ninth year.) Thus, while we have taken some preventive actions and are studying others, we cannot say that there will be a prompt decrease in defaults.

In the preceding discussion, we have not considered as a causative factor the large swings in local unemployment levels caused by changes in national allocation of resources, such as the reduction of size of Armed Forces installations or Government-oriented manufacturing. These are not completely predictable within a mortgage underwriting framework. While the adverse effect on a particular city can be great, there may be no implication of a need for remedial action in underwriting. Further, when taken into national averages, these defaults may well be actuarially acceptable.

One other factor which cannot be properly assessed in advance in underwriting is interest rate fluctuation. In cases in which mortgagors may have financed at interest rates up to 8½%, compared to the present rate of 7%, the relatively high monthly costs, where the costs of refinancing are not justified, may be a factor encouraging default, even though as originally underwritten such mortgages may properly have been considered to be within the mortgagor's ability to pay. This may apply equally to home and project mortgages.

QUESTION NO. 3

What cities in addition to Detroit have had, and can be expected to have major default problems? Do you have any notion of which cities may be expected to have Detroit-like press coverage?

Detroit

In Detroit, there were, as of November 30, 1971, 5,927 homes in the area office inventory, one-sixth of the nationwide total. The number of properties in default, in foreclosure, and being held in the redemption period was also substantial.

The particular intensity of the default and foreclosure problem in Detroit stems from several factors. First, the Detroit area has a very high percentage of single family homes with an attendant large volume of FHA insurance activity. A large absolute number of defaults and foreclosures should not, therefore, be considered unusual. Second, there is a large inventory of existing homes in the Detroit area with moderate prices (as compared with new construction) which are either in an acceptable condition or readily susceptible to rehabilitation. The availability of this resource led to the extensive utilization of the higher risk subsidy programs. Third, the relatively favorable welfare payments available in the State of Michigan and the overly-enthusiastic utilization of the Section 235 subsidy program for welfare families by the Detroit office, placed a large number of families ill-equipped to be homeowners in homeownership roles. Fourth, a high rate of unemployment in the Detroit area (which is heavily dependent upon the automobile industry and, therefore, subject to extreme cyclical variations) contributed to the problem. As of August 1971, the national percentage of unemployment was 6% while the Michigan figure was 9.6% and the Detroit figure was 8.9%. In all probability, these figures were significantly higher in the middle and innercity neighborhoods. A recent survey showed that almost 20% of the mortgagors in default reported that loss of income was the reason for their failure to continue to make payments. Finally, the heavy utilization of the 223(e) criteria, the significant number of defective homes which had been insured under Section 221(d)(2) and the attitude of potential purchasers toward certain areas of the city were contributing factors to the Detroit problem.

Homeownership—other cities

Several of the factors contributing to the area concentration of defaults and foreclosures in Detroit are found in other localities. Large numbers of moderately priced, relatively sound existing homes are located in Boston, Baltimore, Chicago, Wilmington, Los Angeles, Seattle and Dallas. The States of Michigan, California, Illinois, and Ohio all have relatively favorable welfare payments, especially to households with female heads and several children. Unfavorable local economic conditions exist in several cities: the cutback at Boeing Operations has caused severe unemployment in Seattle; the closing of an Air Force Base and the reduction in oil drilling have hurt the housing market in Lubbock, Texas; and the cutback in the space program has handicapped the city of Tampa, Florida. Inner-city problems are also not unique to Detroit—Cincinnati, Philadelphia, and the Hempstead area have all experienced problems with housing in the innercity.

Although several of the factors contributing to the concentration of default experience in Detroit are found elsewhere, it seems very doubtful that any other locality combines the economic conditions and neighborhood characteristics of Detroit with the scale of inner-city program activity in mortgage insurance which occurred in Detroit.

In San Bernardino-Riverside, in Wilmington, in Boston, and in St. Louis we have experienced default terminations under Section 221(d)(2) which are proportionately greater than those in Detroit. However, because the scale of operations in Detroit substantially surpassed the other localities, the numbers of default terminations in Detroit were much higher than in the other cities. Only in Philadelphia has the number of Section 221 default terminations (2,172) through June 1971 approached the Detroit total (2,978). The attached table shows for selected cities with respect to the Section 221(d)(2) program, the cumulative insurance of mortgages through June 30, 1971, the default terminations from 1967 through June 30, 1971, and the numbers of default terminations which could have been expected on the basis of national total experience and on the basis of a standardized actuarial pattern of terminations. The cities are ranked in the order of their percentage of cumulative default terminations.

The Section 235 program has not been in operation long enough to establish meaningful default termination experience. However, year-end 1971 reports from selected insuring offices (three-fourths of reports received) suggest that outstanding defaults may warrant special attention in some jurisdictions, particularly in South Carolina and in southern Texas (where production costs permitted a vigorous expansion of housing production at a time when the rates of economic and household growth were slowing down) as well as in western Washington.

Multifamily—Other cities

With respect to multifamily program operations, there are a few localities where mortgage insurance claims during 1970 and 1971 or outstanding defaults at the end of 1971 have been in sufficient numbers to warrant special attention. At present, we can identify the following cities on the basis of default terminations:

Boston (Section 221 BMIR, rehabilitation).
Camden (rent supplement).
Chicago (Section 221 BMIR).
Dallas-Fort Worth (selected projects in several programs).
Detroit (selected projects in several programs).
New York City (experimental rent supplement).
Seattle (selected projects in several programs).
Wichita (rent supplement).

The defaults in Seattle, Detroit, Wichita and Dallas-Fort Worth stem in large measure from economic factors, particularly cutbacks in the aerospace and related industries.

The default rate in Chicago and Boston stems primarily from the failure of large socially motivated inner-city rehabilitation programs to live up to earlier expectations.

At the end of November, three additional jurisdictions reported outstanding defaults involving more than 1,500 units in multifamily projects—Columbus, Indianapolis, and Newark. These areas will also be watched closely.

Press coverage

With respect to the second part of your question, it is very difficult to forecast with any accuracy the specific cities which may be expected to have Detroit-like press coverage. This is because the treatment of news seems to us unpredictable—depending on individual reporters' initiative as well as the editorial policies of particular newspapers. Generally, however, it would not be surprising if sustained press coverage were given to the problem of defaults and foreclosures, at least in some of the cities mentioned above. This is particularly true now because newspapers in cities around the country are, as a result of the in-depth Philadelphia

press coverage, probably far more sensitive to the default and foreclosure problem than they might otherwise have been. Particularly intensive press coverage can be expected in cities where the problems of default and foreclosure are concentrated in inner-city areas experiencing abandonment, where the houses being defaulted upon are substandard, and where legal service attorneys and public interest law firms are aggressively pursuing the interest of their lower-income clients.

QUESTION NO. 4

Given the seriousness of the present situation, what remedial actions does HUD contemplate to reduce abuses that may play a role in defaults and to ameliorate as much as possible any adverse impact on low and moderate income homeowners who might face foreclosure? What will be the effect of recent Michigan law which reduces the redemption period for vacant lots to thirty days?

Much of our effort to reduce abuses in HUD housing programs has, of course, been directed toward prevention. These steps are discussed in the answer to Question No. 5 Also more fully discussed in Question No. 5, among the preventive steps taken, has been increased investigative activity to identify and deal with abuses.

With regard to remedial action directed toward reducing the adverse impact of past abuses on low and moderate income homeowners, we have given primary attention to the effective implementation of our authority under Section 518(b) to correct or compensate owners of 235 "existing" houses for structural or other defects seriously affecting the livability of their homes.

Regulations and instructions implementing this program were issued in April of 1971 and have been periodically supplemented to improve our efforts to assist owners of homes which were improperly appraised. Further instructions are going out shortly to emphasize that our field offices must give prompt equitable relief and that the scope of such relief should be sufficient to satisfactorily compensate the owners within the limits of the statute.

We have recently written to Chairman Patman, in response to his inquiry, advising him that this Department would support an extension of the time limits for filing of claims under Section 518(b) in those cases where the mortgage was insured prior to December 31, 1970. He has indicated that he will propose such an extension and we have advised him that our field offices will continue to accept claims filed after the Section 518(b) deadline, but will postpone further action until the Congress determines whether to authorize an extension.

Although Section 518(b) is our most significant authority for providing remedial assistance, we are also continuing to utilize the long standing authority under Section 518(a) to provide assistance to homeowners of new homes constructed under FHA inspection procedures.

This Department has recommended in proposed 1971 legislation the extension of our remedial authority to cover all existing housing insured under the relaxed underwriting criteria applicable in declining urban areas. Our proposal would eliminate the present situation in which unsubsidized homeowners, who bought in declining urban areas under FHA insurance programs, are barred from Section 518(b) assistance. It is extremely difficult to justify a distinction between homeowners under the 235 program and other homeowners in deteriorating urban areas whose houses have serious defects which were missed in HUD appraisals or inspections. In many cases, the unsubsidized 221(d)(2) or 203(b) homeowner may have no greater available resources after making his mortgage payments than a 235 homeowner and, thus is equally unable to assume the burden of correcting major defects.

In cases where, because of abuses or insuring office failure to follow underwriting procedures, mortgagors may have purchased homes beyond their ability to maintain or pay for, the Department will use all of its authority to provide forbearance relief. Mortgagees are often reminded of the forbearance and mortgage assignment provisions in the home mortgage insurance programs and their responsibilities for prudent and humane servicing. Generally, they take the initiative in working out informal or formal forbearance arrangements on the basis of their judgment on the possibility of avoiding foreclosure. Only on relatively rare occasions have home mortgagors in distress scught assistance from HUD field offices. When such assistance is sought—and we are considering various proposals which would make it more likely that hardship cases are brought to our attention—we have and will continue to make every reasonable effort to assure that those seeking forbearance assistance receive all possible consideration.

In regard to the part of your question concerning the new foreclosure and redemption law in Michigan applicable to abandoned properties, the effect should be beneficial. The new law will reduce to 30 days the time after foreclosure sale in which a mortgagor who has abandoned his home may appear and redeem the property. This will provide a speedier way of obtaining control of abandoned property and may in some cases assist in reducing the impact of vandalism prior to rehabilitation and resale. Vandalism of a property, however, often occurs within days after its abandonment. If vandalism is to be arrested, therefore, it is crucial that knowledge of the abandonment be received immediately in order to permit quick boarding-up of a property. We are presently considering several proposals to provide prompt protective measures in the case of an abandonment, including the levying of surcharges against the lender where he fails to adequately protect the property and the authorization of fees to mortgagees or third parties to perform periodic property inspections.

Whether or not vandalism is substantially reduced by the new Michigan law, the property, by being more quickly rehabilitated and returned to use (or the site cleared if this is the better course), will not contribute so long to a general air of decay in a neighborhood. We believe that this will help relieve the snowballing effect that first one, then another, abandoned property has in contributing to neighborhood decay.

QUESTION NO. 5

What preventive measures are being considered by HUD to reverse the present default trend? Do you expect that these measures can be accomplished by a re-affirmation of existing policies, institution of new policies and/or adjustments in the existing housing legislation? What experience is there to indicate the utility of an intensive counseling program in conjunction with home-buying?

The first step in default prevention is clearly to emphasize quality in the administration of our housing programs. Only if our case-by-case processing is effective can we expect improvement. We have already made a number of reforms in our processing procedures and expect to implement additional steps in the near future. At the same time we are, through our newly decentralized organization, taking steps to provide increased supervision and review not only in area offices but in our regional offices as well. HUD has recently stressed the role of regional offices in providing careful supervision of the implementation of our programs. We expect that this strengthened supervision together with our newly functionalized management structure will provide a more effective follow through.

A number of the specific steps taken by this Department to reverse the present default trend in the cities are described below. The larger problem of abandonment and decay is addressed later in this response.

Selection criteria for subsidized programs

Utilizing the new Project Selection Criteria published in the Federal Register on January 7 of this year, we are giving increased emphasis to the screening of applications for our subsidized programs to insure that only the best available are funded. The utilization of these criteria requires a very thorough analysis of projects, even before feasibility processing is begun. Some of the items considered are:

(1) the degree to which the project responds to the most urgent needs for low income housing in terms of number of bedrooms and structure type;

(2) the extent to which the project provides opportunities for minorities to live in housing outside existing areas of minority concentration;

(3) the extent to which the project location avoids concentration of subsidized housing;

(4) whether it is located in neighborhoods containing adequate facilities and services and accessible to job opportunities;

(5) consistency with principles of orderly growth and development with particular attention given to multi-jurisdictional approaches such as metropolitan development plans;

(6) the relationship of the proposed project to physical environment avoiding adverse environmental conditions, natural or manmade;

(7) the ability of contractors to produce quality housing and to generate job opportunities for minority workers;

(8) provision for sound housing management such as occupancy plans, fiscal controls, realistic expense estimates, and plans for maintenance, tenant-management relations and social services.

This selection system is an extremely significant management tool for insuring that Departmental resources are used to support the best possible projects. Used properly it should enable us to eliminate, at the outset, many projects or conditions which contain the seeds of default and foreclosure.

Homeownership programs

We have taken a number of steps to improve the administration of our homeownership programs. Most of these reforms cover both subsidized and unsubsidized housing. First, a more careful screening of applicants: Instructions are being issued to field offices making clear that a firm commitment for mortagage insurance is to be issued only when the mortgage credit analysis indicates that the mortgagor can be reasonably expected to meet the mortgage obligation as well as other recurring family needs, property maintenance, and repair expenses. More emphasis will be placed on determining that the prospective mortgagor will not be obligating himself to spending a greater portion of his income for housing than he can reasonably be expected to carry. Also, the credit history of the borrower will have to indicate that he is able to accept the responsibility of homebuying or that counseling is being provided for that purpose. (A discussion of counseling is included below.)

Appraisal procedures have been strengthened, particularly in inner-city areas, in order to obtain more thorough and realistic appraisals. An intensive training program has been instituted for all staff and fee appraisers handling inner-city work. Sketch floor plans and front and rear photographs are being required in these areas. All appraisals of existing properties in such areas receive a full desk review and 10% receive an additional field review including an additional inspection prior to the issuance of

the commitment. Appraisal techniques have been improved. We now make a practice of identifying ownership where the seller is not the owner-occupant and use a modified cost approach to appraisal in areas dominated by speculator activity.

For existing properties the requirements concerning repairs to be made before commitment are being strengthened. We have given particular attention to contractors' certifications concerning the condition of the mechanical equipment and the structure, and more careful inspections to determine whether required repairs have been satisfactorily completed before the property is sold. In Detroit, and in code enforcement areas in other cities, we have instituted an additional requirement for mortgage insurance that city inspections be performed. This procedure has provided an outside check on our own inspections.

In our implementation of Section 518(b) we have required that sellers agree to reimburse HUD for repairs made pursuant to that section. In the case of non-occupant sellers, we have required escrows. In addition to the remedial effect noted in the answer to Question No. 4, these procedures will have a salutary effect in inducing presale repairs.

By making a more careful assessment of the ability of an applicant to handle the costs and responsibilities of homeownership and by attempting to reduce the likelihood of serious defects or extensive maintenance problems, we should reduce defaults due to the purchaser's dissatisfaction or the purchaser's inability to cope with the physical or financial problems of maintenance repairs.

In addition to repairs which can be made to subsidized housing under the authority of 518(b), Title I regulations have been changed to permit home improvement loans to be insured for homeowners with irregular incomes (but adequate credit background).

For those in the lower end of the income brackets eligible as homebuyers under assisted programs, but not fully ready to discharge all ownership responsibilities, the Department will shift the emphasis from immediate purchase to purchase under the recently developed Turnkey III and IV programs, using local public agencies. This has the advantage of providing subsidies through the supervision of a governmental entity which has public responsibility for assuring that the objectives are being carried out. Under these programs initially, the occupants are not given title to their dwellings. Instead they are given the opportunity and the right to purchase them for the unpaid balance when they can afford to do so. During this period they are called "homebuyers" and have lease-purchase agreements protected by the annual contributions contract with HUD. These programs provide incentive to the families in the form of opportunities to eventually own the dwelling units in which they live as well as cash incentives for maintaining their dwellings while recognizing that until the family is fully able to discharge the responsibilities of financing, taxes, insurance, utilities, maintenance and replacements including reserves), homeownership may neither be good for the well-being of the family nor good for the continued well-being of the house and the neighborhood.

Multifamily housing

In addition to the implementation of the Project Selection Criteria for subsidized multifamily projects, we have instituted a number of other reforms directed to reducing the default and foreclosure rate on all multifamily projects.

We have initiated a much tighter feasibility analysis of applications with a particular emphasis on management. New directives require a careful examination of operating expense estimates to insure that they are adequate. A management plan is being required from each sponsor at the feasibility stage. The management agreement is to be checked and analyzed to insure that the fees are adequate to do the job. The rent-up procedures of owners are being closely examined with an eye to the utilization of rent supplements to avoid excessive rent for lower income tenants. We have also directed that particular attention be given to utility costs and property taxes to make sure that the estimates are realistic and accurate before a commitment is issued. Supplementing these efforts, we have initiated a process for certifying managing agents who will service multifamily projects and requiring sponsors to have managing agents involved in project development from the feasibility stage.

In addition to insisting on more careful attention to management at an early stage in processing we are taking other steps to improve the quality of our projects, particularly 236:

(1) Closer coordination with the Sponsor's architect during the design stage and better architectural oversight during construction;

(2) Project design emphasizing long term marketability, without unnecessary luxury so that costs are not excessive;

(3) More complete rehabilitation work specifications;

(4) Proper development and use of cost data banks for better cost estimation;

(5) Stronger credit analysis of sponsors and tighter controls over mortgage funds during construction.

We have also corrected a problem arising after construction by permitting interest reduction payments to be made during the rent-up period after completion of construction and prior to final endorsement for insurance. Delays in complying with cost certification and other legal and administrative requirements, after all interest allowed in the mortgage for the construction period had been used, made this step necessary; rentals during this period are based on Section 236 interest assistance payments being made by HUD and thus were inadequate to meet debt service without assistance.

Enforcement activities

As briefly noted in response to Question No. 4, the Department has taken several steps in the mortgage insurance programs to curb abuses which may lead to defaults.

In 1971, the Department substantially increased its investigation of abuses by participants in the mortgage insurance programs. The number of investigations conducted by the HUD Office of Investigation or by the FBI (initiated by the Department) increased from 532 in 1970 to 1136 in 1971. In the same period of time the number of persons or organizations debarred from participation in the mortgage insurance programs pursuant to Section 512 of the National Housing Act increased from 53 to 68. This activity occurred largely in the single family mortgage insurance program.

In the multifamily mortgage insurance programs, we continue to conduct a central office review of the Department's previous experience with sponsors, mortgagors, contractors, consultants and packagers. Because of the growing importance of the management function in multifamily projects, we have recently added management agents to the parties subject to such review. When the review discloses adverse information relating to the previous participation of these parties, a new project is not approved with respect to their participation, or approval is withheld until the problem is satisfactorily resolved. In 1971 the participation of 26 persons or organizations was disapproved because of adverse information and approval was withheld on 114 persons pending resolution of problems in existing projects.

In 1972, we expect to step up enforcement activity. In particular, we have plans to include as reasons for debarment certain kickbacks paid by mortgagees as well as the unauthorized and unwarranted use of phrases like "FHA Approved." We also expect that new procedures for inspections and repairs should permit effective enforcefent action against improper certification by repairmen.

Counseling experience

The counseling program has been operated with volunteer agencies with varying programs of counseling. The Department does not have hard statistical data on the effects of this counseling. However, we expect to carefully evaluate a new, more standardized program for purchasers under Section 235 and Section 237, which has been initiated in fifteen cities (including Detroit). The new program provides for payment of a fee that will be negotiated but cannot exceed $100 for each counseled applicant obtaining HUD–FHA mortgage insurance. The fee is to be withheld from the sales proceeds at time of settlement—it is not to be paid by the homebuyer.

Counseling agency contracts with HUD require them to screen all applicants for Section 235 and 237 programs referred to them by HUD and to individually structure a counseling program to meet the particular needs of each applicant. Depending on the applicant, counseling will include information on finances, housing selection, purchase procedures, and property maintenance. The agencies will also provide referrals to other community services. Post-occupancy counseling will be made available, as needed.

These efforts should provide some statistical evidence of the effect of counseling on defaults and eventual foreclosures. If the program proves effective we will consider expansion to include other homeownership programs for low and moderate income families and to provide such assistance on a nationwide basis.

Other housing policies for 1972

In 1972 we expect to give particular emphasis to insistence on quality production in subsidized multifamily programs. Quality will be an important control factor on subsidized processing. In order to emphasize quality the Fiscal Year 1973 budget request for 236 has been limited to $150 million of contract authority as compared to $200 million in Fiscal Year 1972.

In addition to insisting on quality ourselves, we are preparing a consumer education program to help homebuyers and renters look out for themselves. We will attempt to reach buyers and renters in the conventional market, as well as those using HUD programs. TV spots, as well as written material, are being prepared to implement this effort. A concerted effort will be made to educate the public about the potential pitfalls of purchasing housing.

In light of our experience in moving into full-scale production without adequate testing of complex subsidy programs, we will begin carefully testing other approaches to meeting the nation's housing needs. We expect to give particular attention to studying housing allowances as a technique for providing an efficient and equitable approach to subsidizing low income families. We also plan to look closely at the Section 23 leasing program as a tool for improving the quality of the existing housing stock.

Detroit "early-warning system"

With research funds, HUD is sponsoring the development of a computerized "early-warning system" on defaults of FHA-insured homes which will be immediately installed in the Detroit Area Office where the problem is severe. The computerized information system, which will consist of a comprehensive list of properties in default and their location, will enable the Detroit Office to take timely and effective remedial actions, such as mortgagor counseling and assisting lenders in providing relief to homeowners, to reduce HUD acquisition of such properties.

Realinement of department staff

The Department is presently planning to deploy additional staff now assigned in our Regional and Headquarters Offices to Area and Insuring Offices where they are needed the most to improve our program delivery, particularly in the housing programs. A Management/Manpower Review Team has been used to identify areas where additional deployment of staff can be made from these offices to the field. The over-all objective is to increase the staff in our Area and Insuring Office by at least 400 positions before the end of this Fiscal Year.

Metropolitan solutions to metropolitan problems

At the same time we are working to improve our housing programs, we must deal with the broader problems of our cities. These problems—the problems of crime, unemployment, drugs, declining tax base, inadequate public services, poor quality education, disinvestment, and the general lack of confidence in the economic and social vitality of an area—cannot be cured by housing programs alone. If these problems are not faced and dealt with, the result is widespread withdrawal from our central cities by private investors and private leadership.

On a neighborhood level, as we have seen in Detroit and other cities, the result is abandonment—empty homes, apartments and stores. The causes leading to the loss of confidence and disinvestment which result in abandonment, are complex and interdependent. It is clear that effective lasting remedies must be mutually supportive. The strategy for attacking these problems cannot be dictated by the Federal Government but must be developed by the leaders and residents of our metropolitan areas who are most directly involved. Only in this way can a concentrated, coordinated response be developed and a scatter-gun, band-aid approach avoided.

We have already taken steps at HUD to encourage such an approach. This year we grouped all of the community development programs under one Assistant Secretary to promote better coordination of HUD assistance. To implement this coordinated approach, the Department has already begun encouraging localities to prepare their own annual plans for coordinated community development. On the basis of these plans HUD has already entered into agreements with sixteen localities covering a full range of housing and community development projects for the year. On the basis of these "Annual Arrangements" both the Department and the local community reach agreement on commitment to a specific set of priorities.

We have also turned the Model Cities Program around to increase the capacity of state and local officials to set their own priorities and strategies for dealing with their problems. As a major step to encourage responsible local action, we have introduced "planned variations", a two-year demonstration program giving 20 cities greater flexibility in the use of model cities funds. Sixteen of these cities are able to use the model cities approach on a city-wide rather than just a neighborhood basis. This way of doing business can readily be adapted to a metropolitan attack on the causes of abandonment.

This Department, of course, does not have all of the answers or all of the resources to combat these problems. In addition to the tools available to HUD, however, other Federal Departments have programs which can be utilized in a comprehensive attack on these problems. The recent action of the Justice Department in making available funds to fight inner-city crime is an outstanding example of a federal effort to deal with a problem which is closely associated with neighborhood abandonment.

There is no single solution to the array of problems leading to neighborhood abandonment. The problems in each of our metropolitan areas—although having common elements—may have to be approached differently. We have, therefore, contracted for a variety of research studies—some of which have already been completed—in order to gain better understanding and clearer perspective of the process of neighborhood abandonment. We are also designing a program of experiments which will be carried out in several cities to test means of preventing neighborhood abandonment. We recognize that a neighborhood strategy in an area characterized by extreme decay and widespread abandonment must be different from that directed toward a neighborhood where blight is only threatened. It is in the latter neighborhoods that we have our greatest leverage and opportunity to alter the pattern of contagious spread of blight.

It is the thesis of the experimental program on prevention of abandonment, that those neighborhoods that are just beginning to show signs of trouble can be identified and that a combination of actions can be initiated which will keep them from becoming badly deteriorated. This is an effort of conservation, emphasizing prevention of decay over correction. A combination of neighborhood actions has to be designed to restore confidence in that neighborhood: confidence on the part of families who have the opportunity to move in or out, confidence on the part of potential investors and financial institutions that there is still a reasonable return on investment to be made in the area.

Steps have to be taken to restore this confidence while there is still enough of it left to work with. This implies working in threatened neighborhoods before crime and vandalism have increased greatly, before commercial vitality is sapped, before lending institutions have decided not to make further loans in the area, before economically mobile families decide to move and before there has been an irreversible erosion of the quality of the public services. We are working on the premise that intervention in a few key elements can have a major effect on the confidence of some of the major groups involved, the financiers, the mobile middle-class, and the city government itself.

Where the abandonment process is already well under way HUD also has tools to assist local leaders seeking corrective measures. Redevelopment of large areas is possible through the annual renewal program known as the Neighborhood Development Program (NDP). Municipalities may be provided funds to assemble vacant parcels, demolish buildings, install public improvements, relocate families and business and write down land costs to redevelopers. New land uses, including new housing, space for commerce and industry, parks and cultural institutions are often the only remedy available to cure the illness of neighborhoods affected by abandonment. Grants for urban parks and neighborhood facilities have permitted some cities to replace vacant structures with green spaces or community service centers that can contribute to a revitalization of the area. Other Federal agencies also have programs which can contribute to these efforts.

We have begun to call meetings in several key metropolitan areas—Boston, Detroit, Philadelphia, St. Louis and Wilmington for the purpose of determining the extent to which available resources and leadership can be applied in a more effectively metropolitan approach. The idea is to arouse an awareness that living or having one's business in the suburbs does not provide immunization against the rapid deterioration of core areas. These meetings will enable us to determine whether the action to be taken can be based on joint federal, state, metropolitan-wide, public and private effort, or whether it must for the immediate future be limited to federal and central city action.

The Department will not be bringing to these meetings any ready-made HUD plan, nor any other Government-agency plan. The purpose is rather to make government and private leadership, at all levels, aware of their options and of the various approaches which are available for dealing, on a metropolitan basis, with the problems associated with inadequate transportation, education, jobs and housing, as well as such problems as pollution, drugs and crime.

We will invite the governors, the mayors of the suburbs and the central cities as well as county and area-wide officials and representative private leadership. We have also invited key officials from other Federal Departments whose responsibilities include programs addressed to the social, economic and physical problems of the cities. We hope through these meetings to provide an opportunity for the creation of a metropolitan strategy.

This will be a time for decision making. Government and private leaders at the state and local level will have the option of invoking the various Federal programs available to solving metropolitan problems on a metropolitan basis—or—continue to approach these problems using the existing network of fragmented local government bodies. The Department is prepared to devote additional resources where promising possibilities develop for a metropolitan approach to these problems. It is clearly a choice which must be made at the local level. That is why we have called these the TOP meetings—The Option Process.

FHA MULTIFAMILY MORTGAGE INSURANCE WRITTEN, DEFAULT TERMINATIONS, AND MORTGAGES IN DEFAULT, ALL SECTIONS, 1960-71

[Number of dwelling units]

Year	Insurance written	Cumulative insurance written	Insurance in force	Default terminations[1]		Cumulative default terminations		In serious default[2]	
				Number	As a percent of insurance in force at beginning of year	Number	As a percent of cumulative insurance written	Number	As a percent of insurance in force
1971[3]	207,149	1,796,737	1,190,000	14,872	1.41	174,464	9.71	33,000	2.77
1970	200,660	1,589,588	1,054,029	5,348	.61	159,592	10.04	15,813	1.50
1969	81,369	1,388,928	880,080	2,416	.30	154,244	11.06	4,950	.56
1968	76,195	1,307,559	813,534	10,038	1.32	151,828	11.56	7,101	.87
1967	40,962	1,231,364	760,420	9,418	1.28	141,790	11.47	14,299	1.88
1966	32,814	1,190,402	738,503	17,528	2.32	132,372	11.08	12,480	1.69
1965	36,950	1,157,588	755,675	10,726	1.42	114,844	9.89	12,851	1.70
1964	54,248	1,120,638	757,494	9,457	1.25	104,118	9.28	13,246	1.75
1963	53,344	1,066,390	756,895	10,817	1.44	94,661	8.88	11,460	1.51
1962	64,134	1,013,046	751,578	6,054	.84	83,844	8.28	8,368	1.11
1961	58,523	948,912	718,730	7,773	1.12	77,990	8.29	10,110	1.41
1960	49,101	890,389	691,857	10,425	1.51	70,017	7.86	3,781	.55

Footnotes at end of table.

FHA SEC. 207 MULTIFAMILY MORTGAGE INSURANCE WRITTEN, DEFAULT TERMINATIONS, AND MORTGAGES IN DEFAULT, 1960–71

1971 [3]	15,429	265,366	157,000	956	0.63	34,042	12.83	2,000	1.27
1970	15,890	249,937	152,953	846	.60	33,086	13.24	1,650	1.08
1969	1,210	234,047	140,659	495	.35	32,240	13.78	807	.57
1968	616	232,837	141,318	2,812	1.94	31,745	13.63	1,003	.71
1967	1,910	232,221	145,814	2,788	1.88	28,933	12.46	5,055	3.48
1966	3,912	230,311	148,060	4,365	3.04	26,145	11.35	4,031	2.72
1965	7,414	226,399	152,253	2,336	1.54	21,510	9.50	3,558	2.34
1964	14,310	212,089	152,131	3,916	2.66	19,174	9.04	3,003	1.97
1963	23,902	197,779	147,072	2,680	2.10	15,258	7.45	4,408	3.00
1962	27,061	173,877	127,801	1,300	1.25	12,578	7.23	1,399	1.09
1961	23,302	150,575	104,224	1,805	2.19	11,478	7.41	1,707	1.64
1960	19,447	131,128	82,558	1,754	2.68	9,473	7.22	1,356	1.64

FHA SEC. 221MR MULTIFAMILY MORTGAGE INSURANCE WRITTEN, DEFAULT TERMINATIONS, AND MORTGAGES IN DEFAULT, 1960–71

[Number of dwelling units]

Year	Insurance written	Cumulative insurance written	Insurance in force	Default terminations [1]		Cumulative default terminations		In serious default [2]	
				Number	As a percent of insurance in force at beginning of year	Number	As a percent of cumulative insurance written	Number	As a percent of insurance in force
1971 [3]	73,947	188,917	159,000	3,367	3.15	9,629	5.10	5,300	3.33
1970	44,830	114,970	106,732	499	.80	6,262	5.45	1,891	1.77
1969	25,296	70,140	62,401	343	.92	5,763	8.22	303	.49
1968	21,135	44,844	37,448	402	2.40	5,420	12.09	575	1.54
1967	6,213	23,709	16,715			5,018	21.16	608	3.64
1966	3,568	17,496	10,881	1,744	18.58	5,018	28.68	302	2.78
1965	3,049	13,928	9,384	432	6.38	3,274	23.51	1,616	17.22
1964	2,456	10,879	6,767	190	3.80	2,842	26.12	148	2.19
1963	1,303	8,423	5,001	1,538	28.62	2,652	31.49	346	6.92
1962	1,202	7,221	5,373	173	3.48	1,114	15.65	180	3.35
1961	686	6,019	4,977	11	.26	941	15.08	302	6.07
1960	1,663	5,333	4,302	930	26.06	930	17.78	84	1.95

FHA SEC. 221D3 BMR MULTIFAMILY MORTGAGE INSURANCE WRITTEN, DEFAULT TERMINATIONS, AND MORTGAGES IN DEFAULT, 1960–71

1971 [3]	6,857	188,658	170,000	5,534	3.36	10,964	5.81	16,500	9.71
1970	19,255	181,801	164,888	3,139	1.98	5,430	2.99	8,049	4.88
1969	35,759	162,546	158,865	889	.72	2,291	1.41	2,537	1.60
1968	49,090	126,787	124,264	122	.16	1,402	1.11	4,171	3.36
1967	25,415	77,697	76,417			1,280	1.65	1,826	2.39
1966	12,908	52,282	51,002	326	.85	1,280	2.45	1,236	2.42
1965	11,984	39,374	38,420	470	1.75	954	2.42	623	1.62
1964	14,507	27,390	26,906	484	3.76	484	1.77	326	1.21
1963	8,696	12,883	12,883					484	3.76
1962	3,867	4,187	4,187						
1961	320	320	320						
1960									

FHA SEC. 231 MULTIFAMILY MORTGAGE INSURANCE WRITTEN, DEFAULT TERMINATIONS, AND MORTGAGES IN DEFAULT, 1960–71

1971 [3]	190	40,636	23,200	489	2.02	15,372	37.83	200	0.86
1970	170	40,446	24,193	192	.79	14,883	36.80	732	3.03
1969	348	40,276	24,315	82	.34	14,691	36.48	275	1.13
1968	1,242	39,928	24,049	3,382	12.78	14,609	36.59	315	1.31
1967	869	38,686	26,463	1,878	6.84	11,227	29.02	2,845	10.75
1966	1,724	37,817	27,472	5,159	16.42	9,349	24.72	2,452	8.83
1965	4,603	36,093	31,410	1,921	6.64	4,190	11.61	4,144	13.19
1964	5,903	31,490	38,923	1,864	7.48	2,269	7.21	2,537	8.77
1963	7,743	25,587	24,909	405	2.27	405	1.58	838	3.36
1962	8,836	17,844	17,844					631	3.54
1961	5,760	9,008	9,008					74	.82
1960	3,041	3,248	3,248						

FHA SEC. 232 MULTIFAMILY MORTGAGE INSURANCE WRITTEN, DEFAULT TERMINATIONS, AND MORTGAGES IN DEFAULT, 1960–7 1

1971 [3]	9,900	85,815	72,900	1,635	4.34	4,787	5.58	2,000	2.74
1970	12,785	75,915	67,681	447	.80	3,152	4.15	2,350	3.47
1969	10,691	63,130	55,973			2,705	4.28	216	.39
1968	8,522	52,439	46,761			2,705	5.16	447	.96
1967	4,952	43,917	38,905	332	.95	2,705	6.16	100	.26
1966	5,806	38,965	34,796	728	2.38	2,373	6.09	932	2.68
1965	6,299	33,159	30,573	850	3.31	1,645	4.97	709	2.32
1964	8,747	26,860	25,658	745	4.18	795	2.96	331	1.29
1963	9,677	18,113	17,838	50	.59	50	.28	300	1.68
1962	6,635	8,436	8,436					75	.89
1961	1,630	1,801	1,801						
1960	171	171	171						

FHA SEC. 236 MULTIFAMILY MORTGAGE INSURANCE WRITTEN, DEFAULT TERMINATIONS, MORTGAGES IN DEFAULT 1969–71

1971 [3]	100,557	224,588	210,000	1,969	1.59	1,969	0.88	5,300	2.52
1970	112,232	124,031	123,575					841	.68
1969	11,799	11,799	11,799						

Note: No date prior to 1969 (new program).

[1] "Default terminations" are mortgages foreclosed or assigned to HUD Secretary.

[2] "Serious defaults" for project mortgages are those in areas for 60 days or more.

[3] Figures for 1971 are preliminary.

FHA HOME MORTGAGE INSURANCE WRITTEN, DEFAULT TERMINATIONS, AND MORTGAGES IN DEFAULT, ALL SECTIONS: 1960–71

[Number of mortgages]

Year	Insurance written	Cumulative insurance written	Insurance in force	Default terminations [1] Number	Default terminations [1] As a percent of insurance in force at beginning of year	Cumulative default terminations Number	Cumulative default terminations As a percent of cumulative insurance written	In serious default [2] Number	In serious default [2] As a percent of insurance in force
1971 [3]	608,166	10,841,960	5,352,000	34,902	0.69	450,743	4.16	123,600	2.31
1970	471,981	9,965,368	5,067,933	31,095	.65	415,841	4.17	93,005	1.84
1969	453,676	9,493,387	4,792,523	27,701	.61	384,746	4.05	70,832	1.48
1968	425,339	9,039,711	4,573,459	36,098	.82	357,045	3.95	61,604	1.35
1967	395,814	8,614,372	4,401,885	45,260	1.06	320,947	3.73	63,184	1.44
1966	421,756	8,218,558	4,250,061	48,726	1.19	275,687	3.35	60,368	1.42
1965	537,851	7,796,802	4,090,458	46,033	1.19	226,961	2.91	64,018	1.57
1964	490,045	7,258,951	3,860,913	41,986	1.15	180,928	2.49	59,611	1.54
1963	412,779	6,768,906	3,643,981	37,518	1.14	138,943	2.05	51,551	1.41
1962	395,808	6,356,127	3,476,596	30,994	.94	101,425	1.60	46,186	1.33
1961	368,561	5,960,319	3,297,421	20,724	.67	74,909	1.26	40,713	1.23
1960	366,213	5,591,758	3,093,034	7,914	.28	50,909	.91	26,850	.87

FHA SEC. 203 HOME MORTGAGE INSURANCE WRITTEN, DEFAULT TERMINATIONS, MORTGAGES IN DEFAULT, 1960–71

1971 [3]	332,495	8,706,680	4,400,000	18,705	0.44	334,842	3.85	84,700	1.92
1970	273,946	8,374,185	4,270,264	21,783	.52	316,137	3.78	72,097	1.69
1969	341,518	8,100,239	4,162,713	21,255	.53	294,354	3.63	60,368	1.45
1968	371,123	7,758,721	4,021,422	28,822	.75	273,099	3.52	54,380	1.35
1967	351,398	7,387,598	3,866,836	35,970	.97	244,277	3.31	55,294	1.43
1966	368,687	7,036,200	3,724,696	38,744	1.08	208,307	2.96	52,520	1.41
1965	457,373	6,667,513	3,584,655	37,759	1.11	169,563	2.54	55,343	1.54
1964	424,896	6,210,140	3,399,793	34,835	1.08	131,804	2.12	52,789	1.55
1963	365,707	5,785,244	3,214,687	31,909	1.04	96,969	1.68	45,181	1.41
1962	354,141	5,419,537	3,063,888	25,330	.87	65,060	1.20	40,592	1.32
1961	340,345	5,065,374	2,896,288	16,846	.62	43,569	.86	34,799	1.20
1960	333,107	4,725,029	2,697,106	5,763	.23	23,879	.51	22,490	.83

FHA SEC. 221(d)(2) HOME MORTGAGE INSURANCE WRITTEN, DEFAULT TERMINATIONS, AND MORTGAGES IN DEFAULT, 1960–71

1971 [3]	115,407	551,931	460,000	9,492	2.54	46,327	8.39	26,000	5.65
1970	78,131	436,524	373,080	6,710	2.18	36,835	8.44	15,919	4.27
1969	72,143	358,393	308,236	4,644	1.87	30,125	8.41	8,506	2.76
1968	40,406	286,250	248,334	4,591	2.11	25,481	8.90	5,282	2.13
1967	30,535	245,844	217,938	5,315	2.71	20,890	8.50	5,158	2.37
1966	35,764	215,309	196,065	4,714	2.82	15,575	7.23	4,646	2.37
1965	55,327	179,545	167,003	3,547	3.05	10,861	6.05	4,154	2.49
1964	42,899	124,218	116,224	2,465	3.23	7,314	5.89	2,257	1.94
1963	28,819	81,319	76,238	1,712	3.48	4,849	5.96	1,648	2.16
1962	23,201	52,500	49,250	1,485	5.38	3,137	5.98	1,287	2.61
1961	7,383	29,299	27,597	1,296	6.04	1,806	6.16	1,205	4.37
1960	9,241	21,916	21,448	400	3.17	466	2.04	835	3.89

FHA SEC. 235(I) HOME MORTGAGE INSURANCE WRITTEN, DEFAULT TERMINATIONS, AND MORTGAGES IN DEFAULT, 1968–71

1971 [3]	144,926	275,768	265,000	5,766	4.45	6,978	2.53	11,300	4.26
1970	105,229	130,842	129,608	1,771	4.58	1,212	.93	2,536	1.96
1969	25,574	25,613	25,571	41	(4)	41	.16	140	.55
1968	39	39	39						

FHA SEC. 223e HOME MORTGAGE INSURANCE WRITTEN, DEFAULT TERMINATIONS AND MORTGAGES IN DEFAULT, 1968–70 AND 1ST 6 MONTHS OF 1971

1971 [5]	10,644	84,166	80,302	1,335	(6)	3,446	4.09	(7)	(7)
1970	27,694	73,522	71,200	2,086	4.58	2,111	2.87	(7)	(7)
1969	38,814	45,828	45,578	25	.36	25	.05	(7)	(7)
1968	7,014	7,014	7,014						

[1] Default terminations are mortgages foreclosed or assigned to HUD Secretary.
[2] Serious defaults for home mortgages are those in arrears for 90 days or more.
[3] Figures for 1971 are preliminary.
[4] Data not significant.
[5] 1st 6 months only.
[6] Percentage based on 6-months period not comparable.
[7] Not available.

Note: Above figures are included in data presented on home mortgage tables covering operations under other programs.

THE DOCK STRIKE

Mr. COOPER. Mr. President, I ask unanimous consent that the message of President Nixon to the Congress on February 2, 1972, asking for emergency legislation to halt the dock strike be printed in the RECORD. I hope very much that the Committee on Labor and Public Welfare will immediately hold hearings and report to the Senate a bill which will protect the people and the security of our country against this type of transportation strike which proceeded without true collective bargaining. I have served 5 years on the Labor Committee and I know that legislation can be considered and enacted if we will do our duty.

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

MESSAGE OF PRESIDENT NIXON

To the Congress of the United States:

As the dock strike on the West Coast continues to impose a cruel and intolerable burden upon the American people, I appeal once again to the Congress for emergency action to end these transportation disputes.

There are now two bills before the Congress dealing with transportation stoppages, and immediate action is urgently required on both:

—S.J. Resolution 187, which would quickly halt the West Coast strike and lead to a fair and early settlement under binding arbitration.

—And the Crippling Strikes Prevention Act, S. 560, which would grant the executive branch sufficient authority so that future disruptions in the transportation industry could be averted.

The American public is rightly frustrated today by the inaction of Congress in ending the West Coast strike. Some crops are rotting while others are stalled in their bins, export customers are looking for more dependable trading partners, and jobs and businesses are threatened with extinction. Tens of thousands of people, who share no part of this dispute, are suffering needlessly.

Yet our Government stands idly by, paralyzed because the executive branch has exhausted all available remedies and the Congress has been unwilling to enact necessary legislation. This failure to act in time of need speaks directly to the question of why some Americans have lost confidence in their government.

We must act now, swiftly and decisively.

Twelve days ago I proposed special legislation to end this strike and asked for enactment within a week. For inexplicable reasons, that deadline has passed without a response, and I must report to the American people today that I cannot predict when relief will come. To say that I am disappointed is to state the case in its mildest terms.

For those who argue that the Government should not interfere with collective bargaining, the short answer is that the bargaining in this case has thus far failed—and failed badly for 15 months. I share the belief that Government ordinarily should not tamper with the freedom of bargaining, but when the processes have broken down and the Nation's health and safety are at stake we in public office have no right to turn our heads.

I am also aware that some members of Congress believe this strike will soon be settled at the bargaining table. I sincerely hope they are right, and I urge the parties to continue their bargaining, but the 15 months of fruitless bargaining which have already passed convince me that we cannot depend on this solution.

ISSUES OF GREAT URGENCY

In the absence of an agreement, the critical question is whether all of us in Washington sense the urgency of these issues. I can assure you that the farmer whose grain is wasting away and the exporter who has lost his contract regard this strike as a matter of utmost urgency, and I plead with the Congress to recognize their plight.

For two years I have been trying to impress upon the Congress the need for new legislation in this field. In 1970, during the 91st Congress, and again in 1972 during the 92nd Congress, I proposed the comprehensive crippling strikes prevention program so that future transportation stoppages could be resolved. There has been precious little response. Yet I am confident that if the Congress had enacted those measures, there might have been no strike on the West Coast and the issues in dispute would have been fairly settled.

Let us resolve that this stoppage on the West Coast will be the last of its kind. The Congress should act immediately to end the West Coast strike and, with utmost dispatch, pass the Crippling Strikes Prevention Act.

THE CRIPPLING STRIKES PREVENTION ACT

Certainly the more far-reaching of the two proposals on which I am seeking action is the Crippling Strikes Prevention Act. It would give the President additional—and, in my opinion, essential—new authority to deal with emergency disputes in the railroad, airline, maritime, longshore, and trucking industries.

First, it would discontinue the emergency strike provisions of the Railway Labor Act of 1926 and provide that all transportation disputes be settled under the Taft-Hartley Act. Currently, disputes in the railroad and airline industries are subject to the Railway Labor Act while all other emergency transportation disputes are governed by the Taft-Hartley Act. Of the two acts, the railway labor law is clearly the inferior. Under it, the President can delay a strike or lockout for 60 days by appointing an Emergency Board to study the issues and recommend a settlement. Unfortunately, these provisions only seem to discourage hard bargaining because the parties are hesitant to compromise their position before the Board is appointed, and then, recognizing that the Board will probably seek a middle position, the parties tend to adopt a more extreme stance in order to pull the Board in their direction. Thus the gap widens between the disputants and because neither the Board nor the President has any additional authority, strikes often resume at the end of the 60-day period. These resumptions have occurred at the rate of more than one per year since 1947, and four times during this administration alone I have been forced to ask Congress for special legislation. This is a sorry record, best consigned to our history books.

THREE NEW OPTIONS

Secondly, I propose a major revision of the Taft-Hartley Act to give the President three new options in the case of all emergency disputes in the transportation industry. Under current provisions of this Act, the President may appoint a Board of Inquiry when he believes that a work stoppage imperils the Nation's health or safety. Upon receiving a report from the Board on the status of the strike, the President may direct the Attorney General to petition a Federal District Court to enjoin the strike for an 80-day "cooling-off" period. But there the formal authority of the Federal Government ends: the Board of Inquiry may issue no recommendation on a settlement and the President has no additional options when the 80-day period elapses except to ask for emergency legislation. On nine of 30 occasions when this machinery has been invoked since 1947, a strike or lockout has resumed after the 80-day period, as it has now on the West Coast.

To permit a more flexible Federal response, I propose that the President be granted three options when the "cooling-off" period fails to produce a settlement:

First, he could extend the period for 30 days, a most useful device if the dispute seems to be near an end.

Secondly, he could require partial operation of the troubled industry, so that those segments essential to the national health or safety could be kept in operation for an additional 180 days.

Or thirdly, he could invoke a "final offer selection" procedure whereby the final offers of each party would be submitted to a neutral panel. This panel would select, without amendment, the most reasonable of the offers as the final and binding contract between the parties. Unlike bargaining which now occurs under the Railway Labor Act or under arbitration, this approach would encourage the parties to narrow their positions so that they could persuade the panel of their reasonableness. Thus genuine negotiations and settlement would be encouraged automatically.

Among the additional features of this proposal is the establishment of a National Special Industries Commission to conduct a two-year study of labor relations in industries which are especially subject to national emergency disputes.

As I informed the Congress two years ago, the Crippling Strikes Prevention Act creates a balance between two cherished but sometimes inconsistent principles: the protection of the national health and safety against damaging work stoppages, and the protection of collective bargaining from interference by the Government. "Ideally," I said then, "we would provide maximum public protection with minimum Federal interference."

Without doubt, my proposal would tip the present scales back in the direction of greater protection for the public, but we must face up to the hard realities that the old way simply has not worked. The scales, in fact, have been heavily weighted against the public. The actions I propose would not only correct the balance but would also preserve and enhance the processes of collective bargaining.

THE WEST COAST DISPUTE

The present tie-up on the West Coast vividly illustrates why we need the Crippling Strikes Prevention Act. Both the failure of negotiations and the resulting economic losses have been a painful lesson for us all.

Talks and negotiations between the parties have dragged on for 15 months, and I have used every remedy at my command, but to no avail. The Taft-Hartley machinery has been tried, and it has failed. Two extensions in time have been arranged by Government mediators, and twice the mediators' efforts have fallen short. And I have met personally with the parties. Yet this strike has resumed. In my view, it is abundantly clear that present legislation is inadequate and that we need comprehensive solutions.

Only now are we beginning to realize the full damages of the first 100-day strike which closed down the West Coast ports between July 1 and October 9, 1971. I recounted some of these losses to the Congress in my message 12 days ago, but the facts bear emphasis:

It is estimated that American exports would have been $600 million higher during this 100-day period except for the work stoppage.

The strike was particularly hard on our farmers, who have been exporting the product of one cropland acre out of four. During the June-September period, farm exports from the West Coast dropped from $288 million in the same period in 1970 to $73 million in 1971.

Wheat farmers suffered the worst calamities of all, as their sales to major Far Eastern markets fell off drastically. Japan, for instance, purchases over 50 percent of her wheat from the United States. Since April, we have lost sales to Japan of at least 25 million bushels of wheat valued at $40 million. Ominously, the day after the strike resumed last month, the Japanese purchased 8.7 million bushels of wheat for a spring delivery, but only 1.6 million bushels were bought from the United States.

Our merchant fleet also sustained heavy losses, as did exporters of vegetables, rice, cotton, and livestock, and wood products, and numerous related industries.

APPALLING HUMAN COSTS

Overall, the 100-day strike thrust a spike into our progress toward economic recovery, threatened our balance of payments, and undermined the confidence of foreign buyers who need to rely upon dependable deliveries. But the most appalling costs were in human terms—those tens of thousands who were not parties to the dispute but suffered because of it.

Those same people are suffering needlessly again, as the costs of resuming the strike begin to mount. I met yesterday with the Governors of California and Washington, whose States along with Oregon lost an estimated total of $23.5 million a day during the 100-day strike, and they have reported to me that the cost of this resumption is intolerable to their economies. The State of Hawaii is also beginning to feel the punishment. If the strike persists for several weeks, we can anticipate a significant increase in unemployment on the West Coast and huge financial losses for many people across the country.

We can and must end this dispute. Because the parties have already been bargaining under different ground rules for many months, I do not think it would be fair or unwise in this case to impose the "final offer selection" solution which I am proposing in the more comprehensive Crippling Strikes Prevention Act. I also see no merit in another "cooling-off" extension, because it offers little hope of resolution and it only increases the uncertainty in foreign markets. Instead, I urge the adoption of a plan for settlement by arbitration. As I explained to the Congress 12 days ago, I am asking that a three-member arbitration board be appointed by the Secretary of Labor to hear all the issues and then issue a settlement that would be binding for at least 18 months. No strike or lockout would be permitted from the day this legislation is enacted until the expiration of the binding settlement established by the board.

I strongly favor free collective bargaining, but the time has come for decisive action. I call upon the Congress to take such action on both this emergency bill and the Crippling Strikes Prevention Act.

RICHARD NIXON.

THE WHITE HOUSE, *February 2, 1972.*

THE TROJANS

Mr. BROOKE. Mr. President, last evening the Boston Opera Co. rendered an outstanding performance of "The Trojans."

Under the extraordinarily able direction of Sarah Caldwell, the opera company has been noted for its innovative and creative renditions of a multitude of difficult operas, some of which have never been performed in this country.

As chairman of the board of the Boston Opera Co., I was particularly pleased to see the Boston Opera Co.'s achievements described so favorably by Paul Hume in this morning's Washington Post. I ask unanimous consent that the review be printed in full at this point in the RECORD.

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

"THE TROJANS" IN BOSTON

(By Paul Hume)

BOSTON.—Sarah Caldwell, this city's redoubtable operatic wizard, and the Opera Company of Boston should be enshrined along with Paul Revere and the men who ran Boston's big tea party.

Last week Miss Caldwell and her company made musical history, as they have in the past. This time it was by presenting the first fully staged, complete production in this country of Hector Berlioz' operatic masterpiece, "The Trojans." Few have ever been given anywhere.

There is no longer any question of the stature of this towering work, and you may get a glimpse into its immediate future in this country from the fact that at Sunday's performance, the audience included the incoming general manager of the Metropolitan Opera, Goeran Gentele, and Colin Davis, one of the Met's top conductors.

Davis is the man who led historic performances of "The Trojans" at Covent Garden three years ago and subsequently recorded the work. You may expect Gentele to announce that the Metropolitan Opera will finally catch up with history by producing the Berlioz opera either next season or the following one.

For anyone to produce "The Trojans" in a modern, fully equipped opera theater would be a major event. Sarah Caldwell not only put the entire work on its first American stage, but she was its director and conductor as well and brought it off despite the handicaps of Boston's Aquarius Theater.

Until lately the Aquarius was the Orpheum. It used to be one of the bright stars in the Orpheum circuit, specializing in vaudeville. Its orchestra pit is tiny, its stage only 28 feet deep and it is lacking all facilities.

But Sarah Caldwell is one of the determined giants of her generation. Stairways interspersed with platforms were built into the house, from which both action and much of the work's massive choral singing came with special immediacy. And by ingenious breaking up of the stage area itself, again with varying groupings of steps, ramps and towers, it was possible to give an illusion of Troy besieged, Troy invaded, and finally Troy in flaming ruins. During the second half of the opera, there was a semblance of African forest and the shores of Carthage.

To be sure, it was never possible to escape looking directly into rows of spotlights or catching glimpses of the essential closed-circuit TV sets that help to coordinate so vast a project.

But thanks to Caldwell's musical perceptions, the urgent drama and beauty of the music triumphed to a remarkable degree. Even severe limitations in the size and basic sonority of the orchestra—with only three double basses—could not keep the work's genius from shining through.

Remembered for her brilliant conducting of Verdi's "Falstaff" in the single season of the American National Opera Company Sarah Caldwell held the Berlioz work firmly in hand, pacing its sometimes languid pages with the right sense of forward motion, yet allowing its orchestral and choral grandeur full power and its sensuous love music time to speak.

The large cast had notable elements. The central figure in part one, "The Taking of Troy," is Cassandra. Marilyn Niska was vocally strong and theatrically effective in the part. Even the strong edge in her voice served well to increase the sense of doom in almost all she sang. Her Corebus, Louis Quilico, was splendid, as was Herbert Beattie as King Priam.

The second part of the opera, "The Trojans at Carthage," is dominated by Dido, with Aeneas always close at hand. Regine Crespin was the Carthaginian queen, singing with increasing opulence as the evening progressed, after a somewhat explosive effect earlier. In her final scenes of raging anger at Aeneas's departure, and her subsequent suicide, she was most impressive and her voice served her with marked ease.

Ronald Hedlund as Narbal, Grayson Hirst in the dual roles of Iopas and Hylas, and Eunice Alberts as Anna were on the highest level. But in the taxing role of Aeneas, the English tenor, Ronald Dowd, was barely satisfactory and that was principally in some fine quiet singing. His French, compared with almost the entire cast, was markedly wretched, and his vocal style often crude.

"The Trojans" is a work of sweeping beauty, full of great theater. Had the problems of the Aquarius Theater prevented such things as its waterfall, thunder and lightning in the royal hunt and storm scene, the flames and toppling buildings as Troy fell, or the sight of Greek sails against a starry night toward the end, it would have been easy to understand. But that was not the case.

Two glaring lapses in staging were, however, totally unrelated to the theater's physical setup. Nothing is clearer than that Hector's grieving widow, Andromache, and her son, Astyanax, are supposed to be dressed in white, the ritual color of mourning in Troy. Their moving scene, which Berlioz called the finest in act two, was marred by their solid black dress.

And the entire final scene of Dido's death was a total distortion of all that is called for. She had neither veil, wreath of flowers, nor Aeneas' sword, which should have been the instrument of her death. And the ritual removal of one of her sandals was left undone.

Worst of all, her final action occurred high up on the extended platform on the audience's right, instead of stage center where it belonged. It seriously injured the closing of the opera, with its nonexistent funeral pyre and final apostrophe.

None of this, however, can alter the basic importance of Sarah Caldwell's achievement. Her orchestra played handsomely. The excellent chorus of more than a hundred voices, included half that number from Tufts and Northeastern universities.

Miss Caldwell chose to perform the opera in two ways: On Thursday and Friday nights, it was given in parts one and two. On Sunday, part one ran from 2:30 to 4:45, part two from 7:30 to 11 p.m. Yet the playing time of the opera is actually less than that of Wagner's Tristan." It should be played in a single evening, which, by placing intermissions only after acts two and three, would be entirely practicable and dramatically apt. It is well to have heard the entire work uncut, but two or three brief cuts would not be indiscreet.

What Boston now owes Sarah Caldwell is not merely enthusiastic support, with which it is reasonably generous, but a proper theater. No one has given better proof of her right to one.

FRANKLIN SUNN NAMED PRESIDENT OF METCALF AND EDDY

Mr. FONG. Mr. President, it is always a source of deep satisfaction and pride to be able to report the rise to national prominence of a native son of one's home State. Such distinction has come to Franklin Y. K. Sunn, of Hawaii, who recently became president of Metcalf and Eddy, Inc. of Boston, Mass. Metcalf and Eddy is one of the largest architectural-engineering-planning firms in the United States, with offices in New York, Chicago, Palo Alto, Trinidad, Manila, Anchorage, and Guam.

Honolulu-born and raised, Franklin Sunn has long been a well known community leader and one of Hawaii's most active engineers. He has worked over the years in a variety of civic and governmental planning and developmental projects.

He was a cofounder of Sunn, Low, Tom and Hara, Inc., environmental consulting engineers. He resigned the presidency of this firm to take his new post as head of Metcalf and Eddy.

Mr. Sunn was also the founder of the Consulting Engineers Council of Hawaii and served as its first president. He helped organize the Hawaii Council of Engineering Societies, which integrates the engineering activities of 15 Hawaii organizations, and served as its chairman.

He founded Hawaii Architects and Engineers, Inc., the consortium of nine architectural, engineering, and planning firms which operates throughout the Pacific Basin. He served as its president and director since its inception in 1965.

Mr. Sunn's professional and civic affiliations are many and varied. They reflect the high standing he has attained in the field of engineering. They also attest to the valuable contributions he has made to numerous governmental bodies dealing with such complex subjects as environmental quality control, oceanography, and housing.

The State of Hawaii will feel the loss of one of her most versatile, energetic leaders. Although he will be far from Hawaii, we of the 50th State are proud that Franklin Sunn has advanced to his new post as president of Metcalf and Eddy. We wish him Godspeed, good fortune, and continued success.

CONCLUSION OF MORNING BUSINESS

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

The ACTING PRESIDENT pro tempore. Is there further morning business? There being no further morning business, morning business is closed.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries, and he announced that on

February 7, 1972, the President had approved and signed the following acts:

S. 382. An act to promote fair practices in the conduct of election campaigns for Federal political offices, and for other purposes; and

S. 2819. An act to amend the Foreign Assistance Act of 1961, and for other purposes.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The ACTING PRESIDENT pro tempore. Under the provision order, the Chair lays before the Senate the unfinished business, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 2515) to further promote equal employment opportunities for American workers.

The Senate resumed the consideration of the bill.

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

The ACTING PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ALLEN. Mr. President, yesterday on the floor of the Senate I expressed the hope that Congress would not recess before action had been taken to bring to an end the crippling and devastating west coast dock strike, and I was much encouraged to learn from reading the newspaper this morning that last evening at 6 o'clock the Senate Committee on Labor and Public Welfare had voted to report out to the Senate floor legislation which would accomplish that end.

Mr. President, I would much prefer that the Senate at this time be considering that most important legislation, rather than to be considering S. 2515, which would extend the powers of the Equal Employment Opportunities Commission to grant to that commission powers that it has not had during the 7 years of its existence, powers that are not needed at this time, jurisdiction that it does not need, and jurisdiction that it has not had for the last 7 years of its existence.

So, Mr. President, it would seem to the junior Senator from Alabama that we are in the attitude of fiddling while the economic structure of this country is burning down.

It is hoped that soon today this measure, S. 2515, will be set aside, if not permanently—which would be preferable—than certainly temporarily, in order that the Senate may proceed to the consideration, I assume, of Senate Joint Resolution 187, which was introduced by the distinguished Senator from New York (Mr. JAVITS). Even though the committee voted to report the resolution, or a resolution, it is the understanding of the junior Senator from Alabama that the resolution has not yet been presented to the clerk, to become the property of the entire Senate.

So, whether a new resolution drafted by the committee itself or Senate Joint Resolution 187 is to be before the Senate, the junior Senator from Alabama does not know; but that will become known later in the morning.

To compare the need for S. 2515 with the need for the passage of legislation to bring to an end the dock strike is certainly to make an unequal comparison, because there is no comparison between the need for Senate Joint Resolution 187 and the need for S. 2515. It is the hope of the junior Senator from Alabama that the measure before the Senate will soon be set aside in order that we can proceed to legislation which is in the national interest, to bring to an end the work stoppage on the west coast, which is having an adverse effect on all the people of this country. This is a work stoppage involving the entire national interest. We are losing our markets abroad. If customers abroad are not able to depend upon supplies and goods from the United States, then, of necessity, they will have to turn to the products of other countries.

For the first time in 80-odd years, last year was the only year in which the United States has bought more goods from abroad than we have sold abroad. So this unfortunate trade deficit is being complicated by the continuation of the dock strike on the west coast.

Mr. President, I have previously discussed in great detail many of the inherent dangers and evils of S. 2515, the bill before the Senate.

The pending business is an amendment offered by the distinguished senior Senator from North Carolina (Mr. ERVIN) and myself, which would seek to nullify the effort of the sponsors of the bill to reduce from 25 to 8 the minimum number of employees that an employer must have in order to come under the provisions of the EEOC bill.

The sponsors of the bill and the committee seek to reduce that number from 25 to 8, so that, under the committee bill, every employer in this country who employs as many as 8 people would be covered by the provisions of EEOC. The pending amendment would nullify that effort and, if adopted, would leave the present law intact—that an employer must have as many as 25 employees to be covered by the EEOC.

Mr. President, let me hasten to say that I strongly favor the right of every person in this country to have a fair and equal opportunity to obtain employment, without discrimination of any sort against him, if employment is available. It has been made to appear that this bill would confer certain basic and fundamental and substantive rights on employees throughout the country. The bill does not change the basic right of anyone that he not be discriminated against. The bill does not change that right. Under the law, everyone has the right not to be discriminated against as he seeks employment.

This bill does not create a single job in the private sector. It does not make any jobs available that are not already available. It does not require that business or industry or small business or small employers create additional jobs for people; and, of necessity, if any jobs are filled that are now held by someone else, someone is going to lose his job, because not a single job is created in the private sector by this bill. The bill will create an army of additional bureaucrats, additional Federal employees.

Mr. President, there is no denying that the line is so well drawn as it is on this bill. We hear from people throughout the country—our constituents—the citizens of our respective States, that the Government is getting too big, that the Government is spending too much money. Yes, the Government is spending too much money. The accumulated deficits of this administration at the end of the fiscal year for which we are now considering appropriations will run in the neighborhood of $83 billion. So, yes, the Government is getting too big and it is spending too much money. It is taking too great control over the everyday lives of all our people.

Mr. President, while I was home for the Christmas recess, I received a telephone call from a small businessman, whom I did not know but who was and is a resident of my State. He called me not to protest against any specific piece of legislation—not to protest against S. 2515. He did not know anything about the pendency of this bill. That is one of the reasons this extended discussion is going on, Mr. President, so that the people of this country will find out and be informed as to the iniquitous provisions of the bill and so that they can protest against its enactment.

This man who is a small businessman was pointing out the heavy tax burdens under which he was operating, the government redtape he was required to submit to, and to the impositions of the Federal Government in putting him on the carpet and checking his records. He said to me, "Senator ALLEN, the small people of this country are getting to the point where they are afraid of their Government."

Mr. President, that is a pretty sad state of affairs for our people to feel that the Government of this great country is not on their side, that they have a fear against the actions of their Government, or that they fear the actions of their Government.

Mr. President, I did not have the heart to tell him what he is going to get hit with when S. 2515 is enacted into law—if ever it is.

If it is left up to the junior Senator from Alabama, it will not be enacted into law. I am hopeful that before very long it will be suggested that the junior Senator from Alabama conclude his remarks, in order that this piece of legislation can be laid aside, in order that we can take up legislation designed to end the disastrous west coast dock strike. I do not know whether this bill that has been supposedly reported out of the committee—I guess a more accurate statement would be that it has been voted out of the committee but has not yet been handed in to the clerk.

Mr. JAVITS. Will the Senator from Alabama yield to me?

Mr. ALLEN. I am delighted to yield to the Senator from New York.

Mr. JAVITS. Mr. President, I should like to make a comment, that I heard the Senator say, with great interest, that he

felt we should deal with the dock strike, that it represents an infinitely greater priority for the country, and that we should not be debating the pending EEOC bill.

I rise only for the purpose of expressing my own disagreement with that. I believe that under the two-track system which the leadership has inaugurated, we can deal with the immediate emergency—to wit, the dock strike, and we can also deal with the EEOC bill.

My own deeply held view is that though it is less sensational in terms of its not being a burning fire day, right this morning, it could be a burning fire tomorrow, and has been before, so deep is the feeling of millions of Americans about the denial of opportunity in the most basic of all opportunities to any American—to wit, a job.

That is a commitment to housing. That is a commitment to education and to dignity, which we now learn is more important than anything else to the poor and to the minorities who feel themselves oppressed.

Thus, I know that the Senator and I have had our disagreements. It does not change in any way our regard for each other. But I think that the record should clearly show that we who are contending for the EEOC bill give extremely high priority to that bill for deep, social, and economic reasons in the country. We see nothing whatever mutually exclusive between the consideration of an emergency measure or a major strike which is a serious disadvantage to the national interest and a particular part of the country, and are pursuing a basic reform so critical to the future health, in a social and economic sense, of the United States.

I thank my colleague from Alabama for yielding to me.

Mr. ALLEN. I thank the distinguished Senator from New York (Mr. JAVITS) for his comments with respect to the pending measure and the other measure.

Might I inquire of the distinguished Senator from New York when it may be anticipated that the report of the committee with respect to the dock legislation will be reported to the Senate?

Mr. JAVITS. I believe within the next couple of hours. We have got it in galley and we are just looking over the galley proof.

Mr. ALLEN. I see.

Mr. JAVITS. We are looking it over now and I expect that the distinguished Senator from Iowa (Mr. HUGHES) will be reporting the bill unanimously on the part of the committee, by the way, within the next hour or two.

Mr. ALLEN. Mr. President, I would say to the distinguished Senator that when the bill is ready to be reported, the junior Senator from Alabama will be glad to yield the floor for that purpose.

Mr. JAVITS. I thank the Senator.

Mr. ALLEN. Mr. President, in my discussions of the bill, I have strongly denounced and criticized the fact that the legislation would violate the Constitution by empowering the Federal Government to interfere with the basic and fundamental functions of State and local governments by dictating their employment practices.

Mr. President, I might say parenthetically that this bill will, if enacted, extend coverage by the EEOC to some 10 million employees of State, county, and city governments and agencies of State, county, and city governments.

I say again that the States' power over their employment functions is not only basic, but essential, to the very existence of State sovereignty. If we deprive the States of their basic functions, it is pointless for anyone to maintain that we have a dual form of government.

Mr. President, we comment from time to time to the effect that the Federal Government is taking over the roles of the States, that the right to think is being invaded by the Federal Government. And certainly here is a classic illustration of that charge.

The EEOC is going to take over the employment practices of the local governments. The EEOC is going to determine who is going to be employed, not the elected officers of States, counties, and cities. If that is not a classic example of expanding the Federal power and expanding the Federal bureaucracy, I do not know what it is.

Mr. President, we have an opportunity to defeat this inequitous legislation. On two occasions efforts have been made to bring this debate to a close by resorting to a cloture motion and by resorting to what has been referred to by many as gag rule.

Mr. President, we hear that the U.S. Senate is the only deliberative body in the world that has unlimited debate by its Members. The Senate does have the right to unlimited debate on a debatable question. And amendments are certainly a debatable question, subject only to the right to try to invoke cloture. Cloture, according to the rules of the Senate, requires a two-thirds favorable vote of a quorum of the Senators present.

So, on two occasions since this bill was pushed out before us in the Senate, an effort has been made to invoke cloture. Both of those efforts were voted down in the Senate. And, Mr. President, I would anticipate that if another cloture motion is presented, it too, will be voted down. And I would hope that if the bill has not been set aside permanently by the majority leader before that time, that after the vote on a third cloture motion, if it be unsuccessful, the majority leader will then set this bill aside as not having come up to the requirement of the Senate rules as being such a bill as two-thirds of the Members of the Senate feel that it is so important that debate on the issue should be brought to a close. Thus far, I am pleased to say that two-thirds of the Senate has not seen fit to end the debate on this question and vote on the bill.

Mr. President, as I sense the feeling in the Senate, the Senate probably is willing to see the powers of the EEOC extended over State, town, and city employees, as the committee bill does and as the bill, as introduced, does.

The Senate is probably willing to extend, as the committee bill does, the provisions of the EEOC over every educational institution in the United States, including every university, every college, every high school, every elementary school, every private school, and every church-supported school.

The Senate is probably willing to swallow all of these provisions. But what the Senate has been unwilling to do, in the judgment of the junior Senator from Alabama, is to accept the provisions which give enforcement power to the EEOC, along with the powers it already has, of receiving complaints, investigating complaints, filing charges, and, in general, reaching a decision.

So, under the bill the function of the EEOC would be greatly extended with respect to its jurisdiction over the millions of people that it would cover, not only with respect to the extension of its jurisdiction but also with respect to the extension of its powers: the power to be a judge, a jury, and a prosecutor.

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

Mr. ALLEN. Mr. President, I would be delighted to yield to the distinguished Senator from Florida.

Mr. GURNEY. Mr. President, I was listening with interest to the remarks of the Senator from Alabama and particularly those he just made concerning the power and authority which this bill would give insofar as the employment of people by the colleges, universities, and educational institutions is concerned.

Mr. ALLEN. That is one of the provisions.

Mr. GURNEY. Mr. President, suppose we had a number of educational institutions in the country that were concerned about the political philosophy and whether their faculties should be liberal or conservative—and there are some on both sides of that question.

We also have colleges and universities founded by religious sects that still are very concerned about the fact that their curriculum and thrust should be oriented in a religious direction.

We have others that perhaps are concerned about political ideology or economic ideology; that is, they would prefer not to employ as a faculty member to teach economics someone who believed in the Socialist concept of government.

Now, my question is: As far as all of these colleges and universities that might have rather strong feelings on those various matters, would this bill mean that if they refused to hire a professor, for example, in a college that had a strong religious philosophy, an atheist, perhaps, who did not believe in any kind of religion, who applied to teach in the college, that this Commission could come in and say, "You have to hire or employ that person, otherwise you would be discriminating against him."

Is that what this bill means?

Mr. ALLEN. Yes, it certainly does. As to educational institutions that are not church supported or that are not religious educational institutions, there is no exemption whatsoever; but as to religious institutions, if they were church-supported schools, then the exemption would apply only to the teaching of religion or religious activities, but they could be forced to employ an atheist to teach economics in a church-supported school along with religious subjects. So the answer is, "Yes," the employer of such a person could be forced under the provisions of this bill.

QUORUM CALL

Mr. MANSFIELD. Mr. President, will the Senator from Alabama yield without losing his right to the floor?

Mr. ALLEN. I would be delighted to yield, if it is satisfactory with the distinguished Senator from Florida who was engaged in a colloquy with me.

Mr. GURNEY. Yes, indeed.

Mr. MANSFIELD. I thank the Senator.

First, I suggest the absence of a quorum, which will be brief.

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.

WEST COAST DOCK STRIKE—UNANIMOUS-CONSENT AGREEMENTS

Mr. MANSFIELD. Mr. President, I am about to propose a unanimous-consent request.

Earlier today I indicated in good faith that the legislation affecting the west coast dock strike would be taken up between 4 and 5 o'clock today. However, in talking with other Members who are vitally interested in this matter, and because of the imminent need for the consideration of this legislation, I now wish to ask unanimous consent that at the hour of 2 o'clock the pending business be laid aside and that at that time the emergency strike legislation reported by the Committee on Labor and Public Welfare be laid before the Senate and made the pending business.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, I shall not object; but I do wish to be clear that after the completion of this particular measure the EEOC legislation will again be the pending business.

Mr. MANSFIELD. Yes, indeed.

Mr. President, I ask unanimous consent that, once the Senate considers the dock strike legislation, and after its dispositon, and only after its disposition, the EEOC bill, which is the unfinished business, be laid again before the Senate and made the pending business.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

Mr. MANSFIELD. Mr. President, I now ask unanimous consent that on the amendment to be offered by the distinguished Senator from Oregon (Mr. PACKWOOD) there be a time limitation of 2½ hours, 2 hours under the control of the distinguished Senator from Oregon (Mr. PACKWOOD) and one-half hour under the control of the distingiushed chairman of the committee, or whomever he may designate, with the further proviso that if there is to be a tabling motion—and I do not know that there will be one—it will not occur until all time for debate on the amendment is completed.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. JAVITS. Mr. President, will the Senator wrap it all up and give the situation with respect to amendments to the amendment?

Mr. MANSFIELD. Yes. I am taking them one at a time.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be 1 hour on the bill itself, to be equally divided and controlled by the majority leader and minority leader or their designees, 20 minutes on each amendment or amendments to amendments, the time to be equally divided between the sponsor of the amendment and the manager of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. The amendment to the amendments, including also any amendments to the Packwood amendent. Is that correct?

Mr. MANSFIELD. Yes, indeed.

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

Mr. MANSFIELD. So the Senate should now be notified again that there has been a change in plans relative to the dock strike legislation. It will not be called up between 4 o'clock and 5 o'clock this afternoon but instead it will be called up at 2 o'clock this afternoon and made the pending business. The Senate will stay with the consideration of that legislation until it is completed and then the unfinished business will once again be made the pending business and we will return to the consideration of the EEOC bill.

Mr. GRIFFIN. Mr. President, will the Senator yield to me briefly?

Mr. MANSFIELD. I yield.

Mr. GRIFFIN. I wish to mention one point. I had an opportunity to check this with the Senator from Tennessee (Mr. BAKER) and it has his agreement. I would like to suggest that included in the unanimous consent agreement would be the understanding that amendments, particularly since there are only 20 minutes, be germane to the Packwood amendment or the bill.

Mr. MANSFIELD. That is a fair enough request and I make that unanimous-consent request.

The PRESIDING OFFICER. Would the Senator clarify for the Chair whether the agreement includes appeals and motions?

Mr. MANSFIELD. It does.

The PRESIDING OFFICER. Is there objection to the further unanimous-consent agreement?

Mr. JAVITS. Twenty minutes on appeals and motions?

Mr. MANSFIELD. That is right.

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

Mr. MANSFIELD. Mr. President, I thank the distinguished Senator from Alabama for his courtesy and usual graciousness in allowing the Senate to get on with his business, especially at this particular time when the issue is so imminent and must be faced up to at once.

Mr. ALLEN. I thank the distinguished Senator from Montana.

Mr. President, before I yield to the distinguished Senator from Florida again, I would like to commend the distinguished Senator from Montana, the majority leader of the Senate, for his statesmanship and for the method that he uses in controlling the flow of legislation in the Senate. I commend him for the two-track system of considering legislation in the Senate.

When a matter is under extended debate, he does not allow that to tie up the entire work of the Senate, but he schedules a second track and brings up other important matters for consideration, so that the extended debate on the original issue may continue without clogging the Senate Calendar.

Mr. President, I want to express my admiration of the distinguished majority leader for his statesmanship, for his fairness, for his recognition of the priorities as between matters of legislation.

The distinguished Senator from New York has said that the bill—and I assume the report of the committee—is in galley form, to be printed, and that the bill will probably come in within the next 2 hours. So it is obvious that the distinguished majority leader has provided for the scheduling for Senate action of legislation with regard to the dock strike at the earliest possible moment.

He recognizes, Mr. President, that legislation of that sort shall have priority over a measure such as S. 2515, which extends the powers of jurisdiction of the EEOC, granting it powers that it has not had during the 7 years of its existence. This does allow the Senate to give serious consideration to S. 2515 before finally acting upon it, at the same time getting an opportunity to take up important measures.

I agreed with the majority leader's putting the foreign aid bill on the second track, so to speak, so that it might be considered. Even though the junior Senator from Alabama voted against that bill, he felt that since the foreign aid appropriation was depending upon a continuing resolution and that this appropriation had to be acted upon, in fairness to those who supported that legislation, it should have been brought before the Senate. But the majority leader did not allow the consideration of this iniquitous bill, S. 2515, to hold up these others matters.

So it is the hope of the junior Senator from Alabama that the second track will be kept clear so that matters of legislation may be allowed to proceed on that track, and give those who want to debate S. 2515 an opportunity to develop their forensic skills and discuss this matter at length, until such time as the majority leader feels that the Senate is not going to change from its position of refusing to allow this measure to come to a vote.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The Senate continued with the consideration of the bill (S. 2515), a bill to further promote equal employment opportunities for American workers.

Mr. ALLEN. Now if the distinguished

Senator from Florida desires to engage in further colloquy with respect to this bill, the junior Senator from Alabama will be delighted to yield to him.

Mr. GURNEY. I thank the junior Senator from Alabama.

Mr. President, I must say I agree with the sentiments the Senator from Alabama just expressed about the importance of the dock strike legislation as opposed to the bill that is now on the floor and which we are discussing.

I might go further and say that I would think any piece of legislation coming before the Senate at this time ought to have priority over this particular bill, which is such poor legislation. But if we can continue now to probe some of the provisions within the bill, I would like to pinpoint once more the religious aspects of the bill.

I am sure that the Senator from Alabama has had the same experience I have had over the years, and that is chats with parents who have expressed concern about the selection of a higher educational institution for their son or daughter. I know some of them are very concerned about putting their sons and daughters in a school that still does consider that religion is a powerful force in this country.

For example, there is a little preparatory school near my home in Florida whose main emphasis is on religion, and when boys and girls graduate from that school, they try to go to colleges which emphasize religion, too, usually smaller colleges.

I received a fund-raising letter in the mail last week from such an institution, seeking to raise funds for its expenses and its endowment. It underscores that fact that one of the things it still places emphasis on in this college is the teaching of religion.

Let us suppose that this college made known to the academic community that it wanted to hire a new instructor in economics, and it had, we will say, two applications for that opening, one from a very distinguished economics professor, who had a brilliant academic career, second to none in the country, and one from another, who perhaps had a good record, but not that distinguished, except that the second person believed also very strongly in religion and that was a basic precept in this individual's life.

Let us say the college wants to decide which one it wants to hire, and it actually hires the second person, on the basis that the second person does have a strong belief in religion and the school emphasizes that particular quality in all faculty matters. So it hires the second applicant and turns down the first.

Now suppose the first applicant goes to the Equal Employment Opportunity Commission. If this bill goes into effect, what happens, is my question?

Mr. ALLEN. Well, it would be up to the EEOC to investigate the complaint after having received it. Then, if it felt that this person had been discriminated against because of his religion, or lack of religion, the EEOC could have its general counsel prepare and file charges, not with an independent agency, not with the court, but file charges back with the Commission; and the Commission, having received the charges, investigated the charges, prejudged them to the extent that it turned them over to counsel for the filing of the charges, would then reach the decision as to whether this person had been discriminated against. Then, when it reached that decision, it could, with respect to this person, order the institution to cease and desist from discriminating against that man and require that the institution employ the person who had been rejected by the unisity or the school.

Then the university, if it saw fit to appeal that matter, would have to appeal to the circuit court of appeals, and the matter would not be tried de novo, but would be tried on the basis of the record which had been certified to the court by the Commission. So the EEOC, then, would receive the complaint, prosecute the complaint, judge the complaint, and enforce the authority.

Mr. GURNEY. In other words, the judge, jury, and prosecutor, all tied into one.

Mr. ALLEN. Exactly. That is what the bill would provide, and that is one of the iniquitous provisions which the junior Senator from Alabama objects to so strenuously.

Mr. GURNEY. What would happen in the meantime, while the school or college is without a faculty member? What would the bill provide as to that? Would they have to stop hiring this man they had proceeded to hire, and wait until the Commission had decided?

Mr. ALLEN. The bill wakes no provision as to that, but if the employee who is alleged to have been discriminated against does win out before the Commission, the Commission could order that he received back pay from the time he was not employed.

This provision would relate, for example, to a church school that would like to have its professors religiously inclined. It could require it to accept someone with another religion, or someone who had no religion whatsoever. That is just exactly the opposite from what the Senator from Florida suggests many parents want for their children, and what the children want for themselves.

Mr. GURNEY. And it could, I suppose, impose very serious financial burdens on a small school with a limited budget.

Mr. ALLEN. Oh, yes.

Mr. GURNEY. Most colleges these days operate at a deficit, anyway.

Mr. ALLEN. Yes.

Mr. GURNEY. And I suppose colleges that have to watch their budgets very closely would hesitate before they would take on a professor, if they anticipated the possibility that a big charge could be run up against them that they would have to pay eventually.

Mr. ALLEN. Yes; of course, the college would have to pay for its defense.

Mr. GURNEY. But let us take an extreme case. I posed the question of someone who did not believe very strongly in religion, or was an atheist as opposed to a faculty member who would believe strongly in religion.

Let us suppose the professor who was turned down had a well-known track record on this subject of atheism in all the other colleges and universities of which he had been a member of the faculty and in which he had taught, that he had not only made very plain that he was an atheist, but had spent a lot of time practicing and preaching, if we can use that word in this colloquy, that anyone who believed in religion and any faculty member who taught it ought to have his head examined, and that any college or university should fire any faculty member who believed in religion. Suppose you had an extreme example like that, and the college or university turned that man down; what would happen then?

Mr. ALLEN. Well, the Commission would be empowered, in its wisdom—or lack of wisdom—to say that that person had been discriminated against, and that the school would have to employ him because discrimination on account of religion would not be permitted. So it would be up to the Commission, and it is a judge unto itself. It is not answerable to anyone except to the court of appeals, based on the record that it sends up to the court of appeals for consideration.

Mr. GURNEY. Then, if I gather the meaning of this colloquy correctly, this motto that we have on our money in the United States, "In God We Trust," would sort of go out the window like the baby with the bath water, would it not?

Mr. ALLEN. Well, there are reasons for feeling that way about it, I would say to the distinguished Senator.

Mr. GURNEY. Let me pose another question. We claim to be a nation of private free enterprise in this country of ours, as opposed to the socialistic kind of government which exists in a great many nations of the world—chiefly, of course, in our principal adversary, Russia—and all of us know that on college and university faculties these days there is an ever-increasing tendency—at least I think I am correct in stating that—of professors and instructors, especially in the liberal arts colleges, to believe in socialism as opposed to free and private enterprise. At least that is what students tell me with whom I talk, and other people as well, that there is a growing number of people with that kind of economic belief.

Suppose a college or university believes very strongly in private enterprise. When they selected their professors to teach in the economic field, they would be particularly careful to try to get a professor who also believes in free private enterprise. Now, we have a vacancy on the economics faculty at this X college, and we have a couple of applications. One man, Professor A, believes very strongly in free private enterprise, but it happens that the other, Professor B, does not believe in it at all; as a matter of fact, he thinks it is a total failure, and that the only way to run any kind of a government, whether in Russia, the United States, or any other country, would be a socialist kind of economic system, where the government owns all the facilities of production and distribution, and everyone works for the government as they do in Russia.

The college makes a decision; they decide they would rather have Professor A, the free private enterprise professor, as opposed to Professor B, the socialist

believer. So they hire Professor A, and then Professor B brings a complaint against the college before the Commission. What would be the result of a case like that?

Mr. ALLEN. Of course, it would be up to the Commission to judge whether there had been any discrimination. But I doubt if it would use a person's employment because of his economic philosophy. I doubt if that, even by the Commission, would be held to be discrimination. I feel that even the Commission would say that was not discrimination of the type forbidden by law. If it were discrimination because of sex or religion or race, then that would be discrimination that the Commission could make a case against, but possibly not as regards economic philosophy.

I wonder if the distinguished Senator has considered the damage that this Commission and its operations could do to the academic freedom of various institutions. I wonder if he would comment on his view with regard to that.

Mr. GURNEY. Well, let me pursue this other question one more step, which is what I really intended to do in the beginning, because I understand the bill forbids discrimination on those three grounds the distinguished Senator has outlined.

But now we get into the shadow area, and this is what I am concerned with. Let us take that same area of economic beliefs again, and let us inject into it one or two things: Sex—which, of course, is a more or less delightful subject to inject into anything—or we could inject race, but one or the other. Actually, so far as the institution is concerned, it is not opposing the hiring of the professor who believes in socialism, who might be a woman or might be a member of a minority group. Then the professor who is rejected brings the complaint before the Equal Employment Opportunity Commission, but he or she makes the complaint on the ground of sex or of race.

Would this not pose a pretty difficult and serious problem so far as the hiring institution is concerned, even though they were opposing it purely upon the belief of this person in a socialistic kind of government?

Mr. ALLEN. Yes, definitely. That would allow the EEOC to say that the institution had discriminated in these areas where protection is granted under the law. Even though they objected to that applicant on other grounds, the Commission could find that it was in one of the protected areas and force the employment of that person.

Mr. GURNEY. Is not that danger particularly true the way this bill is worded?

Mr. ALLEN. Yes.

Mr. GURNEY. We go right back to the point that the distinguished Senator from Alabama made a short time ago—that the Commission is the indicter, the prosecutor, the judge, the jury, and the fact finder.

Mr. ALLEN. That is correct.

Mr. GURNEY. In other words, it handles all these things. So that if you have people on a commission—heaven knows, all of us have prejudices one way or another; we cannot help it; it is ground into us in our upbringing and our teaching and where we have lived, all along life's path. We cannot completely disassociate ourselves from beliefs we have picked up earlier. So if you had a commission that was "gung ho" to prevent any possible violation of this act, they could easily make a finding of fact, I suppose, that the institution turned down this applicant on the ground of sex or of race rather than of economic beliefs in socialism. Is that not true?

Mr. ALLEN. Very definitely. They would be empowered to do that.

Mr. GURNEY. So, then, the institution finally could be saddled with somebody who had an economic belief that was violently opposed to what this institution was trying to teach its young men and young women. Is not that a fact?

Mr. ALLEN. That is correct.

Mr. GURNEY. And that is the real danger of this bill.

Mr. ALLEN. This procedure is somewhat reminiscent of the Star Chamber procedure back in England of some two centuries ago. It almost rises to the Inquisition back in medieval days in Europe. It is a pernicious business, setting up a system of harassment of every educational institution in the country, and every employer of as many as eight people would be covered.

Mr. GURNEY. As a matter of fact, have we not had a previous example of this kind of procedure? I am talking now about the procedure, not the substance of the bill. It seems to me that under the National Labor Relations Act, which set up the National Labor Relations Board, we had a similar example.

Mr. ALLEN. Somewhat, yes.

Mr. GURNEY. Where there was a judge, jury, and prosecutor all wrapped into one. In times past, it has been pretty difficult, under that procedure, to get more than a one-sided opinion, and the cards really have been sort of stacked in favor of one party as opposed to the other. Is that not true in some of the past history of that particular board?

Mr. ALLEN. Certainly, there is an analogy between the two procedures.

Mr. GURNEY. I would think that we would hesitate before we jumped into some other kind of trap.

My understanding of the position of the junior Senator from Alabama—at least on the procedural aspect we are talking about—is that if we really are going to follow the kind of legal proceedings that we have always thought we had in this country, we ought to have a check and balance there, too, and not have everything all tied up in one procedure. That is why the junior Senator from Alabama—if I correctly understand his argument—feels that the court process ought to be injected in the decisionmaking of this Commission rather than the whole thing being wrapped up in the decisionmaking in the early part of it. Is that not correct?

Mr. ALLEN. That is correct.

Mr. GURNEY. Would the junior Senator from Alabama explain that precise difference a little more for me, so that I can precisely understand it?

Mr. ALLEN. The Senator has reference to the procedure under the bill. Of course, at the present time the Commission has powers of conciliation, advisory capacity, and it has a backlog of about 18 months to 2 years of cases before it now. It is anticipated that this year approximately 32,000 more cases are going to be filed and that next year approximately 45,000 more will be filed.

The Commission receives these complaints and investigates them through its employees. By the way, I might suggest that it was pointed out, in answer to a question I propounded to the distinguished Senator from New Jersey (Mr. WILLIAMS), that it is anticipated that in the next year or two, the employees of the EEOC are going to double in number, to increase from approximately 1,000 to 2,000 employees. They would use some of these Federal bureaucrats to investigate these charges. Then, if they feel, at that stage in the proceedings, that there has been discrimination—they prejudge the matter, or they would not call on the general counsel to prefer charges—they refer the matter to the general counsel. He prefers the charges against the respondent, whether the respondent be an educational institution or a religious school or a private school or a small employer who employs as few as eight people. Then the matter is tried before the Commission itself, the very Commission that had turned the matter over to the counsel for prosecution.

So it seems to the junior Senator from Alabama that that provides no due process. The junior Senator from Alabama recalls that the Constitution says that nobody shall be deprived of life or property without due process of law.

Mr. GURNEY. It is at this point, as I understand it, that the junior Senator from Alabama would bring in a Federal judge.

Mr. ALLEN. That is correct.

Mr. GURNEY. To hear this matter and try it and decide it.

Mr. ALLEN. That is correct. They would be the jury and the prosecutor, but they would not be the judge.

I do not think that asking the Federal judiciary to take over this problem is in any way showing a lack of sympathy for those who feel that they have been discriminated against, because the record of the district judges over the country certainly is one of compassion and of sympathy with civil rights, with the desegregation of schools in one area of our country. I am not going to try to get into that situation. I will comment on that another day. But the district judges have been especially compassionate in matters of civil rights.

Also, in the judgment of the junior Senator from Alabama, the matter could be determined more readily, more quickly, by the court route, for this reason: There are 398 Federal district judges in the country. There is only one Equal Employment Opportunity Commission lodged here in Washington so that with this tremendous backlog of cases that the Commission already has, seeking to decide all the discrimination cases that would arise in the 50 States, and all of that to be decided by a five-man Commission, it would certainly seem to the junior Senator from Alabama to be the sure way to prevent a man getting a

decision any time soon, whereas if the workload is divided out as the occurrence of the acts of discrimination might dictate, or if it is divided out among the 398 Federal district judges, it would be quite apparent that a final determination could be arrived at much quicker by going the court enforcement route rather than having the complaints aired before the Commission itself. So that they would get speedier action, in the judgment of the Senator from Alabama.

Mr. GURNEY. It would seem to me it would also obtain a much broader kind of decisionmaking if we had the Federal judges in the 50 States of the Union deciding these matters instead of one Commission located in Washington, D.C. It would seem to me we would get a much broader viewpoint and perhaps even a fairer viewpoint.

Mr. ALLEN. That is true. Also on the matter of witnesses, should a matter come up in the district where the discrimination took place, it would obviously be easier for the witnesses to appear in their district. Justice could be better done by handling it at the local level. Also Federal district judges that are, I assume, but have not always been in ivory towers, at one time they were practicing attorneys, have a familiarity with local conditions and local problems and they would obviously carry that knowledge with them to the bench.

Mr. GURNEY. On that very point, I was interested in the Senator's observation about the progress made in the field of civil rights, especially school desegregation and integration. While I realize it is not a subject matter under this bill, it certainly is a closely related subject——

Mr. ALLEN. Yes, indeed.

Mr. GURNEY (continuing). To the whole area we are discussing here. For the life of me, I cannot understand, and perhaps the junior Senator from Alabama can explain to me, the opposition of the managers of the bill to the Federal district courts, because we all know that the civil rights revolution—and I do not think there is any other way to term it but as a revolution which we have had in the past decade and a half, which has occurred mainly in the South where many people in the North think that people in the South do not understand the problem—in school desegregation and integration, and the furtherance of the cause of civil rights, came right out of the South, right off the benches of Federal district court judges. While it is true they were former practicing attorneys in the South, it is fair to say, so far as school desegregation is concerned, that probably 99 percent of case law on school desegregation has been made in the South and all of it by Federal judges. If we have that kind of track record of getting along, and getting along at a fairly rapid pace, and certainly in the past few years in the area of civil rights, why would it not work so far as equal employment opportunity is concerned?

It would almost seem to me as though the managers and the authors of the bill, seeing that the record would place a greater degree of sureness in their cause, would like to put it in the jurisdiction of the Federal district courts and the Federal judges. What answer would the Senator have for that?

Mr. ALLEN. They have not answered it to my satisfaction. I do not recall that they have given any plausible answer, not one that seems plausible to me, at least. Apparently they want the Commission to handle the whole package and not bother to take it before a judge, who would probably try the matter under the rules of evidence, who would see that the respondent had his day in court, that the matter was tried without any bias or prejudice; whereas possibly the Commission might be more inclined to go into a matter it had already investigated and had preferred charges on, so that they might already have their minds made up that discrimination did exist.

I agree with the Senator from Florida that they should have no fear to take a matter to the Federal district court with the track record, as the distinguished Senator from Florida refers to it, of the Federal judiciary in the Federal district court on civil rights matters. So the proponents of the bill come in and say, "We want some enforcement mechanism." Well, there is no opposition, so far as the junior Senator from Alabama knows, to giving an enforcement mechanism. The chief point of difference at that point—and I disagree with covering State and local government and I disagree with covering educational institutions—as to the matter of an enforcement procedure, I am willing to confer on the Commission an enforcement mechanism for their decision, and remove them from the lack of an enforcement procedure—that is, supply that need. They have been operating for 7 years. I assume they claim they have done a good job because they come back every year to state their case for appropriations, and they have never asked to be disbanded, so I assume that they say they are doing a good job under present law.

So it seems to me that the court decision enforcement right should be acceptable to all parties. By and large, that is what this whole discussion is about, because it is apparent from the temper of the Senate, as the junior Senator from Alabama assesses it, that the Senate is willing to cover State, county, and city employees, that it is even willing, based on the amendment which we offered but which was turned down, to cover educational institutions. I disagree with the wisdom of that, but apparently the Senate is willing to do that. But what it has been unwilling to do is to make of this Commission prosecutor, jury, and judge. Apparently it is willing to give it the mechanism of allowing it to prosecute these complaints and these charges in the Federal district courts throughout the country. So it is hard for the junior Senator from Alabama to see what the objection is all about. The court procedure route confers on the Commission a power it does not now have. So why they are not willing to accept that is something I find hard to understand.

Mr. GURNEY. One thing about this procedure is that under the Federal court system, and speaking now of the criminal side, or the cases where U.S. attorneys are involved as prosecutors, even in the case of a person who is beyond the Federal Government, the judiciary in part has suffered from the office of the U.S. attorney.

I mean by that that if the U.S. attorney has a matter before him or if he has a civil matter before him, he is the one who makes the decision as to whether to go ahead and prosecute it. The judge does not tell him what to do. He decides what he is going to do. Yet it seems to me that under the procedure that is set up in the bill, we do not even state anything beyond that, because the Commission, the general counsel's office, the whole kit and caboodle are wrapped up in one package and going in one direction.

Mr. ALLEN. The Senator is correct.

Mr. GURNEY. And seemingly his guidance over these things does not accomplish much, even in the Federal court; does it?

Mr. ALLEN. No, it certainly does not. Consequently, a better opportunity for the due process of law would be exercised under the court procedure route rather than having it wrapped all in one package, which would be the effect of the bill pending before the Senate.

Mr. GURNEY. Another thing bothers me about the way the bill is drafted, both as to its substance and as to what it includes and does not include at the present time and its procedures. We could go back again to the example of a religious school that wanted to hire a religious person, a person that is more religiously oriented than another person.

It seems to me that we have had examples in the past of zealots in some fields who have pinpointed certain areas that they want to zero in on, not only in the civil rights field, but also in the educational areas and institutions.

I can remember, for example, some years ago when the Department of Health, Education, and Welfare sent down to Florida during the summertime a group of college students that were still in college but were on summer vacation. The mission of these students was to come down to Florida and harass the boards of education in the State of Florida concerning their hiring practices.

This, of course, was in the civil rights field. But it actually happened. These young college students, who had not even had their first job in life as yet, came down to Florida like a swarm of locusts and proceeded to tell these people exactly what they had to do to get their institutions in shape or how to shape up, if we want to put it in that way, on a job that some of them had spent most of their lifetimes in doing. We have had an example like that.

It seems to me that if we are going to create a commission such as this and give it the judicial powers that this bill calls for, as well as the additional coverage, we can go back to the example of a college that wanted to keep itself as a religious institution and hire faculty members who believe in the religion of their own faith—whether it be Baptist, Congregationalist, which is my own faith, or whatever it be.

A bunch of people who were zealots and who wanted to change the concept of that particular college would zero on their target and apply to get on the faculty and keep that institution embroiled constantly before the EEOC. Also, if we had a commission that wanted to be overzealous on the kinds of suits they entertain and the kind of prosecutions they preferred, such an institution could be harassed almost out of existence. Does the Senator from Alabama see that danger in the bill?

Mr. ALLEN. I very definitely do. There is also the danger of the loss of academic freedom by educational institutions. With the constant harassment that is possibly under the bill, I see a possible loss of accreditation by some of our institutions.

As the Senator knows, there is always a constant battle by institutions of higher learning to have adequate libraries, adequate facilities and equipment, and adequate teaching staffs to maintain their accreditation so that the young people of the State can go to those schools feeling that they are going to an accredited institution from which they might transfer their credits to other institutions.

One of the causes that results in loss of accreditation by an institution of higher learning is that when politics creeps into the institution, it is felt that the institution is run, not by educators, but by politicians or by a government agency.

It is then the feeling that the institution is not there for education purposes, but for political reasons. And that sometimes results in the loss of accreditation by students. So, if the EEOC is constantly harassing institutions of higher learning, or a secondary school for that matter, there would be considerable alarm that the institution might lose its accreditation.

Mr. GURNEY. Mr. President, that brings to mind another interesting point on which I would like to ask a question of the distinguished Senator from Alabama. It is a well-known fact that the contributions to institutions of higher learning have dropped very considerably, with reference to alumni funds, for example, and also with reference to many of the large gifts that have been made in the past outside of alumni funds every year to colleges and universities in the Nation. It is a well-known fact that no college or university today of any size or worth or merit could get along financially with either the tuition that is paid by its students or from the income they receive from their endowments. Every single one of them needs a substantial income other than from the alumni and special gifts.

We know that this dropoff is chiefly because of two reasons. One has been the turmoil on the campuses which has discouraged some of the people who had contributed before. Another concerns the policies of institutions. That is the thing we talked about a little bit before. Many of the donors are unhappy and upset because of the policies of the institutions or the kind of instruction they give in political science or economics or special studies or because of the permissiveness they permit on the campus.

I am not making a general indictment of colleges or universities. I am simply saying that these are some of the causes why alumni are not giving any more or are giving less and why other special grants are not being brought in.

As we know, we have institutions that are strongly religious in their orientation and teaching. Suppose, for example, when this bill is passed, if it is passed in its present form, there were faculty members on the faculties of these particular colleges that did not believe in religion, so the whole thrust of that college or university as far as religious doctrine went out the window. Might that not affect giving by alumni, as well as others who wish to support that kind of institution?

Mr. ALLEN. I think definitely it would because if the institution has ceased to carry out the mission or the function approved by the alumni, obviously they are going to withdraw their financial support and transfer it somewhere else if they find an institution they feel worthy of their support.

So any institution that is constantly being harassed and that has a bad image and get the reputation of having on its faculty—and I am speaking of religious institutions at this time—people who are not in favor of carrying out the mission which has been conceived for the institution, obviously people are going to be dissatisfied and it is going to cause a lessening of their contributions. I think definitely it would be to the disadvantage of such institutions.

Mr. GURNEY. So one of the inherent dangers in this bill, in addition to the other dangers that the Senator from Alabama and others have discussed in debate on this bill, is the inherent danger that we may be shooting down the cause of higher education, at least to some extent in some schools that want to run their particular institutions in certain fashions that have been time honored, and as near as I can see, it has little to do with discrimination in employment of people; they want conditions as they have always been and it just has to do with how they want their curriculum and studies handled and what kind of instruction they want to have in their institutions as opposed to some other kind.

I thank the distinguished junior Senator from Alabama for this colloquy and for answering some of these questions that have troubled me and I know they are going to trouble a great many of my constituents in Florida, as they are now troubling them, as I know from the mail I receive from day to day. I think constituents of other Senators would be greatly troubled if they had any idea of what is in this bill and what might happen if the bill were passed in its present form.

I thank the distinguished Senator from Alabama for the real light, a sort of glare of the searchlight, he is bringing to this bill so we can be informed what it is all about.

Mr. ALLEN. I thank the Senator for his generous comments and for the contributions he made to the colloquy, as well as the background and provisions of the bill. He has made a definite contribution in pointing out some of the inherent dangers in this bill. I appreciate very much the contribution he has made.

Mr. GURNEY. I thank the Senator.

Mr. President, in my discussions of the bill I have strongly denounced and criticized the fact that the legislation would violate the very first item of the first article of the Bill of Rights by empowering the Federal Government to interfere with the free exercise of religion by dictating almost all of the employment practices of church-supported educational institutions.

That is in line with the colloquy I have been having with the distinguished Senator from Alabama. I say again that it would be difficult to imagine any practice more at odds with the idea of religious liberty than to say that the first amendment left it open to the Federal Government to compel church-supported schools at every level of education to capitulate the Federal Government's secular concept of "equal employment opportunity." If this is not true, the first amendment is but an empty pledge expressed in idle words.

In my discussions of the bill, I have strongly denounced and criticized the fact that the proposed legislation is a direct assault upon the free enterprise system. The bill brings within its orbit every employer having eight or more employees and every labor union having eight or more members. I assume that that would take in every labor organization in the country. It would be a mighty small one if it did not have as many as eight members. Thus, the small businessman, already overburdened, would encounter new regulations, investigations, hearings, and appeals far beyond his time, his energy, or his finances. If the bill becomes law—and I certainly hope that the Senate will reject the bill—many of the most cherished benefits which organized labor has attained in the last four decades would no longer become matters of right, but would automatically become matters of administrative grace to be doled out by EEOC bureaucrats as rewards for good behavior or withheld as punishment when any union does not comply with their demands.

I have had the privilege of discussing the bill on several occasions as the Senate has been considering it. The only purpose of extending debate on the bill is to allow the people affected—the people of the country—to be alerted to the dangers of the pending proposed legislation. The Senate can act very slowly at times; it can act with great speed at other times. The purpose of this discussion is not to seek to persuade any Senator to the position of the junior Senator from Alabama, because if he persuaded every Senator to support the position of the junior Senator from Alabama, he would not be able to defeat the bill outright. But he does believe that by an extended discussion of the bill, its dangers will become apparent to enough of the constituents of Senators who have voted against cloture and of Senators who have not voted against cloture that the bill should not be allowed to pass.

In the two instances when the Senate

has voted on the question of whether debate on the measure should be choked off, the votes have been decided in the negative. So apparently a sufficient number of Senators feel that the principle of providing due process of law for persons covered by the bill is so important that we who oppose the bill will be allowed to have our day on this subject.

Again, I commend the distinguished majority leader for not allowing the Calendar of the Senate to become clogged by other measures. He has set up a two-track system by which on one track we will have this item of legislation subject to extended debate, and are going to have the other track for important legislation that needs to be attended to by the servants of the people in the Senate.

Mr. President, looking at the calendar of the Senate, this Congress has been in session now for 13 months, and there are only 21 items of business on the calendar. That is a great record, Mr. President—only 21 pieces of legislation on the Calendar of the U.S. Senate. And one of those measures is the companion measure to S. 2515—H.R. 1746. So actually there are, in effect, only 20 measures on the Calendar of the U.S. Senate.

I point that out, Mr. President, to show that our discussion of this matter has not held up the consideration of any important business pending before the Senate. Mr. President, the strike legislation, the legislation that would bring to an end, and I hope provide a permanent solution to this problem, the west coast dock strike, is, at 2 o'clock, by unanimous consent of the Senate, being placed on track 2, if you might call it that, for consideration by the Senate. At 2 o'clock we go over to the second track and take up the so-called west coast dock legislation. So, Mr. President, the Nation's business is not being held up by this discussion.

One collateral benefit I might suggest—perhaps it is not a benefit; but I choose to call it a benefit—that we obtain from extended discussion of this bill and the amendments that are pending is that it enables some of our Members who are seeking higher office, if there be such, to come and go as they see fit. When they have been alerted that there is a cloture vote coming up, we will see them coming in, every single one of them, to vote for cloture. Every single one of the Members of this body seeking another office manages to drift in when the cloture vote comes up.

So, Mr. President—and I say it possibly is not of benefit; possibly it is of detriment—these Members are enabled to go their way and miss the votes. But the bad part of it, Mr. President, is that we are deprived of their presence and the contribution they could make on this legislation. We know how they are going to vote, because we see it time after time. But if we did have a series of votes, possibly some of them would come in and favor this body with their presence.

Mr. President, this bill should not be allowed to pass. It should not be allowed to come to a vote until it has been fully explained, not only to this body but to others, and I am assuming that the absent Senators will read my remarks in the CONGRESSIONAL RECORD. Not having been here to receive the benefits of my remarks, I feel sure they are going to peruse the CONGRESSIONAL RECORD and benefit thereby.

Mr. President, with only 20 pieces of legislation pending before the Senate, I say that this bill might be discussed for a considerable additional length of time—long enough, I hope, that the majority leader in his wisdom will lay it aside so that we can get back to the one-track system.

Mr. President, I like this two-track system. It allows those of us who want to stand up for principles to do so without imposing any hardship on the Senate or delaying the enactment of any bill that deserves to be enacted.

It is to be hoped that the people of the country will become alerted to the dangers of this bill. It is to be hoped that they would not like to see the provisions of the EEOC bill made applicable to any person who employs as many as eight. It is to be hoped that they would not like to see the provisions of the act made applicable to every one of some 8,000,000 employees of States, counties, and cities, and agencies of those local governments.

It is to be hoped that they would not like to see the EEOC provisions made applicable to every educational institution in the country, every university, every college, every private school, every church-supported school. It is to be hoped they would not like to see the pattern-and-practice suits, whose enforcement or prosecution now rests with the Justice Department, transferred to the EEOC.

But above all, Mr. President, it is to be hoped that the people of this Nation would not like to see this tremendous power lodged in an agency that receives complaints, prosecutes complaints, decides complaints, and then enforces orders that it makes.

Mr. President, here is our opportunity to take a stand against mushrooming or expanding Federal bureaucracy. Here is an opportunity for us to stop further encroachment by the Federal Government on our local institutions and on the everyday lives of our people. Here is an opportunity for us to prevent a Federal bureau from doubling in size and reaching out for more and more power.

It has been my observation, as a citizen and a Member of this body, that every Federal agency or bureau that is created seems to have an inherent quality or condition that makes it want to enlarge its size, receive greater compensation, obtain more power, and reach out for greater jurisdiction; and I guess Federal bureaucrats are not to be censored too much for that. I guess everyone wants a little bit more importance, and I guess the EEOC would rather have 2,000 employees than just a thousand. They would rather have jurisdiction over every person who is gainfully employed in this country, rather than a lesser number. So these things are understandable.

But, Mr. President, just because this agency or commission wants to double its size, wants to reach out for more power, does not mean that the United States Senate has to yield to the demand. So, Mr. President, I hope that Senators will stand firm against efforts to stop this debate, and that Senators will reach the conclusion that this matter should be laid aside so that the undivided attention of the Senate could be devoted to the 20 other items now appearing on the Senate Calendar, though I say that is a very small number. We read in the newspapers about several thousand bills being introduced in Congress; but we now have only 20 subject to consideration by the Senate on being called up.

Mr. President, I was pleased when the majority leader stated that at 2 o'clock today he was going to set this matter aside temporarily in order that we could take up the legislation to end the west coast dock strike. I have a number of other matters that I would like to call to the attention of the Senate, but I see other Senators on the floor who are no doubt anxious to speak on this bill, and it is the intention of the junior Senator from Alabama, in a moment, to suggest the absence of a quorum in order that another Senator might be able to speak.

So, Mr. President, with the assurance of the junior Senator from Alabama that he will return to the Senate floor to add to his remarks with respect to this measure, at this time I suggest the absence of a quorum.

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

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed, without amendment, the joint resolution (S.J. Res. 153) to designate the week which begins on the first Sunday in March, 1972, as "National Beta Club Week."

The message also announced that the House had passed the following bills of the Senate, severally with an amendment, in which it requested the concurrence of the Senate:

S. 7. An act to provide for the establishment of the Buffalo National River in the State of Arkansas, and for other purposes;

S. 166. An act to designate the Stratified Primitive Area as a part of the Washakie Wilderness, heretofore known as the South Absaroka Wilderness, Shoshone National Forest, in the State of Wyoming, and for other purposes;

S. 960. An act to designate the Sycamore Canyon Wilderness, Coconino, Kaibab, and Prescott National Forests, State of Arizona; and

S. 1857. An act to amend the joint resolution establishing the American Revolution Bicentennial Commission, as amended.

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

S. 996. An act relating to the transportation of mail by the U.S. Postal Service;

S. 1893. An act to restore the golden eagle program to the Land and Water Conservation Fund Act, provide for an annual camping permit, and for other purposes; and

S. 3122. An act to extend sections 5(n) and 7(a) of the Federal Water Pollution Control Act, as amended, until the end of fiscal year 1972.

The message also announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H.R. 6745. An act to amend section 122 of title 28 of the United States Code to transfer certain counties of the central division of the judicial district of South Dakota;

H.R. 7088. An act to provide for the establishment of the Tinicum National Environmental Center in the Commonwealth of Pennsylvania, and for other purposes;

H.R. 12143. An act to provide for the establishment of the San Francisco Bay National Wildlife Refuge;

H.R. 12186. An act to strengthen the penalties imposed for violations of the Bald Eagle Protection Act, and for other purposes;

H.R. 12207. An act to authorize a program for the development of tuna and other latent fisheries resources in the Central and Western Pacific Ocean;

H.R. 12488. An act to change the name of the Columbia Lock and Dam, on the Chattahoochee River, Alabama, to the George W. Andrews Lock and Dam; and

H.J. Res. 958. A joint resolution to amend the Sugar Act of 1948, as amended.

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled bill (H.R. 11487) to authorize the Administrator of the National Aeronautics and Space Administration to convey certain lands in Brevard County, Florida.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. BYRD of West Virginia).

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were severally read twice by their titles and referred, as indicated:

H.R. 6745. An act to amend section 122 of title 28 of the United States Code to transfer certain counties of the central division of the judicial district of South Dakota; to the Committee on the Judiciary.

H.R. 7088. An act to provide for the establishment of the Tinicum National Environmental Center in the Commonwealth of Pennsylvania, and for other purposes;

H.R. 12143. An act to provide for the establishment of the San Francisco Bay National Wildlife Refuge;

H.R. 12186. An act to strengthen the penalties imposed for violations of the Bald Eagle Protection Act, and for other purposes; and

H.R. 12207. An act to authorize a program for the development of tuna and other latent fisheries resources in the Central and Western Pacific Ocean; to the Committee on Commerce.

H.J. Res. 958. A Joint resolution to amend the Sugar Act of 1948, as amended; to the Committee on Finance.

RECESS TO 1:50 P.M.

Mr. BYRD of West Virginia. Mr. President, I move that the Senate stand in recess until 10 minutes before 2 p.m. today.

The motion was agreed to; and (at 12:48 p.m.) the Senate took a recess until 1:50 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. ERVIN).

JOINT REFERRAL OF A MESSAGE FROM THE PRESIDENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that a message from the President of the United States today on protection of the environment be jointly referred to the following committees: Agriculture and Forestry; Banking, Housing and Urban Affairs; Commerce; Finance; Foreign Relations; Interior and Insular Affairs, and Public Works.

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

Mr. BYRD of West Virginia. Mr. President, I have made this request inasmuch as the message proposes specific legislation falling within the jurisdiction of these committees.

The message from the President is as follows:

To the Congress of the United States:

From the very first, the American spirit has been one of self-reliance and confident action. Always we have been a people to say with Henley "I am the master of my fate . . . the captain of my soul"—a people sure that man commands his own destiny. What has dawned dramatically upon us in recent years, though, is a new recognition that to a significant extent man commands as well the very destiny of this planet where he lives, and the destiny of all life upon it. We have even begun to see that these destinies are not many and separate at all—that in fact they are indivisibly one.

This is the environmental awakening. It marks a new sensitivity of the American spirit and a new maturity of American public life. It is working a revolution in values, as commitment to responsible partnership with nature replaces cavalier assumptions that we can play God with our surroundings and survive. It is leading to broad reforms in action, as individuals, corporations, government, and civic groups mobilize to conserve resources, to control pollution, to anticipate and prevent emerging environmental problems, to manage the land more wisely, and to preserve wildness.

In messages to the Congress during 1970 and 1971 I proposed comprehensive initiatives reflecting the earliest and most visible concerns of the environmental awakening. The new cast of the public mind had to be translated into new legislation. New insights had to have new governmental forms and processes through which to operate. Broadly-based problems—such as air pollution, water pollution, and pesticide hazards—had to be dealt with first.

The necessary first steps in each of these areas have now been taken, though in all of them the work is far from completed. Now, as we press on with that work in 1972, we must also come to grips with the basic factors which underlie our more obvious environmental problems—factors like the use of land and the impact of incentives or disincentives built into our economic system. We are gaining an increasingly sophisticated understanding of the way economic, institutional, and legal forces shape our surroundings for good or ill; the next step is learning how to turn such forces to environmental benefit.

Primary responsibility for the actions that are needed to protect and enhance our environment rests with State and local government, consumers, industry, and private organizations of various kinds—but the Federal Government must provide leadership. On the first day of this decade I stated that "it is literally now or never" for true quality of life in America. Amid much encouraging evidence that it can and will be "now," we must not slacken our pace but accelerate it. Environmental concern must crystallize into permanent patterns of thought and action. What began as environmental awakening must mature finally into a new and higher environmental way of life. If we flag in our dedication and will, the problems themselves will not go away. Toward keeping the momentum of awareness and action, I pledge my full support and that of this Administration, and I urgently solicit the continuing cooperation of the Congress and the American people.

TWO YEARS' AGENDA

FROM CONSIDERATION TO ACTION

In my 1971 environmental message, just one year ago today, I sent to the Congress a comprehensive program designed to clean up the problems of the past, and to deal with emerging problems before they become critical. These proposals included:

Regulation of toxic substances

Comprehensive improvement in pesticide control authority

Noise control

Preservation of historic buildings

Power plant siting

Regulation of environmental effects of surface and underground mining

Ocean dumping regulation

More effective control of water pollution through a greatly expanded waste treatment grant program and strengthened standard-setting and enforcement authorities

A National Land Use Policy Act

Substantial expansion of the wilderness system

Expanded international cooperation

To date, most of the legislation on this list has been the subject of congressional hearings; most of it has attracted heartening interest and support; but none of it has yet received final congressional action. Last year was, quite properly, a year of consideration of these measures by the Congress. I urge, however, that this be a year of action on all of them, so that we can move on from intention to accomplishment in the important needs they address. Passage of these measures and creation of the unified Department of Natural Resources which I also proposed in 1971—by this 92d Congress—will be essential if we are to have an adequate base for improving environmental quality.

BUILDING ON THE BASE

As that base is being established, we must move ahead to build wisely and

rapidly upon it. I shall outline today a plan for doing that, with initiatives and actions in the following areas:

—Tightening pollution control
  A Toxic Wastes Disposal Control Act
  Legislation to control sediment from construction activities
  An emissions charge to reduce sulfur oxide air pollution
  Clean energy research and energy conservation measures
—Making technology an environmental ally
  Integrated pest management
  Stepped-up research on noise control
  Stepped-up research on air pollution effects and measurement
—Improving land use
  Expansion and strengthening of the National Land Use Policy Act
  Protection of wet lands
—Protecting our natural heritage
  A ban on use of poisons for predator control on public lands
  A stronger law to protect endangered species of wildlife
  Big Cypress National Fresh Water Reserve
  National Recreation Areas around New York Harbor and the Golden Gate
  Conversion of 20 additional Federal properties to recreational use
  18 new Wilderness Areas
  Regulation of off-road vehicles on Federal lands
—Expanding international cooperation on the environment
  Establishment of a United Nations Fund for the Environment
  Further measures to control marine pollution
—Protecting children from lead-based paint
—Enlisting the young
  President's Environmental Merit Awards Program for high schools
  Youth opportunities in the Department of Agriculture Field Scout program.

TIGHTENING POLLUTION CONTROL

The legislative framework for dealing with our major air pollution problems has become law, and I have made comprehensive recommendations regarding water pollution control. But several problems remain to be addressed which are difficult to deal with under the general pollution control authorities.

DISPOSAL OF TOXIC WASTES

Increasingly strict air and water pollution control laws and their more effective enforcement have led to greater reliance on land—both surface and underground—for disposal of waste products from the toxic substances being used in ever greater volume and variety in our society. Without adequate controls, such waste disposal may cause contamination of underground and surface waters leading to direct health hazards.

—I propose a Toxic Wastes Disposal Control Act, under which the Environmental Protection Agency would establish Federal guidelines and requirements for State programs to regulate disposal on or under the land of those toxic wastes which pose a hazard to health. The act would provide for Federal enforcement action if a State should fail to establish its own program.

SEDIMENT CONTROL

Sediment, small particles of soil which enter the water, is the most pervasive water pollution problem which does not come primarily from municipal or industrial sources. Heavy loads of sediment interfere with many beneficial uses of water, such as swimming and water supply, and can change the entire character of an aquatic environment. Many of our great waterways are afflicted with this problem. In our urban areas, a significant amount of sediment comes from construction. However, if proper construction practices are followed, sediment runoff from this source can be greatly reduced.

—I propose legislation calling upon the States to establish, through appropriate local and regional agencies, regulatory programs to control sediment affecting water quality from earth-moving activities such as building and road construction.

The Environmental Protection Agency, together with other Federal agencies, would develop Federal guidelines for appropriate control measures. Federal enforcement would take place in situations where a State failed to implement such a program.

SULFUR OXIDES EMISSIONS CHARGE

In my 1971 Environmental Message, I announced plans to ask for imposition of a charge on sulfur oxides emissions, one of the air pollutants most damaging to human health and property, and vegetation. The Council on Environmental Quality, the Treasury Department and the Environmental Protection Agency have now completed their studies on this measure and have developed the details of an emission charge proposal.

—I propose a charge on sulfur emitted into the atmosphere from combustion, refining, smelting, and other processes.

This charge would begin in 1976 and apply in all regions where the air quality does not meet national standards for sulfur oxides during 1975. The charge would be 15 cents per pound on sulfur emitted in regions where the primary standards—which are designed to be protective of public health—have not been met within the deadline for achievement prescribed in the Clean Air Act. In regions where air quality met the primary standard but exceeded the secondary national standard—designed to protect property, vegetation, and aesthetic values—a charge of $.10 per pound of sulfur emitted would apply. Areas which reduce emissions sufficiently to meet both primary and secondary air quality standards would be exempt from the emission charge.

This charge is an application of the principle that the costs of pollution should be included in the price of the product. Combined with our existing regulatory authority, it would constitute a strong economic incentive to achieve the sulfur oxides standards necessary to protect health, and then further to reduce emissions to levels which protect welfare and aesthetics.

CLEAN ENERGY GENERATION AND CONSERVATION

Ours is an energy-based economy, and energy resources are the basis for future economic progress. Yet the consumption of energy-producing fuels contributes to many of our most serious pollution problems. In order to have both environmental quality and an improving standard of living, we will need to develop new clean energy sources and to learn to use energy more efficiently.

Our success in meeting energy needs while preventing adverse environmental effects from energy generation and transmission will depend heavily on the state of available technology. In my message to the Congress on energy of last June, I announced a series of steps to increase research on clean and efficient energy production. But further action is needed.

—As part of my new commitment to augment Federal research and development and target it more effectively on solving domestic problems, I have requested in the 1973 budget an additional $88 million for development of a broad spectrum of new technologies for producing clean energy.

In addition to carrying forward the priority efforts I have already announced—the liquid metal fast breeder reactor, pipeline quality gas from coal, and sulfur oxide control technology—the budget provides funds for new or increased efforts on fusion power, solar energy, magnetohydrodynamics, industrial gas from coal, dry cooling towers for power plant waste heat, large energy storage batteries and advanced underground electric transmission lines. These new efforts relate to both our immediate and our future energy problems, and are needed to assure adequate supplies of clean energy.

My message on energy also announced several steps that would be taken by the Federal Government to use energy more efficiently and with less environmental harm. One of these steps was issuance by the Secretary of Housing and Urban Development of revised standards for insulation in new federally insured houses. The new standards for single-family structures, which have now been issued through the Federal Housing Administration, reduce the maximum permissible heat loss by about one-third for a typical home. The fuel savings which will result from the application of these new standards will, in an average climate, exceed in one year the cost of the additional insulation required.

—I am now directing the Secretary of Housing and Urban Development to issue revised insulation standards for apartments and other multifamily structures not covered by the earlier revision. The new rules will cut maximum permissible heat loss by 40%.

The savings in fuel costs after a 5-year period will on the average more than offset the additional construction costs occasioned by these revised standards.

These stricter insulation standards are only one example of administrative ac-

tions which can be taken by the Federal Government to eliminate wasteful use of energy. The Federal Government can and must provide leadership by finding and implementing additional ways of reducing such waste.

—*I have therefore instructed the Council on Environmental Quality and the Office of Science and Technology, working with other Federal agencies, to conduct a survey to determine what additional actions might be taken to conserve energy in Federal activities.*

This survey will look at innovative ways to reduce wasteful consumption of energy while also reducing total costs and undesirable environmental impact.

RECYCLING

Recycling—the technique which treats many types of solid wastes not as pollutants but as recoverable and reusable "resources out of place"—is an important part of the answer to the Nation's solid waste burden. Last year, at my direction, the General Services Administration began reorienting government procurement policies to set a strong Federal example in the use of recycled products.

—*Because Federal tax policy should also offer recycling incentives, the Treasury Department is clarifying the availability of tax exempt treatment industrial revenue bond financing for the construction of recycling facilities built by private concerns to recycle their own wastes.*

THE ENVIRONMENTAL TRANSITION

Many environmental problems are influenced by the way our economy operates. Conversely, efforts to improve environmental quality have an impact on the economy. Our national income accounting does not explicitly recognize the cost of pollution damages to health, materials, and aesthetics in the computation of our economic well-being. Many goods and services fail to bear the full costs of the damages they cause from pollution, and hence are underpriced.

Environmental quality requirements will affect many of our industries by imposing new costs on production. We know that these impacts fall unevenly on industries, new and old firms, and on communities, but little concrete data has been available. Contract studies have recently been performed for the Council on Environmental Quality, the Environmental Protection Agency, and the Department of Commerce, under the policy guidance of the Council of Economic Advisers. These initial studies suggest that pollution control costs will result in some price increases, competitive trade disadvantages, and employment shifts. The major impact of these costs will be on older, and usually smaller plants.

As long as we carefully set our environmental goals to assure that the benefits we achieve are greater than the social and economic costs, the changes which will occur in our economy are desirable, and we as a nation will benefit from them.

MAKING TECHNOLOGY AN ENVIRONMENTAL ALLY

The time has come to increase the technological resources allocated to the challenges of meeting high-priority domestic needs. In my state of the Union message last month, I announced an expanded Federal research and development commitment for this purpose. There is great potential for achievement through technology in the fight against pollution and the larger drive for quality in our environment.

The temptation to cast technology in the role of ecological villain must be resisted—for to do so is to deprive ourselves of a vital tool available for enhancing environmental quality. As Peter Drucker has said, "the environment is a problem of [the] success" of technological society, by no means a proof of its failure. The difficulties which some applications of technology have engendered might indeed be rectified by turning our backs on the 20th century, but only at a price in privation which we do not want to pay and do not have to pay. There is no need to throw out the baby with the bath water. Technology can and must be wisely applied so that it becomes environmentally self-corrective. This is the standard for which we must aim.

INTEGRATED PEST MANAGEMENT

Chemical pesticides are a familiar example of a technological innovation which has provided important benefits to man but which has also produced unintended and unanticipated harm. New technologies of integrated pest management must be developed so that agricultural and forest productivity can be maintained together with, rather than at the expense of, environmental quality. Integrated pest management means judicious use of selective chemical pesticides in combination with nonchemical agents and methods. It seeks to maximize reliance on such natural pest population controls as predators, sterilization, and pest diseases. The following actions are being taken:

—*I have directed the Department of Agriculture, the National Science Foundation, and the Environmental Protection Agency to launch a large-scale integrated pest management research and development program. This program will be conducted by a number of our leading universities.*

—*I have directed the Department of Agriculture to increase field testing of promising new methods of pest detection and control. Also, other existing Federal pesticide application programs will be examined for the purpose of incorporating new pest management techniques.*

—*I have directed the Departments of Agriculture and of Health, Education, and Welfare to encourage the development of training and certification programs at appropriate academic institutions in order to provide the large number of crop protection specialists that will be needed as integrated pest management becomes more fully utilized.*

—*I have authorized the Department of Agriculture to expand its crop field scout demonstration program to cover nearly four million acres under agricultural production by the upcoming growing season.*

Through this program many unnecessary pesticide applications can be eliminated, since the scouts will be used to determine when pesticide applications are actually needed.

In my message on the environment last February, I proposed a comprehensive revision of our pesticide control laws—a revision which still awaits final congressional action. Also essential to a sound national pesticide policy are measures to ensure that agricultural workers are protected from adverse exposures to these chemicals.

—*I am directing the Departments of Labor and Health, Education, and Welfare to develop standards under the Occupational Safety and Health Act to protect such workers from pesticide poisoning.*

NOISE CONTROL RESEARCH

Scientific findings increasingly confirm what few urban dwellers or industrial workers need to be told—that excessive noise can constitute a significant threat to human well-being. The Congress already has before it a comprehensive noise control bill, which I proposed a year ago. A quieter environment cannot simply be legislated into being. We shall also need to develop better methods to achieve our goal.

—*I have requested in my 1973 budget a $23 million increase in research and development funds for reducing noise from airplanes. I have also requested new funds for research and development for reducing street traffic noise.*

RESEARCH ON AIR POLLUTION EFFECTS AND MEASUREMENT

Our pollution control efforts are based largely on the establishment of enforceable standards of environmental quality. Initial standards have often been based on incomplete knowledge because the necessary information has not been available. Also, the lack of adequate instruments to measure pollution and of models of how pollutants are dispersed has made it difficult to know exactly how much pollution must be controlled in a particular area. We need added research and development to make more precise judgments of what standards should be set and how we can most practically achieve our goals.

—*I have requested in my 1973 budget an additional $12 million to increase research on the health effects of air pollution, on regional air pollution modeling, and on improved pollution instrumentation and measurement.*

IMPROVING LAND USE

In recent years we have come to view our land as a limited and irreplaceable resource. No longer do we imagine that there will always be more of it over the horizon—more woodlands and shorelands and wetlands—if we neglect or overdevelop the land in view. A new maturity is giving rise to a land ethic which recognizes that improper land use affects the public interest and limits the choices that we and our descendants will have.

Now we must equip our institutions to carry out the responsibility implicit in this new outlook. We must create the administrative and regulatory mechanisms necessary to assure wise land use

and to stop haphazard, wasteful, or environmentally damaging development. Some States are moving ahead on their own to develop stronger land-use institutions and controls. Federal programs can and should reinforce this encouraging trend.

NATIONAL LAND USE POLICY ACT

The National Land Use Policy Act, which I proposed to the Congress last year, would provide Federal assistance to encourage the States, in cooperation with local governments, to protect lands which are of critical environmental concern and to control major development. While not yet enacted, this measure has been the subject of much useful debate.

—I propose amendments to this pending National Land Use Policy legislation which would require States to control the siting of major transportation facilities, and impose sanctions on any State which does not establish an adequate land use program.

Under these amendments, the State programs established pursuant to the act would not only have to embody methods for controlling land use *around* key growth-inducing developments such as highways, airports, and recreational facilities; the States would also have to provide controls over the actual *siting* of the major highways and airports themselves. The change recognizes the fact that these initial siting decisions, once made, can often trigger runaway growth and adverse environmental effects.

The amendments would further provide that any State that had not established an acceptable land use program by 1975 would be subject to annual reductions of certain Federal funds. Seven percent of the funds allocated under sections of the Airport and Airways Development Act, the Federal-Aid Highway Acts including the Highway Trust Fund, and the Land and Water Conservation Fund, would be withheld in the first year. An additional 7 percent would be withheld for each additional year that a State was without an approved land use program. Money thus withheld from noncomplying States would be allocated among States which did have acceptable programs.

These strong new amendments are necessary in view of the significant effect that Federal programs, particularly transportation programs, have upon land use decisions.

PROTECTION OF WETLANDS

The Nation's coastal and estuarine wetlands are vital to the survival of a wide variety of fish and wildlife; they have an important function in controlling floods and tidal forces; and they contain some of the most beautiful areas left on this continent. These same lands, however, are often some of the most sought-after for development. As a consequence, wetland acreage has been declining as more and more areas are drained and filled for residential, commercial, and industrial projects.

My National Land Use Policy Act would direct State attention to these important areas by defining wetlands among the "environmentally critical areas" which it singles out for special protection, and by giving priority attention to the coastal zones. I propose to supplement these safeguards with new economic disincentives to further discourage unnecessary wetlands development.

—I propose legislation to limit applicability of certain Federal tax benefits when development occurs in coastal wetlands.

MANAGEMENT OF PUBLIC LANDS

During 1971, I acted to strengthen the environmental requirements relating to management and use of the Nation's vast acreage of federally-owned public lands administered by the Department of the Interior. I proposed new legislation to establish an overall management policy for these public lands, something which we have been without for far too long. This legislation, still pending before the Congress, would direct the Secretary of the Interior to manage our public lands in a manner that would protect their environmental quality for present and future generations. The policy which it would establish declares the retention of the public lands to be in the national interest except where disposal of particular tracts would lead to a significant improvement in their management, or where the disposal would serve important public objectives which cannot be achieved on non-public lands.

PROTECTING OUR NATURAL HERITAGE

Wild places and wild things constitute a treasure to be cherished and protected for all time. The pleasure and refreshment which they give man confirm their value to society. More importantly perhaps, the wonder, beauty, and elemental force in which the least of them share suggest a higher right to exist—not granted them by man and not his to take away. In environmental policy as anywhere else we cannot deal in absolutes. Yet we can at least give considerations like these more relative weight in the seventies, and become a more civilized people in a healthier land because of it.

PREDATOR CONTROL

Americans today set high value on the preservation of wildlife. The old notion that "the only good predator is a dead one" is no longer acceptable as we understand that even the animals and birds which sometimes prey on domesticated animals have their own value in maintaining the balance of nature.

The widespread use of highly toxic poisons to kill coyotes and other predatory animals and birds is a practice which has been a source of increasing concern to the American public and to the federal officials responsible for the public lands.

Last year the Council on Environmental Quality and the Department of the Interior appointed an Advisory Committee on Predator Control to study the entire question of predator and related animal control activities. The Committee found that persistent poisons have been applied to range and forest lands without adequate knowledge of their effects on the ecology or their utility in preventing losses to livestock. The large-scale use of poisons for control of predators and field rodents has resulted in unintended losses of other animals and in other harmful effects on natural ecosystems. The Committee concluded that necessary control of coyotes and other predators can be accomplished by methods other than poisons.

Certainly, predators can represent a threat to sheep and some other domesticated animals. But we must use more selective methods of control that will preserve ecological values while continuing to protect livestock.

—I am today isuing an Executive Order barring the use of poisons for predator control on all public lands. (Exceptions will be made only for emergency situations.) I also propose legislation to shift the emphasis of the current direct Federal predator control program to one of research and technical and financial assistance to the States to help them control predator populations by means other than poisons.

ENDANGERED SPECIES

It has only been in recent years that efforts have been undertaken to list and protect those species of animals whose continued existence is in jeopardy. Starting with our national symbol, the bald eagle, we have expanded our concern over the extinction of these animals to include the present list of over 100. We have already found, however, that even the most recent act to protect endangered species, which dates only from 1969, simply does not provide the kind of management tools needed to act early enough to save a vanishing species. In particular, existing laws do not generally allow the Federal Government to control shooting, trapping, or other taking of endangered species.

—I propose legislation to provide for early identifications and protection of endangered species. My new proposal would make the taking of endangered species a Federal offense for the first time, and would permit protective measures to be undertaken before a species is so depleted that regeneration is difficult or impossible.

MIGRATORY SPECIES

The protection of migratory species, besides preserving wildlife values, exemplifies cooperative environmental effort among the United States, Canada, and Mexico. By treaties entered into among these three countries, migratory species are protected. New species may be added by common agreement between the United States and Mexico.

—I have authorized the Secretary of State, in conjunction with the Secretary of the Interior, to seek the agreement of the Mexican Government to add 33 new families of birds to the protected list.

Included in the proposal are eagles, hawks, falcons, owls, and many of the most attractive species of wading birds. I am hopeful that treaty protection can be accorded them in the near future.

BIG CYPRESS NATIONAL FRESH WATER RESERVE

After careful review of the environmental significance of the Big Cypress

Swamp in Florida, particularly of the need for water from this source to maintain the unique ecology of Everglades National Park, I directed the Secretary of the Interior to prepare legislation to create the Big Cypress National Fresh Water Reserve. This legislation, which has now been submitted to Congress, will empower the Federal Government to acquire the requisite legal interest in 547,000 acres of Big Cypress.

NEW PARKLANDS AT THE GATEWAYS

The need to provide breathing space and recreational opportunities in our major urban centers is a major concern of this Administration. Two of the Nation's major gateways to the world—New York City and San Francisco—have land nearby with exceptional scenic and recreational potential, and we are moving to make that land available for people to enjoy. In May of 1971, I proposed legislation to authorize a Gateway National Recreation Area in New York and New Jersey. This proposal would open to a metropolitan region of more than 14 million people a National Recreation Area offering more than 23,000 acres of prime beaches, wildlife preserves, and historical attractions including the nation's oldest operating lighthouse.

On our western shore lies another area uniquely appropriate for making recreational and scenic values more accessible to a metropolitan community.

—I propose legislation to establish a Golden Gate National Recreation Area in and around San Francisco Bay.

This proposal would encompass a number of existing parks, military reservations, and private lands to provide a full range of recreation experiences. Altogether, the area would encompass some 24,000 acres of fine beaches, rugged coasts, and readily accessible urban parklands, extending approximately 30 miles along some of America's most beautiful coastline north and south of Golden Gate Bridge. Angel and Alcatraz Islands in the bay would be within the boundaries of the National Recreation Area, as would a number of properties on the mainland which afford magnificent views of the city, the bay and the ocean. As part of this plan, I am directing that the Presidio at San Francisco be opened for dual military and civilian recreational uses.

CONVERTING FEDERAL PROPERTIES TO PARKS

Among the most important legacies that we can pass on to future generations is an endowment of parklands and recreational areas that will enrich leisure opportunities and make the beauties of the earth and sea accessible to all Americans. This is the object of our Legacy of Parks program, initiated early in 1971. As part of this program, I directed the Property Review Board to give priority to potential park and recreation areas in its search for alternative uses of federally held real property. The results of this search so far have been most encouraging. To the original 40 properties which I announced in my Environmental Message of 1971 as being well suited for park use, another 111 prospects have been added. And from this total of 151 prospective parklands, 63 have already been made available.

—Today I am pleased to announce that 20 more parcels of Federal land are being made available for park and recreation use.

These newest parcels, combined with those which have been announced over the past year, provide a legacy of 83 parklands for America which comprise 14,585 acres in 31 States and Puerto Rico. The estimated fair market value of these properties is over $56 million. In the months to come, every effort will be made to extend this legacy to all 50 States. The green spaces and natural retreats that we tend to take for granted will not be available for future enjoyment unless we act now to develop and protect them.

WILDERNESS AREAS

One of the first environmental goals I set when I took office was to stimulate the program to identify and recommend to the Congress new wilderness areas. Although this program was behind schedule at that time, I am now able to report that the September, 1974 statutory deadline for reviews can and will be met.

The Wilderness Act of 1964 set aside 54 areas, consisting of about 9.1 million acres, as the nucleus of our wilderness system. Since then, 33 new areas totalling almost 1.2 million acres within National Forests, National Parks, and National Wildlife Refuges have been added to the system. Thirty-one areas totalling about 3.6 million acres, including 18 areas submitted by this Administration, have been proposed to the Congress but have yet to be acted upon. One of the most significant elements of this process has been the active participation by the public in all of its phases. At public wilderness hearings held all across the country, fair consideration has been given to all interests and points of view, with constructive citizen involvement in the decision-making process.

—I am today proposing 18 new wilderness areas which, when approved, will add another 1.3 million acres to the wilderness system.

Eight of these proposals are within the National Forests, four are within National Park areas, and six are in National Wildlife Refuges.

Of these areas, 1.2 million acres would be in the following National Forests: Blue Range National Forest, Arizona and New Mexico; Agua Tibia and Emigrant National Forests, California; Eagles Nest and Weminuche National Forests, Colorado; Mission Mountains National Forests, Montana; Aldo Leopold National Forest, New Mexico; and Glacier National Forest, Wyoming.

A total of 40,000 acres would be in our National Park system in the following locations: Black Canyon of the Gunnison National Monument, Colorado; Bryce Canyon National Park, Utah; Chiricahua National Monument, Arizona; Colorado National Monument, Colorado.

Finally, a total of 87,000 acres would be in areas administered by the Fish and Wildlife Services of the Department of the Interior in the following locations: St. Marks, National Wildlife Refuge, Florida; Wolf Island National Wildlife Refuge, Georgia; Moosehorn National Wildlife Refuge, Maine; San Juan Islands, National Wildlife Refuge, Washington; Cape Romain, National Wildlife Refuge, South Carolina; and Bosque del Apache, National Wildlife Refuge, New Mexico.

The year 1972 can bring some of the greatest accomplishment in wilderness preservation since passage of the Wilderness Act in 1964. I urge prompt and systematic consideration by the Congress of these 18 new proposals and of the 31 currently pending before it. Approval of all 49 additions would bring the system up to a total of over 15 million acres.

Unfortunately, few of these wilderness areas are within easy access of the most populous areas of the United States. The major purpose of my Legacy of Parks program is to bring recreation opportunities closer to the people, and while wilderness is only one such opportunity, it is a very important one. A few of the areas proposed today or previously are in the eastern sections of the country, but the great majority of wilderness areas are found in the West. This of course is where most of our pristine wild areas are. But a greater effort can still be made to see that wilderness recreation values are preserved to the maximum extent possible, in the regions where most of our people live.

—I am therefore directing the Secretaries of Agriculture and the Interior to accelerate the identification of areas in the Eastern United States having wilderness potential.

OFF-ROAD VEHICLES

A recent study by the Department of the Interior estimated that Americans own more than 5 million off-road recreational vehicles—motorcycles, minibikes, trail bikes, snowmobiles, dune-buggies, all-terrain vehicles, and others. The use of these vehicles is dramatically on the increase: data show a three-fold growth between 1967 and 1971 alone.

As the number of off-road vehicles has increased, so has their use on public lands. Too often the land has suffered as a result. Increasingly, Federal recreational lands have become the focus of conflict between the newer motorized recreationist and the traditional hiker, camper, and horseback rider. In the past, Federal land-management agencies have used widely varying approaches to dealing with this conflict. The time has come for a unified Federal policy toward use of off-road vehicles on Federal lands.

—I have today signed an Executive Order directing the Secretaries of Agriculture, Interior, Army and the Board of Directors of the Tennessee Valley Authority to develop regulations providing for control over the use of off-road vehicles on Federal lands.

They will designate areas of use and non-use, specify operating conditions that will be necessary to minimize damage to the natural resources of the Federal lands, and ensure compatibility with other recreational uses, taking into account noise and other factors.

EXPANDING INTERNATIONAL COOPERATION OI THE ENVIRONMENT

We are now growing accustomed to the view of our planet as seen from

space—a blue and brown disk shrouded in white patches of clouds. But we do not ponder often enough the striking lesson it teaches about the global reach of environmental imperatives. No matter what else divides men and nations, this perspective should unite them. We must work harder to foster such world environmental consciousness and shared purpose.

UNITED NATIONS CONFERENCE ON THE HUMAN ENVIRONMENT

To cope with environmental questions that are truly international, we and other nations look to the first world conference of governments ever convened on this subject: the United Nations Conference on the Human Environment, to be held in Stockholm, Sweden, in June of this year. This should be a seminal event of the international community's attempt to cope with these serious, shared problems of global concern that transcend political differences.

But efforts to improve the global environment cannot go forward without the means to act.

—*To help provide such means, I propose that a voluntary United Nations Fund for the Environment be established, with an initial funding goal of $100 million for the first 5 years.*

This Fund would help to stimulate international cooperation on environmental problems by supporting a centralized coordination point for United Nations activities in this field. It would also help to bring new resources to bear on the increasing number of worldwide problems through activities such as monitoring and cleanup of the oceans and atmosphere.

—*If such a Fund is established, I will recommend to the Congress that the United States commit itself to provide its fair share of the Fund on a matching basis over the first 5 years.*

This level of support would provide start-up assistance under mutually agreed-upon terms. As these programs get underway, it may well be that the member nations will decide that additional resources are required. I invite other nations to join with us in this commitment to meaningful action.

CONTROL OF MARINE POLLUTION

Ocean pollution is clearly one of our major international environmental problems. I am gratified that in the past year the Congress has taken several steps to reduce the risks of oil spills on the high seas. However, further congressional action is needed to ratify several pending international conventions and to adopt implementing legislation for the various oil-spill conventions which have been ratified or which are waiting approval.

Action on these recommendations will complete the first round of international conventions to deal with marine pollution. We have taken initiatives in three international forums to develop a second and more sophisticated round of agreements in this area. We are preparing for a 1973 Intergovernmental Maritime Consultative Organization (IMCO) Conference to draft a convention barring intentional discharges to the sea of oil and hazardous substances from ships. In conjunction with the Law of the Sea Conference scheduled for 1973, we are examining measures to control the effects of developing undersea resources. And, in the preparatory work for the 1972 U.N. Conference on the Human Environment, progress has been made on an agreement to regulate the ocean dumping of shore-generated wastes, and further work in this area has been scheduled by IMCO. We hope to conclude conventions in each of these areas by 1973.

PROTECTING CHILDREN FROM LEAD-BASED PAINT

To many Americans, "environment" means the city streets where they live and work. It is here that a localized, but acutely dangerous type of "pollution" has appeared and stirred mounting public concern.

The victims are children: the hazard is lead-based paint. Such paint was applied to the walls of most dwellings prior to the 1950's. When the paint chips and peels from the walls in dilapidated housing, it is frequently eaten by small children. This sometimes results in lead poisoning which can cause permanent mental retardation and occasionally death. We can and must prevent unnecessary loss of life and health from this hazard, which particularly afflicts the poorest segments of our population.

To help meet the lead-paint threat, the Department of Health, Education, and Welfare will administer grants and technical assistance to initiate programs in over 50 communities to test children in high-risk areas for lead concentrations. In addition, these programs will support the development of community organization and public education to increase public awareness of this hazard. Other Federal agencies are also active in the effort to combat lead-based paint poisoning. ACTION and other volunteers will assist city governments to help alleviate lead paint hazards. The Department of Housing and Urban Development is engaged in research and other actions to detect and eliminate this hazard.

The resources of the private sector should also be utilized through local laws requiring owners of housing wherever possible to control lead paint hazards.

ENLISTING THE YOUNG

The starting point of environmental quality is in the hearts and minds of the people. Unless the people have a deep commitment to the new values and a clear understanding of the new problems, all our laws and programs and spending will avail little. The young, quick to commit and used to learning, are gaining the changed outlook fastest of all. Their enthusiasm about the environment spreads with a healthy contagion: their energy in its behalf can be an impressive force for good.

Four youth participation programs of mutual benefit to the young and the Nation are now planned or underway:

Last October, I initiated the Environmental Merit Awards Program. This program, directed by the Environmental Protection Agency in cooperation with the U.S. Office of Education, awards national recognition to successful student projects leading to environmental understanding or improvement. Qualifications for the awards are determined by a local board consisting of secondary school students, faculty, and representatives of the local community. Already more than 2,000 high schools, representing all fifty States, have registered in the program.

The Department of Agriculture's expanded field scout demonstration program, designed to permit more effective pest control with less reliance on chemical pesticides, will employ thousands of high school and college students. These young people will be scouting cotton and tobacco pests in the coming growing season, and the program will be expanded to other crops in future years.

The Environmental Protection Agency has recently initiated in its Seattle regional office a pilot program using young people to assist the agency in many of its important tasks, including monitoring. EPA is working with State and local pollution control agencies to identify monitoring needs. ACTION and the youth training programs are providing the manpower. If this initial program proves successful, the concept will be expanded.

ACTION volunteers and young people employed through the Neighborhood Youth Corps, Job Corps, and college work-study programs will work with city governments to help alleviate lead paint hazards, gaining experience in community health work as they give urgently needed aid to inner-city families.

Young people working on environmental projects, learning the skills necessary for a particular job, must also understand how their work relates to the environmental process as a whole. Thus, all of these activities must be supplemented by continued improvement in many aspects of environmental education to help all of our citizens, both young and old, develop a better awareness of man's relation to his environment. In my first Environmental Quality Report, I stressed the importance of improving the Nation's "environmental literacy." This goal remains as important as ever, and our progress toward it must continue.

ONE DESTINY

Our destiny is one: this the environmental awakening has taught America in these first years of the seventies. Let us never forget, though, that is not a destiny of fear, but of promise. As I stated last August in transmitting the Second Annual Report of the Council on Environmental Quality: "The work of environmental improvement is a task for all our people . . . The achievement of that goal will challenge the creativity of our science and technology, the enterprise and adaptability of our industry, the responsiveness and sense of balance of our political and legal institutions, and the resourcefulness and the capacity of this country to honor those human values upon which the quality of our national life must ultimately depend." We shall rise to the challenge of solving our environmental problems by enlisting the creative energy of all of our citizens in a cause truly worthy of the best that each can bring to it.

While we share our environmental problems with all the people of the world, our industrial might, which has made us the leader among nations in terms of material well-being, also gives

us the responsibility of dealing with environmental problems first among the nations. We can be proud that our solutions and our performance will become the measure for others climbing the ladder of aspirations and difficulties; we can set our sights on a standard that will lift their expectations of what man can do.

The pursuit of environmental quality will require courage and patience. Problems that have been building over many years will not yield to facile solutions. But I do not doubt that Americans have the wit and the will to win—to fulfill our brightest vision of what the future can be.

RICHARD NIXON.

THE WHITE HOUSE, *February 8, 1972.*

QUORUM CALL

Mr. BYRD of West Virginia. 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. HUGHES). Without objection, it is so ordered.

THE DOCK STRIKE

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the dock strike bill, which will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 197) to provide a procedure for settlement of the dispute on the Pacific coast between certain shippers and associated employers and certain employees.

The PRESIDING OFFICER (Mr. HUGHES). Under the previous order, there is a 1-hour time limitation on the joint resolution, with a 2½-hour limitation on the Packwood amendment, and 20 minutes on any amendments thereto.

Who yields time?

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

The PRESIDING OFFICER. On whose time?

Mr. WILLIAMS. To be equally divided, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Who yields time?

Mr. WILLIAMS. Mr. President, I yield myself 5 minutes for now; first, to lay the groundwork for the debate on this joint resolution. The ranking minority member of the Committee on Labor and Public Welfare and I will present a description of what the committee has sent to the Senate.

There is one amendment we know of that will be offered under the time agreement.

It is hoped that very shortly copies of the joint resolution, as well as the amendment, will become available to Senators. Evidently this emergency measure has placed emergency demands upon the Government Printing Office, but copies of the joint resolution and the amendment will be here as soon as possible.

Mr. President, we are today considering Senate Joint Resolution 197, legislation which the Committee on Labor and Public Welfare ordered reported last night to provide for a settlement of the west coast dock strike.

This resolution is similar to the proposal made by the President on January 21st, 1972, and provides for the appointment of an arbitration board which would make a determination of all issues in the dispute to be binding on the parties to the dispute. The resolution calls for the establishment of an arbitration board by the following step-by-step procedure:

First. The arbitration board would consist of one individual agreed on jointly by the parties.

Second. If the parties are unable to agree upon a single individual, the board would consist of three members, one member to be designated by management, and the third member, who would also serve as the chairman, to be selected by the two members whom the parties previously designated.

Third. Should the two members designated by the parties be unable to select the third member to serve as chairman, the chief judge of the U.S. district court for the northern district of California would designate the third member to serve as chairman.

Fourth. Finally, should either of the parties fail to designate a member, the same judge would designate a single arbitrator to serve as the arbitration board. Pending the determination of the issues by the arbitration board and during the period in which the board's determination is effective, the parties to the dispute are prohibited from engaging in any strike or lockout.

In conducting its hearings on the issues to the dispute, the arbitration board shall give the parties and all other persons whom it finds to be directly affected by its determination, notice, and a full and fair hearing providing an opportunity to present their case in person by counsel or by other representatives whom they may select. This latter provision is specifically designed to give nonparties to this dispute, such as the Teamsters Union and the employers with whom the Teamsters have contracts, as well as employers who are not members of the Pacific Maritime Association, an opportunity to be heard by the arbitration board on any pertinent issues which are involved in this dispute. Such nonparties would not be bound by the board's determination unless, of course, they consent to be bound.

Finally, it should be noted that the determination of the arbitration board is required to be consistent with the policy of the Economic Stabilization Act of 1971.

The board's determination will be final and binding on the parties, subject only to review by the ninth circuit court of appeals which may set aside the board's determination only if it is found to be arbitrary and capricious.

Mr. President, as I had noted earlier, this resolution is substantially similar to the legislation sent to the Congress by the President as his proposal for ending the current longshore dispute on the west coast. The administration's proposal was introduced by the Senator from Oregon (Mr. PACKWOOD) and the Senator from New York (Mr. JAVITS)—by request—and was designated as Senate Joint Resolution 187. On January 26 the Labor and Public Welfare Committee began hearings on this proposal and on the longshore dispute generally, with the Secretary of Labor as its witness. On February 2, the Secretaries of Transportation and Agriculture, and the Under Secretary of Commerce testified before the committee.

On February 3, the committee concluded its hearings with testimony by representatives of the employers and the unions involved in the dispute.

Yesterday, on February 7, 1972, the committee met in executive session and by a roll call vote of 16 to 0 ordered this resolution reported to the full Senate.

I might outline briefly some of the background of this current dispute. The collective bargaining agreement between the International Longshoremen's and Warehousemen's Union and the Pacific Maritime Association expired on June 30, 1971. On July 1, 1971, upon the expiration of the previous agreement, a strike began which lasted for 100 days On October 4, 1971, the President invoked sections 206 to 208 of the Taft-Hartley Act providing for an 80-day resumption of work. The injunction issued pursuant to the provisions of that act was dissolved on December 25, 1971, and the parties continued work until January 17, 1972, as a result of voluntary agreements to continue working despite intensive negotiations and mediation efforts, the parties were unable to reach agreement, and the strike resumed on January 17, continuing through today. While it is the committee's understanding that most of the major issues have been resolved, the parties have still not reached agreement although negotiations are continuing.

There are several points in regard to this resolution which I would like to make abundantly clear. First, the committee heard testimony presented by Secretaries of Labor, Transportation, and Agriculture, and the Under Secretary of Commerce indicating that the earlier 100-day strike and the current resumption of the strike has had critical economic impact upon the Nation. I emphasize that the impact stressed by these top Government officials was economic impact. At no time did the committee hear any convincing or well-documented testimony that this dispute had a major effect upon the health or safety of the Nation. In fact, while I invited the Sec-

retary of Health, Education, and Welfare, and the Secretary of Defense to testify in this regard, both of these cabinet officers declined to do so. In addition, I have received communication from the Defense Department indicating that their interests in this dispute have not been substantially affected. It is precisely for these reasons that the committee deleted any reference in the resolution to the effect of this strike on the national health or safety, and stated instead that it is vital to the national interest that essential transportation services be maintained. I recognize that our export trade has been seriously hurt by this strike, and I recognize that it is particularly hard on our farmers who have been exporting a large portion of their crops abroad. And I realize that our merchant marine fleet has sustained heavy losses because their ships have been effectively shut down by the strike. However, there has been no impact on the health or safety of the American people.

Instead, we are suffering substantial economic hardships, hardships which go to everyone's pocketbook, and hardships which we would not have to endure had not this administration pursued economic policies which 6 months ago not this administration pursued economic disaster. That is the reason why the national interest requires the resumption of these services, and that is the reason why so many people in this country are crying for a quick settlement of this dispute.

It is in response to that that the committee moved expeditiously to a settlement and wisely, I think, did not complicate the solution by a great change in the President's proposal for ending the strike. We have reported to the Senate for the earliest possible action this proposal that can very shortly bring this economic loss to a halt.

Lastly, let me express my deep reluctance to impose the procedure of compulsory arbitration upon any of the parties involved in this dispute. Compulsory arbitration is, in my judgment, a method of handling labor disputes which is contrary to the spirit and the objectives of the collective bargaining processes. It does not encourage voluntary settlements, but as a general rule, it inhibits voluntary settlements. It takes away the flexibility which both parties must have in order to arrive at a peaceful settlement, a settlement which everyone involved must agree to implement. I wish that there were another way in which to handle this difficult and disturbing problem, and it is my fervent hope that before this legislation is signed into law the parties will have voluntarily come to terms.

Mr. President, on behalf of the distinguished senior Senator from Washington (Mr. MAGNUSON), I ask unanimous consent to have printed in the RECORD a statement by him relative to the west coast dock strike.

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

STATEMENT BY SENATOR MAGNUSON

I am pleased that the Senate Committee on Labor and Public Welfare has reported emergency legislation to end the West Coast dock strike. This measure has my strong support. There has been great concern in the State of Washington about this strike and the many hardships that are resulting to innocent third parties. It has had a severe impact on employment, small business, agriculture, and other sectors of our Northwest economy. Particularly at this time, when our State's economy is so badly depressed, the additional burdens are difficult to sustain.

As all Senators know, in our free market system, the matter of collective bargaining is generally left to the negotiating parties and intervention by the Government is a last resort. Even now, a negotiated settlement to this dispute would be the best course; both speedier and more equitable than an imposed settlement. However, the indefinite continuation of this strike is intolerable; therefore, the Government must act. In that regard, I have long believed that, in general, the existing mechanisms of Taft-Hartley are inadequate for resolving disputes in basic transportation industries, and that new measures are needed. Of course, thorough hearings should be held before any permanent legislation is enacted.

I regret that the committee determined that compulsory arbitration is required in order to settle this protracted dock strike. I will not, however, second guess the judgment of the Senate Labor and Public Welfare Committee in light of their unanimous approval of this measure. The Committee did, however, provide in the legislation as reported that the arbitrators would be selected by the parties to the dock dispute themselves, rather than by the Secretary of Labor, as proposed by the Administration.

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

Mr. WILLIAMS. Mr. President, I yield 4 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, I yield first to the Senator from Oregon.

PRIVILEGE OF THE FLOOR

Mr. PACKWOOD. Mr. President, I ask unanimous consent that, in addition to my regular aide, Carol Crawford, that another member of my staff, Judy Freshman, be allowed to be on the floor during debate on the bill and during the votes.

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

Mr. JAVITS. Mr. President, we do face a serious emergency, at the very least, that affects the national interest. And in view of that emergency, Congress has the right and, indeed, the duty to act. So, we are acting. This reflects, however, the abyss of the lack of our preparation and our improvidence in not having by now produced in Congress a piece of generic legislation which would enable the President to deal with such a situation.

Mr. President, in my judgment that trade unions of our country in pursuance of their own vitality and autonomy and integrity should long ago have helped in fashioning such legislation. And I hope they will still do so, because if they do not, one of these emergencies will come along and will breed such a repressive piece of antilabor legislation that they will rue the day they did not participate in shaping legislation which would be fair to them and to the country.

We all know as Americans that nothing can stop the country from operating. Much as we venerate collective bargaining, we cannot permit the country or any major part of it to grind to a halt. That is what all this legislation is about.

I support the legislation reported by the committee, as did the committee, unanimously. I think it should be passed. And I feel very deeply that we need generic legislation. I have fought for it for years.

I now have assurance that the committee will have additional hearings and will give consideration to the marking up of a number of bills, including mine, the chairman's, and the administration's, which is before us.

So I feel that we must pass the legislation which has been presented for the purpose of settling this dispute and use that as an object lesson as to why we must, without any delay, move into generic legislation.

Mr. President, I am heartened by the fact that the President has sent us a bill which, notwithstanding the emergency, will help to move us forward. I believe that if my party gets back of it, we will get it. And it is essential that we should do this this very year.

Mr. President, I wish to point out just a few details about this matter. I shall not now deal with the amendment of the Senator from Oregon (Mr. PACKWOOD), which seeks to put in this bill essentially the presence of a generic bill relating to the emergency strikes. We will argue that situation later at a time when the Senator from Oregon has time and we have time to do so.

There are procedural problems which will demand the attention of the Senate, but in connection with the instant bill I wish to make 2 points. One, we provide for the continuance of the Arbitration Board after it has made its findings so that it may deal with the implications of its findings, and other collateral disputes which may arise.

Second, and critically important to me, this recognizes that a regional emergency, to wit, this one in the Pacific coast area, is just as critically urgent for national attention by national legislation as a national emergency. I do not think that it takes a general strike in this country to create the emergency. A regional emergency should be adequate. That is what we are dealing with here and that is recognized by the whole committee and it is a remarkable step forward in the last year in connection with this matter.

For all of those reasons I hope this afternoon we will pass this bill.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, will the Senator from New Jersey yield to me for 1 additional minute?

Mr. WILLIAMS. I yield.

Mr. JAVITS. Finally, I wish to say that the Senator from Oregon (Mr. PACKWOOD), who had a deep feeling about the fact that generic legislation should be an amendment to the bill, could have tied us up in knots, as any one Senator can, notwithstanding any kind of motion, but he chose not to do so. I would like to express that fact on the floor and express my appreciation, and I am sure it is true of everyone in the Senate. He feels the matter should be disposed of, consistent with his convictions on principle. He has entered into a time limitation agreement which will assure action on this measure in whatever form the

Senate may prefer this afternoon. I wish to express my appreciation and the appreciation of others for that understanding on his part.

Finally, our chairman, the Senator from New Jersey (Mr. WILLIAMS), has absolutely devoted himself to bringing out a bill, and I know he and other members of the committee yielded very deep feelings of principle on the question of compulsory arbitration in voting for this bill in committee, and they did it because, as the President wanted it, it was the fastest way to get action; otherwise we might be in a hassle with the White House. I would like to pay my tribute for the statesmanship and patriotism shown by the chairman of the committee and other members of the committee in that connection.

The PRESIDING OFFICER. Who yields time?

Mr. TAFT. Mr. President, will the Senator from New York yield?

Mr. JAVITS. We have time problems unless the Senator from Oregon (Mr. PACKWOOD) calls up his amendment.

Could we yield 2 minutes to the Senator from Ohio?

Mr. WILLIAMS. I yield 2 minutes.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 2 minutes.

Mr. TAFT. Mr. President, I thank the Senator for yielding. I will have more to say after the amendment is introduced. At this time I would like to say that if the Packwood amendment is not agreed to as part of the bill I shall have difficulty in supporting the bill as it comes from the committee, even though I voted to report it from the committee, because it involves the principle of compulsory arbitration. From the earliest hearings on the Taft-Hartley bill in 1946 and 1947 many of us have felt that compulsory arbitration would result in a deterioration of collective bargaining in this country. I think that has undoubtedly proven to be so, even where as here the ad hoc approach is taken.

I think Congress should examine whether acting on this precedent, great though the need may be, and serious though the emergency is in this country, we would not be establishing a further precedent. I think we need an ad hoc bill to settle the west coast matter now and probably I shall vote for it because of that. But we should recognize the harm we may be doing to collective bargaining in this country to take care of problems and to act in the public interest. I believe this can only be corrected by adopting at the same time and as part of this bill a generic provision which will go the route of the last offer selection process and offer in addition——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, I wish to announce that the minority leader has transferred the one-half hour on the bill to me. Out of that time I yielded 3 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. TAFT. I thank the Senator. I do not believe I will need more than a little time. I do not care to go into the merits of the amendment at this time or the merits of the bill. But I do think it is important to get the principle in mind. I refer to the principle that adding a generic provision to this legislation will have the effect to some extent of taking away that undesirable aspect of a compulsory arbitration solution to this dispute by providing the alternative remedies, and by expanding this to cover the regional problem, as the Senator from New York so carefully pointed out. The provision, I think, is tremendously important, especially in view of recent court decisions that seem to construe strictly the national emergency clause.

Finally, and most of all by putting into effect by permanent law a last offer selection process which will tend to bring the parties together without getting to the national emergency, we can greatly improve this bill.

There has been much talk about the hearings. At this time I have no comment to make about the national emergency legislation not coming out of committees of Congress on either side of the Capitol, but the fact is that it has not. We have been talking about this since early 1950. It is about time we got down to taking a vote and making a decision with respect to what we are going to do with this problem. The public is demanding it and Congress should respond to that demand.

Mr. INOUYE. Mr. President, I support the measure reported by the Senate Labor and Public Welfare Committee, but I must confess that I do so with grave reluctance. Throughout my adult life, and particularly and especially during my public life, first in the territorial legislature and later in the U.S. Congress, I have opposed measures which would impose compulsory arbitration on parties involved in a labor-management dispute.

I have felt, and I still do, that the best way to resolve labor-management disputes is through collective bargaining between the disputing parties. I am fearful that an agreement imposed by an outside arbitrator may not be as binding as is hoped and intended by those who will arbitrate the dispute. There are ways to frustrate agreements which are imposed from without; through slowdowns, through wildcat strikes, partial lockouts, and through a variety of devices which may be employed by both management and labor.

It is part of our American philosophy that we not impose on any man the conditions under which he must work, or on management the terms of his hire. However, in the case of the west coast dock strike, we may have an exception to the general rule.

I wish to speak first as a citizen of Hawaii. My constituents, not parties to the dispute, are the primary victims of the failure to reach agreement. The Hawaii members of the International Longshoremen's and Warehousemen's Union are not involved in any direct sense. They are not involved in the jurisdictional dispute with the Teamster's Union, and they are not involved in the interunion leadership struggle. But they are paying a part of the price shared by every other citizen of my State.

Mr. President, this west coast dock strike is not Hawaii's strike, but Hawaii's burden has been disproportionately greater than any other State of this Union.

Because of that fact, and because of our unique situation, I introduced last November 11, S. 2836, the Hawaii Public Interest Protection Act. With the approval of the distinguished chairman of the Committee on Commerce, hearings were held in Honolulu on January 18, 19, and 20. I will soon file a special report and I now urge my colleagues to read that report and the testimony of the effects of this dispute on the State of Hawaii.

Hawaii is not, and has not been starving as a result of this shipping stoppage. While 90 percent of our food is normally shipped in from the west coast, the people of Hawaii have, by extraordinary effort, and at exorbitant expense, been able to provide for normal needs. We may not be starving, but many have become unemployed and businesses have gone bankrupt.

In recent years, the national rate of unemployment has exceeded Hawaii's rate by some 50 percent. Today, Hawaii's unemployment rate is the highest in 17 years and above the national average.

The first 100 days of the strike cost the pineapple industry in my State some $10,700,000. It resulted in a $40 million reduction in retail sales on Oahu alone in the first 3 months of the strike. The sugar industry in Hawaii has lost some $30 million since World War II due to shipping strikes. State revenues which were scheduled to increase by more than 8 percent in the first half of the current fiscal year increased by less than half that amount and State services and employment are being cut accordingly.

Honolulu, already having the highest cost of living of any major city, has had a further sharp rise in prices. Fresh produce prices, not under the price freeze, went up more than 10 percent in the first 100 days of the strike. The overall price index climbed by 2.4 percent. Lettuce, at more than a dollar a head, and tomatoes at a dollar per pound are daily reminders of our dependence on west coast shipping and the price we are being asked to pay for a dispute not of our making and over which we have no control.

Should the strike spread, and there have been some threats of that happening, then Hawaii would be totally dependent on air. Air cargo can satisfy only some 3 percent of our transport needs.

As a resident of Hawaii, and as a public official representing the people of my State, I cannot just sit by and just hope that it will be resolved.

When this strike started on July 1, I hoped that it would be resolved by Labor Day. Then I hoped that it would be over by Thanksgiving, and then by Christmas, and then by mid-January, and finally by February. And still it continues, and no one can say with certainty that it will soon be resolved by the parties directly involved through the collective bargaining process.

I wish to speak not only as a resident of Hawaii, but as the chairman of the Foreign Commerce and Tourism Subcommittee. There is no question that we

must preserve and improve our ability to compete in the international markets. For the first time since 1893, our Nation has this past year experienced an actual trade deficit as well as a balance-of-payments deficit. The causes are many and I cannot detail all of them here in this brief moment, but I would like to state that one lesson we must learn. When customers who have been relying on American sources for the goods cannot get regular and uninterrupted delivery, they go elsewhere. There is no question that agricultural and industrial sales have been lost due to the current dispute. Such sales are not only lost for now, but future sales are lost as well. These losses are not just temporary. Some are permament and many semipermanent. The process of regaining old customers is a long and arduous one and more than our economic health can well endure.

The continuing shipping stoppage does serious damage to our Nation's economic vitality. It has resulted in unique, direct, and most distressing damage to the health and welfare of the people of Hawaii.

Therefore, as an emergency measure, and despite my deep reservations and honest doubts, I support passage of this measure.

BILLION DOLLAR LOSS TO FARMERS

Mr. DOLE. Mr. President, the American farmers have lost over $1 billion in export sales and lower commodity prices as a result of the dock strikes since last summer. Many of the export sales were to customers who have been loyal customers for U.S. wheat, feed grains, soybean products and other agricultural commodities.

LOST MARKETS

These nations have been forced to turn to other suppliers—and several have indicated they will never become obligated to the United States again for a major proportion of their supplies since the United States is no longer a reliable source for their needs.

FARMER PAYS

Why should our farmers be forced to pay for the disputes between labor and management? Agricultural commodities, more than other commodities in our economic system, depend upon the export demand for price stabilization and increases. When exports slump, the prices paid to farmers slump. When large exports sales are made, prices rise and stabilize. The Department of Agriculture estimates that the west coast dock strike is costing our farmers $6 million a day, and if the east and gulf coast ports strike again, it will increase the cost to our farmers to $18 million a day.

CONGRESS DELAYS

For over 2 years, legislation recommended by the President to provide a realistic solution to such strikes has been pending before Congress. The current bill, S. 560, is pending before the Senate Labor and Public Welfare Committee, and would provide a mechanism whereby both management and labor unions would be drawn to a final settlement agreement. This legislation becomes effective only in the case of transportation strikes that endanger the economy of the Nation, such as we are experiencing in the present dock strike, but the committee has refused to act.

BALANCE OF PAYMENTS

Mr. President, we are all aware of the tremendous growth in our imports, at a rate far exceeding the growth of our exports, causing a serious outflow of capital to other nations. Since 1893 the United States has enjoyed a favorable balance of trade as our exports exceeded our imports. Last year for the first time since 1893, the United States experienced a trade deficit—of $2 billion. This situation should be of major concern to every Member of Congress, and they should make every effort to pass legislation that will assist in restoring a favorable balance of trade.

EMERGENCY MEASURE

A continuation of the west coast dock strike or a renewal of the east and gulf coast strike will cause still further damage to our economy. For the welfare of this Nation—for the future of its farmers—I ask the support of my colleagues today in approving Senate Joint Resolution 197, which will bring about an immediate cessation to the west coast dock strike, and hopefully provide some means to our farmers to recoup some of the losses they have suffered as a result of the strike.

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

The PRESIDING OFFICER. Without objection, reading of the amendment will be dispensed with, and will be printed in the RECORD.

(The amendment reads as follows:)

At the end of the joint resolution insert the following new title:

TITLE II—TRANSPORTATION CRISIS PREVENTION PROGRAM

PART A—FINDINGS AND PURPOSE

SEC. 201. (a) The Congress finds—

(1) That present procedures for dealing with national emergency disputes under the Railway Labor Act tend to encourage resort to governmental intervention in such disputes rather than utilization of the collective bargaining processes to solve labor-management disputes;

(2) That present procedures for dealing with disputes in the transportation industry, in general, have proved insufficient to prevent serious disruptions of transportation services.

(b) The Congress declares it to be the purpose and policy, through the exercise by Congress of its powers to regulate commerce among the several States and with foreign nations and to provide for the general welfare, to assure so far as possible that no strike or lockout in the transportation industry or a substantial part thereof will imperil the national health or safety or the health or safety of a substantial sector of the Nation—

(1) by providing a single set of procedures for dealing with emergency disputes in the transportation industries;

(2) by establishing procedures which will encourage the parties to make effective use of various private collective bargaining techniques to resolve disputes;

(3) by establishing procedures which will both protect the public interest and recognize the interests of the parties involved in the dispute;

(4) by providing the President with appropriate means for dealing with transportation emergency disputes;

(5) by amending the Railway Labor Act to lessen reliance upon Governmental machinery or intervention for adjusting grievances and for collective bargaining in the railroad and airline industries; and

(6) by establishing a National Special Industries Commission to study and make recommendations concerning those industries which are or may be particularly vulnerable to national emergency disputes.

PART B—AMENDMENTS TO THE LABOR-MANAGEMENT RELATIONS ACT, 1947, RELATING TO EMERGENCY DISPUTES IN THE TRANSPORTATION INDUSTRY

SEC. 211(a) Title II of the Labor-Management Relations Act, 1947, amended, is redesignated as Title II, Part A.

(b) (1) Section 206 is amended to read as follows:

"SEC. 206. Whenever in the opinion of the President of the United States, a threatened or actual strike or lock-out affecting an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce, will, if permitted to occur or to continue, imperil the national health or safety, or, when the strike or lockout is in an industry subject to Part B of this title, imperil the health or safety of a substantial sector of the Nation, he may appoint a board of inquiry to inquire into the issues involved in the dispute and to make a written report to him within such time as he shall prescribe. Such report shall include a statement of the facts with respect to the dispute, including each party's statement of its position but shall not contain any recommendations. The President shall file a copy of such report with the Service and shall make its contents available to the public."

(2) Section 208(a) is amended to read as follows: "Section 208(a) Upon receiving a report from a board of inquiry, the President may direct the Attorney General to petition any district court of the United States having jurisdiction of the parties to enjoin such strike or lockout or the continuing thereof and if the court finds that such threatened or actual strike or lockout—

(1) affects an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission or communication among the several States or with foreign nations or engaged in the production of goods for commerce; and

(2) if permitted to occur or to continue, will (i) imperil the national health or safety or (ii), when the strike or lockout is in an industry subject to Part B of this title, imperil the health or safety of a substantial sector of the Nation

it shall have jurisdiction to enjoin any such strike or lockout, or the continuing thereof, and to make such other orders as may be appropriate:

Provided, that when such petition is sought to enjoin a strike or lockout in an industry subject to part B of this title it shall be heard and determined by a three-judge district court in accordance with section 2284 of title 28, United States Code."

(3) Section 208(c) is amended by substituting a semicolon for the period at the end thereof and adding the following: "except that where the proviso in section 208(a) is applicable, appeal shall be to the United States Supreme Court in accordance with section 1253 of title 28, United States Code."

(4) Section 209(a) is amended to read as follows: "Section 209(a) whenever a district court has issued an order under section 208 enjoining acts or practices which imperil or threaten to imperil the national health or safety, or imperil the health or safety of a

substantial sector of the Nation, it shall be the duty of the parties to the labor dispute giving rise to such order to make every effort to adjust and settle their differences, with the assistance of the Service created by this Act. Neither party shall be under any duty to accept, in whole or in part, any proposal of settlement made by the Service."

(c) Section 212 is hereby repealed.

Sec. 212. Title II of the Labor-Management Relations Act, 1947, is further amended by adding a new part IIB at the end of part II A to read as follows:

"PART B—ALTERNATIVE PROCEDURES FOLLOWING INITIAL 80-DAY COOLING-OFF

"APPLICABILITY OF THIS PART

"SEC. 213. This part shall apply only to the following transportation industries: (1) railroads, (2) airlines, (3) maritime, (4) longshore, and (5) trucking.

"SEC. 214(a). If no settlement is reached before the injunction obtained pursuant to section 208 of this Act is discharged, the President may, within ten days, invoke any of the procedures set forth in sections 217, 218, or 219. The President may proceed under these sections in such sequence as he may deem appropriate until it is certified by the Secretary of Labor that the dispute is settled; *Provided*, however, that the President may only invoke the procedures of a new section immediately upon the termination of the procedures of the previously invoked section and that the procedures of a section may be invoked only once during a dispute.

(b) The President may, if he deems it consistent with the purpose of this Act, terminate any procedures invoked under sections 217 or 218. He may thereafter proceed under another of sections 217, 218, or 219.

(c) If the procedure set forth in section 219 is invoked, the President may not, in the same dispute, invoke subsequently the procedures of section 217 or 218."

"SEC. 215. The President shall immediately notify the Congress of each choice of procedure, unless the Congress has adjourned or is in a recess in which case such notice shall be transmitted as soon as Congress reconvenes.

"SEC. 216. If the President does not choose to invoke any of the procedures set forth in section 217, 218, and 219 of this Act, the President shall submit to the Congress a supplemental report including such recommendations as he may see fit to make.

"ADDITIONAL COOLING-OFF PERIOD

"SEC. 217. The President may direct the parties to the controversy to refrain from making any changes, except by agreement, in the terms and conditions of employment for a specified period of not more than 15 days from the date of his direction. During such period, the parties shall continue to bargain collectively and shall engage in no strike, lockout, or similar activity. The board of inquiry may continue to mediate the dispute with the assistance of, and in close coordination with, the director of the Federal Mediation and Conciliation Service.

PARTIAL OPERATION

"SEC. 218. (a) The President may appoint a special board of three impartial members for the purpose of having the board make the following determinations:

"(1) Whether and under what conditions a partial strike or lockout in lieu of a full strike or lockout in an entire industry or substantial part thereof could take place without imperiling the national health or safety, or the health or safety of a substantial portion of the territory or population of the Nation; and

"(2) Whether, under such conditions, the extent of such partial strike or lockout would, in the judgment of the board, appear to be sufficient in economic impact to encourage each of the parties to make continuing efforts to resolve the dispute.

"(b)(1) If the board makes a determination that there are conditions under which a partial strike or lockout can take place in accordance with the criteria specified in subsection (a), it shall issue an order specifying the extent and conditions of partial operation that must be maintained. The board shall make reasonable efforts to assure that no greater economic burden is placed on any party than that which would be caused by a total cessation of operations.

"(2) If the board makes a determination that a partial strike or lockout cannot take place in accordance with such criteria, it shall submit a report to the President.

"(c) The parties shall not interfere by resort to strike or lockout with the partial operation ordered by the board. The board's order shall be effective for a period determined by the board, but not to exceed 180 days.

"(d) The board's order or any modification thereof shall be conclusive unless found arbitrary or capricious by the district court which granted the injunction pursuant to section 208 of this Act.

"(e)(1) The board shall issue its order no later than 30 days from the date of its appointment by the President, unless the parties, including the Government, agree to an extension of time, but such extension shall reduce pro tanto the maximum effective period of the board's order.

"(2) On notice to the parties, the board may at any time during the period of partial operation modify its order as it deems necessary to effectuate the purposes of this section.

"(f) Until the board makes its determination and during any period of partial operation ordered by the board no change, except by agreement, shall be made in the terms and conditions of employment, and no strike, lockout, or similar activity shall take place except as may be provided by order of the board. If the board determines that the implementation of any particular term of the existing terms and conditions of employment is inconsistent with the conditions of partial operation, it may order the suspension or modification of that term but only to the extent necessary to make it consistent with the conditions of partial operation.

"(g) The following rules of procedures shall be applicable to the board's functions under this subsection:

"(1) NOTICE OF HEARING.—Upon appointment by the President the board shall promptly notify and inform all parties, including the Government, of the time, place, and nature of the hearings, and the matters to be covered therein.

"(2) HEARING TO BE PUBLIC.—The board shall hold public hearings, unless it determines private hearings are necessary in the interest of national security, or the parties, including the Government, agree to present their positions in writing. The record made at such hearing shall include all documents, statements, exhibits, and briefs, which may be submitted, together with the stenographic record. The board shall have authority to make whatever reasonable rules are necessary for the conduct of an orderly public hearing. The board may exclude persons other than the parties at any time when in its judgment the expeditious inquiry into the dispute so requires.

"(3) PARTICIPATION BY BOARD IN THE HEARING.—The board, or any member thereof, may, on its own initiative, at such hearing, call witnesses and introduce documentary or other evidence, including a plan for partial operation, and may participate in the examination of witnesses for the purpose of expediting the hearing or eliciting material facts.

"(4) PARTICIPATION BY PARTIES IN HEARING.—The parties, the Government, or their representatives shall be given reasonable opportunity; (A) to be present in person at every stage of the hearing; (B) to be represented adquately; (C) to present orally or otherwise any material evidence relevant to the issues including a plan for partial operation; (D) to ask questions of the opposing party or a witness relating to evidence offered or statements made by the party or witness at the hearing, unless it is clear that the questions have no material bearing on the credibility of that party or witness or on the issues in the case; (E) to present to the board oral or written argument on the issues.

"(5) STENOGRAPHIC RECORDS.—An official stenographic record of the proceedings shall be made. A copy of the record shall be available for inspection by the parties.

"(6) RULES OF EVIDENCE.—The hearing may be conducted informally. The receipt of evidence at the hearing need not be governed by the common law rules of evidence.

"(7) REQUESTS FOR THE PRODUCTION OF EVIDENCE.—The board shall have the power of subpoena. It shall request the parties to produce any evidence it deems relevant to the issues. Such evidence should be obtained through the voluntary compliance of the parties, if possible. In case of refusal to obey a subpoena, the board may request the Attorney General to invoke the aid of any district court of the United States or the United States courts of any territory or possession within the jurisdiction of which such person is found or resides or transacts business and such court shall have juridiction to issue to such person an order requiring such person to appear or to produce evidence, if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

"(h) If a settlement certified by the Secretary is reached at any time during the hearing, the board shall adjourn the hearing and report to the President within 10 days the fact that a settlement has been reached and the terms of such settlement.

"(i)(1) Members of the board shall receive compensation at the per diem equivalent of the rate for GS–18 when engaged in the work of the board as prescribed by this Act, including travel time, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis.

"(2) For the purposes of carrying out its functions under this Act, the Board is authorized to employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, and allow them while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently, while so employed.

"SEC. 219. FINAL OFFER SELECTION. (a)(1) The President may direct each party to submit a final offer to the Secretary of Labor within 3 days. Each party may at the same time submit one alternative final offer. The Secretary of Labor shall transmit the offers to the other parties simultaneously.

"(2) If a party or parties refuse to submit a final offer, the last offer made by such party or parties during previous bargaining shall be deemed that party's or parties' final offer.

"(3) Any offer submitted by a party pursuant to this section must constitute a complete collective bargaining agreement and resolve all the issues involved in the dispute.

"(b) The parties shall continue to bargain collectively for a period of 5 days after they receive the other parties' offers. The Secretary of Labor may act as mediator during the

period of the final offer selection proceedings.

"(c) If no settlement has been reached before the end of the period prescribed in subsection (b) of this section, the parties may within two days select a three-member panel to act as the final offer selector. If the parties are unable to agree on the composition of the panel, the President shall appoint the panel.

"(d) No person who has a pecuniary or other interest in any organization of employees or employers or employers' organizations which are involved in the dispute shall be appointed to such panel.

"(e) The provisions of section 218(h) and 218(i) (1) and (2) of this Act shall apply to the panel.

"(f) The panel shall conduct an informal hearing in accordance with section 218(g) of this Act insofar as practicable, except that

"(1) the Government shall have no right to participate; and

"(2) the 30-day period in which the panel shall complete its hearings and reach its determination shall run from the time that the President directed the parties to submit final offers, but in no case shall the panel close the hearing until 5 days from the date of its appointment as provided in subsection (c) herein.

"(g) The panel shall at no time engage in an effort to mediate or otherwise settle the dispute in any manner other than that prescribed by this section.

"(h) From the time of appointment by the President until such time as the panel makes its selection, there shall be no communication by the members of the panel with third parties concerning recommendations for settlement of the dispute.

"(i) The panel shall entertain applications for intervention from any persons asserting an interest because of a conflicting claim to all or any portion of the work involved in the dispute subject to these proceedings. Such application must be filed within 5 days from the time of appointment of the panel as provided in subsection (c) herein.

The panel, thereafter, may, in its discretion allow such applicant to participate in the hearings, under rules established by the panel, solely for the purpose of presenting views in support of either of the final offers previously submitted.

"(j) Beginning with the direction of the President to submit final offers and until the panel makes its selection, there shall be no change, except by agreement of the parties, in the terms and conditions of employment, and no strike, lockout, or similar activity shall take place. In no instance shall such period exceed 30 days.

"(k) The panel shall not compromise or alter the final offer that it selects. Selection of a final offer shall be based on the content of the final offer and no consideration shall be given to, nor shall any evidence be received concerning, the collective bargaining in the dispute, including offers of settlement not contained in the final offers.

"(l) The panel shall select the most reasonable, in its judgment, of the final offers submitted by the parties and shall state, in writing, the reasons for its selection. The panel may take into account the following factors:

"(1) past collective bargaining contracts between the parties, including the bargaining that led up to such contracts;

"(2) comparison of wages, hours and conditions of employment of the employees involved, with wages, hours and conditions of employment of other employees doing comparable work, giving consideration to factors peculiar to the industry involved;

"(3) comparison of wages, hours and conditions of employment as reflected in industries in general, and in the same or similar industry;

"(4) security and tenure of employment with due regard for the effect of technological changes on manning practices or on the utilization of particular occupations;

"(5) the views in support of either final offer of any additional persons permitted to intervene in the proceedings as provided by subsection (i) herein; and

"(6) the public interest, and any other factors normally considered in the determination of wages, hours and conditions of employment.

"(m) The final offer selected by the panel shall be deemed to represent the contract between the parties, except to the extent that any provision is determined, under appropriate procedures, not to be in accordance with applicable law.

"(n) The determination of the panel shall be conclusive, unless modified pursuant to subsection (m), or found arbitrary or capricious by the district court which granted the injunction pursuant to section 208 of this Act.

"SEC. 220. (a) Any board or panel established under Part B of title II of this Act may act by majority vote.

"(b) A vacancy on any such board or panel shall not impair the right of the remaining members to exercise all of the powers of such board or panel. In the case of a vacancy due to death or resignation, the President may appoint a successor to fill such vacancy.

"SEC. 221. Whenever the term Government is used in title II of this Act, it shall be deemed to mean the United States Government acting through the Attorney General or his designee."

PART C—AMENDMENTS TO THE RAILWAY LABOR ACT

SEC. 221. Subject to the provisions of section 222(b) of this title, the National Mediation Board is abolished, and its functions shall be assumed and carried out by the Federal Mediation and Conciliation Service and the National Labor Relations Board, as specified in subsections (f) and (g) of section 222 of this title.

SEC. 222. The Railway Labor Act is further amended as follows:

(a) Section 2 Seventh of title I is amended to read as follows: "Seventh. No carrier, its officers or agents, or representatives shall change or seek to change the rates of pay, rules, or working conditions as embodied in agreements or arrangements except in the manner prescribed in such agreements and in title I, section 6 of this Act, as amended."

(b) Section 3 First (i) of title I is amended by striking the period following the words "upon the disputes" and inserting thereafter:

": *Provided, however,* That all such disputes shall no longer be referred to the Adjustment Board commencing 60 days after the effective date of this amendment to the Act.

"All such disputes which are not so referred within such period and all such disputes arising thereafter shall be submitted to arbitration in accordance with the following procedure. Upon failing to reach a satisfactory adjustment at the level of discussion hereinbefore mentioned, the parties shall within 5 days seek to reach mutual agreement on the selection of an arbitrator. If the parties fail to reach agreement within such period, the Federal Mediation and Conciliation Service shall submit to the parties a list of five qualified arbitrators. Each party shall alternately reject a different arbitrator named on the list until one arbitrator remains who shall thereupon arbitrate the dispute. To the extent that the parties are unable to agree to the rules for arbitration, including the distribution of costs, the arbitrator shall make all necessary rules therefor.

"All disputes which have been referred to the Adjustment Board may be removed by the grievant to the arbitration process herein if the dispute is not then being heard by the Adjustment Board.

"The aforementioned method of arbitration shall prevail with respect to such disputes until such time as the collective bargaining agreements between the parties contain no-strike, no-lockout clauses and provisions for grievance machinery terminating in final, binding arbitration.

"The Adjustment Board shall be dissolved after it has processed to completion all of the disputes before it or upon two years from the effective date of this Amendment to the Act, whichever first occurs. If all the disputes before the Adjustment Board have not been processed to completion by the time of the Board's group or regional boards of adjustment."

(d) Section 3 Second of Title I is amended by adding the following language at the end of section 3 Second following the words "awards of the Adjustment Board.":

"No dispute which has not been referred to a special board of adjustment by the effective date of this Amendment to the Act may be referred to such special board thereafter."

(e) Section 4 Second of Title I is amended by striking the word "mediation" in the third sentence of paragraph Second and inserting the word "representation."

(f) Section 4 Fifth of Title I is amended to read as follows:

"Fifth. The National Labor Relations Board shall assume and carry out all functions of the National Mediation Board relating to the determination of bargaining representatives, including duties particularized in Title I, section 2 Eighth and Ninth of this Act, as amended."

(g) Section 4 of Title I is further amended by adding the following paragraphs after paragraph Fifth:

"Sixth. All functions of the National Mediation Board which in the judgment of the President are primarily related to mediation shall be transferred to the Federal Mediation and Conciliation Service.

"Seventh. All cases which are being mediated by the National Mediation Board on the effective date of this Amendment to the Act shall be transferred to the Federal Mediation and Conciliation Service no later than 30 days after the effective date of this amendment to the Act. All cases arising thereafter under this Act, as amended, requiring mediation, shall be subject to the jurisdiction of the Federal Mediation and Conciliation Service.

"Eighth. All unexpended appropriations for the operation of the National Mediation Board that are available at the time of the dissolution of the Board shall be apportioned between the National Labor Relations Board and the Federal Mediation and Conciliation Service by the President according to the relative needs of each based on the division of functions prescribed herein."

(h) Section 6 of Title I is amended to read as follows:

"SEC. 6. Carriers and representatives shall give the other at least 60 days written notice of an intended modification of termination in agreements or arrangements affecting rates of pay, rules or working conditions. The party desiring such change or termination shall simultaneously notify the Federal Mediation and Conciliation Service of the existence of the dispute. Upon notification, the Federal Mediation and Conciliation Service shall commence appropriate mediation efforts. The parties shall continue in full force and effect, without resorting to strike or lockout or other economic coercion, all the terms and conditions of the existing agreement or arrangement for a period of sixty days after such notice is given or until the expiration date of the agreement containing the rates of pay, rules, or working conditions sought to be changed, provided such agreement exists, whichever occurs later.

"With respect to rates of pay, rules or working conditions for which there exists no fixed expiration date, the time for serving the 60-day notice in the first instance, and the first instance only, shall be established by agreement of the parties to the arrangement; if they cannot agree, the party seeking to serve the 60-day notice may invoke the arbitration procedure prescribed in section 3 First (i), as amended, in order to fix the date on which such notice may be served. In making his decision, the arbitrator shall take into account the probable intention of the parties as revealed by custom and practice with respect to past adjustment of rates of pay, rules or working conditions. In no case, however, shall the arbitrator decide that the time for serving the first 60-day notice shall be more than 2 years after the enactment of this amendment to the Act.

"The parties shall bargain collectively with respect to such intended modification or termination which means that the parties shall have the mutual obligation to meet at reasonable times and confer in good faith with respect to rates of pay, rules and working conditions or the negotiation of an agreement and the execution of a written contract incorporating any agreement reached if requested by either party, but such ligation does not compel either party to agree to a proposal or require the making of a concession."

(i) Section 201 of Title II is amended by striking the words "except the provisions of section 3 thereof,".

(j) Section 202 of Title II is amended (1) by striking the words ", except section 3 thereof,", and (2) by adding the following language after the end of the first sentence therein:

"The functions and duties of the National Labor Relations Board, as prescribed in Title I, section 4, shall apply as well to carriers by air and their employees or representatives."

(k) Section 204 of title II is amended by striking the period following the words "upon the disputes" at the end of the first sentence and inserting thereafter—

": *Provided, however,* that if the parties, by mutual agreement elect to discontinue referrals to such adjustment boards and such election has been certified by the Secretary of Labor, no such disputes shall be referred to an adjustment board but shall thereafter be handled through arbitration in the manner specified in title I, section 3 First (i) as amended. Notwithstanding any other provision of this Act, the costs of adjustment board procedures and the compensation of all board members shall be borne entirely by the carriers and labor organizations involved and upon dissolution of the National Mediation Board, its responsibilities and functions in relation to the selection of members of adjustment boards shall be transferred to the Federal Mediation and Conciliation Service. Upon election of the parties to discontinue referrals to adjustment boards and certification of the Secretary of Labor as provided in this section, existing adjustment boards shall be dissolved after they have processed to completion all of the disputes before them.

Part D—Title III—Special Industries Commission

Sec. 231. (a) (1) The National Special Industries Commission is hereby established. The Commission shall be composed of seven members all of whom shall have a background by reason of education or experience in labor relations.

(2) The Commission members shall be appointed by the President for a term not to exceed 2 years.

(b) The Commission members shall receive compensation at a rate of up to the per diem equivalent of the rate for GS–18 when engaged in the work of the Commission, together with any necessary travel and subsistence expenses.

(c) The Commission shall be authorized to study and investigate industries (determined by the Secretary of Labor to be particularly vulnerable to national emergency disputes) combinations or groups thereof, and problems relating thereto, including but not limited to—

(1) the ways and means by which the collective bargaining process might be improved, altered, revised, or supplemented so as to avoid or minimize strikes and lockouts which effect an entire industry, or region, or a substantial part thereof;

(2) the effectiveness and usefulness of various forms of mediation, conciliation, arbitration, and other possible procedures and methods for aiding or supplementing the collective bargaining process;

(3) the administration, operation, and possible need for revision of this Act and its effect on collective bargaining, strikes,

(4) the adequacy of current legislation in encouraging work-rule arrangements that maximize productivity;

(5) such other problems and subjects which relate in any way to collective bargaining, strikes, or lockouts as the Commission deems appropriate.

(d) A vacancy in the membership of the Commission shall not affect the powers of the remaining members to execute the functions of the Commission, and shall be filled in the same manner as the original appointment was made. The President shall designate a chairman and a vice chairman among its members.

(e) In carrying out its duties, the Commission or any duly authorized subcommittee thereof, is authorized to hold such hearings or investigations, to sit and act at such places and times, to require by subpoena or otherwise the attendance of such witnesses and production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, to make such expenditures as it deems advisable. The Commission may make such rules respecting its organization and procedures as it deems necessary: No recommendation shall be reported from the Commission unless a majority of the Commission assent. Subpoenas may be issued over the signature of the chairman of the Commission or by any member designated by him or by the Commission, and may be served by such person or persons as may be designated by such chairman or member. The chairman of the Commission or any member thereof may administer oaths to witnesses. The cost of stenographic services shall be fixed at an equitable rate by the Commission. Members of the Commission, and its employees and consultants, while traveling on official business for the Commission may receive either a $50 per diem allowance or their actual and necessary expenses provided an itemized statement of such expenses is attached to the voucher.

(f) The Commission is empowered to appoint and fix the compensation of such experts, consultants, technicians, and staff employees as it deems necessary and advisable. The Commission is authorized to utilize the services, information, facilities, and personnel of the departments and establishments of the Government.

Sec. 232. The Commission shall, within a period of 2 years from the date of the appointment of its members, report to the President concerning its findings. Such report shall also contain any recommendations for dealing with problems caused by any weaknesses in the collective bargaining process, including any recommendations for legislation which the Commission deems necessary to the solution of such problems. The Commission may also recommend, if it deems it advisable, legislation to bring other industries within the coverage of Part B of title II of the Labor-Management Relations Act, as amended.

Part E—Miscellaneous Provisions

Suits by and against representatives

Sec. 241 (a) Suits for violation of agreements or arrangements between carriers or common carriers by air and their employees or the representatives thereof, as those terms are defined in the Railway Labor Act, or between any such representatives, may be brought in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy or without regard to the citizenship of the parties.

(b) Any representative of employees, as defined in the Railway Labor Act, and any carrier or common carrier by air, as defined in the Railway Labor Act, shall be bound by the acts of its agents. Any such representative may sue or be sued as an entity and in behalf of the employees whom it represents in the courts of the United States. Any money judgment against such representative in a district court of the United States shall be enforceable only against the organization as an entity and against its assets, and shall not be enforceable against any individual member or his assets.

(c) For the purpose of actions and proceedings by or against representatives in the district courts of the United States, district courts shall be deemed to have jurisdiction of a representative (1) in the district in which such organization maintains its principal office or (2) in any district in which its duly authorized officers or agents are engaged in representing or acting for employee members.

(d) The service of summons, subpoena, or other legal process of any court of the United States upon an officer or agent of a representative, in his capacity of such, shall constitute service upon the representative.

(e) For the purposes of this section in determining whether any person is acting as an "agent" of another person so as to make such other person responsible for his acts, the question of whether the specific acts performed were actually authorized or subsequently ratified shall not be controlling.

Repeal

Sec. 242. Sections 5, 7, 8 (both), 9 and 10 of title I, and sections 203 and 205 of title II of the Railway Labor Act, as amended, are hereby repealed.

Inapplicability of the Norris-La Guardia Act

Sec. 243. The provisions of the Act of March 23, 1932, entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", shall not be applicable to any judicial proceeding brought under or to enforce the provisions of this Act.

Rights of employees

Sec. 244. Nothing in this Act shall be construed to require an individual employee to render labor or service without his consent, nor shall anything in this Act be construed to make the quitting of his labor by an individual employee an illegal act; nor shall any court issue any process to compel the performance by an individual employee of such labor or service, without his consent; nor shall the quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions for work at the place of employment of such employee or employees be deemed as a strike under this Act.

Railroad unemployment insurance

Sec. 245. Section 4(a)(1) of the "Railroad Unemployment Insurance Act of 1938," 52 Stat. 1098, is hereby amended by inserting a semi-colon following the words "at which he was last employed" and striking the remaining language in the paragraph.

Appropriations

Sec. 246. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEPARABILITY

SEC. 247. If any provision of this Act, or the application of such provison to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Mr. WILLIAMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WILLIAMS. Are copies of the amendment available?

Mr. PACKWOOD. Yes. I will give the Senator a copy of the amendment now.

The PRESIDING OFFICER. By prior agreement on this amendment the Senator from Oregon has 2 hours and the Senator from New Jersey has one-half hour. Who yields time?

Mr. PACKWOOD. Mr. President, I yield myself such time as I may need.

Mr. President, this country is in the throes of still another crisis caused by a breakdown of collective bargaining in one of the transportation industries. While the longshore strike is felt most deeply in the west coast States, including my own, it affects us all. If this tragic disruption is allowed to continue, its fallout of human misery—for the farmer, the manufacturer, the wage earner—will spread with increasing severity through the country. Our precarious trade position was one of the early victims of the strike, and the damage grows greater with every day the strike goes on.

That is why I introduced the President's proposal to end this dispute once and for all, with arbitration. But, I believe that arbitration does not offer the way out for the future, for it inhibits the process of free collective bargaining. And, I, for one, would prefer to see future disputes settled by the parties themselves whenever possible.

Because we can no longer afford to delay facing up to the need for emergency labor-management disputes legislation in the vital transportation industry, I am today offering for myself and Senators DOMINICK, TAFT, BEALL, PEARSON, WEICKER, CURTIS, GURNEY, FONG, BROCK, JORDAN of Idaho, DOLE, TOWER, HANSEN, FANNIN, and COTTON, an amendment to the emergency west coast dispute legislation now before us. Our amendment offers permanent legislation to deal with future emergencies in the transportation industry, and is to be known as the Transportation Crisis Prevention Act of 1972.

This amendment covers every major mode of transport subject to labor stoppages: railroads, airlines, longshore, maritime, and trucking. In so doing, it provides a measured response to the needs that have been revealed through hard experience. It is in the transportation industries, which provide essential links between all the other segments of the economy, that we have suffered repeated disruptions that gravely wounded the Nation. Two of these industries are now subject to outmoded Railway Labor Act procedures for resolving disputes. The others are under Taft-Hartley provisions that have been more effective, on balance, but which also lack any final device for solving the most stubborn disputes without ad hoc congressional action. With increasing frequency, unresolved rail disputes have found their way to the Congress: the 1963 fireman manning dispute, the 1967 shop craft union dispute—three separate congressional actions—in 1970 another shop craft dispute, and a strike of the United Transportation Union and three nonoperating unions, and in 1971 a signalmen's dispute. At this time, I need only mention the longshore and maritime industry to remind the Senate of the troubled labor history in that area. In summary, it is the transportation industry which stands at the center of our economy, absolutely vital to continued operation of all others, and which has compiled the most serious record of disruption. And so it is here that we must act immediately, while staying our hand in other areas pending study and firm evidence that there is the same pressing need for supplementing our basic mode of resolving disputes, collective bargaining.

If our amendment is accepted, I believe that future transportation disputes would be solved in a fair and orderly manner, without resorting to the Congress, which, we must admit, is not really equipped or eager to handle these complex problems. This amendment is comprehensive, applying to both regional and national transportation disruptions. It would give the President a broad choice of options which he could invoke to bring about a settlement—these procedures could even be used in combination. And it provides for the fairest possible harmonizing of the rights of the people to an efficient transportation system, and the rights of labor and management to settle their own affairs.

Part B of our amendment would amend the National Labor Relations Act. Three new procedures would be added onto the existing Taft-Hartley 80-day cooling-off period in the event that a transportation dispute were not settled before expiration of the injunction, a situation that has occurred frequently in transportation industry emergency disputes. The bill gives to the President the broadest possible lattitude to choose none, one, two, or all of the following options: first, an extension of the cooling-off period, second, partial operation, and third, selection of the most reasonable final offer. These procedures would be applicable only to transportation industries—railroad, airline, maritime, longshore, and trucking. The procedures would operate as follows:

First, additional cooling-off period: At the conclusion of an 80-day Taft-Hartley cooling-off period, the parties may be very close to settlement of a given dispute. Yet, for a number of reasons, the parties might be reluctant to agree on their own to an extension of the period until the settlement were finalized. For this reason, we are proposing that the President be given authority to extend the cooling-off period for an additional 15 days. Some have suggested that a 30- or 45-day extension be permitted. However, I believe that such an extended cooling-off period beyond the original 80-day period would be unnecessary. If a settlement is, in fact, so close as to warrant an extension in the first place, certainly 15 days ought to provide sufficient time for the parties to iron out their remaining differences. Furthermore, a 15-day extension would encourage the parties to reach a speedy settlement so that peace, and the public confidence in the collective bargaining process could be restored as soon as possible. If the additional 15-day stay were not successful, the President would be empowered to move to the other options.

Second, partial operation: It is usually their pervasive impact—jeopardizing the health and safety of whole areas, and sometimes of the Nation as a whole—that make transportation disputes such a burden to the public. For example, all of us have seen or heard about whole harvests piling up and growing rotten on the farms where they were grown, at trackside or dockside. This kind of senseless waste could often be greatly minimized if the magnitude of the dispute could be limited. Under our amendment the President, if he so chooses, would appoint a three-man board which, if it found that partial operation were practical in the given dispute, would regulate and limit the stoppage in the fairest possible manner. The purpose of this procedure is to allow the economic pressures on the parties to continue and therefore encourage settlement. At the same time, serious damage to the public interest would be avoided. This procedure compromises between the parties' rights to strike or lockout, and the public's interest in moving the goods. The economic pressure would be directed more against the parties where it belongs, rather than against a helpless public.

Third, final offer selection: Finally, the President could choose to have the parties submit one, or if they prefer, two final offers to the Secretary of Labor. Each offer without modification would comprise a total collective bargaining agreement of the parties. Collective bargaining based on these offers, would continue for 5 days more, with the assistance of the Secretary of Labor. If there were no agreement by then, a panel would be appointed either by the parties, or if they could not agree, by the President which would hold hearings and choose the most reasonable offer. Its merit and reasonableness would be the only reason for the panel's choice of a particular offer over the others. In my judgment, development of the "final offer selection" concept amounts to one of the most imaginative innovations in the field of labor law in many years. It would have the effect of bringing the parties closer together since it requires selection, without modification, of the most reasonable offer.

Mr. CURTIS. Mr. President, will the Senator yield at that point?

Mr. PACKWOOD. I am happy to yield to the distinguished Senator from Nebraska.

Mr. CURTIS. Is the provision of the proposal which the Senator from Oregon sponsors such that if a decision is made on one of these offers, it takes one or the other without change?

Mr. PACKWOOD. Absolutely.

Mr. CURTIS. Does the Senator feel that that will put a responsibility on both parties to offer the fairest and most re-

sponsible proposal that it can come up with?

Mr. PACKWOOD. The distinguished Senator from Nebraska is absolutely right. Let me say that I have practiced labor law for a number of years and I have sat at the bargaining table. I have sat at the bargaining table when each side would try to buffalo the other side as to what its final offer was. What would be offered for arbitration would then be an offer as extreme as possible, with the hope that the arbiter would cut it off somewhere in between and give them some benefit.

In this proposal we do the opposite. The total offer of each side goes to the arbiter and they are the final offer. The arbiter picks one or the other of the total offer. He cannot jump back and forth and pick the best from each.

Therefore labor and management both will be careful and exert every effort to make an offer that is fair and reasonable. Not to do so would risk total rejection of their entire package.

Mr. CURTIS. That will mean that each side will be restrained from proposing that which it does not really believe in, because if an offer is obviously out of line, it will force the individual who sits in judgment to take the other proposal?

Mr. PACKWOOD. We have even gone a bit further. The Senator will note the legislation allows each side to present two final offers. The reasoning here is that the parties would be allowed to have one offer for show and one for go. If the parties have to placate their principles, the union, its membership, or the employer his trade association members, they may each, if they wish, present two offers. They may present one outrageous offer, so as to be able to say, "This is what we asked for." But they are also given the option of presenting another offer; but in that one, based on experience, they are encouraged to be very close together.

Based on our experience in labor negotiations, you never really know what the real final offer of the other side is. But in this situation, once the parties have exchanged their last offer, they will in most cases find they are so close together that they will probably be able to harmonize their differences without the arbitrator making the decision, anyway.

Mr. CURTIS. Will all these remedies be available prior to a work stoppage?

Mr. PACKWOOD. They will all be available prior to a work stoppage. The first option in the event of an actual or threatened emergency is still the 80-day Taft-Hartley cooling-off period. The President is not forced to invoke that option, but he has the power to.

Under this amendment, the emergency provisions will be expanded to include regional as well as national transportation disputes. And the President will be given three new options: Extension of the Taft-Hartley cooling-off period, partial operation, and final offer selection. These options may be invoked prior to a work stoppage, if a regional or national emergency is threatened.

Mr. CURTIS. Who makes the choice of the three options?

Mr. PACKWOOD. The President.

Mr. CURTIS. Could the Senator, for the record, enlarge a little bit on the change from a national emergency to a regional emergency?

Mr. PACKWOOD. Yes. Let me read exactly the language on regional emergencies, section 211 of the amendment:

> Whenever in the opinion of the President of the United States, a threatened or actual strike or lock-out affecting an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce, will, if permitted to occur or to continue, imperil the national health or safety, or—

I am here reading the existing language.

This is the new language—

> when the strike or lockout is in an industry subject to Part B of this title imperil the health or safety of a substantial sector of the Nation, he may appoint a board of inquiry.

And then it continues with the existing procedures.

Mr. CURTIS. Another question. Is the President precluded from using two or three of the options? May he first opt to have the strike ended for 80 days, and still, at a later time, take one of the other options?

Mr. PACKWOOD. The only limitation on invoking the options is as follows: The Taft-Hartley 80-day cooling-off period is first. It must be invoked before any of the three new options can be used. After that, he would have three other options which are not available under current law: A 15-day extension of the cooling-off period, partial operation, and final offer selection. If he decides to choose final offer selection, he may not back up to the other two. But otherwise, he can take the options in any order.

Mr. CURTIS. There was a time when I found any method proposed that would interfere with free collective bargaining distasteful. My position on that has been altered for this reason: There is the great national need, but also the additional fact that it is a part of the whole American system of jurisprudence and court operation that, when parties disagree and they take their case to a court or other tribunal, they are in a sense submitting to arbitration, because the court decision is a decision made when the parties themselves cannot make a decision. So to use that procedure here is not any more un-American than to settle a boundary dispute between two farmers or a dispute over a car accident or anything else by letting the court and jury decide what the settlement should be, when the parties cannot.

Mr. PACKWOOD. Two things have happened in recent years, however. First, we have had in this Nation an increasing interdependence and mobility. In former years, a rail or dock strike could not really affect the whole Nation in the sense of goods moving all the way across the Nation. The impact was limited to 300 or 400 miles. We were not so interdependent then. The second significant development is that we did not have system-wide or nationwide bargaining agreements. We may play havoc with this Nation one day if an entire transportation system, such as the truckers, have one contract with one date of termination. If the truckers strike nationwide, or the employers have a lockout nationwide, this Nation will be paralyzed.

Mr. CURTIS. At present, is there any bar to a strike by the railroads, the longshoremen, the truckdrivers. the busdrivers, and the airlines all at one time?

Mr. PACKWOOD. At the present time we differentiate—irrationally, in my judgment—between the railroads and the airlines and the other industries. Rails and air are treated one way, and the other transportation industries another. The only procedure we now have to avert national emergencies is the 80-day extension of the Taft-Hartley Act, and even that is not available in the railway and airline industries. After the cooling-off period, there is not a single remedy which Congress or the President, under existing law, can invoke to settle a dispute.

Mr. CURTIS. Mr. President, my friend is making a splendid case. I shall not interrupt him further at this time. Later on, if time is available, I shall have some further things to say.

Mr. PACKWOOD. There will be time, and I shall be delighted to hear from the Senator.

The parties would be encouraged from the outset to bargain collectively in meaningful terms. Compulsory arbitration, on the other hand, forces the parties apart, because as a practical matter positions tend to rigidify if the parties knew that somewhere at the end of the one, an arbitrator will split the differences between them. There would be no incentive then to be reasonable, which so obviously exists with the final offer selection approach.

The final offer selection procedure in our amendment also provides a means by which related jurisdictional disputes may be taken into account, so that the final offer selected will contain reasonable provisions bearing on disputed work. This will be achieved by allowing a union with a valid interest to present before the final offer selection board its arguments for any final offer that has been submitted. I would like to stress again that in providing a mechanism for solution of emergency transportation disputes, we must not adopt devices which will jeopardize the future of collective bargaining. Over the past few years it has come under increasing attack, chiefly because of the crippling effects of strikes in the transportation industry. I, for one, cannot blame the citizens for becoming disgruntled and disillusioned as one strike after another disrupts their lives and traumatizes this whole country. I believe that our amendment will encourage better collective bargaining, as well as bringing about settlements. This is especially true with the final offer selection option, which, because it encourages the parties to bargain, will restore the public's faith in the basic collective bargaining system.

In utilizing the above three procedures, the President would be given the

broadest possible capability to deal with whatever situation may arise. He would further be permitted use of these options in any sequence he finds appropriate in each case. The amendment we introduce today would permit the President to move freely from extension of the cooling-off period to partial operation or final offer selection, if he found that the procedure chosen is not working. Of course, he could only use each procedure once during a dispute. Furthermore, once the President opted for final offer selection, he would be foreclosed from going to either of the other two procedures, because selection of a final offer will in all cases bring the dispute to an end.

The mere presence of several options at the end of the Taft-Hartley cooling-off period would tend to bring the parties closer beforehand, since they would obviously be uncertain as to what action the President might take, if any. Yet the public and the Congress would have the assurance of knowing that the President possessed the tools to end the deadlock. With this bill, it would be highly unlikely that Congress would be called in to settle disputes in the future, as we have had to do all too often in the recent past. For, if one approach failed, or was obviously failing, the President could choose another. Ultimately, the dispute could be resolved by final offer selection.

So far, I have said a good deal about giving the President broad authority to deal with disputes in the transportation industry. All of us can agree, I think, that Congress is not the place to settle a strike. This lesson has been driven home to us all too often in the last decade or so. Nevertheless, the Congress cannot escape its responsibility for the enactment of a viable legal structure designed to avoid emergency labor disputes in the transportation industries where possible, and to cope with them when all attempts at voluntary resolution fail. Our amendment establishes such a basic framework.

To conclude this discussion of part B, I would like to turn to one of the most important features of the amendment. It proposes that the above described emergency transportation disputes apparatus be applied to disputes which, in the language of the bill, "imperil the health or safety of a substantial sector of the Nation."

When Congress first embarked on the route of providing emergency disputes legislation in the Taft-Hartley Act of 1947, it was a momentous step into uncharted territory. Quite properly, the initial movement was cautious and limited. Federal intervention was restricted to disputes with a specific impact on the health or safety of the Nation as a whole.

Over the intervening quarter century, as many emergency dispute situations occurred and were dealt with under the act, the concepts of coverage were redefined and expanded. The courts recognized that, in our increasingly interdependent economy, tremors from a major disturbance in one section of the Nation flow outward and are shortly felt in other areas. It became clear that a stoppage centered in one geographical area could be a national emergency, if the direct effects elsewhere could be shown.

Nevertheless, the language of the Taft-Hartley Act still sometimes presents a barrier to relief of severe economic hardship when bargaining or local governmental efforts cannot suffice, merely because the direct impact of the emergency is geographically limited.

Of course, there has been another barrier to resolution of crucial transportation disputes—lack of adequate procedures under either Taft-Hartley or the Railway Labor Act—for railroads and airlines—to deal with intractable disputes. As I have explained, our amendment corrects that problem. But without another change, to apply the regional concept to transportation disputes, the new procedures will not be applicable to many severe and destructive work stoppages.

This gap in our labor statutes can no longer be accepted. Even when direct ties cannot be shown, infliction of serious harm on any substantial part of the Nation is the concern, and ultimately the loss, of all. While the first resort is, and will remain, action by communities, by State and by local governments, there will continue to be cases where only the Federal Government, with the overarching power and control, can achieve the needed results. Too often we have had to watch the havoc caused by regional transportation disputes that were beyond the reach of effective governmental action. Now that we are giving the Federal Government the tools, we must allow them to be used.

The time has come to make the aid of Federal action available on the basis of real need, without outmoded and essentially artificial restrictions. Our amendment will accomplish this purpose.

Part C of the amendment we are introducing today would make certain amendments to the Railway Labor Act, in order to promote greater efficiency in the resolution of disputes in the railroad and airline industries.

First. The existing National Mediation Board would be replaced by the new structure established in part B of our amendment. The remaining duties of the NMB will be assumed by other well-qualified agencies: The Federal Mediation and Conciliation Service for mediation and the National Labor Relations Board for unit determinations.

Second. The current system of Railroad Adjustment Boards would be abolished, and the grievances which they handle would be transferred to private arbitration. The nearly 40 years of experience with the Railroad Adjustment Board has not been the happiest. For example, the current backlog of unresolved grievances is now in the neighborhood of 5,000. Arbitration should bring about much speedier resolution of these minor grievances resulting in more harmonious atmosphere in this industry.

On the other hand, both labor and management in the airline industry agree that they have been well served so far by the Adjustment Boards which they have established. Therefore, this amendment proposes that the Adjustment Boards in this industry be continued. There is no reason to disrupt a going system for the sake of change alone. If at some future time both parties wish to end the Adjustment Board procedure, they may do so, and the formal procedures for setting up adjustment panels prescribed in the Railway Labor Act will come into force.

Third. We have made necessary changes to insure that unemployment insurance benefits under the RLA will no longer be a factor distorting the economic balance in strike situations. Neither equity nor resolution of disputes is served by the present situation, in which employer-supported benefits are paid to striking workers whose lack of employment is voluntary.

There is no guarantee that our amendment will provide all of the answers to the hard problems involved in emergency disputes, but I believe the positive steps it takes are well justified. To assess future needs, part D establishes a National Special Industries Commission. The Commission will study the administration of this program, and problems in the transportation industry—labor-management relations generally—but its charter does not stop there. It is also directed to study the problems faced in other industries whose labor management relations are becoming of more and more concern to the Nation generally. Such a commission should be able to provide us with facts, and expert interpretation, with which we can arrive at informed decisions as to whether the provisions of this amendment, or other devices yet to be found, should be extended to cover new areas of the economy. Thus our amendment moves decisively where the need is clear, avoids undue haste where the issues need more exploration, and sets the stage for enlightened policy judgments in the future.

In conclusion, I respectfully urge that all Senators give this amendment their highest consideration. In my judgment this measure offers the most comprehensive approach yet proposed to solve one of today's most pressing problems. It is also a balanced approach between the interests of speedy resolution of transportation labor disputes and encouragement of the collective bargaining process.

Mr. President, had we had this legislation on the books 2 years ago, we would not have had last summer's tieup in the railway industry, we would not have had the west coast dock strike, we would not have had the east coast and gulf dock strike. It is really a question of how many emergencies we will tolerate and how much time we will spend sitting idly by in Congress while this Nation is economically strangled by a relatively small handful of industrial barons who happen to exist at the top management levels in the transportation industry and a small handful of unions which happen to have bargaining agreements in the transportation industry.

Most industries can stockpile or inventory. You cannot inventory transportation. The moment a transportation crisis comes along, the Nation approaches chaos very quickly.

I implore Senators, if we do not wish to face national chaos again and again, that we not turn down the legislation, but accept it, so that we may never again be faced what we are now facing on the west coast.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. I yield 5 minutes to the Senator from Idaho.

Mr. JORDAN of Idaho. Mr. President, at long last the Senate has an opportunity to fulfill its responsibility to the American public by approving legislation to settle the west coast dock strike. I strongly urge that we take action today to stop the untold waste caused by this strike.

The economic harm caused by this strike is intolerable. Western farmers have lost hundreds of millions of dollars worth of export sales of farm products. Markets which these farmers have slowly built up over the years are now being supplied by Canada, Australia, and other countries. Foreign buyers are losing confidence in the ability of U.S. producers to deliver the goods.

It has long been apparent that the parties to this dispute are more interested in their own private interests than in the public interest. The time has come for Congress to act on behalf of the American public and to put an end to this devastating strike.

We must all recognize, however, that the bill currently pending before us is a stopgap measure. It is the traditional haphazard and overdue response to a crisis situation in the transportation industry. The Senate can no longer ignore what is crystal clear to the American public: We must simply provide means for the settlement of labor disputes in the transportation industry so that these costly work stoppages will no longer plague our economy.

Current methods for dealing with these disputes are wholly inadequate. The public interest requires that new methods be enacted so that transportation tieups will not occur. Congress must act to insure that the public interest does not suffer for the benefit of the private interests of the parties to such disputes.

It has been over 2 years since President Nixon proposed legislation (S. 560) to provide the needed tools for dealing with transportation stoppages. Although hearings have belatedly been held on the President's proposal, it is becoming apparent that this legislation may never be openly debated on the Senate floor.

The need for favorable action on S. 560 is clear. It remains for Congress to show that it can respond in a responsible manner to the public needs. Hopefully, we will not have to again respond to a transportation crisis in this undignified, haphazard manner.

The amendment offered by the junior Senator from Oregon is a generic amendment, as is S. 560. It offers the opportunity today of a permanent, rather than an ad hoc, solution to transportation strikes that prolong and aggravate the unacceptable damage to a regional as well as a national economy. I am pleased to cosponsor this amendment, and I urge its adoption.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. I yield 15 minutes to the Senator from Nebraska.

Mr. CURTIS. Mr. President, I commend the distinguished Senator from Oregon for offering this amendment. I am happy to be a cosponsor and to speak in favor of it.

I am grateful for the fact that the committee having jurisdiction of this legislation has reported a measure, emergency in nature, which will lead to an end of the current dock strike. That should be done. But that is not enough; because if we are content here in Congress to wait until an emergency arises and then, after months and months of economic loss to our citizens, come in each time with emergency legislation, we will have failed the country in several respects.

In the first place, we are applying remedies too late, after great losses have occurred. In the second place—and in a very basic sense—we violate the principle that we are a government of law. Congress should lay down ahead of time what the law is to be, so that individuals and groups can govern themselves accordingly, knowing what the law is. For that reason, I think it is exceedingly important that the Senate adopt the Packwood amendment.

I want to stress, however, that I am very much for the committee bill which is now before the Senate. It is needed, and we should enact it. But we should take the next step and enact laws that would prevent a long series of crises that result in damage to our economy and result in loss of wages for many workers, rather than just sit idly by until a future emergency becomes so grave that the country prods Congress into acting at that time.

Mr. President, I do not believe it is overdramatization to say that should Congress fail to act on the legislation now before the Senate, the effect upon the agricultural economy of this Nation will be incalculable.

As a representative of the farmers of Nebraska, I would be derelict in my duty if I did not plead with the Members of this body to adopt the Packwood amendment now before us.

In the fiscal year ending last June 30, Nebraska farmers sold $287.5 million worth of agricultural products for export. This may not sound like much to those of us here in the Senate who deal with figures in the hundreds of billions of dollars. However, I would point out, Mr. President, that $287.5 million represents nearly 15 percent of the total cash receipts to farmers in my State. I would note further that every dollar's worth of farm crops sold generates several dollars worth of economic activity.

On last November 5, a subcommittee of the Committee on Agriculture chaired by the distinguished Senator from Florida (Mr. CHILES) held hearings on the effect of the labor-management dispute in the shipping industry on agriculture.

A constituent of mine, Mr. Ray Davis, a wheat farmer from Potter, Nebr., was one of the 62 witnesses heard during that 1-day hearing. He pretty well summed up the feeling of farmers this way:

> Strikes have caused great frustration and confusion in the farm community. Wheat producers have contributed millions of dollars and thousands of hours of their time to develop and maintain foreign markets for U.S. wheat. Likewise, producers have worked with the Department of Agriculture and the grain trade to build a reputation for the United States as a reliable source for a wide range of wheat varieties. Labor difficulties at our ports not only tarnish our standing as a reliable source for quality wheats but also cancel out much of the work and money that has gone into establishing and servicing overseas markets. Those losses cannot be recovered.

Those of us who value individual freedom, Mr. President, cannot deny the working man the right to withhold his services as a means of obtaining his economic goals. At the same time, I cannot help recalling the old adage:

> One person's rights end where another's nose begins.

Mr. President, the dock striker's fist is now at the farmer's nose. It is time that action be taken to protect the farmers' rights and to settle this very costly dispute which is taking $6 million a day out of his pockets.

In my view, the amendment now before us will give labor and management an equal opportunity to present their positions and arrive at a settlement that is in accord with American tradition.

Mr. President, a few moments ago, in colloquy with the distinguished author of the amendment, the Senator from Oregon (Mr. PACKWOOD), I pointed out that the approach here in the way of a settlement of labor and management disputes is not different from the way Americans have always settled their disputes. If they cannot agree among themselves, they go before a tribunal and both sides submit their case and a decision is made for them because they could not arrive at a decision and a settlement themselves.

That is not wrong. It is not anti-American. It is in the interests of our overall economy and, Mr. President, I believe that it is in the interests of the workers themselves.

A work stoppage under the most favorable circumstances for the workers involved is a loss that takes a long time to recover from, but a work stoppage in our transportation industries does injury to thousands—yes, millions of persons who are not parties to that dispute. Our export trade is very important to our agricultural economy. We raise more than twice as much wheat in this country as we consume, in spite of a reduction in acreage. Unless great portions of that wheat can move out or if it piles up at our ports, that pileup reaches clear back to the point where the wheat was produced and depresses prices.

It has been conservatively estimated that transportation strikes over the past 2 years have cost the producers of corn and wheat and feed grains a minimum of 10 or 12 cents a bushel. The loss that has been incurred in the soybean market would be even higher.

The new economic policy which the President is attempting to implement for the country cannot work, and the agricultural economy cannot recover, unless this misuse of union power is stopped.

Mr. President, when did a handful of men have the right to injure millions of other men and go on day after day, month after month, as has happened at times during the past 2 years? The pub-

lic interest is entitled to consideration, but far beyond the interest of the public, I believe that the Packwood amendment is in the interest of both labor and management because it permits the economy to go on.

Mr. President, if we lose a market for exports that heretofore has gone to Japan and that market goes to Australia or some other wheat-producing country, our shipping industry, including labor, has lost a sizable piece of business for a long time to come. I believe that those labor chiefs who resist this legislation not only are mistaken but I believe they are unintentionally acting against the best interests of their own members and of all working men and women in this country.

Mr. President, I am sure that a great majority of the dock workers on strike are anxious to go back to work in order to be able to provide the necessities of life for their families. I know that a great majority of farmers and others who depend upon exports and imports for their livelihood are also anxious for the longshoremen to return to work.

Congress has the responsibility, and only Congress has the power to prevent further disastrous economic effects of this dock strike or any other strike in the transportation industries.

Mr. President, it is time for specific action and today we have the means for that specific action at our disposal.

Mr. President, when the Agriculture Committee held its hearings on November 5, 1971, a great deal of important testimony was assembled.

I want to read to the Senate a statement of Mr. Matt Triggs, who spoke for the American Farm Bureau.

He said in part:

> The welfare of millions of people, literally, is being directly affected by this strike. Although they have no direct involvement in the dispute, or any voice in the dispute, they are being adversely affected. It is our view that their interests ought to be better recognized in national legislation covering this area than is currently the case.
>
> Farmers, of course, are hurt more than most because the farm production is already there, it is ready to ship. Farmers cannot shut down their plant and stop production.
>
> When we recall that one of four acres of farm production are for export, we don't need to belabor the fact that the impact on net farm incomes and farm prices will be pretty adverse. Unfortunately, this often means permanent or indefinite loss of markets as well.
>
> But the public, too, is being hurt. And this may be less apparent. Farmers could make a much larger contribution to improvement of our national balance of payments if they were permitted to do so; they could ship much more than they have shipped in recent years if they were permitted to do so.

In those same hearings other valuable statements were made.

The PRESIDING OFFICER (Mr. ROTH). The time of the Senator from Nebraska has expired.

Mr. PACKWOOD. Mr. President, I yield 5 additional minutes to the Senator from Nebraska.

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

Mr. CURTIS. Mr. President, I should like to read from the statement made by Mr. Kenneth D. Naden, executive vice president of the National Council of Farmer Cooperatives.

I read in part:

> In spite of tremendous increases in productivity on the part of U.S. farmers in recent decades and of the farm-to-city movement of millions, farmers still suffer from serious weaknesses in the markets in which they sell their products. This very productivity, coupled with limited nature of demand for their products and often fragmented marketing efforts, has contributed to depressed farm prices which have posed a continuing national policy dilemma for many years.
>
> Obviously, one more pressure such as restriction of exports resulting from longshoreman strikes is of crucial importance to a group already suffering from overproduction and with few, if any, market alternatives. In the case of heavy surplus crops this year, such as corn, the damage to farm income can be especially severe, as is being documented before this committee today. The cost to government is also substantial for commodities which have programs to establish floors or otherwise support farm prices.

Mr. President, I read now from testimony taken on that same occasion, the statement of Mr. Michael L. Hall, assistant to the executive vice president of Great Plains Wheat. The statement reads in part as follows:

> I would like to make one brief remark about the importance of exports to wheat. Of the $7.8 billion of agricultural exports in fiscal 1971, wheat and wheat flour accounted for about $1.2 billion, or a little more than 15 percent of the total agricultural exports and were second only to soybeans in value. For fiscal year 1967 through 1971 the total annual exports of the U.S. wheat and wheat flour as a percentage share of total U.S. wheat production were 56 percent in 1967, 49 percent in 1968, 34 percent in 1969, 41 percent in 1970, and 53 percent in 1971. And here it is well recalled that in 1968–69 the American wheat producers suffered heavy losses because of the 113-day strike on the Atlantic and gulf ports, an occurrence we also witnessed in 1964–65 for 63 days and in 1962–63 for 38 days.
>
> These figures also demonstrate that, in the years not marked by dock strikes, the American wheat producer exported approximately one out of every two bushels of wheat harvested.
>
> We have a very deep interest therefore in good labor-management relationships that permit our wheat to move into the export trade, but find it difficult to understand why our interests are not considered when such disputes occur.

Mr. President, I could go on citing from this record the case for American agriculture. The case for American agriculture is the case for all of us. The export of agricultural products is of benefit to the Treasury of the United States, and that affects all of us. When prosperity prevails in agriculture, it means that there is prosperity on the main streets of our country towns and cities. But that is not all.

The farmers are great purchasers of products from our great cities and our great manufacturing industries. They buy great amounts of petroleum products, steel products, machinery, and the like. They are the purchasers of very significant amounts of the country's rubber sales. We could go on and on enumerating those factors which cause agriculture to be so important to our total economy.

Mr. President, it cannot be denied that these transportation strikes very materially reduce the income of the American farmer. When that happens, the burdens of Government in the way of storage and support prices and the like become greater. Also, the business for the rest of our economy is greatly lessened.

Mr. President, we should, of course, pass the pending bill. It is our only means of ending the dock strike which should have been ended months and months ago. However, as I say, we should also pass the Packwood amendment. To fail to do that would mean that we would be deserting our post with our job less than half done. We should enact the necessary law so that future crises, such as those which we have endured in the past 2 years, will not occur again.

Mr. President, I yield the floor.

Mr. PACKWOOD. Mr. President, I congratulate the persuasiveness of the distinguished Senator from Nebraska. While he was talking, news came over the wires that the dock strike has been settled. And I am sure that is in part due to the persuasive speech of the Senator from Nebraska. It is self-evident, I am sure, that this is the most encouraging word we have had in several months.

However, it should be borne in mind that this proposed settlement must be submitted to the ILWU coastwide caucus on Saturday, and then to the general membership for ratification. The ILWU is a very independent union. There has been much internal dissension in the union. There is unfortunately no guarantee one way or the other what the caucus will do on Saturday, or the membership after that. So, the fact that they have reached tentative agreement is no reason for us to drop the legislation.

Mr. President, if by chance we fail to pass the legislation and if by chance the caucus turns down the proposal for arbitration on Saturday, then we will be without legislation and still without a dock settlement despite the heartening news that has come over the wires. We hope that it is true, but we cannot afford to go into recess and have no fall back legislation at all.

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

Mr. PACKWOOD. I yield.

Mr. CURTIS. Mr. President, as of now, who has agreed to a settlement and what further steps must be taken before there is a settlement that is legally binding?

Mr. PACKWOOD. Mr. President, as I understand it, the parties have negotiated a settlement on the economic issues, and the noneconomic issues, relating to manning and unloading, will be submitted to an arbitrator who has worked with the parties.

As I understand it, they have agreed only on the economic issues. All of this agreement must go before the caucus on Saturday and will later be ratified or rejected by the members.

I would like to say, Mr. President, that the ILWU is one of the most democratic organizations that I know of and they

take no action without the consent of their caucus and general membership. If the tentative agreement is ratified by the cacus and the members, the strike is over. However, we ought to wait and see.

Mr. CURTIS. So the need for permanent legislation is the same.

Mr. PACKWOOD. Absolutely, we are faced with a whole series of contracts coming due this year and next year, any one of which can trigger serious nationwide strikes, and we are back in the same situation again if that happens. Unless, of course, we have permanent legislation.

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

Mr. PACKWOOD. I yield to the Senator from Ohio.

Mr. TAFT. I would like to ask the Senator for an opinion. I recognize this is a new development which is difficult to assess fully with authority, but I would like to ask the Senator for his opinion as to what the situation would be with regard to the settlement said to have been arrived at, if presented to the Pay Board.

Mr. PACKWOOD. It will be subject to the Pay Board, as all settlements are. There is nothing parties can do to obviate that.

Mr. TAFT. I would like to ask the Senator from Oregon to comment on that situation he discussed as contrasted to the provisions of the Williams bill with regard to the Pay Board.

Mr. PACKWOOD. I have grave reservations about one of the provisions of Senate Joint Resolution 197. If settlement is reached by the arbitration procedures in the resolution, the Pay Board would have no right to approve it.

The legislation states arbitration shall be guided by policies of the Economic Stabilization Act, but there is no provision for the Pay Board to act, and they cannot overturn the settlement.

Mr. TAFT. So possibly if the strike were settled insofar as the parties are concerned, Pay Board action might result in a refusal to accept that agreement, in which case we need legislation aimed specifically at this situation on the west coast.

Mr. PACKWOOD. Yes.

Mr. TAFT. I thank the Senator.

Will the Senator from Oregon yield to me briefly so that I may comment on this matter?

Mr. PACKWOOD. I am happy to yield to the Senator from Ohio.

Mr. TAFT. I thank the Senator for yielding.

Mr. President, I would like to express strong support for the Packwood amendment, of which I am a cosponsor. It is a measure which has long been needed, not so much to solve and resolve emergency strikes in this country relating to the Nation's health and safety generally and the health and safety of regions of the Nation, but also to prevent those emergencies from arising. I believe the very existence of a remedy over and above the 80-day injunction provision of the Taft-Hartley law, as in the Packwood amendment, will have a salutary effect on causing parties that might be involved in a strike to settle their differences.

I also would like to comment on the desirability of applying this measure only to transportation industries.

In my opinion, and I pointed this out when I offered an amendment to the Wage-Price Stabilization Act in December, trying to anticipate the situation in which we find ourselves now—a generic amendment should apply not only to transportation but to all industries in the United States—I am convinced we will have to have some such legislation.

The Nation may not realize it, but last fall a large portion of the Nation was faced with a very difficult and serious crisis that could have arisen if there had not been a settlement of labor disputes in the coal industry. Hospitals, major industrial concerns, electric generating plants, and many others depend on power supplied by steam or coal fuel plants. These plants throughout the Midwest were threatened and we were down to a 2- or 3-weeks supply. There was no prospect of obtaining coal.

I remember when I was in the Ohio legislature at least 15 years ago. We had a major telephone strike in an area of our State which extended to other States. There was not a thing we could do under the laws of the State or the United States at that time. We need some procedure to handle these situations.

The attempts here to handle this situation—the last offer selection process, especially—might apply favorably after we see how it works in a public-management type dispute, which is a new problem on the horizon to which the Congress has offered no solution. All of these matters call for the attention of Congress. However, all attempts have been defeated time and time again in Congress. There have been bills and hearings. I would welcome further hearings.

As to the transportation industry, we need permanent legislation now. The New York Times last week printed an editorial speaking not too favorably of compulsory arbitration and stating that permanent legislation is the answer. This bears on some of the reservations I have with respect to the Williams bill before us today. Unless there is a settlement it may be necessary in this situation to have legislation to extend the provisions of Taft-Hartley. There must somewhere be the element of finality to bring the parties to a just and fair settlement where the public interest is so deeply involved.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial entitled "Dubious Emergency," printed in the New York Times on February 3, 1972.

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

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

DUBIOUS EMERGENCY

President Nixon's warning that the West Coast dock strike is spiking progress toward economic recovery might cause more concern in Congress if this Administration had not worked so hard in earlier years to persuade the country that the impact of waterfront tie-ups is always grossly exaggerated.

Studies initiated by George P. Shultz, in his period as Secretary of Labor, cast grave doubt on the necessity for the injunctions obtained by other Presidents, from Truman through Johnson, under the national emergency provisions of the Taft-Hartley Act every time Atlantic and Gulf ports were struck.

A particular target of these studies was the use by the Government of astronomic and usually amorphous figures on how many hundreds of millions of dollars the strikes cost in lost commerce—precisely the kind of figures currently being used by Mr. Nixon, Labor Secretary Hodgson and Agriculture Secretary Butz to buttress the plea for swift passage of a back-to-work law.

It is indisputable that the economic hurt inflicted by the current West Coast stoppage is heightened by the fact that the same ports were tied up for a hundred days before the President got a Taft-Hartley no-strike order last October. But the evidence of a crushing squeeze remains much too debatable to justify overhasty Congressional action in a situation that has fateful implications for the whole creaky effort to halt wage-price inflation.

The West Coast shipping companies and the longshore union already have reached basic agreement on a money package that runs at least triple the Pay Board's basic 5.5 per cent guidepost. Only one technical fund stands in the way of a full accord. If the dispute goes to compulsory arbitration, as Mr. Nixon proposes, a Government-appointed panel would take away from the Pay Board the right to pass on the appropriateness of the extremely high wage settlement now in prospect.

Such an upstaging of the Pay Board would damage, perhaps fatally, its status as monitor of wage controls. It would be infinitely preferable to focus maximum pressure on both the union and the employers to tie up the loose ends of their tentative pact—and then submit its terms to the Pay Board for review.

One form of such pressure, particularly on the vacillating union leadership, would be for Congress to move ahead—as it should have long ago—on the President's much sounder proposal for a permanent overhaul of the inadequate statutory safeguards against crippling strikes in transportation industries. With stronger basic protection for the public there would be no need for patchwork expedients of the type now being sought on the Pacific docks.

Mr. PACKWOOD. I yield to the Senator from Hawaii.

Mr. FONG. Mr. President, I am happy to cosponsor the amendment to Senate Joint Resolution 197 offered by the distinguished Senator from Oregon (Mr. PACKWOOD).

This amendment is most appropriately called the Transportation Crisis Prevention Act of 1972, and it seeks to effect a long-overdue reform in the Taft-Hartley Labor-Management Relations Act with regard to emergency disputes in the transportation industry.

Without question, we are in a transportation crisis at this moment. The west coast longshoremen went out on strike on July 1 of last year and stayed out until a Taft-Hartley injunction brought them back after 100 days. But the strike resumed on January 17, and the fate of the tentative agreement just announced is uncertain.

The extended failure of negotiations between the Pacific Maritime Association and the International Longshoremen's and Warehousemen's Union, which began in October 1970, 16 long months ago, has made it crystal clear that our available machinery for promoting labor dispute settlements is inadequate. Taft-Hartley, the only tool the Federal Government now has, manifest-

ly failed in the west coast dock dispute, as it failed in seven out of the 10 maritime and longshore disputes in which it was previously used.

It is time that the public interest was engineered back into the machinery for settling our emergency labor disputes.

Yesterday, Secretary of Labor Hodgson, speaking at the White House Conference on the Industrial World Ahead, made this same point. "Public demand," he said, "not the wishes of labor or management, is the force that will shape future changes in collective bargaining. Public interest, not private influence, will prevail."

The Secretary noted that at one time a strike hurt primarily the participants, "with little damage to other than themselves." But management and labor have learned over the years to minimize the effects on themselves, and now the public "takes the brunt of the big strike."

Certainly the people of my island State of Hawaii have borne the brunt of the west coast dock strike. Hawaii lies 2,400 miles out in the Pacific Ocean from the west coast of the United States, and it is a simple, ever-present fact of life that the imports and exports necessary to sustain the economy of my State must travel by ocean commerce. When the ships no longer come to call at the ports of Hawaii, an economic crisis begins, as it began last July 1 and has commenced again, with gathering force, 3 weeks ago.

The people of Hawaii have been held hostage in the west coast dock tie-up. They are not parties to the dispute; they are its victims. As their spokesman, I say to my colleagues: "Enough." We must make sure by legislating reform of existing procedures that a transportation strike never again continues to the point where the people of a substantial part of this country are brought to their knees.

The Transportation Crisis Prevention Act follows generally the lines of the original administration measure introduced in the Senate 2 years ago as S. 560. It reflects my concern that the new alternatives made available to the President for dealing with emergency disputes be specifically applicable to disputes which imperil the health or safety of a substantial sector of the Nation, such as the State of Hawaii. This application was written into S. 2959, the Emergency Labor Disputes Act, which I cosponsored with the distinguished Senator from Ohio (Mr. TAFT).

The Transportation Crisis Prevention Act will give the President three options to follow when a threatened or actual strike or lockout affecting an entire industry or a substantial part thereof engaged in interstate or foreign trade, commerce, transportation, transmission or communication, or engaged in the production of goods for commerce, imperils the national health or safety or the health or safety of a substantial sector of the Nation.

These options, which follow an initial 80-day cooling-off period and are applicable only to the transportation industry, would be: First, an additional 15-day cooling-off period to give the parties additional time to pursue collective bargaining; second, partial operation of the affected industry, which might, for instance, provide essential shipping services to the State of Hawaii; and third, the final offer selection process, whereby a neutral panel would select as the contract the most reasonable of the final offers submitted by the parties to the dispute, unless found arbitrary or capricious by a three-judge Federal district court. The President may invoke these procedures in any sequence he deems appropriate.

I believe the final offer selection process is one of the most original and hopeful concepts to emerge in labor-management relations for many years. It has many advantages over compulsory arbitration. Two parties going before an arbitrator for compulsory arbitration know that he will try to compromise their differences. They therefore have every incentive to state extreme positions, in hopes of gaining more when the compromise is made.

Two parties going before a final offer selection panel are confronted with an entirely different situation. They know that compromise is out—and that the panel will try to select the final offer that is most reasonable.

The burden of compromise, therefore, is placed where it should be, which is on the two parties to the dispute rather than on the arbitrator.

I believe that this legislation will benefit both workers and management by keeping jobs open and operations continuing while these procedures are being followed.

To place the public interest back into labor-management negotiations, to give the Government the flexible new tools which it needs to promote settlement, to face up to the need to safeguard all sectors of our country from the impact of emergency transportation disputes, the Transportation Crisis Prevention Act is necessary. I strongly urge my colleagues to adopt this amendment.

ORDER OF BUSINESS

Mr. JAVITS. Mr. President, I have time of my own, and I yield myself 4 minutes.

Mr. WILLIAMS. Mr. President, will the Senator yield to the Senator from Texas (Mr. BENTSEN) for a privileged matter?

Mr. JAVITS. I yield.

EXTENSION OF SECTIONS 5(n) AND 7(a) OF FEDERAL WATER POLLUTION CONTROL ACT

Mr. BENTSEN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3122.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 3122) to extend sections 5(n) and 7(a) of the Federal Water Pollution Control Act, as amended, until the end of fiscal year 1972, which were to strike out all after the enacting clause, and insert:

That the second sentence of section 5(n) of the Federal Water Pollution Control Act (33 U.S.C. 1155(n)) is amended by striking out "$7,000,000 for the period ending October 31, 1971," and inserting in lieu thereof "$52,000,000 for the fiscal year ending June 30, 1972,".

SEC. 2. Section 7(a) of the Federal Water Pollution Control Act (33 U.S.C. 1157(a)) is amended by striking out "and for the four-month period ending October 31, 1971, $4,000,000." and inserting in lieu thereof "and for the fiscal year ending June 30, 1972, $15,000,000.".

SEC. 3. The second sentence of section 8(d) of the Federal Water Pollution Control Act (33 U.S.C. 1158(d)) is amended by striking out "$650,000,000 for the four-month period ending October 31, 1971." and inserting in lieu thereof "$2,000,000,000 for the fiscal year ending June 30, 1972.".

And amend the title so as to read: "An Act to extend the Federal Water Pollution Control Act through June 30, 1972."

Mr. BENTSEN. Mr. President, I move that the Senate disagree to the amendment of the House of Representatives to the bill (S. 3122) and request a conference with the House on the disagreeing votes of the two Houses 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. RANDOLPH, Mr. MUSKIE, Mr. EAGLETON, Mr. COOPER, and Mr. BOGGS conferees on the part of the Senate.

THE DOCK STRIKE

The Senate resumed the consideration of the joint resolution (S.J. Res. 197) to provide a procedure for settlement of the dispute on the Pacific coast between certain shippers and associated employers and certain employees.

Mr. JAVITS. Mr. President, I yield myself 4 minutes.

If I may have the attention of the manager of the bill, the chairman of the committee, the ticker reports that a settlement on economic issues was announced today in the west coast dock strike. Negotiators announced a settlement in the longest dock strike in American history. Negotiators said all economic issues had been settled and certain specified noneconomic issues will be submitted to arbitration.

I ask unanimous consent that the ticker tape to which I have referred be printed in the RECORD as a part of my remarks.

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

SAN FRANCISCO.—A settlement "on economic issues" was announced today in the west coast dock strike.

Negotiators announced a settlement today in the longest dock strike in American history—the 123-day walkout of longshoremen in 24 ports on the west coast.

Negotiators said all economic issues had been settled and "certain specified, non-economic issues" will be submitted to arbitration.

The International Longshoremen's and Warehousemen's Union and the Pacific Maritime Association, representing shippers, told a news conference settlement had been reached at 11:50 A.M. PST.

It was attained in intensive bargaining as the negotiators raced to achieve a voluntary settlement before Congress dictated one in Washington.

ILWU President Harry Bridges said the settlement will go to a union caucus Saturday, which may call for a ratification vote next week.

Asked if he would recommend ratification, the 70-year-old union leader said, "I always do."

PMA President Edmund Flynn said the shippers were satisfied with the settlement "or we wouldn't have agreed to it."

If the settlement is ratified, it will end a strike which the government estimates has cost the economy nearly a billion dollars and which western agriculture and business leaders say may have caused irreparable damage to foreign trade.

It had been going on since July 1, interrupted by a Taft-Hartley injunction in October but resumed in January when the court order expired.

"I am authorized to announce that the ILWU and PMA negotiating committees have reached agreement on all economic issues," veteran arbitrator Sam Kagel, who sat in on final sessions, told newsmen.

"Certain specified non-economic issues will be mediated and if necessary, arbitrated, by Sam Kagel."

Kagel said details of the agreement will not be disclosed until "the negotiators report to their principals."

"The date for ratification and return to work is related to the need of ILWU to submit the agreement to its caucus and the caucus' determination on when the vote will be taken and whether or not there will be a return to work pending the vote," he said.

The negotiators bargained until 11 P.M. Monday and showed up today at PMA headquarters, where the meetings were held, smiling broadly.

At 10:20 A.M. they held a six-minute meeting, and then broke up into committee sessions for work on specific parts of the contract.

The settlement represented what could be a historic breakthrough in labor relations on the docks and settled dozens of issues, some of them insoluble for a decade.

Among them was a jurisdictional dispute between ILWU and Teamsters Union members about handling container cargo at locations off but adjacent to the docks.

Teamsters Union members, who had been doing some of the work, were given continued jurisdiction but the PMA shippers agreed to pay a $1-a-ton "tax" to the ILWU for such cargo.

The contract also provided a guaranteed annual wage to longshoremen, laid down specific rules for the employment of highly skilled "steady men" on the docks.

In Washington, committees in both the House and Senate acted on legislation to end the strike.

The Senate bill was the version advocated by President Nixon, which would subject both sides in the strike to binding arbitration.

The House Labor Committee, however, approved a different proposal, merely empowering Nixon to seek a 60-day back to work order.

Mr. JAVITS. Mr. President, ratification of this agreement will take place in the course of the ensuing few days.

Mr. President, the committee, of which I have the honor to be the ranking Republican member—the Senator from New Jersey (Mr. WILLIAMS) is chairman—devoutly hoped that this would happen. We are not at all caught by surprise. We are deeply gratified. We made provision for exactly this possibility. It will be noted that on page 2, at the bottom of the page of the joint resolution, is the following proviso:

Provided, That proceedings under this joint resolution shall be terminated immediately upon certification, in writing, by the parties to the Secretary of Labor that they have reached complete agreement on the disposition of all the issues.

Mr. President, we define the word "disposition" to include an agreement to arbitrate. In other words, disposition does not necessarily mean that there is a finite settlement of every issue; if there is a procedure by which there can be finality, that can be "disposition." This was at my own request. We expressly gave this authority to the Secretary of Labor so that there would be a Cabinet officer present capable of reaching a conclusion based upon the certification made to him by the parties.

So the joint resolution, if passed today, is completely self-operative, and there is no concern about the fact that we would be putting in motion some activity or board which would preempt the settlement of the parties. On the contrary, we fully contemplated that there could be a settlement, and so provided in the terms of the joint resolution itself that the settlement could take effect and that it would preempt the operation of the resolution.

I would greatly appreciate it, because so many Senators have asked me about this, if the chairman of the committee would state his view on this point.

Mr. WILLIAMS. Mr. President, I cannot add anything except to say I understand it as the Senator does. That was contemplated by both the Senator from New York and myself. We at our hearings last Friday heard from the parties. The parties many times said that they were willing to submit their dispute to voluntary arbitration. That gave me great hope. It gave the Senator from New York great hope. Notwithstanding that hope, we have brought this measure here. The measure does include the provision that takes account of what is happening and what the result will evidently be—a disposition of the dispute of the west coast dock strike by the parties, and the final settlement of some of the minor matters, noneconomic matters, being put to voluntary arbitration.

Mr. JAVITS. I thank the Senator.

Mr. PACKWOOD. Mr. President, I yield 5 minutes to the Senator from Connecticut (Mr. WEICKER).

Mr. WEICKER. Mr. President, I rise to commend the distinguished Senator from Oregon on his amendment, in the hope that this body will pass it and will reject the joint resolution. I was prepared to make those comments even before hearing of the tentative settlement on the west coast. I say that because the business of government should be to anticipate, not to react, to crises.

It is all right to say that the measure of the committee is self-operative, but the fact remains that it shows a disposition on the part of the Congress, or specifically the Senate, to continue to act as a forum in individual cases of labor disputes.

Five times in the past, since I have been in Congress, we have provided such a forum, and on five different occasions I have heard how we should have national legislation. But I only hear that talk when we are in the midst of a dispute.

That is what is at issue here this afternoon. I want to make it very clear that this is not a question of a Senator from the east coast of the United States taking a stance he can get away with because it does not affect his constituents. I want to go on record right now that in case of a resumption of the east coast dock strike and similar legislation comes forth, I shall vote against it, and I shall keep on pushing for general legislation, for legislation which will be triggered in the event that the national health or safety is in jeopardy.

I repeat that the difference between the amendment of the Senator from Oregon and the original bill is that one—that is, the original bill—is a reaction to crisis, and the other anticipates crisis. The anticipation is or should be the proper business of Government. I find it highly ironic that Members of this body who certainly have been favored by labor in the past should be standing on this floor advocating compulsory arbitration—something that has been totally abhorrent to labor over the years, and I am sure still is.

By the same token, I would have preferred to see a greater push on the part of the administration for the original concept now embodied in the amendment of the Senator from Oregon.

Let me state some other examples of what I am talking about. I say that unless we pass this type of general legislation today at the time of the west coast dock strike, we are not going to pass it. We are not going to pass it until the next crisis comes along and then we will discuss it again.

To go afield in other areas, I have long said that the war powers bill that was presented by the Senator from New York and others, involving the powers of the President to commit American troops, ought to be the business of this Congress now? Why? Because as soon as the Vietnam war is over, and we are rapidly getting to that point, it will be forgotten, and the circumstances that permitted us to get into Vietnam will still exist, and sooner or later we will fall into another Vietnam situation.

Welfare reform: I remember that at the end of last year, several of us had gone home to our States and our State capitals and had been on the receiving end of welfare protests, and Governors whose States were going bankrupt. Some came back and suggested that we have an emergency $1 billion shot of money for the States instead of passing all encompassing, desperately needed national welfare reform.

That is the sort of thing we are talking about here as far as strikes affecting the national health and safety are concerned. The amendment of the Senator from Oregon is a fine piece of legislation. If enacted, it would mean we will not have to convene at some date in the future and arbitrate a labor dispute somewhere else in the transportation industry. So, Mr. President, I want to make it clear that I fully support the concepts presented in the amendment of the Senator from Oregon, but that I shall vote against the original resolution. That I shall vote against any such

accommodation in the future even though it affects, let us say, the rail industry and the commuters of Connecticut. That I shall vote against any special exceptions being made should the east coast dock strike resume; and I am going to do this again and again until finally we get on the books one law that applies universally and is not just tailored to a particular industry or some geographical section of the country or some particular philosophical principle.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WEICKER. I ask the Senator from Oregon for 1 more minute.

Mr. PACKWOOD. I yield the Senator an additional minute.

Mr. WEICKER. I think when we do that we fulfill the highest purposes of our job. Otherwise, we bump along case by case and keep the country in a constant state of anxiety as these labor disputes arise. I think the Nation has had it right up to here insofar as a few people—be they industry or be they labor—disrupting life in the United States.

But we are not going to resolve that problem by moving from a rail strike to an airline strike to a dock strike, et cetera. We are only going to correct that situation by setting up general legislation which would be there for all to see, for all to evaluate, now.

Mr. PACKWOOD. Mr. President, I thank the distinguished Senator from Connecticut. His sentiments are mine exactly. Each time we have waited, each time there has been a crisis, each time we have said there must be legislation of a permanent nature, we have failed. I am pleased and honored that the Senator is a cosponsor of this amendment, along with our other distinguished colleagues, Senators DOMINICK, TAFT, BEALL, PEARSON, WEICKER, FONG, CURTIS, JORDAN of Idaho, COTTON, BROCK, GURNEY, FANNIN, HANSEN, DOLE, and TOWER.

I might state to the distinguished Senator from New Jersey, that I shall need only about 10 minutes to close.

Mr. WILLIAMS. Mr. President, I do not intend to use very much time to explain why this matter, of these broad dimensions, should not, in my judgment, be attached to the emergency bill we have before us, and to explain why I shall move to lay it on the table. I could proceed now, but I am sure that the Senator from New York wants to speak. He is not here. If the Senator wants to take time now, while I see if the Senator from New York does in fact want to speak on the matter, that is agreeable.

Mr. PACKWOOD. Mr. President, I do not want to take any more time now, but I would like to close on the amendment after the distinguished chairman has spoken.

Mr. WILIAMS. Mr. President, I ask unanimous consent that two members of my staff, Mr. Nagle and Mr. Edes, be permitted to be present on the Senate floor during the votes on this measure.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Jersey? Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, with the time to be equally divided between both sides on the bill.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. I did not hear the Senator's request.

The PRESIDING OFFICER. The time for a quorum call to be charged equally to both sides on the bill.

Is there objection to the request of the Senator from New Jersey? The Chair hears none, and it is so ordered. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. FANNIN. Mr. President, I ask unanimous consent that I be allowed 5 minutes on the time of the distinguished Senator from Oregon.

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

Mr. FANNIN. Mr. President, I rise to support the amendment offered by the distinguished junior Senator from Oregon.

It is almost inconceivable that in a democracy such as ours, we would allow a small group of people to trample on the basic rights of millions of Americans. Yet, that is exactly what is happening today and has happened for the past 4 months as a result of the dock strike.

On the radio this morning was a story about a woman, the wife of a wheat farmer, who said she is going on a hunger strike to call attention to the plight of innocent farmers who have been hurt by the strike. She said she will fast until the dock strike is settled.

Mr. President, I do not think our people should have to go to any such extremes to get action when the need is so evident. We simply cannot allow the monopoly power of a union of only 13,000 men to tie up commerce and bring suffering to millions of Americans.

Once again we have a dramatic demonstration of how, through our antiquated labor laws, we have handed life and death economic power to certain union officials.

Once again we have a shocking example of the public-be-damned attitude of certain union leaders.

We are in deep trouble today because our labor laws have left matters of vital public interest subject to the whim of men who have no regard for the public, the President, or Congress.

We had the spectacle last week of an arrogant labor official telling a congressional committee that there would be a worldwide shipping tieup if we attempted to end this disastrous dock strike through legislation.

Mr. President, Harry Bridges does not rule the dock workers through divine right. And the longshoremen's union does not rule the docks through divine right. They have the awesome power they have only because Congress has provided the legislation which establishes monopoly power for such unions.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point an editorial published in the Chicago Tribune, which I believe summarizes well the situation we face with Mr. Bridges.

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

ARROGANT LABOR LEADER

Harry Bridges, bellicose boss of the striking West Coast dock workers has defied Congress and threatened a worldwide shipping tieup if a law to end the strike by compulsory arbitration is passed. Threatening at first to ignore such a law if passed, Bridges later told a House labor subcommittee that his longshoremen at least would stage a work slow down. Furthermore, he said, any law to end the strike would affect only ships touching at United States ports, and he might call on "friends" in other countries to prevent the ships from doing that.

Bridges represents 13,000 members of the International Longshoremen's and Warehousemen's Union, which is striking against the Pacific Maritime Association, representing the employers. Because of a jurisdictional dispute, the Teamsters Union also is involved in the strike. The strike, which resumed Jan. 17 after tying up the West Coast for 100 days last fall, has closed 56 ports.

Because of the serious economic dislocations the strike is causing, President Nixon on Jan. 21 asked Congress for speedy emergency legislation to settle it. Secretary of Transportation Volpe, Secretary of Agriculture Butz, and Under Secretary of Commerce Lynn have all testified that the situation requires urgent action. But this is an election year, and Democratic leaders in Congress are dragging their feet for fear of affronting the labor unions which traditionally support Democratic candidates.

This reluctance on the part of the Democratic leadership not only adds to the economic severity of the strike, but encourages Bridges' defiance. Even worse consequences could evolve if longshoremen on the East and Gulf Coasts should decide to emulate Bridges and resume their prolonged strike, which is currently in limbo under the 80-day cooling off provisions of the Taft-Hartley Act.

Bridges' arrogance should not be allowed to go unchallenged by Congress. If it is and the dock strike brings further disaster on the economy, the American people can blame Democratic leaders in Congress who are willing to put union-delivered votes ahead of the best interests of the country.

Mr. FANNIN. If Congress granted this power, which it did, and if this power has been abused, which it most certainly has, then it is not only our privilege but also our duty to intervene in this intolerable situation.

Members of this Congress have wailed time and again that the executive branch of Government is usurping legislative powers.

Well, now is the time for the legislative branch to respond to a crisis and work with the administration to end this crisis. President Nixon has repeatedly asked for legislation which would deal with tieups in the transportation industry, but this Congress has failed him and thus has failed the Nation.

It is time that we took some strong action to get this strike halted and to get our exports on their way. Needless damage has been done to our economy as a result of the selfishness of a few men. We already have suffered a tremendous setback economically as a result of this strike, and this damage has come at a

critical time in our efforts to revive the economy.

It is time—it is past time—that we take action to protect the rights of those who are the victims of such vicious strikes.

While we are doing the job, we might as well do it right. Time after time, we have faced these crises in recent years. Each time, the majority of this Congress has tried to avoid and ignore the issue, hoping it would go away. Today we face a situation in which they say it may be settled. That usually happens when there is pressure, and certainly that is no time to stop. At the last minute, with our collective back to the wall, we have come up with piecemeal and patchwork solutions. These solutions have come only after extensive inconvenience and frequently economic hardship for many millions of people who are caught in the middle of struggles over which they have no control.

We hear a great deal about the fact that the strike is being settled, that legislation is not needed. I disagree with that. We should avoid the future problems and future crises that will arise if we do not have legislation to take care of these situations.

Mr. President, we are representatives of the people of this Nation. We must protect their rights to engage in commerce, to travel from one place to another; we must protect them from the damage that comes from labor disputes such as the dock strike. I strongly support the proposed legislation and urge that we move rapidly in passing it. It is needed just as much as it was before this so-called settlement was announced.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Texas (Mr. TOWER).

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

STATEMENT BY SENATOR TOWER

I regret that I am unable to participate actively in the debate and be present to vote on the Packwood Amendment and the Senate Resolution to end the dock strike. At this time, I am in Europe reviewing with our European allies vital defense and trade policies. Of particular importance at the moment is the policy of the EEC restricting American agricultural exports. While there was some possibility when I left that the West Coast Dock Strike dispute would be considered in the Senate, the importance of the negotiations that I am now attending made it impossible for me to return to the United States and participate in this debate.

I have learned today that a tentative agreement has been reached between the Pacific Maritime Association and the Longshoremen's Union that will have to be voted upon by the union locals later in the week. I am gratified by this action. I had hoped that this would have occurred much earlier or that the Senate and House Labor Committees would have considered this legislation some time ago. Still, because the locals must vote on this agreement and the agreement must also be submitted to the Pay Board for approval, there remains a definite need for Congress to take action that assures the American people that the strike will be settled before Congress recesses on Wednesday.

The strike settlement does not at all diminish the need for Senator Packwood's outstanding amendment which I have joined as a sponsor. Basically this amendment adopts the President's earlier Emergency Public Interest Protection Act. In addition, the Packwood amendment would give the President the three options whether the strike is of a regional nature or whether it is of a national nature. This is a very important change when we consider the ramifications of the current dock strike.

We must act on the Packwood amendment now. Unless we do, Congress will have continued the pattern of reacting rather than anticipating this type of problem. If the action is not taken the Senate and House Committees who have evaded this issue for more than twenty months will allow the bill to lay fallow for another indeterminate amount of time. Unless we act now, the Senate will possibly be back in the same situation, re-enacting the same scenario when the 80-day cooling off period for East and Gulf Coast dock strike ends next week.

The time has come for the Congress to act in a responsible manner by passing general legislation that will put into motion options that will encourage disputants to find agreement without government intervention. In fact, I would hypothesize that the action taken by Senator Packwood in offering this amendment gave incentive to the disputants to find agreement before Congress had acted. After all, it is quite ironic that it was the day Congress was to consider general legislation on this subject, that the disputants came to a tentative agreement resolving their differences which they couldn't resolve under the present mechanisms available for more than fifteen months. Had the concerned Committees of the Congress acted on the President's request in a reasonable time, this continual, hectic, last-minute activity could have been avoided.

Mr. President, the extension of the cooling-off period under Taft-Hartley, the partial operation and the final offer selection are novel and innovative approaches that can only encourage labor and management to resolve problems long before our economy comes to a standstill and long before government intervention is considered. The Packwood amendment favors no special interest group except the American people as a whole. It should be adopted because it is fair, realistic, and creative. If we as legislators do not adopt something along this line, we can be sure that the current type of dilemma will continue in the future and we will again be called upon to resolve disputes of a specialized nature in which the Congress has no real business becoming involved.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. I yield myself 2 minutes.

Mr. President, the subject matter of the amendment offered by the distinguished Senator from Oregon is broadly covered in many, many bills that have been introduced in the Senate and have been referred to the Committee on Labor and Public Welfare. As a matter of fact, we have 11 bills dealing with emergency labor disputes. Senator GRIFFIN has a bill; Senator JAVITS has a bill; I have a bill; Senator TAFT introduced a bill on March 3, 1971. He offered another on November 12, 1971. Senator TAFT offered another on December 6, 1971. In addition, we have bills from Senator BROCK, Senator DOMINICK, Senator FANNIN, Senator MILLER, and Senator STAFFORD.

Piled beside me is the hearing record. I only want to make two points on the hearing record on the bills introduced. We have put out invitations broadly for people who are knowledgeable and interested and have concern about transportation strikes. Out of all of these hundreds of pages, I will tell you, Mr. President, there are very few paragraphs of support for any of the specific pieces of legislation. The objective is to find a way—the proper way—to deal with the emergency that faces the country when it is tied up in a transportation strike and the health and safety of the Nation suffers. Evidently no one has, from beyond the Senate Halls, found "the" way. We have work before us.

Let me say that the distinguished Senator from Oregon (Mr. PACKWOOD) has been reasonably diligent in attendance at the hearings we have had. I will say, however, that this measure he has introduced as an amendment to an emergency piece of legislation is not one of the bills we have before the committee. I hope that the Senator will, if his motion should be tabled, introduce this piece of legislation, I would say, in the regular order, and have it referred to the labor committee where it can be heard and where it can be before us when we meet in executive session on March 17 to consider the various pieces of legislation.

After the distinguished Senator from New York (Mr. JAVITS) has addressed himself to this matter and after the distinguished Senator from Oregon has concluded within 10 minutes, he has assured me that I can ask for the floor and move that his amendment be tabled.

I yield now to the Senator from New York.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER (Mr. ROTH). The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, for 10 years, and I think it is 10 years easily, one of the principal aspects of my own legislative program has been a permanent piece of legislation to deal with national and regional emergency strikes. For years it was impossible to get any administration, the previous administration or this one, to pay any attention to it. Certainly it was impossible to get the labor unions to pay any attention to it, or even to get employers to pay any attention to it.

Now, Mr. President, and I have reiterated this time and time again every time there was a crisis—and we have had a number of crises in transportation especially—the measure I always had in mind was one which applied across the board at all times which involved the national health and safety or regional health and safety. I originally started way back with the question of seizure, which was the traditional remedy and something we thought the labor unions might go for. My present bill, S. 594, provides for seizure, but also permits the President to invoke other remedies which would be appropriate to deal with the emergency. It does not tie the President's hands in any way.

Now, at last, the moment has come when the idea is ready to bear fruit, where the pressure of events is such that the country, I think, is pretty sick of these ad hoc approaches. The moment before dawn is the time to be intelligent and provident and to write a bill which really is worthy of the great reform which it will affect. I feel, therefore, that, given

the assurances which I will spell out to the Senate, we should have that opportunity rather than because we are irritated by this emergency to ride the administration's present package, which has some problems in it, onto this measure.

What is going to happen if we adopt this amendment? Either this dispute will be settled and this resolution will not be spelled out at all—and that is what it looks like right now, as was explained a minute ago by the Senator from New Jersey (Mr. WILLIAMS) and I who provided against that contingency—or the other body will not consider it and it will go down the drain, instead of allowing the buildup to continue, which will bring us to permanent legislation.

The President's measure, which is what the Senator from Oregon (Mr. PACKWOOD) wishes us to pass today, deals with three remedies—the last final offer selection, partial operations and a straight extension of time. That may be the best or it may not be. Personally, I believe, and the best authorities in the field believe, that there should be a wide range of remedies available to the President and that among these remedies should be the following:

There should be fact finding. There should be an extension, perhaps of the cooling-off period, which is now 80 days—to which we can add 30 or 60 days. There should be fact finding with recommendations. There should be partial operations or selective strikes, which is something that trade unions have sought to do. There should be some form of seizure under the courts or the executive. There should be final offer selection. There should be regular compulsory arbitration or there should be mediation to finality as former Senator Morse of Oregon used to call it—that is, arbitration within the context of negotiations between the parties. Or, as in the 1970 shopcraft dispute, there might be a disposition to write in the Executive order covering the particular dispute the actual terms of settlement, as we did it in the 1970 shopcraft bill.

The only reason I say all this is to show what is needed on the threshold of being able to accomplish it. I do not want to see the whole thing dampened by precipitate action which will either fail and discourage everyone, or will get us off on a path which many do not agree with.

The alternative is the following: I have received from the chairman of the committee a commitment, and I know that he will keep it, that within 30 days we will have an executive session of the committee for the purpose of marking up one of the many bills before the committee—my own, Senator PACKWOOD's—he is a member of the committee—or any other Member who may be submitting these ideas.

Mr. WILLIAMS. Mr. President, will the Senator from New York yield at that point?

Mr. JAVITS. I yield.

Mr. WILLIAMS. I did say that within 30 days and I did announce that we will have an executive hearing or meeting to consider the bills on March 17. That date could be advanced. It will not be beyond that date. It was also my feeling that if the Senator from Oregon takes the amendment, which is labeled a bill in the copy I hold in my hand, and he will introduce that, it should have a hearing before we go to the executive meeting on all of the bills. But on the outside, I would say by March 17.

Mr. JAVITS. We will be ready for the executive meeting.

Mr. President, every one of us—and we are sophisticated—knows that an executive session does not mean a bill. So, I have, in addition to it—and I commit it to the Senate—that from that date on, as the ranking member of the committee deeply involved with this subject for years, I will feel free to put on any bill from the Labor Committee's bill such a measure, and then it can be decided and voted on. Under the circumstances, when we are not under this difficult situation we face now, of having to take imminent action in a given emergency, but we will get votes and amendments or whatever other procedures are entailed in respect of such a measure.

In view of that, assuring to the Senate action in an appropriate way, after giving the committee an opportunity to consider it and produce a product, if it can, I believe that I will be justified—and I shall—vote to table this amendment. I repeat, I am glad that the Senator from Oregon (Mr. PACKWOOD) brought this matter up, which adds to the pressure. It is desirable that it be considered, but as to taking provident action, we now have a problem that is——

Mr. HATFIELD. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. HATFIELD. Mr. President, I have spoken many times on the floor of the Senate about the devastating effect of strikes on the west coast to the economy of the State of Oregon and its national implications. I would like to pursue a question along this line, just to make sure that I understand clearly what the Senator from New York has just stated to the Senate.

First of all, would the Senator make any comment as to the likelihood of the ad hoc bill passing with or without the Packwood amendment as it relates to the House of Representatives where we must get it passed in order to bring it into law?

Mr. JAVITS. I believe that a bill with the Packwood amendment on it will get nowhere in the other body, where we will be in conference on it and they will not consider it at all. This does not mean we cannot do it on some other labor bill, where we are not under this particular crisis.

Mr. HATFIELD. Mr. President, I want to make it very certain in the record that I have my own region's interests at heart as well as the interests of the Nation as a whole. However, I want to see that, conventionally speaking, the west coast dock strike is settled quickly and fairly. And I want to vote in such a way that I can bring that about. We have information that a tentative agreement has now been reached. However, to back that up, we should have a piece of ad hoc legislation.

Second, I reiterate to the Senator that we have had many complaints from constituents that we have done a lot of talking in the Senate about permanent machinery, but have done little if anything toward developing it.

We voted on the floor in 1967 to settle the railroad strike. My constituents think we should have learned from that experience and brought some permanent machinery into effect.

We are promised today by the Senator from New York, in whom I have all the confidence in the world, the ranking minority member of the committee, that we will have a chance on the floor to act on a measure either from the committee or by way of an amendment on a generic procedure and will be able to vote on the bill after it has been considered in the Labor and Public Welfare Committee in executive session. We have been promised that there will be hearings on the proposal of my colleague, the junior Senator from Oregon (Mr. PACKWOOD), and that there would be a vote on the proposal.

Mr. JAVITS. The Senator is correct.

Mr. HATFIELD. So we can have that assurance at this time, that we can move quickly on the west coast dock strike legislation.

Mr. JAVITS. The Senator is exactly correct.

Mr. HATFIELD. I thank the Senator. I am deeply troubled by this strike, not only as it relates to my constituents, but also as it relates to future strikes in the transportation field. I also urge that the committee consider other problems that might affect the health and welfare of the Nation in addition to transportation.

Mr. PEARSON. Mr. President, I am pleased to join my distinguished colleagues, the Senator from Oregon (Mr. PACKWOOD), the Senator from Ohio (Mr. TAFT), and the Senator from Hawaii (Mr. FONG) in offering an amendment to pending legislation to end the Pacific Coast longshore strike.

The amendment we offer today would, if adopted, provide permanent legislation for the equitable resolution of emergency labor disputes in the transportation industry.

Called the Transportation Crisis Prevention Act of 1972, this amendment is a most carefully drafted amalgam of legislation proposed more than 2 years ago by the administration, and the legislation offered by the distinguished Senator from Ohio (Mr. TAFT) and cosponsored by the Senator from Hawaii (Mr. FONG) and myself in December, 1971.

The Transportation Crisis Prevention Act of 1972, in my judgment, combines the best features of both the administration's proposal and the Taft proposal. The Subcommittee on Labor has conducted hearings on emergency labor-dispute legislation through the first session of this Congress, and the elements of Senator Taft's bill (S. 2959) have been subjected to hearings as well. The legislation which we now offer for debate, after months of careful drafting and careful reflection, balances the interests of labor, management, and the public.

Throughout the American economy, a multitude of essential public services is provided by the private sector. The national defense, for example, depends

upon private enterprise, and civilian employees of private enterprise, to perform without serious interruption certain responsibilities undertaken voluntarily and for profit. In some industries, the public interest cannot tolerate an interruption of essential services for a single day.

Mr. President, the Congress has not provided the executive branch of Government with the tools it needs to protect the public interest when crippling strikes or lockouts threaten or occur. The Railway Labor Act has proved ineffective: In 1943, President Roosevelt seized the railroads and arbitrated a dispute with railway employees. President Truman seized the railroads in 1946, but a strike occurred anyway. President Truman at that time asked Congress for authority to draft the striking workers. Congress was forced to act three times in 1967 to avert a nationwide rail strike. In December 1970, Congress halted a nationwide strike involving three nonoperating rail unions, and the United Transportation Union. The airlines have suffered a nationwide strike of more than 40 days because provisions of the Railway Labor Act were ineffective to avert work stoppage.

Experience under the Taft-Hartley Act has been somewhat better, but longshore and maritime strikes over the years have proved this landmark legislation ineffective. After expiration of the 80-day cooling-off period, six longshore strikes and one maritime strike have shut down the foreign commerce of the Nation with disastrous results to farmers, shippers, manufacturers, and workingmen throughout the economy.

Mr. President, American agriculture depends upon foreign trade, and orderly access to foreign markets. In the fiscal year ended June 30, 1971, $7.8 billion of agricultural products were exported by the United States, including about $6.8 billion of commercial sales. Two-thirds of this total, or $5.2 billion, were exported through east and gulf ports.

The gulf ports exported nearly $1.5 billion worth of agricultural commodities in fiscal year 1971.

West coast ports provide access to important agricultural markets, particularly Japan, our largest single dollar market. In the fiscal year ending June 30, 1971, Japan purchased $1.2 billion of agricultural commodities.

Exports for the last fiscal year accounted for the output of 1 out of every 4 acres harvested in the United States. More than 72 million acres of American cropland are devoted to production for export. The foreign market consumed over half of the rice, wheat, and soybeans produced; nearly two-fifths of the cattle hides; over one-third of the tallow, tobacco and cotton produced; about one-fifth of total feed grain sales by U.S. farmers.

Longshore strikes jeopardize these markets, so critically important to farmers and the economy of rural America. Longshore strikes depress farm prices, and create uncertainty which results in lost sales opportunities—perhaps forever.

The U.S. Department of Agriculture has estimated that the recent longshore strikes cost fruit and vegetable farmers $215 million in export opportunities. About $40 million in perishables was spoiled because of the strikes.

More than $95 million in wheat shipments were lost because of the strikes—at a time when surplus problems are growing and prices are severely depressed.

The November 23 issue of the Journal of Commerce reported that longshore strikes on all coasts this year cost farmers 1.2 million tons in lost grain export opportunities. These shipments will never be made up, according to USDA's Foreign Agriculture Service.

The lost shipments in corn and soybeans are estimated to total $75 million, all due to the longshore strikes. The Oregon wood products industry lost invaluable sales. And the list goes on and on.

Certainly, Congress must proceed promptly to adopt ad hoc legislation to end the renewed longshore strike on the west coast. But the Senate should seize this opportunity to adopt legislation which would provide an orderly method of resolving emergency labor disputes in both the coming months and years.

It is not enough, therefore, to end the current labor-management crisis between the parties to the longshore dispute. The public interest requires the Senate to confront the fundamental statutory inadequacies which precipitate, on a recurring basis, disputes and prolonged strikes and lockouts in the transportation industry.

Mr. President, the Transportation Crisis Prevention Act of 1972 would amend the Taft-Hartley and the Railway Labor Acts to provide to the President emergency powers to prevent work stoppages before they jeopardize the health, safety, and economy of the country or any region of the country. The amendment which we offer to the pending legislation makes available to the President a wide range of procedures designed to reduce the adverse impact of work stoppages in the transportation industry. These procedures include provisions for an additional cooling-off period, partial operation of essential transportation services, and/or final offer selection. The optional procedures may be exercised in such sequence as the President deems appropriate until it is certified by the Secretary of Labor that the labor-management dispute has been settled. However, only one of these procedures may be exercised at any one time and each may be invoked only once during a particular dispute.

These procedures would be invoked only when the national economy, or the economy interests of a significant region of the country, or the health and safety of the American people are threatened by a labor-management dispute. Many disputes within the transportation industry, throughout the national economy, would continue to be settled by collective bargaining. I think it fair to say, if this amendment is ultimately adopted, that parties to transportation disputes in the future would be more amenable to orderly resolution of their differences. Ultimately, the President of the United States must be granted the authority necessary to terminate transportation labor disputes when collective bargaining has utterly failed.

I urge Senators to proceed promptly to a vote on the amendment which we have offered this afternoon. The hearings have been held. The issues before us are clear. The public interest must be considered.

Mr. PACKWOOD. Mr. President, I would like to make some closing remarks. Is the Senator from New Jersey prepared to yield back his time?

Mr. WILLIAMS. I at this time will not yield back all my time. However, I do not intend to do anything further than to make a motion.

Mr. PACKWOOD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PACKWOOD. A motion to table is not in order until all time has expired. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. Mr. President, I yield the floor.

Mr. MANSFIELD. Mr. President, will the Senator reconsider that? A motion to table is in order when the time expires. However, it is also in order when there is no further time if all time has been yielded back. It is my understanding from the Senator from New Jersey that all he wants to do is to save enough time to make a motion and not make a speech.

Mr. PACKWOOD. That would be agreeable.

Mr. MANSFIELD. The Senator stated that all he wanted to do was to save enough time to make a motion.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that all time, save 12 minutes for me to conclude, be yielded back and that at the conclusion of my time, if it be shorter than 12 minutes, the Senator from New Jersey be free to make his motion.

Mr. MANSFIELD. Mr. President, will the Senator withhold that request and trust the chairman of the committee to comply with the request just made?

Mr. PACKWOOD. That would be fine.

The PRESIDING OFFICER. The unanimous-consent request is withdrawn.

Mr. PACKWOOD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Oregon has 38 minutes remaining.

Mr. PACKWOOD. Mr. President, I yield back all except 12 minutes; and, at the conclusion of my remarks, I will yield back the remainder of my time.

Mr. President, let me clarify for the Senate the colloquy between the Senator from Oregon (Mr. HATFIELD) and the Senator from New York (Mr. JAVITS) as to the effect of adding my amendment to the pending legislation.

If we add this amendment to the legislation now, we do not necessarily have to worry about whether the House acts. If they refuse to go along, the Senate is in a perfect position in conference to yield on our own amendment and agree with the House on a bill to terminate the west coast dock strike, assuming that it is not terminated voluntarily before then.

We are asking that we pass an amendment now that would remove from all of us the onus of being accused of being in favor of work stoppages in the transportation industry. And the best way to assure that we will not have one next summer or a nationwide strike the summer after that or an east coast or west coast dock strike on March 14 is to pass this legislation. This will assure that we will have continuity of services. Certainly the west coast dock strike will not be jeopardized by agreeing to my amendment.

Mr. President, let me read a list of the transportation contracts that will expire within this year. The Delta Air Lines contract with the Air Line Dispatchers Association will expire on January 1 next year. The contract between Delta Air Lines and the Air Line Pilots Association will expire on January 31. The contract between the Marine Association of Chicago and Independent Employers and the Longshoremen's Union will expire on March 31. The contract between the Western Air Lines and the Air Line Pilots Association will expire on March 31. The contract between Southern Airways and the Air Line Pilots Association will expire on April 1. The contract between Air West and the Air Line Pilots Association will expire on April 1. The contract between Allegheny Air Lines and the Air Line Pilots Association will expire on May 31. The contract between American Airlines and the Flight Engineers will expire on May 31. The contract between American Airlines and the Allied Pilots Association will expire on May 31.

The contract between the United Airlines and the Airline Pilots Association will expire on June 1. The contract between the major shipping companies, Atlantic, gulf and Pacific coast, and the Masters, Mates, and Pilots; Marine Engineers; Seafarers; National Maritime Union; Radio Officers; and others will expire on June 15. The contract between Pan American World Airways and the Teamsters Union will expire on July 1. The contract between Northwest Airlines and the Airline Dispatchers will expire on July 1. The contract between Eastern Airlines and the Transport Workers Union will expire on July 1. The contract between the National Airlines and the Airline Dispatchers Union will expire on July 14. On July 1, 1973, we face the possibility of a nationwide railroad strike and a nationwide truck strike because the contracts in both of those industries expire at the same time. The contract between Pan American World Airways and the Flight Engineers expires on September 1.

It is easy enough to say that a year from now we will not have to worry about it. So it is not too far down the road that we will be faced with major potential problems in the railroad industry, in the airline industry, the shipping industry, and in the trucking industry in the next year or so.

Any one of them could become a national or regional emergency. If we fail to act now and have no bill, the responsibility will be on the shoulders of the Senate and on no one else's.

In the 2 years since the President's proposal was submitted to the Congress, we have had 8 days of hearings and have had 3 days on ad hoc legislation. However, in those 2 years we have not had a single executive committee session.

In those 2 years, we have gone through two crises in the railroad industry, and now the east and west coast dock strikes.

But while our committee alone has moved a heavy schedule of legislation, including the Emergency School and Quality Integrated Education Act, the Omnibus Education Amendments of 1971, the Equal Employment Opportunity Act, the Wagner-O'Day Act amendments, the Health Manpower and Nurse Training Acts, the Conquest of Cancer Act, the Children's Dental Health Act, the Emergency Employment Act, the OEO and Child Development Acts, and the Sickle Cell Anemia Control Act, we have not acted on emergency transportation legislation.

It seems to me that we should have acted so that we would not be faced here again with a transportation emergency.

We have been through two strikes on the west coast in the last 2 months. We have had one strike on the east and gulf coasts. We are now down again to a point where we have a chance to display whether the Senate wants to prevent this kind of crippling strike in the future.

I would simply point out that a vote to table my amendment now may be a vote against having any emergency transportation legislation in the future. Congress reacts to public pressure. To say that we are not a responsive body is hogwash. Congress is very responsive to the wishes of the public. When the public is up in arms, the fever in Congress rises. When they are not up in arms about some transportation strike, the fever in Congress falls.

Mr. President, we have a chance to strike now while the iron is hot and while the public temper is sympathetic.

Mr. President, I hope the Senate does not table our amendment and wait until the next emergency to come to the floor of the Senate and then berate ourselves and the other body, and whom ever we choose for failure to pass some legislation that could terminate an intolerable and continual situation.

Mr. WILLIAMS. Mr. President, has all time been yielded back?

The PRESIDING OFFICER. All time has been yielded back or has expired.

Mr. WILLIAMS. I make my motion to table.

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

The yeas and nays were ordered.

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

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Maine (Mr. MUSKIE), the Senator from California (Mr. TUNNEY), the Senator from New Mexico (Mr. ANDERSON), the Senator from Oklahoma (Mr. HARRIS), the Senator from Louisiana (Mr. LONG), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that the Senator from Nevada (Mr. CANNON) and the Senator from Wyoming (Mr. MCGEE) are absent on official business.

On this vote, the Senator from Washington (Mr. MAGNUSON) is paired with the Senator from Texas (Mr. TOWER).

If present and voting, the Senator from Washington would vote "yea" and the Senator from Texas would vote "nay."

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Oklahoma (Mr. BELLMON), the Senator from Ohio (Mr. SAXBE), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

The Senator from Texas (Mr. TOWER) is absent on official business.

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

If present and voting, the Senator from Colorado (Mr. ALLOTT) would vote "nay."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from Washington (Mr. MAGNUSON). If present and voting, the Senator from Texas would vote "nay" and the Senator from Washington would vote "yea."

The result was announced—yeas 42, nays 39, as follows:

[No. 37 Leg.]

YEAS—42

Bayh	Hart	Pastore
Bentsen	Hatfield	Pell
Bible	Hughes	Percy
Boggs	Inouye	Proxmire
Brooke	Javits	Randolph
Burdick	Mansfield	Ribicoff
Byrd, W. Va.	Mathias	Schweiker
Case	McGovern	Scott
Church	McIntyre	Smith
Cook	Miller	Stafford
Cranston	Mondale	Stevenson
Eagleton	Montoya	Symington
Fulbright	Moss	Talmadge
Gravel	Nelson	Williams

NAYS—39

Aiken	Dominick	Jordan, N.C.
Allen	Eastland	Jordan, Idaho
Baker	Ellender	McClellan
Beall	Ervin	Packwood
Bennett	Fannin	Pearson
Brock	Fong	Roth
Buckley	Gambrell	Sparkman
Byrd, Va.	Goldwater	Spong
Chiles	Griffin	Stennis
Cooper	Gurney	Taft
Cotton	Hansen	Thurmond
Curtis	Hollings	Weicker
Dole	Hruska	Young

NOT VOTING—19

Allott	Jackson	Muskie
Anderson	Kennedy	Saxbe
Bellmon	Long	Stevens
Cannon	Magnuson	Tower
Harris	McGee	Tunney
Hartke	Metcalf	
Humphrey	Mundt	

So Mr. WILLIAMS' motion to lay Mr. PACKWOOD'S amendment on the table was agreed to.

Mr. MOSS. Mr. President, the Nation is now suffering under a dock strike that has been in effect periodically since last

summer. Although the imposition of a solution from the outside is seldom desirable, it is a necessity in the case of the west coast dock strike.

I have always favored collective bargaining in the settlement of such disputes, and continue to view private negotiations as the most appropriate way to settle labor-management issues. But the present problem seems to require additional action.

The strike has delayed aid for victims of the war in East Pakistan and stifled our agricultural exports, thereby reducing farm income even further than its present depression levels. The strike has damaged many small businesses that do not have the inventories or capital to withstand long periods of inactivity.

Public patience has been exhausted. My mail is overwhelmingly for this type of solution. The parties have had sufficient time to work out their differences which, I point out, are jurisdictional within the ranks of labor. Congress has examined the proposed legislation carefully so that a patchwork solution is not forced through without full consideration. The time has come to act to protect the innocent victims of this dispute. Specific legislation to settle this particular strike should be enacted with speed.

LONGSHOREMAN SETTLEMENT INFLATIONARY—WRONG

Mr. PROXMIRE. Mr. President, I oppose the Williams resolution for at least two important reasons. First of all, with the settlement announced today, it is probably not needed. In fact, its passage could even make it more difficult to reach a final acceptance of the agreement than if it is passed.

It substitutes an arbitration board for free collective bargaining. We are ill-advised to act on that. It would circumvent the bargaining process if the agreement is not accepted by the members of the union when they meet to vote on it.

But it goes even further. It exempts the results from the review of the Pay Board.

It says that the arbitration board, if it is needed, "shall make its determination consistent with the policy of the Economic Stabilization Act of 1971, and such determination shall be final and binding in every respect, subject only to review as provided in section 2(i)."

I am told this settlement is for 32 percent in less than 2 years. That makes a shambles of the Pay Board's 5.5 percent guideline.

This settlement will foster strikes, not stop them. If high settlements, the result of strike action are accepted by the Pay Board or exempted from the Pay Board, this kind of settlement will be fostered. If there is no strike and a large settlement, it goes to the Pay Board where it will be stopped.

If there is a strike, and a large settlement, it is not vetoed. It is not under the Pay Board.

This sets an unfortunate precedent.

It not only will foster more strikes, it will foster higher settlements and continued inflation.

That is the main reason why I opposed the Williams resolution.

Mr. BUCKLEY. Mr. President, the subject of major labor disputes is one which affects every American, either directly or indirectly. Every American has a strong interest in maintaining the freedom of employers and employees to bargain over wages. Nevertheless, I recognize the need to take into account the grave damage that can be done by strikes having a national impact on the public welfare. I believe it necessary to find a mechanism which would rigorously identify those regional disputes which have so large an impact—such as the current west coast dock strike—that they should be settled in the context of a national formula.

I am, however, extremely concerned about the risks to free labor markets of extending the principle of limited governmental intervention through compulsory arbitration from disputes affecting the national welfare to those affecting regions. There are already in existence, regional compacts between two or three States. If there was intervention into labor disputes on a basis where a "region" was defined as only two or three States, the Government could well be far exceeding the bounds of wisdom and competence in becoming involved in the operation of labor markets.

I will vote against tabling to emphasize my belief that we must come to grips with this problem now that national anti-strike legislation is being so widely discussed. But I will vote against the pending amendment as I believe more detailed study should be given to the definition of "national" and "regional" so that prudent and appropriate limitations on Federal intervention can be established

Mr. BAYH. Mr. President, I shall vote against this compulsory binding arbitration bill, because it is an unnecessary piece of legislation. In the midst of debate this afternoon on measures to force a settlement upon the parties to the west coast dock strike, the parties themselves—by the free and open process of collective bargaining—negotiated a settlement—which if ratified this weekend will finally bring an end to this long and costly strike.

I have been extremely concerned about this strike and its serious effects upon the economy of the west coast and of the entire Nation. And I am extremely concerned that disagreements among a few can cripple the economy of whole regions of this country. But I firmly believe that the only real solution to labor-management disputes is agreement freely reached between the parties—and not a settlement forced upon them by Congress. For us in the Senate to now pass a bill requiring compulsory binding arbitration after the parties themselves have freely reached agreement is to denigrate the free collective bargaining process.

I have never voted for compulsory binding arbitration before. And when labor and management—by themselves—freely agree on a settlement, to vote for compulsory binding arbitration would be a vote of no-confidence in the ability of labor and management to come to responsible and reasonable agreements.

I am glad that this lengthy and costly strike has been settled. It has caused great hardships around the country. But it has been settled as it should be—by the parties themselves—and we in the Senate ought not force this bill on the parties when it is simply unnecessary to do so.

Mr. STEVENSON. Mr. President, for the fourth time since I entered this body in late 1970, the Congress has been forced to legislate an end to a transportation strike. Congressional action in this area impresses me as being very different from and less satisfactory than the manner in which we act on other matters. In situations such as this one, we are forced to act hastily; we must inject ourselves into a complex situation which the parties have lived with for months or even years. Worst of all, each congressional settlement of a transportation dispute creates a further incentive for disruption, intransigence, and the attendant economic injury upon millions of farmers, merchants, workers, and other innocent third parties.

It is regrettable that this dispute has come to the Congress. I find it even more regrettable that the administration has couched its proposal in partisan, inflammatory rhetoric. Coming as it does at the beginning of an election year, the administration's crude and misleading salvos raise serious questions about its real motive in seeking legislation to end the dock strike. Was the administration proposal designed to end the strike, or to create an issue on which to run against the Congress?

Perhaps we will never know for certain, but we do know the President met with the parties only once—when the dispute was a year old and the strike had been on for 100 days. Then on January 21, he proposed an emergency bill—and demanded its immediate enactment by the Congress.

The Senate Labor and Public Welfare Committee acted with dispatch. It reported favorably an emergency bill last night. Now the parties have resolved their differences, subject to ratification by the Longshoremen and arbitration of certain unresolved noneconomic issues. I still support the emergency legislation, not because I believe that all regional disputes should be terminated by emergency legislation. I support it because we cannot risk the settlement coming apart if we fail to act. We cannot take that risk at a time when our balance of trade and general economic soundness are suffering from policies of neglect and ineptitude. We cannot afford the further loss of foreign markets by a continuation of the strike. At a time when 5.7 million Americans are out of work—the most since 1963—we cannot afford a strike which could put thousands of innocent people out of work.

By the same token, my support for this ad hoc bill—and my opposition to the Packwood amendment—do not mean that I prefer the ad hoc approach to permanent legislation. On the contrary, I am convinced that lengthy and destructive transportation strikes are not in labor's interest or in the national interest and that every effort should be made to enact permanent legislation in

this session of Congress. The Labor and Public Welfare Committee, thanks to the efforts of Chairman WILLIAMS, has already conducted 9 days of hearings on the numerous proposals for permanent legislation, but many interested parties have yet to be heard from. The Senate does not now have the comprehensive hearing record on which the Packwood amendment or other permanent legislation should be based. The Secretary of Labor has publicly acknowledged the need for further study before enacting permanent legislation. What is more, adoption of the Packwood amendment now would mean no legislation whatsoever, ad hoc or permanent, because the House of Representatives would refuse to accept it.

Mr. President, none of us likes to pass bills dealing with specific labor disputes. I submit that we do not have to find ourselves in this situation again—if only we continue and redouble our efforts to formulate a general transportation strike bill which protects the legitimate interests of labor, management and the American public. It is reassuring to know that the distinguished Senator from New Jersey, the chairman of the Senate Labor and Public Welfare Committee, intends to continue hearings.

The PRESIDING OFFICER. The joint resolution is open to further amendment.

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

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

Mr. MANSFIELD. Mr. President, I yield myself 2 minutes on the bill, but first I ask for the yeas and nays.

The yeas and nays were ordered.

THE SENATE SCHEDULE

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senate, as the Senate knows, it has a very heavy schedule confronting it. We have almost completed a month of labor, and have produced nothing—not even a mouse. It is hoped that it will be possible to arrive at a vote soon on the amendments to the EEOC bill, which is the unfinished business, laid aside temporarily. It is my information that it will be possible next week, hopefully, to vote on certain amendments, which will at least get us over the hump as far as that bill is concerned.

I would make a personal plea to every Member of this body to not ask the leadership to delay on any aspect of this or any other legislation this year.

We have the higher education bill, which is going to take some time, because civil rights are involved in that bill also.

We have the women's equal rights amendment, which I support fully without change, but there are going to be arguments on that.

We have the voter's registration bill, which is a contentious piece of legislation and will take some time.

There is H.R. 1, which is coming out in some form, but no matter what the form is, it is going to cause a lot of argument.

There are other bills, which I cannot recall at the moment, but this is an indication of the type of schedule which confronts us.

Almost a month on the pending bill, and no progress. So I would hope that the Senate would face up to its responsibilities; that each Senator would act with maturity, so that we can do the job which the people are paying us to do.

None of us was drafted for this job. Every single Member of this body sought this position, and with the position goes a duty, a responsibility, which means not only facing up to the schedule in this year with conventions and elections, but also facing up to attendance on the floor of the Senate. The record of this body over the past month is, to put it mildly, abominable.

So I hope that this statement which I have made today will be taken to heart. I do not make it lightly, but I make it, I hope, on the part of the joint leadership, to every Member, so that we can get on with the business of the people. As far as I am concerned, there will be no sufferance, no exceptions made as far as any Senator is concerned regarding votes or a date certain on legislation or on amendments, and when I say that applies to all Senators, it applies to the Senator from Montana as well. As a matter of fact, Mr. President, I ask unanimous consent that I be excused from attendance in the Senate on Monday next because of official business.

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

Mr. MANSFIELD. And if there are votes on that day, I shall have no regrets, because the Senate's business comes ahead of the wishes or the whims of any individual Member.

Mr. ERVIN and Mr. SCOTT addressed the Chair.

Mr. MANSFIELD. I yield first to the Senator from Pennsylvania; then I shall be happy to yield to the Senator from North Carolina.

Mr. SCOTT. Mr. President, we have been experiencing some difficulties here, some bipartisan difficulties, in the sense that we have really tried valiantly to bring about some form of understanding, some congruence of opinion with regard to certain amendments. We have unsuccessfully tried to invoke cloture twice on this bill, and we shall try again, perhaps for next Tuesday if I correctly understand the managers of the bill. We do have situations where some Senators prefer one day and some another. I have tried, to the best of my ability, to accommodate those concerns in view of the two-track system.

I can only express the hope that those Senators who are directly concerned in certain amendments now being discussed would do their best to see whether we could come to some sort of agreement at least as to voting them up or down, whether we can agree on compromise language or not, either today or tomorrow, because otherwise we will carry them over until Monday.

Of course, the distinguished majority leader is correct, that all of us are absent at some time or another for very necessary reasons, and very often on official business, and we certainly understand that. I have been absent for 2½ days myself, and it is remarkable how the votes roll up and, in those 2½ days alone, one can miss so many.

So I am pleading a collective cause here. The majority leader is understandably wroth, bearing in mind who is in the chair at the moment (Mr. ROTH), because Senators are fleeing from the Chamber. There is good reason that the distinguished majority leader has sort of got a flea in his ear about this matter.

I do hope we can work this out. I do think if we are going to have a filibuster on every bill that comes up this year, we are not going to get to the convention, which might be the better without us, including the candidates. But we ought to try. We ought to allow our senatorial Presidents or presidential Senators waving room for rhetoric outside of the Chamber, and diminish it in the Chamber; and I would hope that we can get our work done.

I am very sympathetic to the problems of individual Senators here, however, and that is why I make the plea that those who are considering amendments see what they can do, today or tomorrow, and see if we can work something out.

I thank the majority leader.

Mr. MANSFIELD. I yield now to the Senator from North Carolina.

Mr. ERVIN. Mr President, I should like to state to the majority leader that the distinguished Senator from Alabama (Mr. ALLEN) and I have an amendment to the EEOC bill which would strike out the provisions of the bill reducing the coverage below the present number of 25 employees, and we shall be perfectly willing to vote on that amendment as soon as the pending business is disposed of.

Mr. MANSFIELD. Mr. President, may I say the distinguished Senator from North Carolina did agree to a vote on his amendment at 4 o'clock on yesterday afternoon. The request was made, a difficulty arose, and the request was vitiated; and now I understand there is a possibility that there is an amendment that may be offered to the distinguished Senator's amendment, possibly next week sometime, the earlier the better. If we could do it tomorrow, that would be best of all.

So I do not fault the distinguished Senator from North Carolina on this particular amendment, nor do I pick out any Senator to blame, because it is the Senate as a whole which is to blame.

One thing that all of us will have to recognize and recall is that we are the servants of the Senate, and even though each Senator has a great deal of power, that power should not be used to thwart the will of the majority.

Mr. JAVITS. Mr. President, I yield myself 3 minutes. Will the Senator from Montana yield to me?

Mr. MANSFIELD. I yield.

Mr. JAVITS. Mr. President, the Senator from New Jersey (Mr. WILLIAMS) and I—he will speak for himself, but I think I know his views on the matter—are quite prepared to see the EEOC bill through to a conclusion. We shall today file an amendment dealing with the principal

argument respecting the bill, to wit, the cease-and-desist power, in an effort to meet the views of those who find problems with the cease-and-desist approach. We are prepared to deal with that amendment quite promptly.

As to the amendment of the Senator from North Carolina about the 25 employees, if the majority leader wishes to keep the Senate in session this evening, we have a pretty good attendance, and we would be prepared to offer our substitute to the amendment and have it voted on tonight.

Mr. MANSFIELD. That sounds good. We do have a good attendance today.

Mr. JAVITS. I have not consulted with Senator WILLIAMS, but I am trying, for myself, to respond to the Senator's views.

Mr. MANSFIELD. Oh.

Mr. HRUSKA. Is the amendment printed?

Mr. JAVITS. Well, it is so simple it would give no trouble. In fact, I can state what it is. Let me briefly state what both of these amendments would do.

The amendment to the amendment of the Senator from North Carolina to which I refer would reduce the coverage to 15 rather than eight. That is an effort to meet the views of certain of our Members, the Senator from New Hampshire (Mr. COTTON), for example, who feel strongly on this subject.

The other amendment which Senator WILLIAMS and I have prepared and will file today would preserve in the Commission the authority to conduct hearings and to certify the record together with its recommendations to the court, but only the court will be able to enter a decree. It was the feeling on our part that we are dealing with substance, not form, and if Senators have deep feelings—as the close votes have indicated—about cease-and-desist orders being issued by the Commission, we are trying to walk the extra mile ourselves.

These are two things which Senator WILLIAMS and I have agreed on, and as I understand the Senator from Colorado (Mr. DOMINICK) wishes to resubmit his amendment as a substitute for the latter of the two propositions I have referred to, so it is highly unlikely that we can do that this week. But certainly as to the number of employees involved, we can move, and if Senator WILLIAMS is willing, we are prepared.

Mr. MANSFIELD. Mr. President, that is good news, better than I anticipated.

I wonder if it would be possible, with the consent of the Senate, to agree to a time limitation. The only difference between the two amendments is the number 25, which is the present figure, and the number 15, compared to the bill which was reported out, which contained the number 8.

Mr. President, I ask unanimous consent that it be in order to make a unanimous-consent request at this time that when the Javits-Williams amendment is laid before the Senate, decreasing the number to 15 from the present 25, upping the number to 15 from the amendment now pending, which is eight, there be a time limitation of 30 minutes, the time to be equally divided between the manager of the bill and the distinguished Senator from North Carolina.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I be allowed at this time to ask unanimous consent that on Monday next, on the amendment which approximates somewhat the Dominick amendment—the amendment to be offered by the distinguished Senator from New York (Mr. JAVITS) and the chairman of the committee, the distinguished Senator from New Jersey (Mr. WILLIAMS)—there be a time limitation, and that the vote occur at 3 o'clock on Monday afternoon next.

Mr. JAVITS. Mr. President, reserving the right to object——

Mr. ALLEN. Mr. President, reserving the right to object, I do not believe the majority leader provided for the contingency of what would happen with respect to a vote on the Ervin amendment——

The PRESIDING OFFICER. All time on the joint resolution has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that we may proceed for 5 additional minutes.

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

Mr. ALLEN. I do not believe the distinguished majority leader made provision for the contingency of the vote on the Ervin amendment, whether amended or not by the Javits amendment. The time was on the amendment of the distinguished Senator from New York (Mr. JAVITS).

Mr. MANSFIELD. I am delighted that the distinguished Senator from Alabama called my attention to that.

Mr. ALLEN. It would be satisfactory with the proponents of the amendment to have the vote immediately following the vote on the 15.

Mr. MANSFIELD. I make that request.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, I would suggest, respectfully, because I feel deeply embarrassed—I did not consult anybody about the question of time on this rather major proposition. I hope the Senator will not press that unanimous-consent request at this moment.

Mr. MANSFIELD. I will not press it. But the Senate is here in force; the Senate will be here in force tomorrow. We will come in fairly early. The Senate will be on notice that there will be votes tomorrow, and Senators should be prepared for votes on Monday next if, in the wisdom of the Senator from Colorado, the Senator from New York, the Senator from New Jersey, and the minority leader, such an accommodation is reached.

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

Mr. MANSFIELD. I yield.

Mr. JAVITS. May I make a correction? Amendments have been mentioned for me. They will be offered by Senator WILLIAMS with me, I hope.

Mr. DOMINICK. I say to the Senator from Montana, lest I be put in an untenable position, that so far as I am concerned, I can vote on my amendment this afternoon. I do not care. But I was told that I should not go this way and that the only thing we would be doing would be to try to say we wanted to vote on ours as soon as we could. So far as I am concerned, I can set a time limitation this afternoon and vote on it this afternoon, up or down.

Mr. MANSFIELD. I would de delighted. Would the Senator be prepared to offer his amendment this afternoon, after the Javits and Ervin amendments are disposed of?

Mr. DOMINICK. I would. I would accept a unanimous-consent agreement as to a time limitation and vote on it.

Mr. JAVITS. Mr. President, if the Senator will yield, I think we are getting a little ahead of ourselves, but it may be possible to do it.

The understanding I had with Senator DOMINICK was that if we submitted our amendment—to wit, the amendment-in-chief, which I described—his amendment would be a substitute for it; so that the first vote could come on his amendment and the second on our amendment. If that arrangement may be permitted to continue and the Senator wishes to keep the Senate in session for the time it would take, which would be 8 or 9 o'clock, I have no complaints about that.

I would like to retain, because that is what we agreed to and that is why we are putting in the amendment offering the compromise, the arrangement we made—that we would introduce our amendment to which the Dominick amendment would be a substitute.

Mr. MANSFIELD. May I suggest that the distinguished chairman of the committee and the distinguished ranking minority member of the committee get together with Senator DOMINICK, the distinguished Senator from Colorado, to see whether something can be done this evening.

Mr. SCOTT. And if not, tomorrow.

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

Mr. MANSFIELD. I yield.

Mr. PASTORE. Are we not going to be in session tomorrow? We are going to be in session tomorrow, are we not?

Mr. MANSFIELD. That is right.

Mr. PASTORE. Why can we not have a unanimous-consent agreement to vote tomorrow sometime on the Javits-Williams amendment, which will have a substitute by the Senator from Colorado?

Mr. MANSFIELD. I would be delighted.

Mr. PASTORE. Why can they not agree on it?

Mr. MANSFIELD. Let them talk about it.

Mr. PASTORE. Rather than stay here until 9 o'clock, we could vote on it tomorrow.

Mr. JAVITS. We will not have to stay here until 9 o'clock. The majority leader has suggested that we get together, and we will do that.

THE DOCK STRIKE

The Senate continued with the consideration of the joint resolution (S.J. Res. 197) to provide a procedure for settlement of the dispute on the Pacific

coast between certain shippers and associated employers and certain employees.

The PRESIDING OFFICER. The question is on agreeing to the joint resolution. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAYH (when his name was called). On this vote I have a pair with the distinguished Senator from Washington (Mr. MAGNUSON). If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would note "nay." I withhold my vote.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Nevada (Mr. CANNON) and the Senator from Wyoming (Mr. MCGEE) are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Oklahoma (Mr. BELLMON), the Senator from Ohio (Mr. SAXBE) and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

The Senator from Texas (Mr. TOWER) is absent on official business.

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

If present and voting, the Senator from Colorado (Mr. ALLOTT) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 79, nays 3, as follows:

[No. 38 Leg.]

YEAS—79

Aiken	Ervin	Montoya
Allen	Fannin	Moss
Baker	Fong	Nelson
Beall	Fulbright	Packwood
Bennett	Gambrell	Pastore
Bentsen	Goldwater	Pearson
Bible	Gravel	Pell
Boggs	Griffin	Percy
Brock	Gurney	Randolph
Brooke	Hansen	Ribicoff
Buckley	Hart	Roth
Burdick	Hatfield	Schweiker
Byrd, Va.	Hollings	Scott
Byrd, W. Va.	Hruska	Smith
Case	Hughes	Sparkman
Chiles	Inouye	Spong
Church	Javits	Stafford
Cook	Jordan, N.C.	Stennis
Cooper	Jordan, Idaho	Stevenson
Cotton	Long	Symington
Cranston	Mansfield	Taft
Curtis	Mathias	Talmadge
Dole	McClellan	Thurmond
Dominick	McGovern	Williams
Eagleton	McIntyre	Young
Eastland	Miller	
Ellender	Mondale	

NAYS—3

Harris	Proxmire	Weicker

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Bayh, against.

NOT VOTING—17

Allott	Jackson	Muskie
Anderson	Kennedy	Saxbe
Bellmon	Magnuson	Stevens
Cannon	McGee	Tower
Hartke	Metcalf	Tunney
Humphrey	Mundt	

So the joint resolution (S.J. Res. 197) was agreed to.

The preamble was agreed to.

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

S.J. RES. 197

Whereas there is a dispute between employers (or associations by which such employers are represented in collective bargaining conferences) who are (1) steamship companies operating ships or employed as agents for ships engaged in service from or to Pacific coast or Hawaiian ports of the United States, (2) contracting stevedores, (3) contracting marine carpenters, (4) lighterage operators, or (5) other employers engaged in related or associated pier activities for ships engaged in service from or to Pacific coast or Hawaiian ports of the United States (hereafter called employers), and certain of the employees of such employers represented by the International Longshoremen's and Warehousemen's Union; and

Whereas the order enjoining a strike in this dispute granted by the United States District Court, Northern District of California, in United States against International Longshoremen's and Warehousemen's Union et al., docket numbered C–17–1935 WTS, October 6, 1971, expired on December 25, 1971, pursuant to the Labor-Management Relations Act of 1947, as amended (29 U.S.C. 176–178); and

Whereas all procedures for resolving such dispute provided for in the Labor-Management Relations Act, 1947, have been exhausted and have not resulted in settlement of the dispute; and

Whereas a settlement has not been reached despite intensive mediation efforts and transportation services essential to the national interest are not being maintained; and

Whereas it is vital to the national interest that essential transportation services be maintained; and

Whereas the Congress finds that emergency measures are essential to continuity of essential transportation services affected by this dispute: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) an arbitration board shall be established herein to hear and settle all issues in this dispute, and to issue a determination which shall be deemed a final and binding resolution, understanding, and agreement between the parties and shall also be deemed to supersede to the extent inconsistent therewith all other agreements or understandings between the parties: *Provided,* That proceedings under this joint resolution shall be terminated immediately upon certification, in writing, by the parties to the Secretary of Labor that they have reached complete agreement on the disposition of all the issues. The determination of the arbitration board shall be effective for the period stated therein, which may not be less than eighteen months. During such period, there shall be no resort to strike or lockout as between the parties.

(b) From the date of enactment of this joint resolution until the arbitration board makes its determination, there shall be no resort to strike or lockout as between the parties, and no change, except by agreement of the parties, in the terms and conditions of employment as prescribed in the court order in United States against International Longshoremen's and Warehousemen's Union et al., docket numbered C–17–1935–WTS, October 6, 1971.

(c) For the purpose of this joint resolution the term "parties" means (1) the International Longshoremen's and Warehouseman's Union and (2) the Pacific Maritime Association, and all employers who are members of that association.

SEC. 2. (a) There is established an arbitration board (hereinafter referred to as the "board") which shall be constituted in the following manner:

(1) Within three days after the enactment of this joint resolution, both parties to the dispute, by agreement, may designate one individual to perform the functions and exercise the powers of the board.

(2) In the event that the parties do not agree upon an individual under paragraph (1) of this section, each party shall within three days immediately following the expiration of the three-day period under paragraph (1), designate an individual to serve on the board. The two members of the board so designated shall select, within three days after their appointment, a third individual to be a member and act as chairman of the board. In the event that the two members of the board designated by the parties cannot agree on the selection of the third member as chairman under this paragraph, within three days after their appointment, the third member who shall be the chairman shall be selected by the chief judge of the United States district court for the Northern District of California.

(3) In the event that either party does not designate a member under paragraph (2) of this subsection, then the chief judge of the United States district court for the Northern District of California shall designate one individual to exercise the powers of the board.

(b) The board shall make all necessary rules for conducting its hearings and giving to the parties and all other persons it determines may be directly affected by the board's determination notice and a full and fair hearing, which shall include an opportunity to present their case in person, by counsel, or by other representative as they may select.

(c) For the purpose of hearings conducted by the board, it shall have authority conferred by the provisions of sections 9 and 10 (relating to the attendance and examination of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act (15 U.S.C. 49, 50).

(d) The board shall begin its hearings no more than fifteen days after enactment. The board shall make its determination no later than forty days after enactment.

(e) In its determination the board shall resolve all the issues in the dispute.

(f) The board's determination shall be retroactive to the date of enactment of this resolution. The board may make such further provisions for retroactivity to a date prior to the enactment of this resolution, if any, as it finds appropriate and consistent with the terms of this resolution.

(g) The board shall make its determination consistent with the policy of the Economic Stabilization Act of 1971, and such determination shll be final and binding in every respect, subject only to review as provided in section 2(1).

(h) In the event of disagreement as to the meaning of any part or all of a determination by the board, or as to the terms of all the detailed agreements or arrangements necessary to give effect thereto, any party may within the effective period of the determination apply to the board for clarification of its determination, whereupon the board shall reconvene and shall promptly

issue a further determination, with respect to the matters raised by any application for clarification. Such further determination may, in the discretion of the board, be made with or without a further hearing, and shall be final and binding in every respect, subject only to review as provided in section 2(i).

(i) Any party, as defined in section 1, aggrieved by a determination of the board may, within fifteen days after its issuance, obtain review of the determination in the United States Court of Appeals for the Ninth Circuit. The decision of the court of appeals may be reviewed in the Supreme Court by writ of certiorari or upon certification as provided for in section 1254 (1) and (3), title 28, United States Code. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the determination of the board. A determination of the board shall be conclusive unless found to be arbitrary or capricious.

(j) Members of the board shall receive compensation at a rate of $250 per day when engaged in the work of the board as prescribed by this section, including traveltime, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703), for persons in the Government service employed intermittently and receiving compensation on a per diem when actually employed basis.

(k) For the purposes of carrying out its functions under this Act, the board is authorized to employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, and allow them while away from their home or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed. The board is also authorized to employ such support services as are necessary for its operation.

SEC. 3. (a) The Attorney General of the United States shall be authorized to maintain any civil action necessary to obtain compliance with any provision of this resolution.

(b) Any strike, lockout, or other concerted activity in violation of this resolution shall be subject to a penalty not to exceed $100,000. Each calendar day in which such a violation occurs shall be considered a separate violation.

SEC. 4. There is authorized to be appropriated such sums as may be necessary for the implementation of this resolution.

Mr. JAVITS. Mr. President, I move that the Senate reconsider the vote by which the joint resolution was passed.

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

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. Presdent, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. Mr. President, it was my understanding that after the vote on the amendment to be offered by the distinguished Senator from New York (Mr. JAVITS) and the distinguished Senator from New Jersey (Mr. WILLIAMS), the manager of the bill, the vote was then to occur on the Ervin amendment. I now understand that objection was made. If so, I should like to have the record cleared up.

Mr. JAVITS. That was my understanding.

Mr. MANSFIELD. It was not mine, nor do I think it was the Senates understanding, nor do I think it was the understanding of the Senators who have an amendment pending at the present time.

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

Mr. MANSFIELD. I yield.

Mr. ERVIN. My understanding is that the unanimous-consent request obtained by the distinguished Senator from New York was that the vote would occur on the amendment of the Senator from New York and the Senator from New Jersey to the amendment of the Senator from Alabama and the Senator from North Carolina after debate of 30 minutes to a side. I am willing to limit the debate to 5 minutes to a side and then immediately proceed to a vote.

Mr. MANSFIELD. It was 30 minutes on the Javits amendment to the amendment of the Senator from North Carolina and the Senator from Alabama; and I understood that after that was disposed of, the vote would occur immediately without any further debate on the Ervin amendment.

Mr. ERVIN. That was my understanding.

CHANGE OF CONFEREE ON FOREIGN AID APPROPRIATION BILL

Mr. SCOTT. Mr. President, I ask unanimous consent for 1 minute, without the time being charged to either side.

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

Mr. SCOTT. Mr. President, I ask unanimous consent that the Senator from New Hampshire (Mr. COTTON) be substituted for the Senator from Hawaii (Mr. FONG) as a conferee on the foreign aid appropriation bill.

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

AUTHORIZATION FOR SECRETARY OF THE SENATE TO MAKE TECHNICAL CORRECTIONS IN SENATE JOINT RESOLUTION 197

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make clerical and technical corrections in the engrossment of the joint resolution just passed.

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

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Leonard, one of his secretaries.

REPORT RELATING TO RECONSTRUCTION OF THE ALASKA HIGHWAY—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. ROTH) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Public Works:

To the Congress of the United States:

I hereby submit to the Congress a Report of the negotiations with the Government of Canada concerning the reconstruction of the Alaska Highway between Dawson Creek, Canada, and the Alaska border. Pursuant to Section 119 of Public Law 91–605, these negotiations were held in the summer and fall of 1971 between representatives of our Departments of State and Transportation and officials of the respective Canadian Ministries.

Based upon these discussions, the Secretaries of Transportation and State have concluded, and I have agreed, that a U.S. offer to Canada to undertake this project on a cost-sharing basis would not be justified at this time. Our negotiations closed with an understanding that this would be the United States position. The Canadian Government has also indicated that it does not wish to undertake such a project with its own resources.

Underlying these conclusions are the facts that alternative transportation routes are now being developed, especially in British Columbia, and that anticipated traffic volume on the Alaskan Highway should not be sufficiently heavy to warrant reconstruction and paving. The enclosed Report, submitted in response to Section 119(b) of the Federal-Aid Highway Act of 1970 (P.L. 91–605), spells out these findings in greater detail.

As a result of these conclusions, no further action seems necessary at this time.

RICHARD NIXON.

THE WHITE HOUSE.

MESSAGE FROM THE HOUSE—ENROLLED BILLS AND JOINT RESOLUTION SIGNED

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution:

S. 959. An act to designate the Pine Mountain Wilderness, Prescott and Tonto National Forests, in the State of Arizona;

S. 1838. An act to amend the provisions of the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities;

S. 2672. An act to permanently exempt potatoes for processing from marketing orders;

H.R. 7987. An act to provide for the striking of medals in commemoration of the bicentennial of the American Revolution; and

S.J. Res. 196. Joint resolution extending the date for transmission to the Congress of the report of the Joint Economic Committee.

The PRESIDENT pro tempore subsequently signed the enrolled bills and joint resolution.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The Senate continued with the consideration of the bill (S. 2515) a bill to further promote equal employment opportunities for American workers.

Mr. JAVITS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The clerk will state the pending business.

The legislative clerk read as follows:

A bill (S. 2515) to further promote equal employment opportunities for American workers.

The PRESIDING OFFICER. The pending question is on agreeing to amendment No. 813 of the Senator from North Carolina.

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

The yeas and nays were ordered.

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On line 1, in lieu of the language proposed to be inserted, insert "fifteen".

Strike out line six and insert the following on page 33, strike out lines 6, 7, 8, 9, and 10 and insert in lieu thereof: "(4) In Subsection (e) strike out between "(A)" and "and such labor organization", and insert in lieu thereof "twenty-five or more during the first year after the date of enactment of the Equal Employment Opportunities Enforcement Act of 1971, or (B) fifteen or more thereafter,".

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection it is so ordered.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 1 minute.

Mr. WILLIAMS. Mr. President, I think the amendments that have been offered speak for themselves. The bill would reduce the coverage of employers to those with 8 employees and of unions to those with 8 members. This would advance it to 15.

Mr. JAVITS. Mr. President, would the Senator from New Jersey yield me 1 minute?

Mr. WILLIAMS. I yield 1 minute to the Senator from New York.

Mr. JAVITS. Mr. President, this amendment is obviously our effort to meet deeply held views of Senators who are for this legislation who have concern about individual details. So, in order to endeavor to meet their views and after consultation with a considerable number of Senators and others interested in the legislation, the Senator from New Jersey (Mr. WILLIAMS) and I concluded that the way to contribute to trying to get a law instead of a debate is to make this demonstration of what the committee has done. We have done it. We hope very much that the Secretary will approve of it.

Mr. ERVIN. Mr. President, I hope the Senate will reject the substitute for the Allen-Ervin amendment and support the Allen-Ervin amendment.

If we reduce the coverage of the number of employees essential to coverage below 25, we are going to interfere with the success of virtually every small businessman in the United States, because when we get below the coverage of 25, we run into the situation where most of the employment is done on the basis of friends of the employers. The businessman wants members of his own church. He wants members of his own race. He wants people of the same national origin.

We are fast becoming the most lawridden nation on earth. When we reduce the number below 25, we are taking away some of the most cherished liberties of Americans.

There are the most intimate relations between the small businessmen and various of his employees. We are entitled to let the man invest his capital, his skills, and his talents in a business instead of having the Government tell him whom he shall hire, whom he shall promote, and whom he shall discharge in order to make his business a success.

I have been informed that the most discriminatory organization in America is the EEOC. They employ people of the minority races, the most powerful of the minority races. They will not employ people of the majority race or of the other minority races.

If we want to put an end to the worst discrimination in America, let us go into the offices of the EEOC and look and see how they practice discrimination.

Let us leave some freedom for the American people. Let us let the people put their talents and their resources in small business and determine for themselves whom they shall hire to make their business a success instead of a failure.

I say that if we reduce the coverage below 25, the result is going to be one of two things. Either we are not going to have enforcement of this law because of the inadequacy of employees on the part of this discriminatory agency or they will have to increase their employees to such an extent that we will have a multitude of people going abroad in this land like oak locusts to eat up the sustenance of our people.

I, therefore, ask that the Senate reject the substitute and then proceed to agree to the amendment which would leave the coverage where it now is, at 25.

Mr. WILLIAMS. I yield back the remainder of my time.

Mr. ERVIN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the Williams' amendment to the Ervin amendment (No. 813). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE), and the Senator from Nevada (Mr. CANNON) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), and the Senators from Washington (Mr. JACKSON and Mr. MAGNUSON) would each vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Oklahoma (Mr. BELLMON), the Senator from Michigan (Mr. GRIFFIN), the Senator from Ohio (Mr. SAXBE), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

The Senator from Texas (Mr. TOWER) is absent on official business.

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

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

The result was announced—yeas 56, nays 26, as follows:

[No. 39 Leg.]

YEAS—56

Aiken	Gravel	Pearson
Bayh	Harris	Pell
Beall	Hart	Percy
Bentsen	Hatfield	Proxmire
Bible	Hughes	Randolph
Boggs	Inouye	Ribicoff
Brooke	Javits	Roth
Burdick	Jordan, Idaho	Schweiker
Byrd, W. Va.	Mansfield	Scott
Case	Mathias	Smith
Chiles	McGovern	Spong
Church	McIntyre	Stafford
Cook	Miller	Stevenson
Cotton	Mondale	Symington
Cranston	Montoya	Taft
Dole	Moss	Weicker
Dominick	Nelson	Williams
Eagleton	Packwood	Young
Fong	Pastore	

NAYS—26

Allen	Ellender	Hruska
Baker	Ervin	Jordan, N.C.
Bennett	Fannin	Long
Brock	Fulbright	McClellan
Buckley	Gambrell	Sparkman
Byrd, Va.	Goldwater	Stennis
Cooper	Gurney	Talmadge
Curtis	Hansen	Thurmond
Eastland	Hollings	

NOT VOTING—18

Allott	Humphrey	Mundt
Anderson	Jackson	Muskie
Bellmon	Kennedy	Saxbe
Cannon	Magnuson	Stevens
Griffin	McGee	Tower
Hartke	Metcalf	Tunney

So Mr. WILLIAMS' amendments to Mr. ERVIN's amendment (No. 813) were agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amend-

ment of the Senator from North Carolina (Mr. ERVIN). On this question, by previous order, the yeas and nays have been ordered, and the clerk will please call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE), and the Senator from Nevada (Mr. CANNON) are absent on official business.

I further announce that, if present and voting, the Senators from Washington (Mr. MAGNUSON and Mr. JACKSON), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Oklahoma (Mr. BELLMON), the Senator from Michigan (Mr. GRIFFIN), the Senator from Ohio (Mr. SAXBE), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

The Senator from Texas (Mr. TOWER) is absent on official business.

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

If present and voting, the Senator from Texas (Mr. TOWER) would vote "yea."

The result was announced—yeas 81, nays 1, as follows:

[No. 40 Leg.]

YEAS—81

Aiken	Ellender	Montoya
Allen	Ervin	Moss
Baker	Fannin	Nelson
Bayh	Fong	Packwood
Beall	Fulbright	Pastore
Bennett	Gambrell	Pearson
Bentsen	Goldwater	Pell
Bible	Gravel	Percy
Boggs	Gurney	Proxmire
Brock	Hansen	Randolph
Brooke	Hart	Ribicoff
Buckley	Hatfield	Roth
Burdick	Hollings	Schweiker
Byrd, Va.	Hruska	Scott
Byrd, W. Va.	Hughes	Smith
Case	Inouye	Sparkman
Chiles	Javits	Spong
Church	Jordan, N.C.	Stafford
Cook	Jordan, Idaho	Stennis
Cooper	Long	Stevenson
Cotton	Mansfield	Symington
Cranston	Mathias	Taft
Curtis	McClellan	Talmadge
Dole	McGovern	Thurmond
Dominick	McIntyre	Weicker
Eagleton	Miller	Williams
Eastland	Mondale	Young

NAYS—1

Harris

NOT VOTING—18

Allott	Humphrey	Mundt
Anderson	Jackson	Muskie
Bellmon	Kennedy	Saxbe
Cannon	Magnuson	Stevens
Griffin	McGee	Tower
Hartke	Metcalf	Tunney

So Mr. ERVIN's amendment, as amended, was agreed to.

Mr. JAVITS. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. JAVITS subsequently said: Mr. President, to correct an error which was found by the assistant legislative clerk, I ask unanimous consent that on the amendment which was adopted, following the amendment of the Senator from New Jersey (Mr. WILLIAMS) and myself, of the Senator from North Carolina (Mr. ERVIN), No. 813, that the material in line 7 be stricken.

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

Mr. JAVITS. We will call this matter to the attention of the Senator from North Carolina (Mr. ERVIN) specifically, and if there is any problem, I will, of course, undo the amendment.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

(The remarks Mr. BAYH made at this point on the introduction of S. 3148 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER FOR WASHINGTON'S FAREWELL ADDRESS TO BE READ ON FEBRUARY 21, 1972

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Washington Farewell Address be read on February 21, 1972.

The PRESIDING OFFICER. Without objection, and pursuant to the order of the Senate on January 24, 1901, as modified, the Chair, on behalf of the Vice President, designates the Senator from Texas (Mr. BENTSEN) to read Washington's Farewell Address on February 21, 1972.

QUORUM CALL

Mr. BYRD of West Virginia. 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. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The Senate continued with consideration of the bill (S. 2515) to further promote equal employment opportunities for American workers.

AMENDMENT NO. 877

Mr. BYRD of West Virginia. Mr. President, I ask that the distinguished Senator from Nebraska (Mr. HRUSKA) be recognized for the purpose of calling up an amendment and making it the pending question.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. HRUSKA. Mr. President, I offer an amendment and ask unanimous consent that the reading of the amendment be dispensed with at this time.

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

Mr. HRUSKA. Mr. President, one of the more glaring defects of S. 2515 is that it permits a multiplicity of actions to be instituted against a respondent before a number of separate and distinct forums for the same alleged offense. A little later in my remarks I shall give a specific example of the unfairness and the burdens and harassment involved in this regard.

In addition to the unfairness, burden, and expense visited upon a respondent, there is the factor that such a multiplicity will have the inevitable and unfortunate effect of tending to inhibit respondent from entering into any voluntary settlement or conciliation agreement. This is so because any such voluntary agreement or conciliation will not eliminate the potential liability in actions brought in any of the other available forums.

To correct the defect described the amendment which I have introduced on this subject would provide that with certain named exceptions, a charge filed with the Commission shall be the exclusive remedy of any person claiming to be aggrieved by an unlawful employment practice.

The amendment would have the tendency also to remove the possibility that an individual can utilize the potential for litigating two or more of the multiple actions as to a single alleged offense now available under the bill as written, but based upon nonmeritorious claims, with a view of "blackmailing" the respondent into settlements.

MULTIPLICITY OF SEPARATE ACTIONS INVOLVING THE SAME ALLEGED OFFENSE

Mr. President, the best way to illustrate the severe inequity perpetuated by S. 2515 in this regard is to provide a typical example of a single incident of alleged employment discrimination which could result in the virtual bankruptcy of a small employer or labor organization required to defend itself before a multiplicity of forums.

Assume a situation where, for example, a black female employee is denied a pay raise and/or a promotion to a better position which she believes has resulted from her employer's bias against blacks and/or females. Let us also suppose that her job is covered by a collective bargaining agreement. After going to her union and presenting her evidence, the union files a grievance on her behalf, but after investigating her claim, the union refuses to insist on arbitration under the union contract because of its belief that the company's action was justified and not based upon unlawful considerations. Under S. 2515 as presently written, the employee could institute the following proceedings against the employer and her union:

First, she could file a charge against her employer and union with the State fair employment practices agency where her employer and union do business. Since most of these agencies possess subpena powers, the respondent's books and records will probably be subpenaed and they will be called upon to produce evidence concerning the employment ac-

tions taken with respect to the allegations of her charge. In the meantime, she could also file an identical charge with the Commission which, under S. 2515, would only be required to withhold investigation of her charge for a period of 60 days from the date the charge was filed with the State agency. Once this 60-day period elapsed, the Commission would be authorized to commence its own investigation and, like the State agency, could also demand the production of records and evidence from the company and union to determine whether or not the charge had merit. Moreover, even if the State subsequently dismissed the charge or even settled it, this would not preclude the Commission from accepting the State's findings or conclusions; but the Commission could, instead, issue its own complaint against either or both of the respondents.

Second. In the event the Commission dismisses her charge, she could still institute a suit under title VII alleging that her rights under title VII had been violated. She could do the same thing in the event that the Commission failed to issue its own complaint within 180 days after filing her charge with the Commission. She could also institute suit even if the respondent has entered into a settlement agreement which is acceptable to the Commission since, under the provisions of S. 2515, the aggrieved party can veto any such settlement by simply refusing to become a signator to it.

Third. While at the same time pursuing her charge before the State commission and the Federal Commission and/or Federal court under title VII, she could additionally file a charge with the National Labor Relations Board. Under recent Board and court rulings, the Board would not only have jurisdiction to investigate a claim based upon the union's refusal to demand arbitration—*Miranda Fuel Co.*, 1962, 51 LRRM 1585—but would also have jurisdiction to determine whether the employer violated the Taft-Hartley Act by adhering to a "policy and practice of invidious discrimination on account of race."

In the event the Board found merit to her charge, it would also issue a complaint and would not be precluded from doing so merely because an identical complaint was outstanding before the Commission—whether State or Federal—or before a Federal court in a title VII action.

Fourth. The employee could, in addition, and while the foregoing proceeding were pending, file a complaint in Federal or State court under section 301 of the National Labor Relations Act based upon the union's alleged breach of its duty of fair representation in the handling of her grievance and upon the employer's alleged contract breach in denying her a promotion (*Vaca* v. *Sipes*, U.S. Sup. Ct., 1967, 64 LRRM 2369).

Fifth. In addition to concurrently pursuing each of the foregoing remedies, the employee could completely bypass both the EEOC and the NLRB and file a complaint in Federal court under the provisions of the Civil Rights Act of 1866 against both the employer and union. In addition, she could also file a complaint with the Labor Department against her employer in the event she believed she was receiving less pay than that being received by male employees performing comparable work.

Sixth. Concurrently with the foregoing, the Attorney General could also be pursuing "a pattern and practice" investigation against the employer and union either on its own initiative or as a result of a referral from the Commission. At the same time, in the event the employer is a party to a government contract exceeding $50,000, the OFCC could be conducting its own investigation on its own initiative or, as a result of a complaint by the employee, to determine whether the employer or union's action violated their commitments under the appropriate executive order.

This Senator questions the fairness of permitting liability to be imposed upon a respondent in a multitude of different proceedings. The fact that under S. 2515 an individual is permitted to institute a multiplicity of suits will inevitably inhibit respondents from entering into any voluntary settlements, because any settlement effectuated before one forum will not eliminate the potential liability in actions brought before any of the other available forums.

It is to correct the foregoing defect in S. 2515 that my amendment thereto is directed. It provides that, with the exception of actions first filed by the Attorney General pursuant to the authority granted in section 707; second, arising out of the provisions of the Equal Pay Act of 1963; or third, brought before State agencies, a charge filed with the Commission shall be the exclusive remedy of any person claiming to be aggrieved by an unlawful employment practice.

This amendment will thereby prevent an individual from subjecting a respondent to the time-consuming and financial burdens incident to defending against a number of separate actions before a number of separate and distinct forums. The amendment also removes the possibility that an individual can utilize the potential for litigating inherent in S. 2515 as a means to blackmail respondents into monetary settlements based upon non-meritorious claims.

A copy of the amendment accomplishing this salutory objective is attached hereto, and I ask unanimous consent that its text be printed in the RECORD.

There being no objection, the amendment, No. 877, was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 877

After subsection 4(e), of page 38, line 6, the following new subsection (f) is added; subsection (f) of S. 2515 and all succeeding subsections are redesignated as appropriate:

(f) Except as provided in subsection (b) through (e), (n) and (q) of this section, section 707 of the Civil Rights Act of 1964 (78 Stat. 255; 42 U.S.C. 2000e–6), as amended, and the Equal Pay Act of 1963 (29 U.S.C. 206 (d)(1)), a charge filed hereunder shall be the exclusive remedy of any person claiming to be aggrieved by an unlawful employment practice of an employer, employment agency, or labor organization.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. If the distinguished Senator from Nebraska will yield to me briefly, I ask unanimous consent—having cleared this request with the distinguished manager of the bill, the distinguished author of the amendment, and the Senator from New York (Mr. JAVITS)—that time on the pending amendment by the Senator from Nebraska (Mr. HRUSKA) start running tomorrow at the close of morning business; that time on the amendment be limited to 2 hours to be equally divided between the distinguished mover of the amendment and the distinguished manager of the bill; that time on any amendment to the amendment, debatable motion, appeal, or point of order, be limited to 20 minutes to be equally divided between the mover of such and the distinguished manager of the bill, but in the event the manager of the bill favors such, then the time in opposition to such amendment, motion, or appeal be under the control of the distinguished minority leader or his designee; provided further that a vote on the amendment by the Senator from Nebraska (Mr. HRUSKA) as amended, if amended, occur no later than 2 p.m. tomorrow.

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

ORDER OF PROCEDURE TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent—if the Senator from Nebraska will allow me to proceed for another 30 seconds—that on tomorrow, after the two leaders have been recognized under the standing order, the distinguished Senator from Mississippi (Mr. STENNIS) be recognized for not to exceed 15 minutes; that thereafter there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes, and that at the close of routine morning business the Chair lay before the Senate the unfinished business.

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

Mr. BYRD of West Virginia. I thank the distinguished Senator for yielding to me.

For the information of the Senate, there will be no more rollcall votes tonight. I think it should be stated that a rollcall vote will occur tomorrow on the amendment of the Senator from Nebraska (Mr. HRUSKA).

QUORUM CALL

Mr. BYRD of West Virginia. 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. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

GEORGE WILLIAM ANDREWS LOCK AND DAM

Mr. BYRD of West Virginia. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 12488.

The PRESIDING OFFICER laid before the Senate H.R. 12488, an act to change the name of the Columbia lock and dam, on the Chattahoochee River, Alabama, to the George W. Andrews lock and dam, which was read twice by its title.

Mr. BYRD of West Virginia. 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 bill was considered, ordered to a third reading, was read the third time, and passed.

Mr. BYRD of West Virginia. Mr. President, in view of the fact that H.R. 12488 is a companion bill to S. 3033, Calendar No. 573, I ask unanimous consent that S. 3033 be indefinitely postponed.

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

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum, and this will be the final quorum call of the day.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows: The Senate will convene at 10 a.m. After the two leaders have been recognized under the standing order, the distinguished Senator from Mississippi (Mr. STENNIS) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes; at the conclusion of which the Chair will lay before the Senate the unfinished business.

The pending question will be on adoption of the amendment—No. 877—of the Senator from Nebraska (Mr. HRUSKA) on which there is a time limitation of 2 hours, with a vote to occur on that amendment not later than 2 p.m. That vote will be a rollcall vote. There may be other votes, in the event there are amendments to the amendment.

ADJOURNMENT TO 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and (at 6:09 p.m.) the Senate adjourned until tomorrow, Wednesday, February 9, 1972, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, February 8, 1972*

The House met at 12 o'clock noon.

Rabbi Albert A. Goldman, Isaac M. Wise Temple, Cincinnati, Ohio, offered the following prayer:

Lord, this month we recall with reverence the lives of the great Presidents who wove the character of our people upon the loom of history. From them we have inherited the legacy that free men alone can create the good society. Today, when the acids of disillusionment corrode our faith in democracy, when the young despair, we pray for a renewal of their vision and exultant faith. Help us to regain that idealism which moved America's races and peoples toward brotherhood, where, transcending differences, we can realize our individualities. Make us whole as we pray that tomorrow's great mission of peace will be the giant step for the recovery of man's humanity and the discovery of our oneness. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

CALL OF THE HOUSE

Mr. THOMPSON of Georgia. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Will the gentleman withhold that until the Chair receives a message from the White House?

Mr. THOMPSON of Georgia. Mr. Speaker, I make the point of order that a quorum is not present and insist upon the point of order at this time.

The SPEAKER. Evidently, a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 31]

Abbitt	Forsythe	Pelly
Abourezk	Fraser	Pettis
Alexander	Garmatz	Poage
Ashbrook	Giaimo	Pryor, Ark.
Aspinall	Gibbons	Quie
Badillo	Gray	Runnels
Bell	Griffin	Ruppe
Biaggi	Hansen, Wash.	Scheuer
Blatnik	Hawkins	Smith, N.Y.
Brown, Mich.	Heckler, Mass.	Stanton,
Brown, Ohio	Helstoski	J. William
Cabell	Jarman	Stanton,
Chisholm	Koch	James V.
Clark	Landgrebe	Steed
Clawson, Del	Lennon	Stokes
Clay	Lujan	Stubblefield
Conyers	McCulloch	Vanik
Corman	Macdonald,	Whitten
Davis, Wis.	Mass.	Wiggins
Dellums	Meeds	Wright
Downing	Melcher	
Dwyer	O'Konski	

The SPEAKER. On this rollcall 370 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries.

THE GOVERNOR-ELECT OF LOUISIANA, REPRESENTATIVE EDWIN W. EDWARDS

(Mr. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOGGS. Mr. Speaker, on behalf of the other Members of the Louisiana delegation and myself, I am happy to note on the floor today for the first time since his election the new Governor-elect of the great State of Louisiana, our colleague the Honorable EDWIN W. EDWARDS.

His election on last Tuesday was indeed an historic event in our State. He is one of the few Members of the House of Representatives to have ever been elected Governor of Louisiana; he is the first Catholic Governor in almost a century, and the first Governor to come from south Louisiana since before World War II. He did not achieve the highest office in our State without tremendous determination and several years of the hardest kind of work. He faced two Democratic primaries and a general election, all of which were hard fought.

Mr. Speaker, he brings to the governorship splendid qualifications, among them being the years of training in the art of government which he obtained in this great representative body.

I know that all of my colleagues on both sides of the aisle join in wishing for him a most successful administration. The Louisiana delegation pledges to him our full cooperation.

[Applause, Members rising.]

Mr. Speaker, I yield to the gentleman.

Mr. EDWARDS of Louisiana. Mr.