than ever before to judge the private negotiating positions of both sides.

It is clear that a simple swap of American troop withdrawal for release of prisoners of war is not now being offered by Hanoi. It is doubtful that it was offered last year, although that question is one that may long be disputed.

This year, as last year, Hanoi's primary objective is a political change in Saigon, starting with the removal of President Thieu from office. Last year's presidential election in South Vietnam, which might have accomplished that purpose, could have made it unnecessary for Hanoi to insist that the United States oust General Thieu directly, Mr. Thuy has indicated. But Hanoi's definition of American withdrawal has always included cessation of the economic and military aid without which the Saigon regime could not survive. This flaw undermines Hanoi's ambiguous claim that American withdrawal and prisoner release last year could have been negotiated separately from a South Vietnamese political settlement.

But Secretary Rogers' reply to Mr. Thuy was equally flawed. Mr. Rogers sounded like a replay of an old record in his talk of self-determination, free elections, letting the South Vietnamese people choose their own future and American refusal to turn the country over to the Communists. The Nixon Administration's acquiescence last year in the rigged single-slate election through which President Thieu avoided a challenge to his re-election from South Vietnam's non-Communists destroyed the credibility of the American suggestion to the Communists that elections are the route to a political settlement.

If there was anything hopeful in the secret Kissinger-Le Duc Tho talks last year, it was in Mr. Kissinger's hint that a coalition "independent body" with powers approaching that of a coalition government could be set up by negotiations and confirmed by elections. His later hint that President Thieu might resign earlier than proposed should add sufficient attraction to entice Hanoi back to the private negotiating table.

What Americans must face now is the clear statement by Mr. Thuy that Hanoi will not release American prisoners until a political settlement brings the war, not just the American involvement, to an end. That settlement hinges on a sharing of power in Saigon with the Vietcong and neutralist groups, and a division of power in the provinces between areas of Communist and Saigon predominance.

Hanoi's refusal to negotiate with a Thieu Government and the United States' refusal to remove President Thieu from office prior to a settlement means that only further Washington-Hanoi negotiation can bring about the requisite political settlement. It will not be easily achieved; but a resumption of private negotiations is necessary to determine whether such a settlement can be achieved at all.

SENATE—*Monday, February 14, 1972*

The Senate met at 12 o'clock meridian and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

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

Almighty God, Eternal Father of men and nations, under whose providence this Nation lives and has its being, guide all Thy servants to whom has been committed the responsibility of government. Be Thou our support and strength through times that try men's souls and test their spirits. May Thy grace be sufficient for all our needs. Help us to keep through toil of brain unbroken vigil of the soul. Strengthen our hands to work for Thee, our minds to think for Thee, our voices to speak Thy message of compassion and justice, and our lives to show forth the wonders of Thy promised kingdom. May peace be in our souls, in our land, and throughout the world.

In the Redeemer's name. Amen.

MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under authority of the order of the Senate of February 9, 1972, the Secretary of the Senate, on February 10, 1972, received the following message from the House of Representatives:

That the House had severally agreed to the amendment of the Senate to the following concurrent resolutions:

H. Con. Res. 242. Concurrent resolution authorizing certain printing for the Committee on Veterans' Affairs;

H. Con. Res. 365. Concurrent resolution to print as a House document the Constitution of the United States; and

H. Con. Res. 367. Concurrent resolution authorizing the printing of the pocket-size edition of the "Constitution of the United States of America" as a House document, and for other purposes.

REPORT OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of February 9, 1972, Mr. NELSON, from the Committee on Labor and Public Welfare, reported favorably, without amendment, on February 9, 1972, the bill (S. 3054) to amend the Manpower Development and Training Act of 1962, and submitted a report (No. 92-610) thereon, which was printed.

EXECUTIVE REPORT OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of February 9, 1972, Mr. FULBRIGHT, from the Committee on Foreign Relations, reported favorably, without reservation, on February 10, 1972, Executive H, 92d Congress, first session, the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil Thereof, and submitted a report (Ex. Rept. 92-18), together with individual views, thereon, which report was printed.

MESSAGES FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT

Under authority of the order of the Senate of February 9, 1972, the Secretary of the Senate, on February 10, 1972, received the following messages from the President of the United States, which were referred to the Committee on Foreign Relations and Labor and Public Welfare, respectively:

To the Congress of the United States:

Pursuant to the Arms Control and Disarmament Act as amended (P.L. 87-297), I herewith transmit the Eleventh Annual Report of the U.S. Arms Control and Disarmament Agency. I am also pleased to report to the Congress that this document reflects appreciable progress in the disarmament field during calendar year 1971.

Our progress has been especially significant in the Strategic Arms Limitation Talks with the Soviet Union. In May 1971, I was able to announce that a deadlock had been broken. We reached an understanding with the Soviet leadership to concentrate on working out an accord to limit the deployment of defensive antiballistic missile systems (ABMs), and to conclude it simultaneously with an agreement on certain measures limiting offensive strategic weapons. This joint understanding reinforces my firm commitment to reach an equitable agreement limiting both offensive and defensive strategic nuclear weapons.

Another highlight of 1971 occurred when the American and Soviet SALT Delegations reached two collateral agreements that were signed in Washington on September 30. The first dealt with measures to be taken by each country to reduce the risk of accidental nuclear war, while the second provided for improvements in the reliability of the Washington-Moscow Direct Communications Line, or "Hot Line", by using satellite communications systems.

In Geneva, at the Conference of the Committee on Disarmament, the United States was also among the principal architects of a convention banning the development, production and stockpiling of biological weapons and toxins. The presence of these weapons in the arsenals of any civilized nation is no longer justified.

As 1972 opens, I am determined to maintain American leadership in achieving arms control measures which will enhance both national and world security and contribute to a lasting peace.

RICHARD NIXON.

THE WHITE HOUSE, *February 10, 1972.*

To the Congress of the United States:

Section 511(a) of the Federal Coal Mine Health and Safety Act of 1969

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

(Public Law 91–173) requires the Secretary of the Interior to submit, through the President, an annual report to the Congress on coal mine health and safety. I am pleased to transmit herewith the report for 1970.

RICHARD NIXON.

THE WHITE HOUSE, *February 10, 1972.*

THE JOURNAL

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, February 9, 1972, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

WAIVER OF THE CALL OF THE CALENDAR

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the call of the Legislative Calendar, under rules VII and VIII, be dispensed with.

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

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

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

ORDER OF BUSINESS

Mr. SCOTT. Mr. President, I yield my time to the distinguished Senator from West Virginia (Mr. BYRD).

Mr. BYRD of West Virginia. I thank the distinguished Republican leader.

EXECUTIVE SESSION

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

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

The PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

DEPARTMENT OF STATE

The second assistant legislative clerk read the nominations in the Department of State, as follows:

Willis C. Armstrong, of New Jersey, to be an Assistant Secretary of State;

Kenneth Franzheim II, of Texas, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Fiji;

John I. Getz, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Malta;

Albert W. Sherer, Jr., of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czechoslovak Socialist Republic;

Matthew J. Looram, Jr., of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Somali Democratic Republic;

Robert Anderson, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Dahomey;

Anthony D. Marshall, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Trinidad and Tobago; and

Robert Strausz-Hupe, of Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belgium.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc; and, without objection, the President will be immediately notified of the confirmation of these nominations.

VACATING OF TIME TO VOTE ON TREATY (EX. H, 92D CONGRESS, 1ST. SESSION)

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the time which was scheduled for a vote at 2 p.m. today on the so-called Seabed Treaty, and the order providing for the Senate to proceed to consideration of the treaty at 1:30 p.m. today, be vacated.

Mr. SCOTT. Mr. President, reserving the right to object—I realize the problem facing the distinguished majority leader and the distinguished assistant majority leader and, therefore, I will not object—we have consistently notified all Senators that they are expected to be here at all times. It is difficult to say to any Senators on our side of the aisle that they do not need to be here if there are to be postponements.

I do not want to work any hardship on any individual Senator but I think, hereafter, we should observe the general rule as long as the chairmen and the ranking minority members of committees have been notified. So, I will not object, but I hope the assistant majority leader does agree with me that it would be better if we adhered to what the distinguished majority leader has said before; namely, that when we set a bill or treaty down for a vote on a certain day that it will be voted on that day. We did tell a number of Senators to be here today.

Mr. BYRD of West Virginia. I agree with the distinguished Republican leader. I think that, as a general rule, exceptions should not be made to accommodate any particular Member on either side of the aisle by postponing a vote. And the action is not being delayed in this instance on the basis that a particular Senator will miss a vote.

In this instance, however, it was felt that an exception was justified by virtue of the fact that a Senator called on Saturday to state that he was chairman of a subcommittee of the Commerce Committee, which has some jurisdiction, in his opinion, over the subject matter of the treaty, Executive H, 92d Congress, first session, and that he had not been notified and was unaware, until receipt of his whip notice, that the treaty had been schedule for a vote today. He stated that he was unaware on Friday that the Foreign Relations Committee would report the treaty that day and that it would be immediately scheduled for a vote. He indicated that, had he seen such treaty listed on the executive calendar, as is normally the case, he would have gotten in touch with the leadership in time and would have indicated his feelings with respect to a vote.

In view of the fact however, that the treaty was reported only on Friday from the Foreign Relations Committee and that prior to any Senator's having had the opportunity to see it appear on the Executive Calendar, it was that day scheduled for a vote for today, the leadership felt the Senator was justified, but only because of the jurisdictional aspect raised, in asking that the vote—which is not controversial—be put off until tomorrow or until such time as he could be present.

Mr. SCOTT. I thank the distinguished assistant majority leader for this clarification, but would urge all Senators to examine the calendar and the Executive Calendar prior to the time on which action is to be taken, when they have an interest in it.

Mr. BYRD of West Virginia. I thank the distinguished Republican leader.

May I say further, that I contacted the distinguished majority leader on Saturday and discussed this matter with him and cleared it with him. The majority leader was reluctant to delay action on the treaty and did so only because of the jurisdictional aspects raised.

I certainly can appreciate the feelings of the distinguished Republican leader in regard to this matter, but the leadership was unaware, at the time the vote was scheduled by unanimous consent, that the subject matter of the treaty would also come within the purview of the protesting Senator's particular subcommittee, in addition to the Foreign Relations Committee.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

ORDER FOR CONSIDERATION OF TREATY AND FOR VOTE TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that

on tomorrow, at the hour of 11:30 a.m., the Senate proceed to consider the treaty, Executive H, and that a vote on the treaty occur at 12 noon.

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

LEGISLATIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I move that the Senate return to the consideration of legislative business.

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

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

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

ORDER FOR ADJOURNMENT TO 11 A.M.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 a.m. tomorrow.

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

ORDER FOR A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, following the recognition of the two leaders under the standing order, there be a period for the transaction of routine morning business not to extend beyond 11:30 a.m., with statements therein limited to 3 minutes.

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

PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period of 30 minutes for the transaction of routine morning business, with each Senator being limited to 3 minutes.

CHOICE—A CRUEL NECESSITY

Mr. JORDAN of Idaho. Mr. President, on February 13 the Washington Post published an excellent essay by Elliot Richardson, the Secretary of Health, Education, and Welfare. In his usual able and intelligent manner, Secretary Richardson points out that since we do not have unlimited resources to use in the solution of our Nation's ills we must make certain choices. We must determine which of our needs are most pressing and then direct the necessary resources to them.

It is unrealistic to look for miracle solutions to our problems, because they simply do not exist. For example, we used to hear much of a Vietnam dividend which would be available for our domestic needs after the war wound down. Well, the war has wound down and spending on it has been drastically reduced, but no Vietnam dividend is available.

We now hear much talk about shifting priorities so that less emphasis is given to military spending and more to domestic spending. Secretary Richardson, points out, however:

To a degree that many Americans still do not realize, we have shifted our priorities—rather drastically—in the past three years. Since 1968, outlays for human resources programs have increased 63 percent while total budget outlays grew by only 28 percent. In the fiscal year 1973 budget, human resources spending represents 45 percent of all expenditures, while defense spending totals only 32 percent.

This exactly reverses the spending priorities of only three years ago, when the defense share was 45 percent and human resources share was only 32 percent.

Yet even though HEW's budget will exceed the Defense Department's in FY 1973—for the first time in history—this shifting of priorities has not lessened the need for us to make difficult choices.

What we must do is to stop the search for miracle solutions and do the best we can with what we have available. This is the theme which Secretary Richardson develops in his essay and I ask unanimous consent that it be printed in the RECORD.

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

CHOICE: A CRUEL NECESSITY

(By Elliot L. Richardson)

"Choice is the basic reality, and for us it is doubly difficult and saddening because whatever we have to give up is not something bad or trivial, but something that is only somewhat less important, if that, than what we have selected to do."

We are standing at a unique juncture in the course of history. At no other time have we have so aware both of how breaktakingly close we have come to realize the promise of America for all its citizens and of how painfully far we are from locating and gathering all the resources that would fulfill that promise tomorrow.

The founders of this complex and diverse nation, and each succeeding generation, set themselves truly awesome tasks to perform. For the most part, their aspirations and their capabilities have been within hailing distance of each other. In our own time, great though the growth in our resources, the growth in our expectations has been even greater. Today these expectations are like a giant helium-filled balloon cast loose from its moorings, sailing beyond sight. We must somehow bring our expectations back to earth; we must level with each other. For either we shall understand the reality of what can and cannot be done over time, or we shall condemn ourselves to failure, and failure again and again.

When we compare ourselves with those who preceded us, or with others in the world today, there is no denying that we are moving ever closer to the promise of this country.

Yet frustrations and disappointments abound, and alienation from our basic institutions seems endemic. Why is this so?

One reason, it seems to me, stems from our very successes. As Alexis de Tocqueville wrote many years ago:

"The evil which was suffered patiently as inevitable seems unendurable as soon as the idea of escaping from it crosses men's minds. All the abuses then removed call attention to those that remain, and they now appear more galling. The evil, it is true, has become less, but sensibility to it has become more acute."

It is not, then, that we have come so far, but that we seem so near, so exasperatingly near, to realizing our national hopes, that some of us grow impatient and angry. What could be suffered silently or even cheerfully when there was no chance of improvement, becomes intolerable as soon as it is learned that a cure is within our capability. And then we must have the cure immediately.

Another reason is that we are constantly setting ourselves ever more difficult goals to achieve. We may reach a goal today that appeared improbable or optimistic yesterday, but instead of finding in this success a source of satisfaction, we find a sign of failure.

THE LEGISLATION FALLACY

There is, besides, much actual failure. Exaggerated promises, ill-conceived programs, over-advertised "cures" for intractable ailments, cynical exploitation of valid grievances, entrenched resistance to necessary change, the cold rigidity of centralized authority, and the inefficient use of scarce resources—all these add to frustration and foster disillusionment.

Population growth, technological change, mass communications and big government, meanwhile, have been progressively submerging the individual's sense of personal significance in a gray, featureless sea of homogenized humanity. In a country which has been dedicated from its beginning to the liberation of human aspirations and the fulfillment of human potential, these massive changes result in vague feelings of anxiety and unease. We yearn for a greater voice in—a greater impact on—the processes that affect our lives. We long to make a difference.

But the most profound and far-reaching source of our frustrations and disappointments is to be found in the "expectations gap" to which I have already alluded. There is a fallacy abroad in the land—and rampant in the Congress—to the effect that passing legislation solves problems. There are, to be sure, many problems that cannot be solved without new legislation. But all too often—and increasingly so—new legislation merely publicizes a need without creating either the means or the resources for meeting it. If this kind of legislation is implemented at all, it is at the cost of spreading resources still more thinly over existing programs.

Just this, in fact, has been happening at an accelerating rate. In the first full budget of the Kennedy administration, congressional authorizations for HEW programs exceeded amounts requested for their operation by $200 million. In the current fiscal year authorizations for HEW programs exceeded appropriations by $6 billion. Legislation likely to be enacted by this Congress may add still another $9 billion in new authorizations for next year and even larger amounts for future years—much of which also will never be fully funded.

What does this accomplish except to create expectations beyond all possibility of fulfillment and then, because they were not fulfilled, dash the hopes of those who have the greatest needs?

TOO MANY NEEDS

Then there's the nagging problem of inequity in helping those who need help. The federal, state and local cost, both public and private, of assisting individuals whose dependency might have been prevented is

running at an average annual rate of about $19 billion. And yet the cost and quality of assistance to such individuals varies widely. If our assistance to all these people met the standards applicable to the most-favored one-third, the annual cost would be nearly $7.5 billion more than it is now.

If, in addition to raising benefit standards for those now receiving assistance, we increased eligibility by uniformly applying a standard for assistance corresponding to the most liberal one-third, another enormous expenditure increase would be required.

Consider just the following list: Fulfilment of the Right to Read objectives, which would give youngsters the tools they need if public schools are to be at all meaningful; homemaker services, mental retardation services, and vocational rehabilitation services for all who need them; developmental day care services for needy children; good compensatory education for every disadvantaged child. To meet even these few goals, we would have to increase our spending by roughly $27 billion per year and recruit and train 6 million more professionals, para-professionals, and volunteers.

When we begin to take into account other large claims—health care, higher education, urban redevelopment, transportation, and environmental protection, for instance—we rapidly enter a realm of almost unimaginable numbers. The needs are real, but we cannot conceivably meet them all comprehensively and all at the same time.

The President has the most complex and broadest choices to make. He must, within the constraints imposed on him, select from among efforts to improve the environment, to improve transportation, to make the nation more secure at home and abroad, to bring sense and humanity to our welfare system, and from among a host of other worthy and pressing objectives.

The Secretary of HEW must choose among efforts to bring health services into poor neighborhoods, to increase the educational opportunities of children living in those same neighborhoods, to reduce the isolation of the aged to offer alternatives of delinquency and drugs, and among many other objectives, all of which again are worthy and compelling.

And down through the tiers of government it goes, the inescapable necessity of choosing.

SHIFTING PRIORITIES

Choice is the basic reality, and for us it is doubly difficult and saddening because whatever we have to give up is not something bad or trivial, but something that is only somewhat less important, if that, than what we have selected to do.

To a degree that many Americans still do not realize, we have shifted our priorities—rather dramatically—in the past three years. Since 1968, outlays for human resources programs have increased 63 per cent while total budget outlays grew by only 28 per cent. In the Fiscal Year 1973 budget, human resources spending represents 45 per cent of all expenditures, while defense spending totals only 32 per cent.

This exactly reverses the spending priorities of only three years ago, when the defense share was 45 per cent and human resources share was only 32 per cent.

Yet even though HEW's budget will exceed the Defense Department's in FY 1973—for the first time in history—this shifting of priorities has not lessened the need for us to make difficult choices.

As an example, federal expenditures for education are budgeted to increase by $276 million over current-year appropriations. But all programs did not grow—and to put emphasis where we believed it would do the most good, it was necessary to trim back other worthwhile efforts. To sustain increases in four major areas—$449 million in elementary and secondary education, $49 million in educational renewal, $35 million for the National Institute of Education, and $97 million for the National Foundation of Higher Education—two major cuts were required. Aid to school districts with large numbers of federal employees—so-called "impact aid"—was reduced by $180 million, and library services support by $24 million.

The point is that while both impact aid and library services are worthy of our support, the level of funds available to the department forces us to make budgetary tradeoffs—forces us, in short, to make choices.

Because choice is so important, because so many lives are affected by our choices, we must constantly improve the way in which choices are made.

We must, first of all, create a process of rational decision-making that is both open and honest. The choices must be made clear and understandable, their advantages and disadvantages fully stated, and the alternatives brought into the light—as in the use of expanded nutrition or family planning services, instead of more medical services, to obtain a certain amount of improvement in health.

COST-BENEFIT RATIOS

How does one compare the benefits of one program with the benefits of another? Rarely can we reduce these benefits to dollar figures without the result being so artificial that we lose confidence in it. Yet such a comparison is essential to every budgetary choice we make, because the budget forces us to balance a dollar spent on one program against a dollar spent on others.

Let me give an example. We often speak of a single human life as infinitely precious, and so it is. But when it comes to the allocation of time, money, and energy, it is obvious we do not literally mean it. Each year our society tolerates thousands of deaths which might be prevented. Last year 114,000 Americans were killed in some form of accident. Of these, about 23 per cent were in the home, about 48 per cent were on the highway. Some 95,000 Americans died from preventable illnesses, an estimated 60,000 of these from lung cancer caused by smoking cigarettes. But building safer cars, highways and homes and reducing cigarette smoking involve costs. By not pushing these things as far as we could, we implicitly put a value on the lives they might save. Unfortunately, such implicit valuations do not give us an explicit measure of the value of human life that could be compared with the value of a year of education or a reduction in water pollution.

I have suggested from time to time that we should develop a benefit unit called the "HEW" for use in comparing cost-benefit ratios among our activities. Such a unit would force us to look at just how much importance we really place on our efforts to deal with any single problem. And it would permit us to compare our real effort in one area—and the returns we got for it—with our real effort and returns in another. If a child-year of preschool education is worth one "HEW," how many "HEWS" is it worth to avoid one traffic death? To rehabilitate one disabled worker? To cure one drug addict?

Using such a benefit constant, we might readily see that the incremental costs of reducing a very small number of deaths by seafood poisoning might be better applied to reducing a large number of deaths on the highway, or that the additional resources that would allow us to inspect every food processing establishment twice a year could be more advantageously used to immunize our children. Similarly, it might show that we would achieve higher benefits in lives saved by investing in the safety of products than in special ambulances for victims of heart attacks.

The comparison gets harder to make, of course, when we come to the reduction of injuries, discomforts, and irritations, and when the outcome is uncertain. How much should we be investing, for example, in finding a cure for the common cold? Reducing noise pollution? We make such choices anyway, of course, but the process is seldom both deliberate and explicit.

Hard as it is to define our goals clearly, and then to rank them in importance, we must also imaginatively consider different ways of approaching each goal. Cost-benefit analysis must open the door to fresh and imaginative alternatives. It must enable us, if such be the case, to say that there is a better way of attacking a problem than by an HEW program and that we should shut ours down and support another, somewhere else.

THE LIMITS OF ANALYSIS

Finally, to assure a chance for better decision-making we must be able to measure the cost of each alternative. Our skills in this area are seriously underdeveloped. We are not always careful to remember, for example, that the true "cost" of a federal program is not invariably measurable by the number of dollars we allocate to it in the budget. Did we include air pollution costs in our accounting for the federal highway program? Do we charge ourselves for the loss of recreation, fish and wildlife when we develop our rivers and harbors? Do we take into account the possibility that federal dollars collected from some sources may have more adverse effects on economic activity than those collected from other sources?

Further, our ability to predict what the budgetary costs of alternative programs will be is seriously lacking. There are a few shining examples of good cost estimation in the federal government. The Actuary's Office in the Social Security Administration is one. But there are many more dismal cases of complete ignorance about what resources will be needed to carry out proposed programs.

There are, of course, severe limits on the practical use of evaluation and cost-benefit analysis. Such techniques may help us to choose the best way to use an additional $1 million on homemaker services for the elderly or preschool education for disadvantaged children. They may even offer some basis for comparing the social return on one or another such investment. But a choice between homemaker services and preschool education cannot and should not rest only on this kind of analysis. Even though it could be shown that the investment in preschool education paid larger dividends for a longer future, our feeling toward the generation to which we owe our own existence and education cannot be fed into this kind of calculation.

The hard choices, in the end, are bound to depend on some combination of values and instincts—and, indeed, it is precisely because the content of choice cannot be reduced to a mathematical equation that we need the political forum to reach the final, most difficult decisions.

To recognize this, however, reinforces the importance of being as honest and explicit as possible in articulating and non-measurable considerations that transcend the limits of objective analysis. Only if these considerations that transcend the limits of objective analysis. Only if these considerations are exposed to full view can we bring those whose expectations have to be deferred—or overruled—to accept the legitimacy of the process by which this was done. Only thus can we hope to reconcile the loser to losing and encourage the impatient to wait.

Without this sort of open discussion of the hard choices we must continually make, the gap between public expectations and government performance will keep growing, and the erosion of confidence in government's ability to bring about desirable change will continue. Americans have never been particularly trusting of government; but still, something is much amiss when surveys show a continuing decline in the percentage of adults expressing a degree of trust in their government.

We in government must take a leading role in any effort to restore confidence in government. As a start, I believe we must go to whatever lengths are necessary to explain to the American public the necessity for making hard choices among priorities. We must make clear the true cost of worthwhile programs, whoever their sponsor may be. If we do this, we may finally put to rest the simplistic shibboleth that all we need do to create Utopia here and now is to "reorder our priorities."

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

Mr. JORDAN of Idaho. I yield.

Mr. STENNIS. Mr. President, I commend the Senator from Idaho for his remarks. I am very proud that he has had Secretary Richardson's paper printed in the RECORD. I have not read all of it. However, the part that I did read was very stimulating and very helpful.

Mr. JORDAN of Idaho. I thank the distinguished chairman of the Armed Services Committee than whom there is no better expert in matters relating to national defense.

NECESSITY FOR CONSTITUTIONAL AMENDMENT ON SCHOOL BUSING

Mr. STENNIS. Mr. President, my opposition to the mandatory busing of schoolchildren and the resultant destruction of negihborhood schools is well known.

I have been a part of this fight from the beginning and have reached the conclusion that by far the most effective manner in which true relief can be obtained is by a meaningful constitutional amendment. Such a procedure will give the best opportunity to the people of this Nation to settle the problem of busing once and for all and to preserve the neighborhood school concept while still not interfering with the orderly desegregation of the public schools. Such a constitutional amendment will provide a uniform rule applicable all over the Nation and not just to one section thereof. People from a number of States, including Michigan, California, Colorado, and others, have shown their great concern about this matter and their opposition to forced busing to achieve some racial balance.

As all know, the concept of busing has now been applied across district lines so as to compel the merging of districts. I have in mind the Richmond and Henrico and Chesterfield Counties case recently decided by a district court. This shows the extremes to which some Federal courts will go to force integration down the throats of objecting citizens, and the apparent lack of concern of these courts for the preservation of some measure of quality education for our children.

The logical extension of the Richmond case, which requires a merger of one city and two counties and the busing of students from one to the other, could mean the merger of Harlem in New York City with Westchester County and others, the merger of the city of Philadelphia with Bucks County and others, and the merger of the city of Pittsburgh with Clarion County and others, with the requirement for massive busing back and forth.

This busing question is already an issue in the political campaigns this year. I would hope that every candidate for President, for the Senate, and for the House of Representatives will take a positive and unequivocal stand on it.

The President has a great opportunity to furnish positive leadership by proposing a meaningful constitutional amendment. I know that the busing question will be an issue in this year's presidential campaign. It already is. It should be so that the people can pass on it. This problem can only be solved by the people themselves. The President indicated in the 1968 campaign that he supported the neighborhood school concept and opposed busing for the purpose of bringing about racial balance. I have no reason to believe he has changed his view. In fact, he reaffirmed his position in his news conference last week, and I am sure he means what he said.

As I have said, the busing question will undoubtedly be an issue in this year's presidential campaign. It can only be defused by the adoption of an appropriate constitutional amendment. I believe that if the President will recommend a meaningful amendment, it would be a master stroke of leadership for the Nation and statesmanship of the highest degree. I think given the temper of the people and the Congress today the result would be some solid action and constitutional movement in this area.

In closing, Mr. President, I say again that I hope the President will recommend to the Congress and actively support such a constitutional amendment and that Congress will immediately start serious consideration thereof.

PRESIDENT'S ASSISTANCE AGAINST FORCED BUSING WELCOMED

Mr. ALLEN. Mr. President, I commend the President for his oft-repeated statement that he opposes the forced busing of public schoolchildren for the purpose of achieving a racial balance in the public schools of this country.

I ask unanimous consent that an article entitled, "President to Weigh Busing," written by Carroll Kilpatrick, and published in the Washington Post of today, be printed in the RECORD.

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

PRESIDENT TO WEIGH BUSING—AMENDMENT COULD SHAPE 1972 CAMPAIGN

(By Carroll Kilpatrick)

President Nixon will meet today with seven congressional sponsors of an anti-busing amendment to the Constitution, in what could be one of the most critical legislative and political meetings of the year.

If the President throws his weight behind such an amendment, the debate that follows could become the most heated in this session of Congress and dominate the year's presidential campaign.

Some congressional experts believe that if the President endorses a specific constitutional amendment, it would quickly move toward the necessary two-thirds vote in the House and Senate and be submitted to the states for ratification before the presidential nominating conventions.

Others believe that liberal opposition to an amendment—there are 28 pending in Congress—could narrowly prevent its submission to the states, where, by nearly all accounts, anti-busing sentiment is growing.

Mr. Nixon returned to the White House last night from Key Biscayne, Fla., where he conferred over the weekend on the subject with Secretary of the Treasury John B. Connally and John D. Ehrlichman, head of the Domestic Council.

The President also worked over the weekend to prepare for his journey to China, which begins with a 10 a.m. departure Thursday from Andrews Air Force Base.

By way of continuing that preparation, Mr. Nixon will meet this afternoon with Andre Malraux, former French Minister of Culture, a long-time student of China who knows most of the Chinese Communist leaders. Malraux arrived in Washington yesterday afternoon.

Tonight the President will give a small dinner for Malraux.

At his news conference Thursday, Mr. Nixon said he had discussed China with Malraux in Paris in 1969 while visiting President Charles de Gaulle and that he had read Malraux's autobiographical "Antimemories," which contains many references to China and its leaders.

At the meeting in Paris with de Gaulle and Malraux, the President is believed to have had one of his first official discussions of his ambition to improve Sino-American relations and to have sent an exploratory message through de Gaulle to the Chinese leaders.

At the Thursday news conference, the President also reiterated his opposition to busing as a means of achieving racial balance in the schools. He said he planned a meeting with congressional opponents of busing for today and would disclose his position on the legal and constitutional issues afterwards.

Ehrlichman was charged with setting up the meeting with the congressional sponsors of the amendment. One of them, Rep. Tom Steed (D-Okla.) said Saturday that "there is a great deal of concern" at the White House about the problem, the Associated Press reported.

Steed said White House aides had asked him a lot of questions about his amendment "and asked me if I talked to the President about it. They said he wants to be briefed on why we are doing it and what we think it will accomplish."

Whether the President endorses it or not, Steed said, the House will be forced to make a decision on it this year.

"The voters are going to make us face it," the Oklahoma Democrat said. "They are not going to let anybody come back here who hasn't been smoked out on this issue. There are too many mamas and papas for a member to duck and dodge any longer."

Steed's amendment says that "no public school student shall, because of his race, creed, or color, be assigned or required to attend a particular school."

Scheduled to attend today's meeting with the President, in addition to steed, are Sens. Robert P. Griffin (R-Mich.), Howard H. Baker Jr. (R-Tenn.), William E. Brock (R-Tenn.), Harry F. Byrd (Ind.-Va.), and Reps. Norman F. Lent (R-N.Y.), and Thomas N. Downing (D-Va.).

Mr. ALLEN. Mr. President, in the article it is pointed out that the President is considering advocating a constitutional amendment for the purpose of forbidding forced busing for the purpose of creating a racial balance in our schools. Those of us who have been fighting forced busing for years—and certainly that includes the distinguished Senator from Mississippi (Mr. STENNIS), who has just spoken, and many others in and

out of the Senate—welcome the President's assistance.

One of the first bills introduced by the junior Senator from Alabama would have ended this practice of forced busing for the purpose of creating racial balance. Forced busing is destroying our public schools, causing loss of public support and making it well nigh impossible for our children, black or white, to receive a good education.

The President's attitude is a good straw in the wind, for he would not take this position unless he felt it had strong support throughout the Nation.

A constitutional amendment will require a two-thirds vote of both houses and ratification by 38 States. This effort, if successful, will probably take about 2 years.

I do not think we should take the position, "Well, we are going to submit a constitutional amendment," and allow that to be our only effort to put an end to massive forced busing of our schoolchildren. In the meantime I would like to see activity by our National Government and our national administration on three fronts: Passage of a statute outlawing busing, and amendments will be offered to the Higher Education Act when it comes up later this month or early next month that would seek to handle this matter by statute. It is my opinion that a statute properly worded would meet the requirements of the Supreme Court and that it would not be stricken down.

Then, we need action by HEW stopping busing plans. This is affirmative action that could be taken by the administration now without waiting for the adoption of a constitutional amendment. I would seriously and urgently recommend to the President that he have HEW stop recommending plans requiring massive busing of our schoolchildren.

Then, too, there is nothing to prevent the Attorney General from intervening in any case pending in any Federal court where the United States or any of its agencies or any constitutional question regarding our schools is involved.

So it would be possible for the Attorney General to intervene in some of these cases that have required massive busing and it is to be hoped this action will be taken.

Then, I would like to see a changed attitude on the part of the Federal judiciary all the way up to the Supreme Court. My concern will continue to be that every child in Alabama and the Nation has an opportunity to obtain a good education.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "School Changes Are Late" by William Raspberry, published in the Washington Post on January 26, 1972, and an article entitled "This 'Humiliating' Business of Busing Children" by James J. Kilpatrick, published in the Sunday Star on February 13, 1972.

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

[From the Washington Post, Jan. 26, 1972]

SCHOOL CHANGES ARE LATE

(By William Raspberry)

America can never seem to figure out what to do about its poor and its black citizens.

It forces them into concentrations, whether through economics, commercial manipulation or outright segregation. And then it announces that it would be possible to deal with their problems if only the people weren't so concentrated.

Even when some reasonably logical solution does suggest itself, it is almost an article of American faith that no attempt will be made to implement it until it is too late for it to be effective.

We try scattered-site public housing (or cash housing subsidies) as an alternative to public housing concentration camps, but only after the problem has grown so large that there aren't enough sites left in which to scatter the poor.

We decide to move against crime and narcotics in the ghettos only after they have become virtually intractable (and after they have become a problem for the nonblack and nonpoor).

And particularly have we moved too late in public education.

When some basic education would have been a desirable thing for blacks, white Americans made it illegal to teach blacks to read and write.

When blacks would have been ecstatic over really good segregated schools, they got schools that were separate but awful.

Local authorities are now willing to desegregate their schools, but only after the courts have said desegregation isn't enough: You have to integrate.

Always one step behind. It would be almost laughable except for the fact that the problems keep growing worse. Remedies that would have worked a few years ago become inadequate when they are applied too late. And we've finally reached the point where no one, white or black, has any clear idea of what will work now.

Virtually no one wants busing on the level it would take to integrate the schools in most metropolitan areas.

I, for one, would be willing to take one step backward, to honest desegregation. That is, let us move forthrightly against any attempt at official discrimination. But at the same time, let us end the humiliation of chasing after rich white children.

And it is humiliating. For one thing it says to black children that there is something inherently wrong with them, something that can be cured only by the presence of white children. Some of us don't believe that.

Some of us believe that given adequate resources, financial and otherwise, black children can learn, no matter what color their seatmates happen to be.

We started off chasing after white people because that was (we thought) the sure way to get the resources we needed. Now some of us are continuing the chase although we've forgotten why it started.

As provocative as Judge Merhidge's Richmond decree was, I would have preferred a ruling that said not that pupils must be bused without regard to city boundary lines but that school money and resources must no longer stop at those boundaries.

It may still come to that. If the current trend continues, there will likely be an end to property taxes as the chief means of financing schools. And one result will be that all schools within a state will be on equal footing no, matter whether they are in rich neighborhoods or poor.

When the white and the rich discover that they cannot finance good pubic schools for their own children and lousy ones for the rest, we will see the beginning of equality in public education or we will see the end of public education.

[From the Sunday Star, Feb. 13, 1972]

THIS HUMILIATING BUSINESS OF BUSING CHILDREN

(By James J. Kilpatrick)

This miserable business of "busing," with all its implications and consequences, may yet tear this country apart more savagely than the issue of Vietnam. From California to Michigan to Pennsylvania to Florida, wherever a wandering newsman goes, the bitter question constantly comes up: What about busing?

Resentment is greatest in the South, which ironically has tried the hardest and shown the most progress in achieving desegregation of its public schools, but Southern anger is merely the tip of the iceberg. The presidential aspirant who fails to recognize this hazard is likely to wind up shipwrecked.

Opposition to busing is massive, passionate, and widespread.

No other issue touches so many American families so close to the heart. Vietnam, the Mideast, the future of Formosa—these are problems far from home. Welfare reform, deficit finance, revenue sharing—these are specialized concerns. Even unemployment and the high cost of living, which had promised to be the universal springs of discontent, have come to be afflictions a man learns to live with. But when a child is shipped off to a distant school, solely because of his race, suddenly nothing else matters.

Black spokesmen, no less than white, resent the process. William Raspberry, brilliant young columnist for the Washington Post, commented the other day that "virtually no one wants busing on the level it would take to integrate the schools in most metropolitan areas." He continued:

"I, for one, would be willing to take one step backward, to honest desegregation. That is, let us move forthrightly against any attempt at official discrimination. But at the time, let us end the humiliation of chasing after rich white children.

"And it is humiliating. For one thing, it says to black children that there is something inherently wrong with them, something that can be cured only by the presence of white children. Some of us don't believe that. Some of us believe that given adequate resources, financial and otherwise, black children can learn, no matter what color their seatmates happen to be."

My own impression, for whatever it may be worth, is that the American people, both North and South, have come to accept this constitutional principle that was fashioned nearly 18 years ago in *Brown* v. *Board of Education*. I will go to my grave still convinced that *Brown* was bad law—a wilful perversion of the clear meaning and intention of the Fourteenth Amendment—but the principle no longer is challenged. That principle, quite simply, is that the states cannot engage in discrimination by race.

The vice in these busing orders is that they trample upon the very principle that *Brown* sought to establish. White children are shipped here, and black children are shipped there and out on the West Coast yellow children are shipped somewhere else, and these brutal orders are imposed not for "quality education"—that is the flimsiest smokescreen; they are imposed to achieve "racial balance," which is to say, they are imposed solely because of the color of the children's skin. Local school boards thus are compelled to do precisely what the Supreme Court in *Brown* said they could not do: They

are compelled to assign children to schools by reason of their race.

The Supreme Court can, if it chooses, take appropriate action to stop this folly in its tracks. It would be quite in character for the Court to say here, as it has said in other areas of the law, that its opinions have been misapplied—that "equal protection of the laws" does not demand "racial balance." If the Court fails to act, outright constitutional amendment will have to be pursued.

Mr. ALLEN. Mr. President, William Raspberry is an able black columnist. He has this to say about the integration of our public schools:

Virtually no one wants busing on the level it would take to integrate the schools in most metropolitan areas.

I, for one, would be willing to take one step backward, to honest desegregation. That is, let us move forthrightly against any attempt at official discrimination. But at the same time, let us end the humiliation of chasing after rich white children.

And it is humiliating. For one thing it says to black children that there is something inherently wrong with them, something that can be cured only by the presence of white children. Some of us don't believe that.

Parenthetically, I will state that I do not believe that. Quoting again from the column, it is stated:

Some of us believe that given adequate resources, financial and otherwise, black children can learn, no matter what color their seat mates happen to be.

Mr. President, I commend the article to the attention of Members of the Senate.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. EAGLETON). 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.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following communications and letters, which were referred as indicated:

PROPOSED AMENDMENT OF ARMS CONTROL AND DISARMAMENT ACT

A communication from the President of the United States, transmitting a draft of proposed legislation to amend the Arms Control and Disarmament Act, as amended, in order to extend the authorization for appropriations (with an accompanying paper); to the Committee on Foreign Relations.

REPORT OF FUNDING STATUS OF SCHOOL BREAKFAST PROGRAM AND THE NONFOOD ASSISTANCE PROGRAM

A letter from the Assistant Secretary of Agriculture, transmitting, pursuant to law, a report on the funding status of the school breakfast program and the nonfood assistance program (with accompanying papers); to the Committee on Agriculture and Forestry.

REPORT ON SALE OR TRANSFER OF GOVERNMENT-OWNED COMMUNICATIONS FACILITIES IN ALASKA

A letter from the Secretary of Defense, reporting, pursuant to law, that there were no new Alaskan communications disposal actions initiated during calendar year 1971; to the Committee on Armed Services.

REPORT ON REAL AND PERSONAL PROPERTY OF THE DEPARTMENT OF DEFENSE

A letter from the Secretary of Defense, transmitting, pursuant to law, a report on real and personal property of that Department, as of June 30, 1971 (with an accompanying report); to the Committee on Armed Services.

INDEX ON LEGISLATION ENACTED BY THE GOVERNMENT OF THE RYUKYU ISLANDS

A letter from the Under Secretary of the Army, transmitting, pursuant to law, an index covering legislation enacted by the Government of the Ryukyu Islands, in 1971 (with an accompanying paper); to the Committee on Armed Services.

REPORT ON CAPITAL ASSISTANCE, TECHNICAL STUDIES, AND RELOCATION GRANTS

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report on capital assistance, technical studies, and relocation grants, for the period October 15, 1970, through December 31, 1971 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

ASSISTANCE TO URBAN MASS TRANSPORTATION SYSTEMS

A letter from the Secretary of Transportation, reporting that the Department of Transportation is not in a position, at the present time, to recommend a specific increase in the amount of obligational authority available, pursuant to Section 4(c) of the Urban Mass Transportation Act of 1964; to the Committee on Banking, Housing and Urban Affairs.

REPORT UNDER FAIR PACKAGING AND LABELING ACT

A letter from the Secretary of Commerce, transmitting, pursuant to law, a report on the activities of that Department under the Fair Packaging and Labeling Act, for fiscal year 1971 (with an accompanying report); to the Committee on Commerce.

REPORT OF MARITIME ADMINISTRATION

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

REPORT OF THE PEACE CORPS

A letter from the Director, ACTION, transmitting, pursuant to law, a report of the Peace Corps, for the year 1971 (with an accompanying report); to the Committee on Foreign Relations.

PROPOSED AMENDMENT OF THE ADMINISTRATIVE CONFERENCE ACT

A letter from the Chairman, Administrative Conference of the United States, transmitting a draft of proposed legislation to amend the Administrative Conference Act (with accompanying papers); to the Committee on the Judiciary.

REPORT ON COLORADO RIVER STORAGE PROJECT AND PARTICIPATING PROJECTS

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a report on the Colorado River storage project and participating projects, as corrected (with an accompanying report); to the Committee on Interior and Insular Affairs.

PROPOSED ESTABLISHMENT OF THE GOLDEN GATE NATIONAL RECREATION AREA, CALIF.

A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to provide for the establishment of the Golden Gate National Recreation Area in the State of California, and for other purposes (with an accompanying paper); to the Committee on Interior and Insular Affairs.

REPORT OF NATIONAL PARKS CENTENNIAL COMMISSION

A letter from the Executive Director, National Parks Centennial Commission, transmitting, pursuant to law, a report of that Commission, for calendar year 1971 (with an accompanying report); to the Committee on the Judiciary.

REPORT ON PROGRAMS RELATING TO RESEARCH PLANNING AND DELIVERY OF HEALTH SERVICES

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on programs relating to research planning and delivery of health services (with an accompanying report); to the Committee on Labor and Public Welfare.

CHIEF EXAMINER'S INITIAL DECISION ON POSTAL RATE AND FEE INCREASE

A letter from the Chairman, Postal Rate Commission, transmitting, for the information of the Senate, a report entitled "Chief Examiner's Initial Decision on Postal Rate and Fee Increases" (with an accompanying document); to the Committee on Post Office and Civil Service.

PETITIONS AND MEMORIALS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A resolution of the Legislature of the Territory of Guam; to the Committee on Interior and Insular Affairs:

"RESOLUTION NO. 469

"Relative to commending Jesus Mantanona Duenas and Manuel Tolentino DeGracia, of Talofofo, Guam, for their bravery and intrepidity in apprending Sergeant Shoichi Yokoi, and for their christian forebearance and solicitude in treating their captive so well, neither mistreating nor harming him in any way

"Be it resolved by the Legislature of the Territory of Guam:

"Whereas, on the evening of January 24, 1972, two young Guamanians, while hunting in the wilds of Talofofo, Guam, suddenly came upon a strange bearded figure who, when approached, ran at them as if to attack; and

"Whereas, though knowing full well that any such desperate denizen of Guam's wilderness is potentially extremely dangerous, they nevertheless apprehended what turned out to be a Japanese straggler left over from the Second World War without harming him in any way, instead showing kind consideration and solicitude for his well-being; and

"Whereas, since both Mr. DeGracia and Mr. Duenas, as well as members of their families, suffered under an oppressive occupation by the Imperial Japanese forces during the Second World War, their forebearance during the apprehension of the last of such occupiers is doubly commendable, and speaks well of the friendly relations and amity between the people of Guam and the people of Japan; and

"Whereas, in the furor and excitement caused by this fantastic story of a Japanese soldier hiding out in the jungles of Guam for twenty-seven years, the last eight as a solitary, has, naturally enough, concentrated attention on the figure of Sergeant Yokoi, but, in doing so, the Legislature is of the opinion that the remarkable and note-worthy action

of Messrs. DeGracia and Duenas in apprehending this most recent straggler of the Emperor has not been properly credited; now therefore be it

"Resolved, that in view of the foregoing, the Eleventh Guam Legislature does hereby on behalf of the people of Guam express to Manuel Tolentino DeGracia and Jesus Mantanona Duenas of the village of Talofofo, Guam, warm commendation for their christian forebearance in apprehending Sergeant Shoichi Yokoi of the Imperial Japanese Army without in any way harming him, their action being proof of the friendly attitude of the people of Guam to their neighbors in Japan; and be it further

"Resolved, that the Governor and department heads are implored to review the personal situation of Mr. Jesus Mantanona Duenas and Mr. Manuel Tolentino DeGracia and in recognition of their exemplary conduct to extend to them all possible benefits under existing government programs; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to Mr. Manuel Tolentino DeGracia, to Mr. Jesus Mantanona Duenas, to the Commissioner of Talofofo, to the Honorary Japanese Consul, Guam, to the President of the United States, to the Speaker of the U.S. House of Representatives, to the President of the U.S. Senate, to the Prime Minister of Japan, and to the Governor of Guam.

"Duly and regularly adopted on the 31st day of January, 1972."

A memorial of the Senate of the State of Arizona; to the Committee on the Judiciary:

"S.M. 1004

"A memorial relating to Veterans' Day; urging Congress to enact legislation returning observance of Veterans' Day to November 11

"To the Congress of the United States:

"Your memorialist respectfully represents;

"Whereas, the Congress of the United States in 1968 enacted legislation which changed observance of Veterans' Day from November 11, the date of the armistice ending World War I and the traditional day of observance of that historical event; and

"Whereas, the change of Veterans' Day to the fourth Monday in October for the sole purpose of adding a three-day weekend to the holidays of the year is not a sufficient reason for breaking with tradition, memories, sentiments, and history and the reduction which follows in participation in patriotic ceremonies.

Wherefore your memorialist, the Senate of the State of Arizona, prays:

"1. That the President and Congress give their most earnest consideration to the prompt enactment of legislation which would result in the return of Veterans' Day to the traditional day of observance, November 11, of each year.

"2. That the Honorable Wesley Bolin, Secretary of State of the State of Arizona, transmit copies of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives of the United States and to each Member of the Arizona Congressional Delegation."

A resolution of the House of Representatives of the State of Hawaii; to the Committee on Labor and Public Welfare:

"HOUSE RESOLUTION No. 78

"Whereas, the health, safety, welfare and continued prosperity of the people of the State of Hawaii are, for all intents and purposes, wholly dependent upon the free and uninterrupted movement of goods and commodities between Hawaii and the continental United States; and

"Whereas, since the great bulk of this commerce moves by transoceanic shipping, any interruption in the free flow of ocean commerce between Hawaii and the continental United States is of vital concern to the people of the State of Hawaii; and

"Whereas, any interruption of ocean transportation between Hawaii and the continental United States affects our national economy and is extremely damaging to the public health, safety and welfare of the people of the State of Hawaii and of other noncontiguous areas of the United States; and

"Whereas, while the settlement of labor disputes by the collective bargaining process is and remains a deep-rooted public policy of the State of Hawaii, the Taft-Hartley Act and other existing laws, under certain circumstances, do not accommodate and protect the overriding needs of the general public which require the uninterrupted flow of essential goods and commodities; now, therefore,

"Be it resolved by the House of Representatives of the Sixth Legislature of the State of Hawaii, Regular Session of 1972, that the President and Congress of the United States be, and are hereby respectfully requested to provide means of insuring the free flow of essential goods and commodities during regional transportation emergencies; and

"Be it further resolved that duly authorized copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and to the Congressional delegation of the State of Hawaii."

A memorial of the Senate of the State of Arizona; to the Committee on Veterans Affairs:

"SENATE MEMORIAL 1001

"A memorial urging the Congress of the United States to enact legislation establishing a national cemetery in Arizona

"To the President and the Congress of the United States of America:

"Your memorialist respectfully represents:

"The State of Arizona does not have a National Cemetery within its boundaries.

"Due to the many military installations in Arizona, thousands of military personnel have served here. Many have returned as veterans to reside in the dry, healthful climate Arizona offers.

"A deceased veteran who has expressed a desire to be buried in a National Cemetery must be transported to another state for burial thereby causing great hardship for his survivors.

"Wherefore your memorialist, the Senate of the State of Arizona prays:

"1. That the President and the Congress are requested to give their most earnest consideration to promptly pass legislation providing for the establishment of a National Cemetery in the State of Arizona.

"2. That the Secretary of State of the State of Arizona transmit a copy of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Arizona Congressional delegation."

A resolution adopted by the Town Council of Index, Washington, praying for the enactment of legislation relating to revenue sharing; to the Committee on Finance.

A resolution adopted by the Fargo City Commission, Fargo, N. Dak., praying for the enactment of legislation relating to revenue sharing to the Committee on Finance.

A resolution adopted by the county legislature, Monroe County, N.Y., praying for the enactment of H.R. 11473, to amend the Social Security Act to increase temporarily (for all States presently below the maximum) the Federal matching percentages under the cash public assistance and medical assistance programs; to the Committee on Finance.

A resolution adopted by the Convention of the Protestant Episcopal Church of the Diocese of Washington, Washington, D.C., praying for an end to the conflict in Southeast Asia; to the Committee on Foreign Relations.

A resolution adopted by the Commission of the City of Miami, Fla., praying for the enactment of legislation relating full employment; to the Committee on Government Operations.

Resolutions adopted by the Speech Communication Association, New York, N.Y.; relating to publication of the CONGRESSIONAL RECORD; to the Committee on Rules and Administration.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on February 10, 1972, he presented to the President of the United States the enrolled 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.

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. STEVENS:

S. 3161. A bill to protect marine mammals; to establish a Marine Mammal Commission; and for other purposes. Referred to the Committee on Commerce.

By Mr. ALLOTT:

S. 3162. A bill to permit American citizens to hold gold. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. NELSON:

S. 3163. A bill to amend the Federal Food, Drug, and Cosmetic Act, relating to food additives. Referred to the Committee on Labor and Public Welfare.

By Mr. JACKSON:

S. 3164. A bill to declare a national policy to protect and manage islands of the Nation which possess unique environmental, recreational, historical, and cultural values; to authorize a study of our Nation's islands including recommendations of islands to be added to the national park, wildlife refuge, and forest systems; to encourage the establishment of State island conservation and recreation programs to add to the land and water conservation fund and authorize the provision of a portion of the additional funds to State and local governments for the acquisition of islands and the purchase or lease of Federal surplus island property; and for other purposes. Referred to the Committee on Interior and Insular Affairs; and

S. 3165. A bill entitled "The Educational Quality Act of 1972." Referred to the Committee on Labor and Public Welfare.

By Mr. McINTYRE:

S. 3166. A bill to amend the Small Business Act. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. BROOKE:

S. 3167. A bill for the relief of Alphonso Cunningham. Referred to the Committee on the Judiciary.

By Mr. BROOKE (for himself, Mr. BROCK, Mr. CRANSTON, and Mr. ROTH):

S. 3168. A bill to amend section 24 of the Federal Reserve Act to simplify, consolidate, and improve the law relating to the investment in mortgages and residential real estate

by national banks. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. WILLIAMS (for himself and Mr. CRANSTON):

S. 3169. A bill to amend the Securities and Exchange Act of 1934 to prohibit certain minimum commission rates, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. STEVENSON:

S. 3170. A bill for the relief of Jose Villanueva Juachon. Referred to the Committee on the Judiciary.

By Mr. JACKSON:

S.J. Res. 203. A joint resolution proposing an amendment to the Constitution of the United States relating to attendance at neighborhood public schools and declaring a right to equal educational opportunity in the public schools. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STEVENS:

S. 3161. A bill to protect marine mammals; to establish a Marine Mammal Commission; and for other purposes. Referred to the Committee on Commerce.

MARINE MAMMAL PROTECTION ACT OF 1971

Mr. STEVENS. Mr. President, the Senate Commerce Subcommittee on Oceans and Atmosphere will conduct hearings into the need for ocean mammal legislation on February 15, 16, and 23. These hearings, hopefully, will produce legislation that will benefit both ocean mammals and mankind.

So that the Subcommittee on Oceans and Atmosphere may have available recommendations leading to the most effective kind of ocean mammal program, I am today introducing legislation drafted by a group of professional wildlife conservationists and environmentalists who have reviewed S. 3112 and submitted recommendations on it.

On February 2, the distinguished Senator from South Carolina (Mr. HOLLINGS), the chairman of the subcommittee, introduced in the Senate S. 3112 itself. S. 3112 is identical to H.R. 10420, the Marine Mammal Protection Act of 1971, the major House bill. At that time the Senator from South Carolina stated:

The subject of marine mammal protection is a controversial one and opinions differ significantly. Scientists and experts disagree sharply about the effect or need of this type of legislation. But the increasing level of public attention to this problem has certainly brought home to us in Government the need to act. The subcommittee shall produce legislation on this issue shortly after the completion of our hearings. I cannot at this time project the subcommittee's position, but I feel certain that our legislation will be comprehensive. For that reason, I do not at this time take a position on the bill I introduce today. My purpose is to see that it is considered by the subcommittee along with all of the other bills which have been introduced in the Senate.

This is an accurate and well-put statement of the situation prompting me to introduce this bill today. It is for this reason that I take no position on this bill, but introduce it only to insure that not only the subcommittee members, but the other witnesses and the general public have the full text before them when the hearings begin.

I therefore request that the bill be printed in its entirety in the CONGRESSIONAL RECORD at this point.

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

S. 3161

A bill to protect marine mammals; to establish a Marine Mammal Commission; and for other purposes

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 "Marine Mammal Protection Act of 1971".

FINDINGS AND DECLARATION OF POLICY

SEC. 2. The Congress find that—

(1) certain species and populations of marine mammals are, or may be, in danger of disappearance or depletion as a result of man's activities;

(2) immediate action should be taken to protect and manage such species and populations to replenish their numbers to the optimum carrying capacity of the habitat;

(3) there is inadequate knowledge of the population dynamics of such marine mammals and of the factors which bear upon their ability to sustain themselves successfully;

(4) negotiations should be undertaken, as soon as possible, to encourage the development of international arrangements for research on, and management of, all marine mammals;

(5) marine mammals and marine mammal products either—

(A) move in interstate commerce, or

(B) affect the balance of marine ecosystems in a manner which is important to other animals and animal products which move in interstate commerce, and that the protection and management of marine mammals is therefore necessary to insure the continuing availability of those products which move in interstate commerce; and

(6) marine mammals have proven themselves to be resources of great international significance, esthetic and recreational as well as economic, and it is the sense of the Congress that they should be protected and encouraged to develop to the greatest possible extent commensurate with sound policies of resource management and that the primary objective of their management should be to maintain the population, as near as possible, at the optimum carrying capacity level.

DEFINITIONS

SEC. 3. For the purpose of this Act—

(1) The term "depletion" or "depleted" means any case in which a species or population stock has declined to a significant degree over a period of years and, if that decline were to continue, would result in that species or population stock being threatened with extinction and therefore subject to the provisions of the Endangered Species Conservation Act of 1969.

(2) The term "district court of the United States" includes the District Court of Guam, District Court of the Virgin Islands, District Court of Puerto Rico, District Court of the Canal Zone, and in the case of American Samoa and the Trust Territory of the Pacific Islands, the District Court of the United States for the District of Hawaii.

(3) The term "humane" in the context of the taking of a marine mammal means that method of taking which involves the least possible degree of pain and suffering practicable to the animal involved.

(4) The term "marine mammal" means any mammal which (A) is morphologically adapted to the marine environment (including sea otters and members of the orders Sirenia, Pinnipedia, and Cetacea), or (B) primarily inhabits the marine environment (such as the polar bear); and, for the purposes of this Act, includes any part of any such marine mammal, including its raw, dressed, or dyed fur or skin.

(5) The term "marine mammal product" means any item of merchandise which consists, or is composed in whole or in part, of any marine mammal.

(6) The term "optimum sustained yield" means that number of animals of any species or population that may be taken in a prescribed period or manner after the species or population is determined to be at the optimum carrying capacity of the habitat.

(7) The term "optimum carrying capacity" means the ability of a given habitat to support healthy species or populations without diminishing the ability of the habitat to continue that function.

(8) The term "management" means the collection and application of biological information for the purposes of increasing and maintaining the number of animals within species and populations of marine mammals at the optimum carrying capacity of their habitat. Management includes the entire scope of activities that constitute a modern scientific resource program, including, but not limited to, research, census, law enforcement, and habitat acquisition and improvement. Also included within this term, when and where appropriate, is the periodic or total protection of species or populations as well as regulated taking.

(9) The term "person" includes (A) any private person or entity, and (B) any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof, or any foreign government.

(10) The term "population stock" or "stock" means a group of interbreeding marine mammals of the same species or smaller taxa in a common spatial arrangement.

(11) The term "Secretary" means—

(A) the Secretary of Commerce as to all responsibility, authority, and duties under this Act with respect to members of the order Cetacea and members, other than walruses, of the order Pinnipedia, and

(B) the Secretary of the Interior as to all responsibility, authority, and duties under this Act with respect to all other marine mammals covered by the Act.

(12) The term "take" means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.

(13) The term "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, the possessions of the United States, and the Trust Territory of the Pacific Islands.

(14) The term "waters under the jurisdiction of the United States" means—

(A) the territorial sea of the United States, and

(B) the fisheries zone established pursuant to the Act of October 14, 1966 (80 Stat. 908, 16 U.S.C. 1091–1094).

TITLE I—CONSERVATION AND PROTECTION OF MARINE MAMMALS

PROHIBITIONS

SEC. 101. (a) Except as provided in sections 103 and 107 of this title, it is unlawful—

(1) for any person subject to the jurisdiction of the United States or any vessel or other conveyance subject to the jurisdiction of the United States to take any marine mammal on the high seas;

(2) for any person or vessel or other conveyance to take any marine mammal in waters or on lands under the jurisdiction of the United States except as expressly provided for by an international agreement to which the United States is a party and which was entered into before the effective date of this title;

(3) for any person to use any port, harbor, or other place under the jurisdiction of the United States for any purpose in any way

connected with acts prohibited under paragraphs (1) and (2) of this subsection; and

(4) for any person, with respect to any marine mammal taken in violation of this title—

(A) to possess any such mammals; or

(B) to transport, sell, or offer for sale any such mammal or any marine mammal product made from any such mammal.

(b) Except pursuant to a permit for scientific research issued under section 103(c), it is unlawful to import into the United States any marine mammal if such mammal was—

(1) pregnant at the time of taking;

(2) nursing at the time of taking, or less than eight months old, whichever occurs later;

(3) taken from a species or population stock which the Secretary has, by regulation published in the Federal Register, designated as a depleted or endangered species or stock; or

(4) taken in a manner deemed inhumane by the Secretary.

(c)(1) "Upon the effective date of this title, no method of commercial fishing shall be employed by anyone subject to U.S. jurisdiction which is not certified by the Secretary as being consistent with eliminating the injury or killing of porpoises or dolphins incident to the capture of the fish. The Secretary shall promulgate and regularly update regulations implementing this subsection, and shall, in cooperation with Federal agencies, undertake to assist in the development of new technological means of capturing fish in such a way as to eliminate injury or death to porpoises or dolphins."

(2) It is unlawful to import into the United States any of the following:

(A) Any marine mammal which was—

(i) taken in violation of this title; or

(ii) taken in another country in violation of the law of that country.

(B) Any marine mammal product if—

(i) the importation into the United States of the marine mammal from which such product is made is unlawful under paragraph (1) of this subsection; or

(ii) the sale in commerce of such product in the country of origin of the product is illegal.

(C) Any fish, whether fresh, frozen, or otherwise prepared, if such fish was caught in a manner determined by the Secretary to be injurious to marine mammals, whether or not any such mammals were in fact taken incident to the catching of the fish beginning two years after the effective date of this Act.

(d) Subsections (b) and (c) of this section shall not apply—

(1) with respect to any article imported into the United States before the effective date of this title;

(2) in the case of articles to which subsection (b)(3) of this section applies, to articles imported into the United States before the date on which the Secretary publishes notice in the Federal Register of his proposed rulemaking with respect to the designation of the species in population concerned or endangered; or

(3) in the case of articles to which subsection (c)(1)(B) or (c)(2)(B) of this section applies, to articles imported into the United States before the effective date of the foreign law making the taking or sale, as the case may be, of such articles unlawful.

LIMITATION ON TAKING OF MARINE MAMMALS

SEC. 102. (a) The Secretary shall prescribe such limitations with respect to the taking of animals from each species of marine mammal (including limitations on the taking of individuals within populations) as he deems necessary and appropriate to insure that such taking will not be to the disadvantage of those species or populations and will be consistent with the purposes and policies set forth in section 2 of this Act.

(b) In prescribing such limitations, the Secretary shall give full consideration to all factors which may affect the extent to which such animals may be taken, including but not limited to the effect of such limitations on—

(1) existing and future levels of marine mammal species and populations;

(2) existing international treaty and agreement obligations of the United States;

(3) the marine ecosystem and related environmental considerations;

(4) the conservation, development, and utilization of fishery resources; and

(5) the economic and technological feasibility of implementation.

(c) The limitations prescribed under subsection (a) of this section for any species or population of marine mammal may include, but are not limited to, restrictions with respect to—

(1) the number of animals which may be taken in any calendar year pursuant to permits issued under section 103;

(2) the age, size, or sex (or any combination of the foregoing) of animals which may be taken, whether or not a quota prescribed under paragraph (1) of this subsection applies with respect to such animals;

(3) the season or other period of time within which animals may be taken; and

(4) the manner and locations in which animals may be taken.

(d) Limitations prescribed to carry out this section must be made on the record after opportunity for agency hearing, except that, in addition to any other requirements imposed by law with respect to agency rulemaking, the Secretary shall publish and make available to the public either before or concurrent with the publication of notice in the Federal Register of his intention to prescribe limitations under this section—

(1) a statement of the existing levels of the species and populations of the marine mammal concerned;

(2) a statement of the expected impact of the proposed limitations on such species or populations;

(3) a statement describing the evidence before the Secretary upon which he proposes to base such limitations; and

(4) any studies or recommendations made by, or for, the Secretary or the Marine Mammal Commission which relate to the establishment of such limitations.

(e) Any limitation prescribed pursuant to this section shall be periodically reviewed, and may be modified from time to time in such manner as the Secretary deems necessary to carry out the purposes of this Act.

(f) "Within six months from the date of enactment of this Act and every 12 months thereafter, the Secretary shall report to the public and the Congress on the current status of all marine mammal species and populations subject to the provisions of this Act. His report shall describe those actions taken and those measures believed necessary, including where appropriate, the establishment or removal of moratoria on taking, to assure the well-being of such marine mammals."

PERMITS

SEC. 103. (a) The Secretary may issue permits which authorize the taking of any marine mammal.

(b) Any permit issued under this section shall—

(1) be consistent with any applicable limitation established by the Secretary under section 102, and

(2) specify—

(A) the number and kind of animals which are authorized to be taken,

(B) the location and manner (which manner must be determined by the Secretary to be humane) in which they may be taken,

(C) the period during which the permit is valid, and

(D) any other terms or conditions which the Secretary deems appropriate.

In any case in which an application for a permit cites as a reason for the proposed taking the overpopulation of a particular species or population, the Secretary shall first consider whether or not it would be more desirable to transfer a number of animals (but not to exceed the number requested for taking in the application) of that species or population to a location not then inhabited by such species or population but previously inhabited by such species or population.

(c) Any permit issued by the Secretary which authorizes the taking of a marine mammal for purposes of display or scientific research shall specify, in addition to the conditions required by subsection (b) of this section, the methods of capture, supervision, care, and transportation which must be observed pursuant to and after such taking. Any person authorized to take a marine mammal for purposes of display or scientific research shall furnish to the Secretary a report on all activities carried out by him pursuant to that authority.

(d)(1) The Secretary shall prescribe such procedures as are necessary to carry out this section, including the form and manner in which application for permits may be made.

(2) The Secretary shall publish notice in the Federal Register of each application made for a permit under this section. Such notice shall invite the submission from interested parties, within 30 days after the date of the notice, of written data, views, or arguments with respect to the taking proposed in such application.

(3) The applicant for any permit under this section must demonstrate to the Secretary that the taking of any marine mammal under such permit will be consistent with the purposes of this Act and the applicable limitations established under section 102.

(4) Upon written request of any interested party, if such request is filed within thirty days after the date of publication of notice pursuant to paragraph (2), the Secretary may grant a hearing of record with respect to the application. If granted, such hearing shall be conducted on an expeditious basis.

(5) As soon as practicable (but not later than thirty days) after the close of the hearing or, if no hearing is held, after the last day on which data, views, and arguments may be submitted pursuant to paragraph (2), the Secretary shall (A) issue a permit containing such terms and conditions as he deems appropriate, or (B) shall deny issuance of a permit. Notice of the decision of the Secretary to issue or to deny any permit under this paragraph must be published in the Federal Register within ten days after the date of issuance or denial.

(6) Any applicant or party opposed to the permit may obtain judicial review of the terms and conditions of any permit issued by the Secretary under this section, or his refusal to issue such a permit. Such review, which shall be pursuant to chapter 7 of title 5, United States Code, may be initiated by filing a petition for review in the United States district court for the district wherein the plaintiff resides, or has his principal place of business, or in the United States District Court for the District of Columbia, within sixty days after the date on which such permit is issued or denied.

(e)(1) The Secretary may modify, suspend, or revoke in whole or part any permit issued by him under this section—

(A) in order to make any such permit consistent with any change made after the date of issuance of such permit with respect to any applicable limitation prescribed under section 102, or

(B) in any case in which a violation of the terms and conditions of the permit is found.

(2) Any modification, suspension, or revocation of a permit under this subsection shall

take effect without compensable interest at the time notice thereof is given to the permittee. The permittee shall then be granted opportunity for expeditious hearing by the Secretary with respect to such modification, suspension, or revocation. Any action taken by the Secretary after such a hearing is subject to judicial review on the same basis as is any action taken by him with respect to a permit application under paragraph (5).

(3) Notice of the modification, suspension, or revocation of any permit by the Secretary shall be published in the Federal Register within ten days from the date of the Secretary's decision.

(f) Any permit issued under this section must be in the possession of the person to whom it is issued (or an agent of such person) during—

(1) the time of the authorized taking;

(2) the period of any transit of such person or agent which is incident to such taking; and

(3) any other time while any marine mammal taken under such permit is in the possession of such person or agent.

A duplicate copy of the issued permit must be physically attached to the container, package, enclosure, or other means of containment, in which the marine mammal is placed for purposes of storage, transit, supervision, or care.

(g) No permit shall be issued pursuant to this section for the taking of any marine mammal during the sixty-day period commencing on the effective date of the initial limitations prescribed pursuant to section 102 with respect to the species or population concerned.

(h) The Secretary shall establish and charge a reasonable fee for permits issued under this section.

(i) Consistent with the limitations prescribed pursuant to section 102 and to the requirements of this section, the Secretary may issue general permits for the taking of marine mammals, together with regulations to cover the use of such general permits.

PENALTIES

SEC. 104. (a) Any person who violates any provision of this title or of any permit or regulation issued thereunder may be assessed a civil penalty by the Secretary of not more than $10,000 for each such violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Secretary for good cause shown. Upon any failure to pay a penalty assessed under this subsection, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action.

(b) Any person who knowingly violates any provision of this title or of any permit or regulation issued thereunder shall, upon conviction, be fined not more than $20,000, or imprisoned for not more than one year, or both. The Secretary of the Treasury shall pay to any person who furnishes information which leads to a conviction for violation of this subsection an amount equal to one-half of the fine incurred, but not to exceed $2,500 for each violation.

VESSEL FORFEITURE

SEC. 105. Any vessel or other conveyance subject to the jurisdiction of the United States that is employed in any manner in the unlawful taking of any marine mammal shall be subject to seizure and forfeiture. All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel, and the proceeds from the sale thereof, and the remission or mitigation of any such forfeiture, shall apply with respect to any vessel or other conveyance seized in connection with the unlawful taking of a marine mammal insofar as such provisions of law are applicable and not inconsistent with the provisions of this title. For the purposes of this section, the term "vessel" includes its tackle, apparel, furniture, appurtenances, cargo, and stores.

ENFORCEMENT

SEC. 106. (a) Except as otherwise provided in this title, the Secretary shall enforce the provisions of this title. The Secretary may utilize, by agreement, the personnel, services, and facilities of any other Federal agency for purposes of enforcing this title.

(b) The Secretary may also designate officers and employees of any State or of any possession of the United States to enforce the provisions of this title. When so designated, such officers and employees are authorized to function as Federal law enforcement agents for these purposes, but they shall not be held and considered as employees of the United States for the purposes of any laws administered by the Civil Service Commission.

(c) The judges of the United States district courts and the United States magistrates may, within their respective jurisdictions, upon proper oath or affirmation, showing probable cause, issue such warrants or other process, including warrants or other process issued in admiralty proceedings in United States district courts, as may be required for enforcement of this title and any regulations issued thereunder.

(d) Any person authorized by the Secretary to enforce this title may execute any warrant or process issued by any officer or court of competent jurisdiction for the enforcement of this title. Such person so authorized may, in addition to any other authority conferred by law—

(1) with or without warrant or other process, arrest any person committing in his presence or view a violation of this title or the regulations issued thereunder;

(2) with a warrant or other process or without a warrant, if he has reasonable cause to believe that a vessel or other conveyance subject to the jurisdiction of the United States or any person on board is in violation of any provision of this title or the regulations issued thereunder, to search such vessel or conveyance and to arrest such person;

(3) seize any vessel or other conveyance subject to the jurisdiction of the United States, together with its tackle, apparel, furniture, appurtenances, cargo, and stores, used or employed contrary to the provisions of this title or the regulations issued hereunder or which reasonably appears to have been so used or employed; and

(4) seize, whenever and wherever found, all marine mammals and marine mammal products taken or retained in violation of this title or the regulations issued thereunder and shall dispose of them in accordance with regulations prescribed by the Secretary.

(e)(1) Whenever any marine mammal or marine mammal product is seized pursuant to this section, the Secretary shall expedite any proceedings commenced under section 104(a) and (b). All marine mammals or marine mammal products so seized shall be held by any person authorized by the Secretary pending disposition of such proceedings. The owner or consignee of any such marine mammal or marine mammal product so seized shall, as soon as practicable following such seizure, be notified of that fact in accordance with regulations established by the Secretary.

(2) The Secretary may, with respect to any proceeding under section 104 (a) or (b), in lieu of holding any marine mammal or mammal product, permit the person concerned to post bond or other surety satisfactory to the Secretary pending the disposition of such proceeding.

(3)(A) Upon the assessment of any penalty pursuant to section 104(a), all marine mammals and marine mammal products seized in connection therewith may be proceeded against in any court of competent jurisdiction and forfeited to the Secretary for disposition by him in such manner as he deems appropriate.

(B) Upon conviction for violation of section 104(b), all marine mammals and marine mammal products seized in connection therewith shall be forfeited to the Secretary for disposition by him in such manner as he deems appropriate. Any other property or item so seized, in the discretion of the court, be forfeited to the United States or otherwise disposed of.

(4) If with respect to any marine mammal or marine mammal product so seized—

(A) a civil penalty is assessed under section 104(a) and no judicial action is commenced to obtain the forfeiture of such mammal or product within 30 days after such assessment, such marine mammal or marine mammal product shall be immediately returned to the owner or the consignee; or

(B) no conviction results from an alleged violation of section 104(b), such marine mammal or marine mammal product shall immediately be returned to the owner or consignee if the Secretary does not, within 30 days after the final disposition of the case involving such alleged violation, commence proceedings for the assessment of a civil penalty under section 104(a).

EXCEPTIONS FOR CERTAIN NATIVES

SEC. 107. (a) The provisions of this title shall not apply with respect to the taking of any marine mammal (other than a marine mammal classified as one belonging to an endangered species pursuant to the Endangered Species Conservation Act of 1969) by any Indian, Aleut, or Eskimo who dwells on the coast of the North Pacific Ocean or the Arctic Ocean if such taking—

(1) is for susbistence purposes and in accordance with traditional customs,

(2) is not accomplished in a wasteful manner, and

(3) is not done for purposes of direct or indirect commercial sale.

(b) Notwithstanding the provisions of this section, when, within the limits of State jurisdiction as set forth in this Act, the State of Alaska, or outside such limits the Secretary determines it to be in the interests of any species or stock of marine mammal, he may prescribe limitations upon the taking of such marine mammals by any Indian, Aleut, or Eskimo, described in subsection (a) of this section. Such limitations may be established with reference to species or stocks, geographical description of area included, season for taking, or any other basis related to the reason for establishing such limitations and consistent with the purposes of this Act. Such limitations shall be removed as soon as the need for their imposition has disappeared.

INTERNATIONAL PROGRAM

SEC. 108. The Secretary, through the Secretary of State, shall—

(1) encourage the entering into of bilateral or multilateral agreements with other nations for the protection and management of Pacific ocean and land regions which are of special significance to the well-being and stability of marine mammals;

(2) encourage the amendment of any existing international treaty for the protection of any species of marine mammal to which the United States is a party in order to make such treaty consistent with the purposes and policies of this title;

(3) seek the convening of an international ministerial meeting on marine mammals before July 1, 1973, and included in the business

of that meeting shall be (A) the signing of a binding international convention for the protection and management of marine mammals, and (B) the implementation of paragraph (2) of this section; and

(4) provide to the Congress by not later than one year after the date of the enactment of this Act a full report on the results of his efforts under this section.

COOPERATION WITH STATES

SEC. 109. (a) The Secretary is authorized and directed to review from time to time the laws and regulations of States relating to protection and management of marine mammals which primarily inhabit waters or lands within the boundaries of a State. With respect to those States concerning which the Secretary is satisfied, as a result of such review, that State laws and regulations are consistent with the policies and purposes of this Act, the provisions of this Act relating to such marine mammals, except the provisions of this section, section 107 and section 110, shall not apply.

(b) The Secretary is authorized to make grants to each State whose laws and regulations relating to protection and management of marine mammals which primarily inhabit waters or lands within the boundaries of that State are found to be consistent with the purposes and policies of this Act. The purpose of such grants shall be to assist such States in developing and implementing State programs for the protection and management of such marine mammals. Such grants shall not exceed 50 per centum of the costs of particular program development and implementation. To be eligible for such grants, State programs shall include planning and such specific activities, including but not limited to research, censusing, habitat acquisition and improvement, or law enforcement as the Secretary finds contribute to the purposes and policies of this Act. The Secretary may also, as a condition of any such grant, provide that state agencies report at regular intervals on the status of species and populations which are the subject of such grants.

(c) The Secretary is authorized and directed to enter into cooperative agreements with the appropriate officials of any State for the protection and management of marine mammals; except that any such arrangement must be consistent with the purposes and policies of this title.

(d) There are authorized to be appropriated for the fiscal year in which this section takes effect and for the next four fiscal years such sums as may be necessary to carry out this section.

MARINE MAMMAL RESEARCH GRANTS

SEC. 110. (a) The Secretary is authorized to make grants, or to provide financial assistance in such other form as he deems appropriate, to any Federal or State agency, public or private institution, or other person for the purpose of assisting such agency, institution, or person to undertake research in subjects which are relevant to the protection and management of marine mammals.

(b) Any grant or other financial assistance provided by the Secretary pursuant to this section shall be subject to such terms and conditions as the Secretary deems necessary to protect the interests of the United States.

(c) There are authorized to be appropriated for the fiscal year in which this section takes effect and for the next four fiscal years such sums as may be necessary to carry out this section.

REGULATIONS AND ADMINISTRATION

SEC. 111. (a) The Secretary, in consultation with any other Federal and state agency to the extent that such agency may be affected, shall prescribe such regulations as are necessary and appropriate to carry out the purposes of this title.

(b) Each Federal agency is authorized and directed to cooperate with the Secretary, in such manner as may be mutually agreeable, in carrying out the purposes of this title.

(c) The Secretary may enter into such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the purposes of this title and on such terms as he deems appropriate with any Federal or State agency, public or private institution, or other person.

(d) The Secretary shall review annually the operation of each program in which the United States participates involving the taking of marine mammals on land. If at any time the Secretary finds that any such program cannot be administered on lands owned by the United States or in which the United States has an interest and in a manner consistent with the purposes and policies of this Act, he shall suspend the operation of that program and shall forthwith submit to Congress his reasons for such suspension, together with recommendations for such legislation as he deems necessary and appropriate to resolve the problem.

APPLICATION TO OTHER TREATIES AND CONVENTIONS; REPEAL

SEC. 112. (a) The provisions of this title shall be deemed to be in addition to and not in contravention of the provisions of any existing international treaty or convention which may otherwise apply to the taking of marine mammals.

(b) The proviso to the Act entitled "An Act to repeal certain laws providing for the protection of sea lions in Alaska waters", approved June 16, 1934 (16 U.S.C. 659), is repealed.

AUTHORIZATIONS

SEC. 113. (a) There are authorized to be appropriated the sum of $1,500,000 for each of the five fiscal years following the date of enactment of this Act to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this title.

(b) There are authorized to be appropriated the sum of $700,000 for the fiscal year following the date of enactment of this Act and the sum of $525,000 for each of the next four fiscal years thereafter to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this title.

TITLE II—MARINE MAMMAL COMMISSION

ESTABLISHMENT OF COMMISSION

SEC. 201. (a) There is hereby established the Marine Mammal Commission (hereafter referred to in this title as the "Commission").

(b) (1) The Commission shall be composed of three members who shall be appointed by the President. The President shall make his selection from a list, submitted to him by the Chairman of the Council on Environmental Quality, of individuals knowledgeable in the fields of marine ecology and conservation and who are not in a position to profit from the taking of marine mammals. No member of the Commission may, during his period of service on the Commission, hold any other position as an officer or employee of the United States, except as a retired officer or retired civilian employee of the United States.

(2) The term of office for each member shall be three years; except that of the members initially appointed to the Commission, the term of one member shall be for one year, the term of one member shall be for two years, and the term of one member shall be for three years. A member may serve after the expiration of his term until his successor has taken office.

(c) The President shall designate a Chairman of the Commission (hereafter referred to in this title as the "Chairman") from among its members.

(d) Members of the Commission shall each be compensated at a rate equal to the daily equivalent of the rate of GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of duties vested in the Commission. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 573 of title 5, United States Code, for persons in Government service employed intermittently.

(3) The Commission shall have an Executive Director, who shall be appointed (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service) by the Chairman with the approval of the Commission and shall be paid at a rate not in excess of the rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code. The Executive Director shall have such duties as the Chairman may assign.

DUTIES OF COMMISSION

SEC. 202. (a) The Commission shall—

(1) undertake a complete review of the population dynamics of all marine mammals;

(2) not later than two years and six months after this Act goes into effect, report to the President and the Congress on its findings as to the population dynamics of marine mammals and make such recommendations as it deems wise as to the policies that should be pursued by the Government.

(3) recommend to the Secretary of State appropriate policies regarding existing international arrangements for the conservation of marine mammals;

(4) recommend to the Secretary such revisions of the Endangered Species List, authorized by the Endangered Species Conservation Act of 1969, as may be appropriate with regard to marine mammals; and

(b) The reports and recommendations which the Commission makes shall be matters of public record and shall be available to the public at all reasonable times. All other activities of the Commission shall be matters of public record and available to the public in accordance with the provisions of section 552 of title 5, United States Code.

COMMITTEE OF SCIENTIFIC ADVISORS ON MARINE MAMMALS

SEC. 203. (a) The Commission shall establish, within ninety days after its establishment, a Committee of Scientific Advisors on Marine Mammals (hereafter referred to in this title as the "Committee"). Such Committee shall consist of nine scientists knowledgeable in marine ecology and marine mammal affairs appointed by the Chairman with the advice of the Director of the National Science Foundation, the Chairman of the National Academy of Sciences, and the Secretary of the Smithsonian Institution.

(b) Members of the Committee shall each be compensated at a rate equal to the daily equivalent of the rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of duties vested in the Committee. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(c) The Commission shall consult with the Committee on all studies and recommendations which it may propose to make or has made, on research programs conducted or proposed to be conducted under the authority of this Act, an on all applications made pursuant to section 103 of this Act for permits for scientific research. Any recommendations made by the Committee or any of its members which are not adopted by the Commission shall be transmitted by the Commission to the appropriate Federal agency and to the appropriate committees

of Congress with a detailed explanation of the Commission's reasons for not accepting such recommendations.

COMMISSION REPORTS

SEC. 204. The Commission shall transmit to Congress, by January 31 of each year, a report which shall include—

(1) a description of the activities and accomplishments of the Commission during the immediately preceding year; and

(2) all the findings and recommendations made by and to the Commission pursuant to section 202, together with the responses made to these recommendations.

COORDINATION WITH OTHER FEDERAL AGENCIES

SEC. 205. The Commission shall have access to all studies and data compiled by Federal agencies regarding marine mammals. With the consent of the appropriate Secretary or Agency head, the Commission may also utilize the facilities or services of any Federal agency and shall take every feasible step to avoid duplication of research and to carry out the purposes of this Act.

ADMINISTRATION OF COMMISSION

SEC. 206. The Commission, in carrying out its responsibilities under this title, may—

(1) employ and fix the compensation of such personnel;

(2) acquire, furnish, and equip such office space;

(3) enter into such contracts or agreements with other organizations, both public and private;

(4) procure the services of such experts or consultants or an organization thereof as is authorized under section 3109 of title 5, United States Code (but at rates for individuals not to exceed $100 per diem); and

(5) incur such necessary expenses and exercise such other powers,

as are consistent with and reasonably required to perform its functions under this title. Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman and the Administrator of the General Services Administration.

AUTHORIZATIONS

SEC. 207. There are authorized to be appropriated for the fiscal year in which this title is enacted and for the next four fiscal years thereafter such sums as may be necessary to carry out this title, but the sums appropriated for any such year shall not exceed $1,000,000. Not less than three-fourths of the total amount of the sums appropriated pursuant to this section for any such year shall be expended on research and studies conducted under the authority of section 202(a)(2) and (3).

By Mr. ALLOTT:

S. 3162. A bill to permit American citizens to hold gold. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. ALLOTT. Mr. President, I send to the desk a bill to restore American citizens the right to hold gold.

I am not encouraging people to buy gold. Nor am I discouraging them. My purpose is to enable them to do so if they want to. The most important point here, and a point that is sufficient to justify this measure, is a simple libertarian principle: Unnecessary Government restrictions of rights are to be deplored.

Congressman PHILIP CRANE, of Illinois, has introduced a bill identical to this in the House of Representatives. This bill has attracted favorable comment and significant support. I would like to call special attention to a column by Prof. Milton Friedman. I ask unanimous consent to have this column printed in the RECORD at this point in my remarks.

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

[From Newsweek, Aug. 16, 1971]

MILTON FRIEDMAN ON GOLD

The West Coast Commodity Exchange recently initiated public trading in gold futures. The Exchange thought it had found a loophole in the Treasury Regulations issued under the Gold Reserve Act of 1934, which prohibits U.S. residents from owning, buying or selling gold except for industrial and numismatic purposes. The Treasury objected and after a few days the Exchange suspended trading. The matter will now be decided in the courts.

There never was, and there is not now, any valid reason to prohibit individuals from owning, buying or selling gold. Individuals should have the same right to trade in gold as they have to trade in silver, copper, aluminum or other commodities.

MISGUIDED LEGISLATION

It is widely believed that the prohibition had a valid monetary justification when it was first imposed. That is false. When President Roosevelt severed the link between the dollar and gold on March 6, 1933, the U.S. gold stock was higher relative to the total quantity of money than at any time since the Federal Reserve System was established in 1914. There was no major run on gold in 1933, separate from the run on banks which led holders of deposits to try to convert them into currency, including gold coin and gold certificates. FDR severed the link between the dollar and gold and then deliberately raised the price of gold—first in 1933 by manipulating the market and then in early 1934 by fixing the price at $35 an ounce under the Gold Reserve Act of 1934—in order to devalue the dollar relative to other currencies, and thereby raise the dollar prices of farm products and other internationally traded goods. He did not raise the price to protect a dwindling official stock of gold or in order to permit monetary expansion. The rise in the price of gold produced a flood of gold into the U.S. The U.S. gold stock more than tripled from 1934 to 1940.

Why then did President Roosevelt forbid the private ownership of gold and require all holders of gold to deliver their holdings to the government? This "nationalization" of gold was for one purpose and one purpose only: to keep private individuals from profiting by the rise in the dollar price of gold that the government deliberately engineered. Private holders of gold were required to turn their gold over to the U.S. Treasury at $20.67 an ounce when the market price was well above this sum.

This was an act of expropriation of private property in no way different in principle from Castro's nationalization of U.S.-owned factories and other properties without compensation or from Allende's nationalization of U.S.-owned copper mines in Chile at a price well below market value. As a nation, we do not have a leg to stand on when we object to these acts of expropriation. We did precisely the same thing to residents of the U.S.

Of course holders of gold resisted the expropriation. Those who held gold certificates were helpless, since the Treasury would no longer honor them. But those who held coin were in a different position. Of the gold coin estimated to be held by the public in February 1933 ($571 million), only half was ever turned in—and much of this was probably turned in by commercial banks whose holdings were a matter of official record.[1]

END THE PROHIBITION

Whatever arguments there might once have been for prohibiting the private ownership of gold, there are none today. The reduction in the monetary role of gold that President Roosevelt began has now been completed. Gold-reserve requirements for Federal Reserve notes and deposits have been abolished. The attempt to maintain the world market price of gold at $35 an ounce has been abandoned. There is a free market in London on which the price is currently more than $40 an ounce. The official price is wholly symbolic, and so is the monetary role of gold.

Congressman Philip Crane has introduced a bill repealing the prohibition on the ownership, purchase, or sale of gold by private individuals. That bill should be passed promptly. Let us end once and for all an utterly unnecessary and shameful, if niggling, restriction on individual freedom.

Mr. ALLOTT. Mr. President, I would like to point out two things about this column.

It was published in the issue of Newsweek dated August 16, 1971. It was written before the President's announcements of last August 15. Clearly Professor Friedman's argument, and the case for this bill, is strengthened as a result of the President's decision to officially "close the gold window."

In addition, When Professor Friedman wrote this column he noted that the price of gold on the free market had risen to over $40 per ounce. It is significant that, as I have already mentioned, recently the free market price of gold topped $50.

To my mind, there never has been any valid reason for denying individuals the right to own gold. There never has been a valid reason for treating gold any differently from peanut butter in this regard. And today the pointlessness of this ban on private ownership is particularly obvious.

On that day in 1934 when President Franklin Roosevelt ordered all Americans holding gold to turn it in to the Treasury, he allowed that reimbursement be paid at $20.67 per ounce. This in spite of the fact that the free market price of gold was well above that level. Frankly, that was expropriation of private property. It was no different in kind than that carried out against American property by the Governments of Castro's Cuba or Allende's Chile.

Franklin Roosevelt imposed this ban for one and only one purpose. He wanted to devalue the dollar; he wanted to do this by raising the price of gold; and he

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[1] To maintain the fiction that the law had been obeyed, the official statistics were "revised" to exclude the $287 million not turned in, on the ground that this amount must have been lost, destroyed, exported without record or held in numismatic collections. In its official statistics, the Federal Reserve System went so far as to subtract this amount from its estimates of the quantity of money all the way back to 1914. This revision cannot be justified. It can be demonstrated conclusively that the maximum error on this score was trivial. Accordingly, in estimates of the U.S. money stock made by Anna J. Schwartz and myself, we have eliminated the spurious revision.

wanted to prevent persons holding gold from profiting from this move.

Now I, for one, can see no earthly reason why people should not have been permitted to make a profit. And I certainly regret the fact that Roosevelt went so far as to, in effect, nationalize gold.

Admittedly, some of those holding gold in 1934 were speculating. But since when is speculating a crime? More to the point, since when is speculation necessarily antisocial? I think speculation against the value of the dollar by Americans holding gold back would be a public service. If Americans bought gold to speculate with, it would work like this. They would decide that the value of the dollar was declining; thus official devaluation might be coming; thus the dollar price of gold would be going up. But such speculation, aside from being a right of all free men, is also an early warning system for the economy. Such speculation gives us what governments often will not give us—that is, it gives us an objective reading of public confidence in the strength of the dollar. And we would remember that the strength of the dollar is no more than the strength of the economy.

That is why I want to restore the right to own gold.

Anyway, this is a right which is effectively denied only to the common man. The rich can afford to assert this right against the law, and they are doing so constantly. Many hold gold overseas in numbered Swiss bank accounts. Others hoard it here at home illegally. The point is that those who can afford to travel can and do get around the prohibition against private ownership of gold. For example, many Americans are going to Mexican and Canadian banks, paying for gold with certified checks, and keeping the gold in safe deposit boxes in the countries in which they buy it. Thus the effect of the rule against owning gold falls unevenly—indeed exclusively—on those who lack substantial means.

Frankly, I do not know what the immediate consequences of passage of this bill would be in terms of gold purchases. I am confident that the consequences could not be bad. They might be very good for the mining industry, and for the Nation. But I am sure of one other thing: We do not need to look for excuses to restore a right to the American people.

The U.S. Government, operating under both parties, has not yet devised a method of curbing inflation. Moreover, it is very clear, to me, at least, that the spending of the Federal Government is the main cause of inflation. Private ownership of gold would be one way the common man could hedge against inflation. The Government has no right to deny citizens the ability to hold gold to protect themselves against an inflation which governments start, and which governments cannot cure.

Gold is a good investment. It has a 5,000-year history of universal acceptance as a medium of exchange—which is a lot longer, and better record than the battered American dollar. I do not think many people will want to avail themselves of the option of holding gold as a hedge against inflation. This is additional assurance that the bill I am proposing would not cause a cataclysmic upheaval in the gold markets of the world. But there is a good chance that it would be a salutary stimulus to the mining industry.

In 1971, supplies of newly mined gold went down and demand went up. Primary gold produced in the United States supplied less than 25 percent of the U.S. consumption; the remainder was supplied by imports.

Domestic gold production dropped in 1971, mainly because of the copper strike, which lowered byproduct gold output. An estimated 1.5 million ounces was mined compared with 1.74 million ounces in 1970. Net imports of gold, mostly for industrial use, rose somewhat and totaled about 6 million ounces in 1971 compared with 5.6 mililon ounces in 1970.

Consumption apparently was higher in 1971 and was estimated at 6.5 million ounces, or nearly 10 percent more than in 1970, based on data for the first half. Increased use in jewelry, arts, and dentistry contributed to the rise, while use in industrial, space, and defense products declined.

Speculative interests in gold have been strong in recent months, as evidenced by the swing in free market price from a 1971 low of $37.85 an ounce in January 1971 to around $40 in June and on to the recent high of now $50.

With world supply and demand for new gold believed to be nearly in balance, forthcoming monetary decisions would appear to exert much influence over speculative price swings.

But the bill I am proposing can at least make possible a more steady source of support for domestic gold mining.

I understand that there will be some opposition to this measure. But two things are clear.

First, there will be no opposition coming from the American people themselves. Those citizens who want to exercise the right to hold gold will thank us for restoring this right to them. Those who are not interested in exercising this right at the moment will have no reason to object to people exercising it.

Second, those who wish to oppose it should be prepared to explain why they do so, and why these reasons, whatever they are, are so compelling as to override the libertarian position I have mentioned. More precisely, those who oppose this bill on the ground that its passage would interfere with whatever international monetary system they prefer, should be prepared to answer at least four questions, including:

First. Why, is their international monetary system preferable if it requires unusual restraints only upon American citizens?

Second. How do they know that the exercise of the right restored by this bill will be on a scale and in a direction such as to have whatever undesirable consequences they claim to be able to foresee?

Third. Presumably if Americans exercise this right on a large scale, this behavior will tell us something. Is it not possible that it will tell us something we need to know?

Fourth. Is it not time we discarded an outmoded practice which is not only a general excision from the liberty of Americans, but which is also a direct disadvantage to a vital industry, the American mining industry?

Mr. President, since announcing my intention to introduce this bill I have received a surprising and gratifying number of supporting communications, from Colorado and elsewhere. I am convinced that there is significant interest in this measure. I hope it will receive prompt and favorable attention by the Congress.

By Mr. NELSON:

S. 3163. A bill to amend the Federal Food, Drug, and Cosmetic Act, relating to food additives. Referred to the Committee on Labor and Public Welfare.

FOOD PROTECTION ACT OF 1972

Mr. NELSON. Mr. President, people are finally waking up to the fact that the average American daily diet is substantially adulterated with unnecessary and poisonous chemicals and frequently filled with neutral, nonnutritious substances. We are being chemically medicated against our will and cheated of food value by low nutrition foods. It is time to take a careful look at the prolific use of additives permeating our food.

The purpose of this bill, the Food Protection Act of 1972, is to prohibit the use of additives unless they are adequately proven to be safe, effective and to have a demonstrable benefit.

The bill would broaden the authority of the Food and Drug Administration over the regulation of food additives, in the areas of testing, factory inspection, and registration of producers. It would authorize third-party testing of all additives instead of requiring FDA to rely upon the tests of the producer.

It would require the Federal Government to set nutritional standards for food.

The goal of the legislation is to eliminate the use of unsafe, untested and unnecessary chemicals in the food supply.

The provisions in the bill, requiring proof of "necessity" as well as safety and effectiveness for approval of additives, are based on the recommendations of the 1970 White House Conference on Food, Nutrition, and Health. The conference report states:

INTRODUCTION OF NEW CHEMICALS

The ever-widening technological revolution has tremendously increased the number of new chemical materials offered for use in the food industry. Thus, it is advisable to develop guidelines for the determination of the acceptability of new chemicals for food use. These guidelines should be based on the concept that new additions to the chemical components of our food supply should have important reasons for their use.

Recommendation: In view of the fact that it is not possible to determine with absolute certainty the safety of the ever-increasing number of chemicals added to or present in our foods, and taking into account the possible interaction of these chemicals with each other or natural food constituents, no additional chemicals should be permitted in or on foods unless:

They have been shown with reasonable cer-

tainty to be safe on the basis of the best scientific procedures available for the evaluation of safety and meet one or more of the following criteria:

1. They have been shown by appropriate test to be significantly less toxic than food additives currently employed for the same purpose.
2. They significantly improve the quality or acceptability of the food.
3. Their use results in a significant increase in the food supply.
4. They improve the nutritive value of the food.
5. Their use results in a decrease in the cost of food to the consumer.

There are roughly 1,000 chemicals that are used directly in food as food additives. Another 2,000 chemicals infiltrate food through packaging materials or other indirect contacts. The use of chemicals as food additives has more than doubled from an estimated 419 million pounds in 1955 to an estimated 1,060 billion pounds today, according to the industry. The industry says the average American eats five pounds of additives every year. In 1970, the FDA received 476 new applications for food additives. Sixty-two were approved, 148 rejected. In 1971, the FDA received 110 new food additive applications, and approved 51.

These chemicals are used as stabilizers, preservatives, disinfectants, antioxidants, extenders, tenderizers, emulsifiers, growth promoters, bleaches, sweeteners, conditioners, colors, and flavors.

The problem promises to get worse unless curbs are put on the use of food chemicals now.

According to two papers presented at the 161st American Chemical Society meeting in 1971—one by an industry representative and one by a consultant to the industry—the food additives business is expected to boom in the next 10 years. These papers reported that food additive sales at the present time amount to $500 million a year, and that sales are expected to reach $756 million by 1980. The consultant projected the following growth trends in use of food additives by 1980—not necesasrily of new chemicals: flavoring materials, 50 percent growth in use; stabilizers, 50 percent growth; surfactants, 40 percent growth; flavor enhancers or potentiators, 100 percent growth—monosodium glutamate as a flavor enhancer—assidulants, 60 percent growth; synthetic sweeteners and bitter agents, 60 percent growth; antioxidants, 100 percent growth; and preservatives, 67 percent.

The American public at the present time is a testing ground for many of these agents that have not been adequately examined for safety.

The American public is becoming as concerned about the uncontrolled contamination of food as it is about the contamination of the environment.

Judging by the letters that come into my office from all over the country, people are disenchanted and angry about the proliferation of chemicals in the food supply. "Please clean up our food," is the cry.

Public concern is evidenced by the rising interest in organically grown, or health foods. Health food store owners report that every time the FDA issues a warning about a food substance, the health food business booms.

As scientists increasingly discover harmful effects of chemical additives that previously were considered safe, the public loses more and more confidence in the regulatory agency that approves these substances for consumption.

In addition to those deliberately added, there are other chemicals creeping into food from pesticides, herbicides, fertilizers, packaging materials, animal feeds, air and water pollution.

The scientific community is concerned about the long-range, accumulative effects of all these chemicals on the human genetic structure, about the effects on the unborn and about the synergistic effects of chemicals in combination—interactions between chemicals may produce harmful results. For example, many processed meats, such as bologna and sausages, contain the commonly used preservatives, nitrates and nitrites, which produce the red color in the meat. Recent tests show that these additives produce cancer-causing agents—called nitrosamines—when they react with other chemicals in food or in the body.

The list grows daily of chemicals that are discovered to have harmful effects. They include cyclamates, saccharin, monsodium glutamate, bha and bht—antioxidants, restricted in Britain, where they are banned from baby foods—red color No. 2, brominated oils—in fruit and soft drinks—sodium benzoate and benzoic acid—which the State of Wisconsin has banned from many foods sold in the State—diethylstylbestrol—DES—a cancer-causing hormone added to animal feeds. Many of these chemicals have been banned or restricted by other nations, or condemned by the United Nations' World Health Organization and Food and Agriculture Organization—FAO.

Many of them were "generally recognized as safe" under a 1958 amendment to the Food, Drug, and Cosmetics Act, and were included among 600 chemicals on the "gras" list, thus exempt from testing and clearance by the FDA. They include: 30 preservatives; 28 antioxidants to retard the breakdown of fats and oils and keep shortenings from turning rancid; 44 sequestrants to tie up trace elements in foods; 31 stabilizers for uniform texture; 85 surfactants, or wetting agents. Cyclamates have been banned from all foods, MSG has been voluntarily removed from baby foods, saccharin has been removed from the "gras" list and is under study. Nitrates and nitrites are on the "gras" list. These examples point up the loophole created by that section in the law.

The FDA is reviewing the "gras" list and expects to test a number of substances. Most of them still remain in common use, however.

Another bill that I have introduced—S. 76—would eliminate the "gras" list exemption and expand the Delaney amendment to forbid the use of additives that not only are found to cause cancer, but may also cause birth defects, genetic changes and long-range biological problems.

While the scientific evidence mounts against many food chemicals, the food and chemical industry seeks approval for even more additives. The USDA has proposed adding another additive to hot dogs, already full of potentially harmful substances. The color fixative, sodium acid pyrophosphate—SAP—is akin to phosphoric acid—toxic. The USDA says SAP would accelerate development of rosy red color, and thus cut production time by 25 to 40 percent.

CONVENIENCE, PROCESSED FOODS

This brings us to the crux of the situation: economics. The profits of the food industry are being placed above the public health as regards the safety, nutrition and necessity of food additives. Synthetic and convenience foods mean high profits and greater market control for the food industry. Additives mean that foods can be manufactured at low costs, shipped long distances, and remain on shelves longer.

Many processed foods are not "real food" at all, but a combination of chemicals. On an educational television program, it was demonstrated that a commercially marketed frozen lemon cream pie actually was composed of chemicals—no lemon, no cream, no flour.

In 1970, for the first time, Americans spent more money for processed, convenience, snack, and franchised foods than for fresh foods.

This rapid increase in processed and convenience foods has caused the FDA to consider setting standards for nutritional quality of these products, and the FTC to investigate advertising claims of nutrition in synthetic food products.

Additives cut costs to the manufacturer, but not necessarily to the consumer. A package of "instant eggs," with the equivalent of two eggs, costs $.30, compared to an average of $.05 for one real egg. The consumer is paying three times as much per package for powdered eggs than he would pay for two eggs.

The food industry had $139.2 billion in sales in 1971, a 63 percent growth since 1960. It is the Nation's largest and fastest growing business. The managing editor of the trade magazine, Food Engineering, Leonard Trauberman, has said:

Convenience foods have contributed more than anything else to the growth of the food industry.

In World War II, there were approximately 1,500 items on supermarket shelves. Today, there are approximately 32,000, of which an average supermarket stocks about 7,000 to 8,000. Some 7,000 new products appear on the market every year, and about 5,000 products are dropped.

The trade magazines emphasize convenience foods and new additives which make them possible. Some examples of advertisements read:

Out of the laboratory comes (a synthetic) dehydrated cheese. (It) gives you real cheddar taste at a greatly reduced unit cost.

Partial or complete replacement of corn grits in direct-expansion snacks is possible with the use of a coarse-form modified starch from (a chemical company).

Any potato product processed with (a chemical company's sodium acid pyrophosphate (SAP) preserves the natural color.

A fabulous new food . . . TVP (textured vegetable protein) . . . could hardly look or taste better . . . or be more economical. It

is available in granular, chunk, dice, strip and chip forms. It comes unseasoned, or with flavoring of almost any kind—meaty, nutty, tangy, salty, even fruit flavors. Easy to handle and to store and completely controlled in texture, flavor and color, TVP is exceptionally well suited for institutional feeding and restaurants. It's an excellent enrichment for casseroles, snacks, stews, gravies, ground meats and many convenience foods. Find out more about this fabulous new food. . . about the profit-making opportunities it affords.

Our red coloring looks so natural you'd swear it grew on a vine.

Time to increase profits! (A stabilizer) reduces cooling period required before cutting fruit pies.

One trade magazine advertised a seminar thusly:

Now ingredients and additives suppliers can reduce significantly the risk involved in selling in this vast 5 billion dollar market.

Food additives are big business. The chemical and drug industries have joined the food industry in a food-industrial complex that the FDA is supposed to regulate.

The result is a proliferation of food chemicals that are unnecessary, an unknown number that are unsafe, many of them untested, and most of them poorly monitored, at best.

NECESSITY

A major goal of this bill is to reduce the number of unnecessary chemicals. The bill would require that all additives be proven to be safe, effective for their intended use, and to have a demonstrable benefit or are unavoidable by good manufacturing practices for use under the conditions prescribed. The chemical should serve a socially and economically useful purpose for the general population. If it does not, there is no reason to risk potential hazards without matching benefits. There is no reason to introduce additional chemicals into the food supply when already approved, safe, and effective alternatives are available. One USDA scientist has told me that the 700 flavor chemicals—the largest group of additives—currently approved for use, many without testing, might be reduced to some 30 chemicals, which could produce the same results.

Dr. Jean Mayer of Harvard University, President Nixon's Adviser on Nutrition, has said:

We can live perfectly well without additives.

Ogden Johnson, head of the FDA's Division of Nutrition, has said:

If the additive has no definite benefit, why use it at all?

FDA Commissioner Charles Edwards has stated:

If I am reading consumer complaints correctly, among other things, they are saying that at least for some foods, there must be a positive gain or benefit in the food, or, in the case of food additives, there must be a positive reason for its use.

Commissioner Edwards testified before the House Subcommittee on Intergovernmental Relations of the Government Operations Committee on March 16, 1971:

It will be recalled that [at the time the Food Additives Amendment was under consideration in 1958] tht FDA was then urging the Congress to provide in the amendment that no additive should be permitted unless it had some "functional value". This would have enabled the agency to exercise a judgment as to whether an additive was useful, as well as safe, before permitting it. The law as worded did not so provide, but instead allowed safe additives that had been shown to accomplish the intended physical or other technical effect. The Congressional committees explained that the usefulness of an additive should be determined in the marketplace and not by FDA.

This bill would correct that loophole, by extending the concept of functional value, or necessity, to food additives. Under present law, only proof of safety is required for food additives.

Testing. The burden of proof that an additive is safe rests largely on industry's word, under present law.

The FDA conducts some tests on food additives, but admits that, because of manpower shortages and fiscal needs, it relies heavily on summary assurances by food and chemical companies that additives are safe, without checking raw test data.

For all intents and purposes, under the present law, the FDA has relinquished the control of food additives to the food and chemical industries.

As Commissioner Edwards described the present law before the House Subcommittee on Intergovernmental Relations March 16, 1971:

The primary purpose of the food additives amendment (PL 85-929) to the Food, Drug, and Cosmetic Act was to place upon the producers and users of food additives, rather than the government, the burden of proving the safety of all such substances. Prior to enactment of this amendment's . . . it was necessary for the government to prove in court that the substance was poisonous or deleterious.

This bill would enable the FDA to better check the industry's applications for additives before approving the substances for use.

Food and chemical company spokesmen went so far as to state in February 1971:

It should be clear that industry has the right to make its own decisions on the status of any substance whether or not the FDA has listed it and that it is under no obligation to request the FDA to express an opinion on unlisted materials.

The substance of their view was that industry has the right to add chemicals to food without advising the Government.

Dr. Jack Schubert, professor of radiation health at the University of Pittsburgh, in a speech before the Federal Bar Association's Food and Drug Law Committee November 24, 1969, stated that industry testing "cannot be trusted," because firms "withhold data" and do not look for things they do not want to find. He said that no food additives that do not "have sufficient benefit" should be cleared without testing, and he recommended "that the testing of food additives be done by laboratories set up by the Government but supported by the industry."

The lab tests on which FDA bases approval of additives are conducted by the additive producer or by laboratories that rely on the food or chemical industry for their business.

This bill is designed to correct that conflict of interest. It would expand the FDA's testing authority to require that additives be tested by independent, third-party laboratories. The FDA would assign additives to the labs, and the sponsors of substances to be tested would pay for the testing.

The bill also defines more clearly what is meant by "experts qualified by scientific training and experience," who will conduct testing and upon whose judgment decisions for approval are made. It would require the Secretary of Health, Education, and Welfare to set standards for such experts and to certify them.

This approach would minimize special-interest influence on testing and upgrade the quality of testing, by freeing laboratories of financial dependency on the food and food additive industry. It also would reduce the pressure on Government regulatory agencies to acecpt one-sided testing data.

SUMMARY

In short, the main objective of the legislation is to reduce the use of unnecessary food chemicals, and to insure greater safety through more thorough testing than now exists.

In addition, the bill requires that HEW set standards for nutritional quality of food products. This is already being undertaken by the FDA for processed and convenience foods, such as frozen meals. The FDA also is experimenting with nutritional labeling.

Improving the quality of our food products, however, will not occur through labeling. The problem of safer food must begin at the production stage, not on the supermarket shelves.

If the food industry controls the market, it controls what we eat. Consumers will buy what is on the shelves. The product must be safe from harmful chemicals and nutritious when it reaches the market.

I believe that the number of chemicals used for food processing can be drastically reduced to a few effective substances.

I believe that it is time to find out which of the chemicals we are ingesting daily are safe from toxicity and long-range harmful effects, and how they react with other chemicals affecting the human body. I believe that food can be colored, doctored, flavored, fattened, preserved, stabilized, and spiced with fewer chemicals than are currently in use.

We are what we eat. Our children are what we eat. It is time that we regained some control over what we eat.

Mr. President, I ask unanimous consent that several articles describing the food additives situation be printed at this point in the RECORD.

I also ask unanimous consent that the text and an analysis of the bill 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. 3163

A bill to amend the Federal Food, Drug, and Cosmetic Act, relating to food additives

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

SHORT TITLE

SECTION 1. This Act shall be known as the "Food Protection Act of 1972".

FOOD ADDITIVE TESTING

SEC. 2. Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding immediately after section 409 a new section as follows:

"TESTING OF FOOD ADDITIVES

"SEC. 410. (a)(1) The Secretary shall be responsible for all tests or investigations conducted on all new food additives submitted to him for approval under this Act for the purpose of determining whether or not such additives may be used in food, and shall be responsible for having new tests or investigations conducted on additives which have been approved prior to the enactment of this section, in order to determine whether or not approval of such additives should be withdrawn.

"(2) The Secretary, in carrying out the provisions of paragraph (1), shall not conduct tests or investigations, but shall contract with qualified individuals, organizations, or institutions to conduct such tests or investigations.

"(b) Whenever the Secretary receives an application from any person for approval of a new food additive pursuant to this section, he shall, as soon as practicable, provide for the necessary testing or investigation of such food additive.

"(c) It shall be the responsibility of the Secretary to insure that the testing or investigation of such food additive is conducted by experts (certified by the Secretary in accordance with rules and regulations promulgated by him) qualified to investigate and evaluate the safety and effectiveness of food additives. In the preparation of specifications for the conducting of tests or investigations of any food additive under this section, the Secretary shall consider the food in or on which the additive is proposed to be used and shall consider, among other relevant factors, those factors prescribed in section 409(c)(5).

"(d) In any case in which the Secretary determines that a period of more than one year is necessary to develop the necessary data to support or deny approval of any food additive for which approval has been requested, he shall notify the applicant to that effect and indicate the amount of additional time needed for such purpose.

"(e) The sponsor of any food additive submitted to the Secretary for testing and investigation shall, upon request, be provided with the pertinent facts relating to the testing or investigation of the food additive, including the procedures being used in such testing or investigating. If the sponsor objects to the manner, scope, or procedures used by the Secretary in testing, evaluating, or investigating the food additive, or a determination made under subsection (d), he may notify the Secretary of his objections and request a hearing on the record to adjudicate the matter.

"(f) Whenever a food additive has been submitted to the Secretary by a sponsor for approval, the sponsor, at his own expense, shall make available such amount of the food additive and the food in or on which such additive is proposed to be used as the Secretary determines is necessary for adequate testing and investigation.

"(g) The testing or evaulation of any food additive shall be terminated as promptly as practicable by the Secretary upon receipt by him of a written request from the sponsor of such food additive to discontinue such testing or investigation; and the sponsor shall be liable for the payment of all costs attributable to the termination of such testing or investigation.

"(h)(1) The sponsor of any new food additive submitted to the Secretary for testing or investigation under this section shall be liable for the direct costs incurred in carrying out such testing or investigation. The Secretary shall prescribe by regulation the manner in which charges shall be computed for the testing or investigation of any food additive.

"(2) If any amount of the charges for testing or investigating a food additive under this section is unpaid after the due date thereof, as prescribed by regulations, interest shall accrue thereon at the rate of 6 per centum per annum. Past due charges and interest thereon shall be recoverable by civil action brought in the name of the United States in the appropriate district court of the United States.

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

"(j) A request by the sponsor of any food additive for termination of the testing or investigation of such food additive at any time prior to one year from the date such food additive was submitted to the Secretary for testing shall constitute sufficient basis for the denial of approval for such food additive.

"(k) Nothing in this section shall be construed as prohibiting the sponsor of any food additive from conducting tests or investigations with such food additive in accordance with other provisions of this Act.

"(l) The results of all tests and investigations conducted under this section with any new food additive shall be made public by the Secretary in accordance with section 552 of title 5, United States Code."

SEC. 3. (a) Section 301 of such Act is amended by adding to the end thereof the following new subsections:

"(q) The introduction or delivery for introduction into interstate commerce of any food additive, color additive, or any food containing a food additive or color additive, which has not been proven to be safe, effective, and necessary in accordance with procedures established and results approved by the Secretary, in the production of food, or unavoidable by good manufacturing practices for use under the conditions prescribed."

(b) Section 409(a) of such Act is amended by renumbering clauses (1) and (2) as (2) and (3), respectively, and inserting a new clause (1) as follows:

"(1) it has been tested or investigated pursuant to section 410 and approved by the Secretary for its intended use;".

(c) Section 409(c)(2) is amended by inserting before the period at the end thereof the following:

", but in any case where testing or investigation is required under section 410 the provisions of that section shall apply".

(d) Section 510(b) of such Act is amended by inserting after the word "drugs" the following "or of a food additive or food additives".

(e) Section 704(a) of such Act is amended by—

(1) inserting in clause (1) after the word "food,", each time it appears therein, the words "food additives".

(2) inserting in the second sentence after the word "which" the first time it appears therein, the following: "food, food additives, or".

SEC. 4. (a) Section 401 of such Act is amended by inserting after the word "container" the first time it appears therein a comma and the following: "and reasonable standards of nutritional value".

(b) Secton 402(c) of such Act is amended by inserting before the period at the end thereof the following: "or which is unnecessary for the maintenance of the nutritional value or preservation of such food".

(c) Section 403(e) of such Act is amended by striking out "and" at the end of clause (1) and striking out the colon preceding the proviso in clause (2) and inserting in lieu thereof the following: "; and (3) an accurate statement of the nutritional value of the contents:".

SECTION-BY-SECTION ANALYSIS OF FOOD ADDITIVES BILL

SEC. 1. Title: The "Food Protection Act of 1972."

SEC. 2. Food additive testing.

Amends Chapter IV of the Food, Drug and Cosmetic Act, giving HEW authority and responsibility for all tests or investigations conducted on all new food additives submitted for approval for use in food. The Secretary shall also be responsible for having new tests conducted on additives that were approved prior to enactment of this bill, to determine whether they should be withdrawn.

The Secretary shall contract with qualified third-party laboratories to conduct such tests.

Such tests shall be conducted by experts certified by the Secretary.

Sponsor of food additives for testing may receive pertinent facts relating to the testing procedure, and, if he objects to the procedures, may request a hearing on the matter.

Sponsor shall provide the necessary material for testing, and shall pay all costs of testing, with charges to be recoverable by civil action if unpaid after the due date.

Secretary may use services and facilities of any other agency in the federal government and of any institution, organization, or individual for testing.

Sponsor may request termination of testing prior to one year from date of application, which request shall constitute sufficient basis for denial of approval of such additive.

Nothing prohibits sponsor of any additive from conducting tests of his own.

The results of tests conducted under this section shall be made public.

SEC. 3. Prohibited acts, registration of producers, factory inspection.

A new section added to Sec. 301 of the Food, Drug and Cosmetic Act prohibits the introduction or delivery for introduction into interstate commerce of any food, food additive or color additive or food containing additives that have not been proven to be safe, effective and necessary in accordance with procedures established and results approved by the Secretary, in the production of food, or unavoidable by good manufacturing practices for use under the conditions prescribed.

Extends of Sec. 704(a) of the Food, Drug and Cosmetic Act to allow any factory, warehouse or establishment in which food additives are manufactured, processed, packed or held to be inspected by HEW employees.

SEC. 4. Nutrition standards.

Nutritional value is added to definitions and standards for food, under Sections 401, 402(c) and 403(e) of the Food, Drug and Cosmetic Act. The Secretary shall set reasonable standards of nutritional value for food.

THE FUTURE OF CHEMICAL ADDITIVES IN FOODS—THE 1970'S—A PERIOD OF CHALLENGE AND CHANGE FOR FOOD ADDITIVES

(By Richard L. Hughes)

The prior speakers at this symposium—Drs. Wodicka, Hall, Blake, and Barnes—have already touched on the major trends which will determine the future of chemical additives in foods. These include changes in consumer life styles and expansion of demand for convenience foods; consumerism and regulatory pressures for increased additive safety and nutritional value; current and anticipated research and product development efforts; and expected additive usage patterns of food processors. All these trends

have implications for the potential market for additives, and we shall explore them.

But first, it seems important to define what we mean by the term chemical food additive. For the purposes of this talk only—in contrast to the legal Food & Drug Act definition and to various definitions which apply in other situations—a chemical food additive is here defined as any substance which is not considered to be a natural part of a particular food and which is intentionally added to the food by a processor before it is consumed. The major additives thus covered by this definition include flavorings, stabilizers and thickeners, surfactants, antioxidants, flavor enhancers-potentiators, acidulants, food colors, basic taste chemicals, preservatives, enzymes, and a number of smaller classifications, such as sequestrants. This market-oriented definition is quite broad in that it includes both established GRAS substances and wholly new chemicals used in foods including for our projection some yet undiscovered. It does not, however, cover unintentional additives, such as chemicals which migrate from packaging; basic ingredients, such as sugar and flour; or condiments.

IMPACT OF CHANGES IN FOOD CONSUMPTION PATTERNS ON ADDITIVE USAGE

Changing U.S. economic and demographic factors are having substantial impact on food consumption patterns. Gross National Product (GNP) is projected to grow through 1980 at an average annual rate of 4%, exclusive of inflation. Not only is population expected to grow by more than 1% per year, but the age distribution in the population will change. Nearly 50% of the population will be under 24 years' old in 1980, and those of family-formation age (18–34) will constitute the largest single group of consumers. Moreover, median gross family income and particularly discretionary income are also expected to grow and free funds for purchase of non-essentials.

Total demand for foods should expand, with major growth in products designed for young, imaginative, efficiency-oriented consumers. Increased leisure time (contributed by a shorter work week) should expand the consumption of exotic foods and meals away from home, and the growth in number of working housewives should increase demand for easily prepared and prepared foods. This means greater use of acceptable substitutes for staple items to satisfy basic nutritional and caloric requirements without sacrificing variety and satisfaction.

The food industry is not only growing, but is already changing in response to these social and economic pressures. More attention has been focused in the retail market on new convenience foods which are closer to table readiness than previous products. Even now, we can see a decline in consumption of potatoes and butter as a result of substitution of rice and margarine. (However, there has been growth in use of fabricated potato products.) In addition, the increased consumption of foods in institutions, such as restaurants, schools, hospitals, etc., has caused greater emphasis on reducing their labor costs for food preparation, and thus increased use of prepared foods. Many traditional food products have been modified to support these developments, and in these changes greater use has been made of additives.

A review of any shelf in the supermarket gives ample evidence that most grocery products sold today—with the possible exception of eggs, produce, and fresh meat—contain some intentional chemical additives. The types of additives and their concentrations do vary with the different food products, generally in proportion to the degree of processing involved.

There are many different reasons for using additives, and a single product may use additives for several purposes. The basic functions of additives are to make preparation of a particular product easier either for the processor or the consumer, to keep the particular formulation stable, to extend its shelf life, and/or to improve the product's flavor, texture, nutritional contribution, and/or appearance. Such products are designed to satisfy specific consumer needs.

The trend toward "manufactured"—low-calorie and diet supplement—foods may prove just the first step toward increased additive consumption. Already processed foods, particularly the ready-to-eat foods, provide the largest market for additives. Additives are used to replace the vitamins and minerals lost in processing. They provide flavoring systems to imitate or supplement some of the limited natural flavors. The antioxidants prevent spoilage of fatty foods and salad oil. Preservatives offer protection against mold and bacteria thereby increasing shelf life. Stabilizers and emulsifiers provide the necessary properties for keeping the ingredients in a formula from separating. It is noteworthy that five categories—carbonated beverages, confectionery, processed meats, frozen desserts, and baked goods—account for about one-quarter of the retail dollar spent on foods and about one-half of additive usage.

At the Third International Congress of Food Science and Technology held in Washington, D.C., in August 1970, today's second speaker, Dr. Richard Hall of McCormick & Company, released one of the major conclusions of a survey of the food industry: two thirds of the foods Americans will consume by 1985 are expected to be in forms and derived from sources not familiar to the public today. More table-ready or formulated foods will be used. The success of the new breakfast foods—initially cold cereals and later a range of prefabricated food products such as Carnation Instant Breakfast®—are significant examples. Further, the growing consumption of such items as the nondairy whipped toppings and creamers, the increasing research on meatless meats, the ready-to-eat single-serving canned puddings, and the packaged pastry items for use in the toaster indicate the potential expansion of demand which can be anticipated for additives. Long-term sales success of an additive depends upon fulfilling a true need in a food product. Additive usage in food formulation today more accurately reflects a critical evaluation of the usefulness of the additive.

It is easy for people to state that these products will not taste as good or will not be as good as mother used to make, but mother doesn't want to spend the time to make the products. This important factor will be the key point seized upon by those firms hoping to take advantage of opportunities in the food additive field.

EFFECT OF CONSUMERISM ON ADDITIVE USAGE

There is a great deal of public confusion about whether chemical additives in foods are good or bad. Some insist that they provide a unique function essential for today's food industry. Others state that certain food chemicals are clearly hazardous to humans, are suspect, or at best are needless additions designed to deceive the food purchaser. Additives do fill necessary functions, but it is possible that use of some compounds should be limited. The questions raised by consumer advocates concerning the long-term safety of all additives are serious and important, and should be explored. These are real needs for additives and critical review if done on a rational basis could provide the springboard for increased use in the future as the doubts are removed. It may be that some additives will be limited or removed particularly if they do not meet the safety/utility review. Such actions we believe will lead to the development of specific additives designed for selective use for which their safety/utility index will allow adequate pricing.

However, consumer action groups' demands for absolute safety in any case are unenforceable. No food manufacturer or supplier which is investing significant funds in the development of a product wants to harm anyone; everyone wants to formulate with safe ingredients. But the fact is nothing is absolutely safe. For example, most of the recent focus on food safety has been directed to chemical additives with the inference not only that chemicals per se are not natural components of foods, but that fresh organically grown raw materials are of their very nature safe. Foods, however, are composed of many different chemical substances, and safety cannot be defined solely in terms of intentional and unintentional additive content. Natural foods in themselves can prove toxic to the consumer. (For example, cases are known of poisoning by lima beans with high glycoside content which yield hydrogen cyanide on digestion.) Also "natural cooking processes" used for generations can become suspect. (Demographic studies of high Scandinavian incidence of stomach cancer indicate to some a tie to consumption of smoked fish.) In fact, over the long term, as public sophistication about nutrition grows, pressures may be exerted for subtraction of undesirable chemicals from "natural" foods and replacement with safer additives.

One of the most distressing aspects of the publicity recently focused on chemical additives has been conviction of guilt by inference. For example, monosodium glutamate has been dropped by baby food manufacturers even though the FDA has stated that it was safe for use. There are, however, signs that the credibility of consumer advocates may diminish as a result of "over-kill", but not rapidly enough to make a difference in the next 10 years. It does appear likely that the number and variety of additives allowed in U.S. foods may be constricted to some degree as a result of "consumerist" pressures. Probably they will not fall to the low levels that prevail in the other industralized countries or the developing nations, which tend to follow the fairly narrow lines of the *Codex Alimentarius* of the United Nations. However, the GRAS concept is not likely to survive another 10 years. On the other hand, while the Delaney Amendment probably will not be repealed or substantially modified, it might well be adjusted in practice through a more realistic interpretation of safety.

What is needed now, and perhaps hopefully will evolve in the next few years, is a reasonable basis for deciding which additives can be used where and at what concentration level. (Of course, while careful testing of a product may indicate long-term safety, special problems can arise which will invalidate earlier findings.) It would seem that a society so sophisticated as that in the United States today should be able to develop a workable, scientifically valid method that would also be capable of re-assuring consumers. At the present time, all we can do is recognize the lack of an accepted standard and to consider its possible future implications.

RESEARCH ON AND DEVELOPMENT OF ADDITIVES

Product safety has special significance for the seller of food additives. Unfavorable FLA findings on the safety of any of its current additives could limit its product line and/or would require funding of additional tests to determine the limits which should be imposed upon that additive. Of even greater impact is the fact that any firm attempting to develop new additives will be forced to do

more testing than in the past. When a company develops an additive never used before in human foods, it must petition the FDA for approval. The petition must include extensive evidence of safety from tests with laboratory animals, and increasingly a different type of testing to show the functionality or value of the particular compound. The testing procedures required can become quite extensive and expensive. The total cost of developing a new food additive has been estiimated at from $100,000 to $500,000; some say the average cost is at least a quarter of a million dollars.

However, as expensive as this work will be, new additives will be needed for the new food products that the food industry would like to develop. Many in the food industry have a strong desire for new additives to replace present additives with more efficient food chemicals. Today's concern about additive safety is focused more on older GRAS substances than on new food chemicals because the recently introduced additives have been tested and specifically approved by the FDA. Thus there is strong feeling that continuing work will be devoted to developing new additives and that very definite opportunities and needs exist for such additives.

As indicated by the speaker this morning, additives specifically developed for the food market have, however, been few—MSG, citric acid and the cyclamates are the notable exceptions. Most have been simply relatively small secondary applications for industrial chemicals. Nonfood dollars paid for their development. In recent years, more research has been devoted specifically to finding food chemicals. However, the economic slowdown has had an impact on the funding of research in many firms, both within the food industry and among suppliers to the industry, such as those selling additives. Thus reductions in funding of the R&D can be expected to have a negative impact on the development of new products. Further, with increasing publicity concerning the safety of existing additives, much food process or R&D work may be directed to product reformulation for incorporation of "safer" additives or elimination of additives adversely mentioned in the lay press. Such R&D activities naturally would tend to limit the exploration of additives for new products.

ADDITIVE USAGE BY THE FOOD INDUSTRY

The food industry historically has been conservative and slow to change. Most processors equate new additives with change, and any change in an established brand is considered bad. Thus most innovations, particularly in the use of additives, have been stimulated by the suppliers. The lead time before widespread acceptance of a successful new additive can be 10 or so years. New additives are used and evaluated primarily for new products, although some are incorporated in existing products, generally because customary agents are unavailable. Thus, the potential for inclusion of new additives in an established product exists only if the current formulation is no longer possible as a result of Federal restrictions or if one ingredient is no longer available because of raw material shortages.

Moreover, even when developing a new product, the food industry tends to incorporate established additives rather than compound their development problems by working with two variables simultaneously. Thus new food products tend to be built utilizing additives which have achieved Federal approval and about which the food scientists' knowledge and experience are sufficient to avoid problems, particularly with stability and shelf life. The current review of those items considered GRAS in the past would tend to change this overwhelming reliance on old additives by the food industry. However, if the review of the GRAS items does support the safety of a particular compound then I would assume it would be pretty firmly entrenched in future compounding. Obviously, the current GRAS review is important to analyze in considering any opportunities in food addition.

Generally, food processors are also more reluctant to use chemical additives than in the past. But, on the other hand, they feel that they are unable to formulate products to meet the demands of the marketplace without using chemical additives. As a vice president in charge of technology of a leading food manufacturer has stated, it is almost impossible to conceived of meeting the demands of a country like ours without food additives. Therefore, though processors will tend to be more selective in their use of additives—and this is the critical statement—we believe they will continue to use additives at an increasing rate.

In the future, the food industry will seek out food chemical firms which are more knowledgeable of its total needs and which will develop additives specifically for use in foods particularly for well-defined applications. Thus interested suppliers will need to cooperate quite closely with food technologists so they can respond more effectively to food companies' needs. We believe such companies will set up specific activities structured to service the food industry more fully and that these programs will be managed by those knowledgeable of the food industry's needs and problems. This increase in suppliers' investment will be rewarded because successfully developed additives will be able to command premium prices, significant markets, and a long life-span in the marketplace. Food processors will enjoy increased revenue from banded specialized formulated foods and thus be able to pay much higher prices than when commodity goods pricing policies dictate their selection of particular additives.

No one can doubt that the 70's will be a period of change in additive use. While some of the changes may be quite restrictive to some suppliers and food companies, a system could be developed which would enable the use of additives by the food industry and, in turn, by the consumer with confidence. It has been our belief that the food industry's imagination and determination in developing new products will result in greater use of additives in the future, and the opportunity for both new types of additives and traditional food chemicals.

THE OUTLOOK FOR ADDITIVES

We estimate the present level of U.S. usage of chemical additives in foods by manufacturers is about $500 million per year. It is difficult to quantify the pounds of additives this represents because, as you know, many of the materials vary tremendously in pricing per unit. We estimate that this represents slightly above one billion pounds of additives, or roughly five pounds per capita.

As a result of the changes in consumers' shopping patterns, over one half of the foods sold in 1980 are expected to be prepared foods containing additives. Growth in additive usage thus probably will exceed forecasted population growth. We anticipate the per capita consumption of additives to reach six pounds in 1980. The following table presents our estimates of the 1970 sales and 1980 demand for additives (Table I). The projected growth to $756 million in additive sales indicates a very attractive potential market for food chemicals but in selective areas. It is impossible to predict the outcome of any regulatory review and we have assumed that there will be no new major change in the policy of the FDA.

TABLE I.—DEMAND FOR FOOD ADDITIVES, CURRENT AND PROJECTED VALUE

[Dollars in Million]

	1970	1980
Flavorings	$150.0	$225.0
Stabilizers, thickeners	100.0	150.0
Surfactants	50.0	70.0
Antioxidants	22.0	45.0
Flavor enhancers-potentiators	24.0	45.0
Acidulants	30.0	48.0
Food colors	20.0	32.0
Basic taste chemicals	20.0	32.0
Preservatives	15.0	25.0
Enzymes	20.0	25.0
Nutrient supplements	10.0	15.0
Miscellaneous [1]	24.0	44.0
Total	485.0	756.0

[1] Includes sequestrants, leavening agents, sorbitol, yeast foods, dough conditioners and calcium stearate.

Source: Arthur D. Little, Inc. estimates.

We believe major gains will be seen in flavorings ($75), stabilizers ($50), antioxidants ($23), surfactants ($20), flavor enhancers ($21), and acidulants ($18). Then six categories will account for about three-quarters of the gain. Others are basic taste chemicals ($15), coloring ($12), preservatives ($10), enzymes ($5), nutrients ($5), and miscellaneous ($20).

Flavoring materials, the largest additive category in terms of dollar volume, consist of diverse spices, essential oils, synthetic organics in addition to the flavoring systems sold by flavor companies. Our estimates measure flavoring systems. Sales of spices, oleoresins and other natural products such as cocoa and vanilla, etc., represent another $225 million. Although flavoring materials have been traditionally used for centuries, synthetic substances identical with natural flavors and originally developed purely synthetic materials also have important roles. We anticipate that the increasing demands for specific flavoring materials will result in greater production of synthetic replicas of natural flavors (natural supplies are limited) and, thus, a higher growth rate than for natural materials. According to our current understanding of regulatory activities, the safety of natural flavor substances is to be thoroughly reviewed. In some cases purification or production of substitutes for possibly toxic materials may be required. However, it should not be inferred that the fate of all natural flavoring substances is uncertain—the majority will undoubtedly survive any conceivable screening procedure. Total sales volume for flavoring materials is expected to increase by 50% from $150 to $225 million from 1970 to 1980.

Stabilizers and thickeners are used in foods for a number of reasons (bodying agents to prevent separations of oil and solid phases of semi-solid and liquid food, and binders in dry and semi-solid foods), and include natural, chemically purified, and chemically modified gums and polymers. Alginates, carrageenan, CMC (Na), gum arabic, locust bean gum, guar gum, pectin, gelatin, and modified starches amounted to about 300 million pounds in sales volume in 1970. Not including new products, a 50% increase in demand for stabilizers is expected during the next decade with future sales estimated at $150 million. Because of their natural origin, these additives are highly variable in composition; and some present solubility problems. There is no universal stabilizer/thickener, and we believe it represents a promising new product area, particularly in view of recent still minor

questions raised about the safety of both natural and synthetic materials, carrageenan, guar, several other gums, and CMC. One potential subject for stabilizer research would be the hydrophilic polymers.

The food-permitted *surfactants* include both natural and synthetic materials. Sales of mono- and diglycerides, distilled monoglycerides, TweenR and SpanR, lecithin, and various specialties sold for food applications in 1970 were about $50 million and we anticipate a 40% growth in demand from 1970 to 1980. Often used in conjunction with stabilizers and thickeners, and commonly used in new developments of specialty foods and nondairy creamers, in addition to widespread use in bread, cakes, ice cream, and shortenings, they have a variety of purposes, a principal one being to lower surface tension and to aid in dispersion of oil droplets and fine particles of solid materials in aqueous or other media. While the safety of SpanR and TweenR has been established by toxicity and feeding tests, questions which might lead to some restriction on their use as well as that of mono- and diglycerides have recently arisen. Lecithin, however, is a natural product isolated from soybeans; so no crisis appears imminent.

Flavor enhancers and potentiators are used to supplement flavoring materials in processed foods and beverages. The major product in use is MSG with a small volume of 5'-nucleotides and maltol sold for certain applications. The safety of MSG has been questioned, and after intensive investigation FDA has stated that it is safe in the common manner of use. Manufacturers of baby foods have made a voluntary decision to discontinue its use in the face of unfavorable publicity. Often because of the variety of products available, other raw materials might be useful in selected protein-rich foods and might find wide acceptance. Perhaps more noteworthy is the need for an enhancer for cereals and other high carbohydrate foods. Unpleasant starchy and sour tastes found in flour, cereal grains, etc., need to be resolved. Malt extracts are no longer satisfactory as a result of a recent change in characteristics. We project sales will nearly double to $45 million over the period 1970 to 1980 and believe new products could represent a substantial volume.

Most *acidulants*, though originally obtained from natural sources, are now also available in synthetic forms. They are used in a variety of applications as flavoring agents, buffers, preservatives, synergists to antioxidants, viscosity modifiers, melting modifiers, and meat curing agents. Sales of common acidulants—citric, phosphoric, fumaric, lactic, adipic, tartaric, and malic acids were about $30 million (well over 100 million pounds) in 1970 and we expect demand for acidulants not including any new products to grow by 60% over the next decade.

Basic taste chemicals consist of synthetic sweeteners and bitter agents. Since cyclamates have been withdrawn, the only major synthetic sweetener on the market is saccharin. Now saccharin is being reviewed. If it is removed from the market food processors will be left without any apparent viable substitute for the near future. The U.S. Department of Agriculture does have under development (in Pasadena) a potential new product, dihydrochalcones, obtained from citrus fruit. One of its forms is said to be seven times as sweet as saccharin and to have no bitter aftertaste. However, this product evidently will require several years' additional safety testing before introduction can be considered. Additionally, G. D. Searle is investigating a new material which is reported to be a very useful sweetening agent without calories. Some preliminary data has been very encouraging concerning its effect in foods and the company is optimistic about obtaining permission to market the compound in the future. Because of the regulatory problems and possible new questions, the $20 million sales volume for basic taste chemicals could drop rapidly. However, we believe the future market will be 60% higher as new products are introduced and questions on existing agents are resolved.

Of the other additive categories, the *antioxidants* are perhaps the most vulnerable to FDA action and also present the largest opportunity for new products. Antioxidants also present sharper focusing on a key question on all additives. Are they necessary? Some contend Good Manufacturing Practices make the use of antioxidants unnecessary and that their presence encourages loose tolerances. Many companies, however, believe they are insurances to prevent deterioration of the product before consumers use it. Perhaps dating of foods will influence the future use of antioxidants and the controversy may stimulate new developments. Currently available ones can only be used in very small amounts because higher levels are toxic and/or contribute objectionable taste. They are also limited in solubility. Better preservatives are constantly needed as well. Nutrient supplements show a mixed picture: increased demand for enrichment, on the one hand, and closer FDA definition of allowable levels, on the other.

In view of the widespread publicity received by some food chemicals in the past two years and considering all that has been written and said, one could well ask if this does not pretty well dispose of the whole future outlook for food chemicals and additives. The answer is "no". The ground rules will be changed and both supplier and user will reexamine their criteria for judging the need for using a given ingredient, its real effectiveness and its safety. They will experience the same readjustment now going on in the drug industry to qualify both new and old products with new evidence of safety and effectiveness. The food processor will review his formulations questioning the absolute need for each chemical additive and will use new criteria to prove necessity and utility. As with the reassessment of safety and effectiveness of drugs these procedures may stimulate more basic research on food formulation and food processing with the possibility of contributing a new impetus to marketing.

We believe that a critical review of the rationale for use of food chemicals is not totally a negative venture. The majority of things commonly used over a period of years will undoubtedly survive any reasonable test of safety. The mere process of screening and evaluating will undoubtedly lead to new discoveries and would greatly stimulate research toward procurement of more suitable and effective food chemicals. Past experience suggests that our food and chemical industries will adjust themselves to these problems and will discover new approaches. Additive suppliers and food manufacturers should expect constant public pressures for proof of safety, efficacy, and nutritional value over the next 10 years. However, it can be a decade of opportunity for those suppliers whose research efforts have led to more effective, safer compounds with specific application.

[From Nature, November 28, 1970]

CONTROL OF CHEMICAL POLLUTANTS

(By Samuel S. Epstein)

THE chemical environmental consists of three primary compartments—air, water and soil—in a state of dynamic equilibrium. Although a particular pollutant may be initially distributed chiefly in one primary compartment, general translocation may ensue, especially for persistent pollutants. Food—a secondary compartment—reflects possible contributions from air, water or soil.

Although the word pollutant is often restricted to synthetic industrial chemicals, there is a wide range of other important pollutants; these fit into four broad categories. The first group consists of natural chemicals in excess, and includes nitrates which are normal dietary components. At high concentrations in food or water, nitrates can cause metahemoglobinaemia in infants. Also, nitrites, as reduction products of nitrates, may interact *in vitro or in vivo* with secondary amines to form nitrosamines, some of them carcinogenic, teratogenic and/or mutagenic in microgram doses.[1] Natural fungal or plant toxins in crops comprise the second group, of which aflatoxins and cycasins are notable examples. The yields of these toxins can generally be considerably influenced by technological factors, such as conditions of collection, storage and processing. The third group consists of complex organic and inorganic mixtures, such as air and water pollutants, which comprise a wide range of undefined components. Finally, there is the group of synthetic chemicals—agricultural chemicals, notably pesticides and fertilizers; food additives, intentional, such as antioxidants, or accidental, such as pesticides; fuel additives; household chemicals; industrial chemicals; and in a somewhat specialized class, therapeutic and prophylactic drugs and drugs of abuse

Pollutants can have a wide range of adverse biological effects, generically and collectively termed toxicity. Acute or chronic toxicity *per se* may be expressed in foetal, neonatal, perinatal, childhood or adult life in effects ranging from impairment of health and fitness to mortality. More specific manifestations of chronic toxicity include carcinogenicity, teratogenicity and mutagenicity. The possibility that chronic toxicity is also manifest in immunological impairment or psychological disorders has yet to be explored.

Some pollutants produce any one or more of these types of toxicity, and they or their chemical precursors may also interact *in vitro* and *in vivo* to produce otherwise unanticipated synergistic toxicity.

The need to use many synthetic industrial chemicals makes it essential to recognize and estimate the hazards they pose and their acceptability with regard to the benefits they confer. The cost of one malformed child, based on remedial and custodial care alone and excluding deprivation of earnings, has been estimated recently to be about $250,000.[2] Such costing is clearly impossible for genetic hazards, the scope of the effects of which in future generations cannot be predicted. Hazards from a particular synthetic chemical need not be accepted even when matching benefits seem to be high, for equally efficacious non-hazardous alternatives are usually available. The criterion of efficacy, once extended from therapeutic drugs to other synthetic chemicals, such as food additives and pesticides, may well simplify such equations, especially for hazards from synthetic chemicals with no demonstrable benefits for the general population.

CAUSE FOR CONCERN

There is little doubt that many diseases hitherto regarded as spontaneous are caused by environmental pollutants. This fear is heightened by the exponential increase in human exposure to new synthetic chemicals which, in general, are inadequately characterized toxicologically, quite apart from ecological effects.

There is growing recognition that most human cancers are probably caused by chemical carcinogens in the environment, so that they are ultimately preventable. There is also increasing interest in the role of chemical carcinogens in activating tumour-producing viruses. Epidemiological studies have revealed wide geographical variations in the incidence

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of cancer of various organs in the general population. Two major classes of environmental carcinogens can be identified. First, potent carcinogens, such as aflatoxins and nitrosamines, which can produce cancer in experimental animals, even in the very low concentrations which have been found in foods. Identification of these carcinogens in foods has encouraged attempts to link their distribution with local pattern of cancer incidence. Second, there are weak carcinogens, such as atmospheric pollutants, certain pesticides and food additives, with effects that easily escape detection by conventional biological tests. Furthermore, because such weak carcinogens are unlikely to be clearly implicated epidemiologically, they may be as dangerous as more obvious carcinogens.

Chemical mutagens in the environment present hazards which have not yet been quantitated, although sensitive and practical mammalian test systems are available. A report of the genetic section of the National Institutes of Health states [3]: "There is reason to fear that some chemicals may constitute as important a risk as radiation, possibly a more serious one". The report further states: "Recent investigations have revealed chemical compounds that are highly mutagenic in experimental organisms, in concentrations that are not toxic and that have no overt effect on fertility . . .".

Ethyleneimines are good examples of highly mutagenic chemicals with many industrial uses. Another mutagen in common use in trimethylphosphate,[4] which is added to gasoline in concentrations of 0.25 g/gallon to control surface ignition and spark plug fouling. It is difficult, however, to estimate mutagenic hazards to the general population in the absence of information about the concentration of unreacted trimethylphosphate and of biologically active pyrolysis products in automobile exhaust.

Mutations can have diverse deleterious effects. Dominant mutations express themselves immediately as early foetal deaths or by abnormalities such as achondroplasia, polydactyly, retinoblastoma and sterility. Recessive mutations, such as albinism, Fanconi anaemia, amaurotic idiocy, and phenylketonuria, may be unexpressed for many generations; more likely, the major effects on increased rates of mutation would be less obvious and spread over many generations [3 5].

The incidence of human congenital malformations is unknown in the absence of a comprehensive national registry; it has been variously estimated as reaching as much as 3–4 per cent of total live births. The three major categories of human teratogens identified so far are viral infections, X-irradiation and chemicals such as mercurials and thalidomide. Although the teratogenicity of various chemicals has been recognized experimentally for several decades, only after the thalidomide disaster of 1962 were legislative requirements for teratogenicity testing established.

PREDICTING AND MONITORING ADVERSE EFFECTS

Persistent chemicals, chemical and metabolic derivatives of less persistent chemicals, and their pyrolytic products, should be detected and monitored in the environment, and in body fluids or tissues of plants, animals and man. Selectively, only chemicals with known or presumed toxicological relevance should be monitored.

Pollutants to which man is exposed must be tested for acute and chronic toxicity *per se*, and also for the more specific effects of carcinogenicity, teratogenicity and mutagenicity. Routes of test administration should reflect human exposure.[5] For pesticides, for example, tests should include respiratory as well as oral exposure; respiratory exposure is of particular human significance where aerosols and vapours are concerned. The literature on pesticides contains no data from chronic inhalation tests. For carcinogenicity, teratogenicity and mutagenicity, pollutants must be tested in concentrations greater than those to which humans are usually exposed [5]; for this purpose maximally tolerated doses are recommended as the highest dose in dose-response studies. Testing with large doses is essential in the attempt to reduce the gross insensitivity imposed on animal tests by the small size of samples routinely tested; for example, fifty or so rats or mice per dose per chemical, compared with the millions of humans at presumptive risks [5 6]. As an illustration, assume that man is as sensitive to a particular carcinogen or teratogen as the rat or mouse; assume further that this particular agent will produce cancer or teratogenic effects in 1/10,000 humans exposed. Then the chances of detecting this in groups of fifty rats or mice, tested at the usual levels of human exposure, would be very low.[6] Indeed, 10,000 rats or mice would be required to yield one cancer or teratogenic event, apart from any spontaneous occurrences; for significance; perhaps 30,000 rodents would be needed. Of course, in any particular instance, humans may be less or more sensitive than rodents to the chemical in question; there is thus no valid and conservative basis for the prediction of relative sensitivitives. Thus, meclizine, an antihistamine drug used for treating morning sickness, is teratogenic in the rat but not apparently in the few women studied.[7 8] By contrast the lowest effective human teratogenic dose of thalidomide is 0.5 mg/kg/day; the corresponding values for the mouse, rat, dog and hamster are 30, 50, 100 and 350 mg/kg/day respectively.[9] Similar considerations obtain for certain aromatic amines, for example 2-naphthylamine, which are potent bladder carcinogens for man and dogs, but not for rats, mice, guineapigs and rabbits.[10] Thus to predict a safe level for thalidomide or 2-naphthylamine, from rodent data or from derived mathematical models, would expose humans to grossly unwarranted hazards.

Apart from the insensitivity of animal test systems and the impossibility of gauging human sensitivity of animal tests, ample data on interactions between carcinogens further confirm that it is not possible to predict safe levels of carcinogens based on an arbitrary fraction of the lowest effective animal dose in a particular experimental situation. As the US Secretary of Health, Education and Welfare, A. Flemming, stated ten years ago,[11] ". . . Scientifically there is no way to determine a safe level for a substance known to produce cancer in animals". Similar considerations hold for teratogens and mutagens. Thus the production of hepatomas in trout by feeding as little as 0.4 parts per billion of aflatoxin B_1 is sharply enhanced by addition of various non-carcinogenic oils to the diet,[12] Similarly, the carcinogenicity for mouse skin of low concentrations of benzo[*a*]pyrene and benz[*a*]anthracene is increased a thousandfold by the use of the non-carcinogenic *n*-dodecane as a solvent.[13] Intratracheal instillation of benzo[*a*]pyrene and ferric oxide in adult hamsters elicited a high incidence of squamous cancer of the lung only in animals pretreated at birth with a single dose of diethylnitrosamine at the part per million level (unpublished data of R. Montesano and U. Saffiotti); although diethylnitrosamine is a potent carcinogen, conventional testing at this level would not have induced lung tumours. Such considerations underlie the 1958 Delaney amendment to the Federal Food, Drug and Cosmetic Act, which imposes zero tolerances for carcinogenic food additives.

It must also be emphasized that testing with large doses does not produce false positive carcinogenic results. There is no basis for the contention that all chemicals are carcinogenic in large doses. For example, in the recent Bionetics study, sponsored by the National Cancer Institute, about 140 pesticides were tested orally in mice of both sexes and strains in maximally tolerated doses from the seventh day of life until death at 18 months; less than 10 per cent of these pesticides were carcinogenics.[5 14] Experimental finding carcinogenicity in synthetic industrial chemicals, such as pesticides and food additives, is unusual. Once carcinogenicity has been determined, similarly efficacious but non-carcinogenic alternatives are usually available; for example, "Methoxychlor" can replace the persistent and carcinogenic DDT. Moreover, the efficacy of DDT for its major functions in the USA—control of cotton insects—is now questionable because of the resistance of the pests.[15] These considerations apply all the more to carcinogenic synthetic chemicals, such as cyclamates, that are virtually useless for the general population.[6]

Fortunately, recent recogntion of genetic hazards due to chemicals has been paralleled by the development of various tests for mutagenicity.[5] Sub-mammalian test organisms—bacteria, *Neurospora*, yeasts, plants and *Drosophila*—help elucidate basic mechanisms. But in view of the wide metabolic and biochemical discrepancies between these systems and man, sub-mammalian tests should be used to provide data ancillary to more relevant test systems. Of these, three *in vivo* mammalian tests are practical and sensitive—*in vivo* cytogenetics, host-mediated assay, and dominant lethal assay; results can be extrapolated to man with some confidence.[5]

Ideally and minimally, two mammalian species should be tested for toxicity *per se*, carcinogenicity, mutagenicity and teratogenicity. In certain circumstances, when there is specific information that the rodent metabolism of the chemical pollutant in question is qualitatively different from that in humans, other species such as pigs and sub-human primates may also be tested. Reliance on small numbers of pigs or primates is no substitute for conventional rodent tests and may even mislead.

Even when toxicologic testing is well planned and executed, it is likely that unexpected adverse effects from a restricted number of pollutants will be seen in man, reflecting the insensitivity or unsuitability of the animal tests. Epidemiological surveys of human and animal populations may provide *post hoc* information about geographical or temporal clusters of unusual types or frequencies of adverse effects after exposure to undetected or untested pollutants in the environment. Epidemiological techniques reveal trends or fluctuations in mortality, morbidity or disease patterns. Usually, differentials in levels of exposure to pollutants exist in the general population; epidemiology might then correlate particular toxic effects with particular pollutants. Such a relationship is, however, more difficult to establish when exposure differentials are minimal, as with a food additive consumed by the general population at not widely dissimilar levels. Logistic considerations, however, apart from inadequate current surveillance systems, may limit the utility of this approach. Disquietingly, no major known human teratogen—X-rays, German measles, mercury or thalidomide—has been identified by prospective epidemiological analyses, even in industrialized countries with good medical facilities.[5]

CRITICAL QUESTIONS

Before a new synthetic chemical can be distributed into the environment, questions as to the efficacy, identity and safety must be answered satisfactorily; similar questions should be asked about many existing chemical pollutants. Does the chemical in question serve a socially and economically useful purpose for the general population? If not,

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why introduce it and accept potential hazards without general matching benefits? Such considerations clearly apply to the use of monosodium glutamate in baby foods, and cyclamates for the public at large. The self-evident need for efficacy, now generally accepted for drugs, should be extended to all synthetic chemicals. These concepts were emphasized at the recent White House conference on nutrition, where it was recommended that food additives be banned from products unless they either significantly improve the quality or nutritive value of the food or lower the cost of food.[16]

Synthetic chemicals, their concentrations and impurities should be clearly identified in fuels, foods, pesticides, household and all other formulations. Standards for drugs are maintained in most countries on the national level and by the World Health Organization in the *International Pharmacopoeia*. Similar national and international specifications and registers would be highly desirable for all other categories of synthetic chemicals. Exemption of particular products from labeling requirements creates unfortunate precedents and unpredictable toxicological situations.

Besides clear identification of the chemical in question, information about its chemical and pyrolytic products and its metabolites is essential for reasonable attempts to anticipate adverse effects. Such data should also permit realistic monitoring in the environment and in animals and in man. Illustratively, the pesticide "Captan" degrades, possibly to thiophosgene, within seconds of contact with serum[5]; monitoring "Captan" in man or animals is thus inappropriate. Again, polychlorophenols, which are major industrial and agricultural chemicals, yield stable and persistent dibenzodioxins when heated [17]. Some dioxins are highly toxic and teratogenic at the $\mu g/kg$ level; most dioxins are, however, toxicologically uncharacterized [17]. Nitrilotriacetic acid has been proposed as an alternative detergent builder to polyphosphates in an attempt to reduce cultural eutrophication in lakes and rivers; the current annual usage of phosphates in detergents in the United States is approximately 2 billion pounds. Recent objections to this include the absence of data on intermediate pathways and reaction products of the biodegradation of nitrilotriacetic acid [18].

Predictions of safety should be based on systematic toxicology—acute and chronic toxicity *per se*, carcinogenicity, teratogenicity and mutagenicity—by appropriate routes of administration in two or more species. Additionally, the development of model ecological studies is critical for predictions of environmental safety—an approach which has been barely explored so far.

After the criteria of efficacy, identity and safety have been satisfied, the new agent may be introduced into the environment. Still, the possibility of error due to the insensitivity or unsuitability of toxicological testing must be recognized. Such a contingency can be minimized *post hoc* by ecological, monitoring and epidemiological studies. Monitoring of levels of chemicals or chemical or metabolic degradation products in the environment, and/or in body fluids or tissues, presupposes the existence of data on the relevance of a particular chemical pollutant to a particular adverse biological effect. Epidemiological surveys should relate to populations at high risk, apart from the general population.

RECOMMENDATIONS

Data on safety should be collated and distributed nationally and then internationally. These data on efficacy, chemical identity, toxicology, monitoring and epidemiology for any chemical should be integrated, correlated, disseminated and stored in a manner suitable for rapid access. Various registries deal with different but isolated aspects of these requirements.

There are evident needs for funding and developing widely expanded facilities and multidisciplinary training and research programmes concerned with environmental problems in university, independent, national, federal and industrial laboratories. Specialized information services will have to be expanded or developed for the identification and dissemination of environmental data.

There are critical needs for enforcing existing legislation, and for developing new and comprehensive legislation, transcending existing agency responsibilities, relating to the imposition of standards that must be met before the introduction of any new synthetic chemical into the environment or the use of any technological innovation with general environmental implications. For chemicals, these criteria should cover labelling, identity and concentration of the parent chemical, its degradation and metabolic products, its efficacy and safety—including toxicity *per se*, carcinogenicity, mutagenicity and teratogenicity. Protocols for testing should be published in the *Federal Register*, and be subject to periodic review. These criteria should also be applied to any synthetic chemical in current use for which new alternatives are proposed. Progress reports and data from such tests should properly belong to the public domain.

A large backlog of synthetic chemicals now in use has never been adequately evaluated toxicologically. These include the approximately 600 food additives on the *Generally Recognized as Safe* (GRAS) list of the US Food and Drug Administration apart from the other additives for which petitions have not been formally submitted and which have been treated *de facto* as being on the GRAS list. It was made clear recently that GRAS additives such as monosodium glutamate and cyclamates that have been used in the past are not necessarily safe. These additives should be thoroughly evaluated toxicologically in the near future. New legislation may be required for this purpose. The financial onus for such evaluation should devolve on manufacturers of the products; a reasonable period, for example 3 years, for the continued use of the additives should be allowed, pending completion of tests.

Further legislation concerning access of data is critically needed. All formal discussions between agencies, industry and expert committees on all issues relating to human safety and environmental quality, and all data relevant to such discussions, must be made public. Records, including clear statements, by all concerned, of possible conflicts of interest, should be immediately available to the scientific community and to anybody else concerned. Appropriate legal safeguards for the protection of patent rights should be developed. In addition to open access of data on all issues of public health and welfare, it is essential that consumer interests be adequately represented, legally and scientifically, at formal stages of these discussions. Decisions by agencies on technological innovations or new synthetic chemicals after closed discussions of data which have been treated confidentially are unacceptable. Consumer safety apart, such decisions are contrary to the long term interests of industry, which should be protected from perforce belated objections.

For these reasons, the Delaney amendment represents protection vital to the safety and interest of consumers. Special pleadings that this amendment is unduly restrictive reflect an apparent failure to comprehend the potential human hazards involved. Indeed, there are compelling reasons for extending the Delaney amendment to other categories of synthetic chemicals besides food additives, and to teratogenicity and mutagenicity besides carcinogenicity. Due consideration should also be given to applying the concept of the Delaney amendment, extended to include mutagenicity and teratogenicity, to undefined or partially defined mixtures of pollutants, such as automobile exhaust.

There is a growing consensus on the need for legislation to ensure impartial and competent testing of all synthetic chemicals for which human exposure is anticipated. The present system of direct, closed-contract negotiations between manufacturing industries and commercial testing laboratories is open to abuse, and contrary to consumer and long term industrial interests. One remedy would be an advisory group of disinterested scientists functioning as an intermediary between manufacturers and commercial laboratories. Various legal and other safeguards, including representation from outside professional and consumer interests, would have to be properly developed to avoid or minimize potential abuses and conflicts of interest. Manufacturers would notify the advisory group or federal agency when safety evaluation was required for a particular chemical. The advisory group or agency would then solicit contract bids on the open market. Bids would be awarded on the basis of economics, quality of protocols, and technical competence. The progress of testing would be monitored by periodic project site visits—a routine practice with federal contracts. At the conclusion of the studies, the advisory group would comment on the quality of the data, make appropriate recommendations, and forward these to the agency concerned for regulatory action. This approach is certainly more consistent with general industrial practice than is the award of non-bidded or unpublicized contracts. Additionally, quality checks during testing would ensure the high quality and reliability of data, and minimize the need to repeat studies, and thus also reduce pressure on involved federal agencies to accept unsatisfactory data and *post hoc* situations.

The responsibilities for environmental quality and for consumer protection in the appropriate federal agencies should be analyzed and defined. Particular consideration should be given to possible interagency fragmentation of responsibility, to possible historic associations between particular agencies and special interests and to the need for distinction between scientific, fund-granting and regulatory responsibilities of each agency. Finally, there is a need for support for a new inter-disciplinary agency—scientifically and legally responsive to a broad range of consumer interests—in which ultimate responsibility for all problems of environmental quality and consumer protection should be consolidated.

FOOTNOTES

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[From the Wall Street Journal, Feb. 4, 1972]

ENVIRONMENTAL GROUP SUES FDA FOR DATA ON A FOOD ADDITIVE—IT CLAIMS THAT SODIUM NITRITE, USED TO REDDEN MEAT PRODUCTS, IS POTENTIAL THREAT TO HEALTH

SAN FRANCISCO.—The Environmental Defense Fund Inc. filed suit against the Food and Drug Administration and the Department of Health, Education and Welfare seeking to force release of test data on a food additive widely used in meat products.

The suit, filed in federal district court here, charges that the additive, sodium nitrite, is a "potentially grave threat to environmental health" and calls for the release of data on which the FDA based allowable tolerance levels for the additive in food products. Sodium nitrite, according to the suit, is used extensively by meat packers to preserve the reddish color of frankfurters, salami and other sandwich meats.

However, Environmental Defense said certain laboratory tests "tend to indicate" that the additive, when combined with other items in a typical diet, can yield cancerous substances "under laboratory conditions." Requests for the FDA's test data on the additive have been rejected by the agency on the grounds that it is "confidential" and doesn't fall under the freedom-of-information law, the suit says.

The laboratory tests raise questions about the FDA's standards and release of the data is therefore urgent if the public is to make an informed stand on the agency's standards, it says. That contention was backed by an affidavit from Joshua Lederberg, a Nobel Prize Winner and geneticist at Stanford University, who argued that the public cannot reasonably weigh the safety of any food additives unless all experimental data on the substance is made public.

Lawyers for the public-interest organization asked the court for a ruling to expedite trial of the suit. A hearing on that request was set for Feb. 28.

In Washington, the FDA said it hadn't seen the suit and couldn't comment on it.

[From the Washington Sunday Star, Feb. 6, 1972]

CURED MEATS YIELD CANCER CAUSATIVES

Traces of nitrosamine chemicals that caused cancer in some test animals have been discovered in eight samples of processed meat, government scientists disclosed yesterday.

One scientist described the levels as "potentially hazardous."

Both the Agriculture Department and the Food and Drug Administration found traces of the chemicals in separate tests of meat samples obtained from packing plants and retail stores.

The chemicals develop in some mysterious way from compounds such as nitrate salts used for hundreds of years as antibacterial agents and for improving the appearance and taste of meats in the curing process.

The levels of nitrosamines in the affected samples ranged from 5 to 106 parts per billion. Two of the samples were dried beef, one was cured pork, one cured ham, and four were found in bacon after cooking.

TOLERANCE UNDETERMINED

No tolerance level has been determined for consumption of the chemicals by humans. Scientists said that some laboratory animals developed cancer after being given the chemicals.

One of the unknowns, the scientists said, was why the bacon in which FDA scientists found from 30 to 106 parts per billion of the chemicals did not show any of them before being cooked.

"We really don't know how these compounds develop and form," said one scientist involved in the study. "These are rather preliminary results of our studies but we must assume that any levels are potentially hazardous and we felt the public should be informed of our findings so far."

Late last year, the Agriculture Department's consumer and marketing service reported negative results after three months of testing meat samples for the same kind of chemicals.

OTHER LEVELS FOUND

Besides the cooked bacon, scientists reported finding nitrosamine levels of 11 to 48 parts per billion in the dried beef and cured pork samples, and 5 parts per million in a ham that had undergone an extensive curing process.

The Agriculture Department said use of nitrate salts in meat processing is known to date back to Roman times. Besides imparting red color and improving flavor, a prime purpose of their use is to prevent or inhibit growth of botulinum spores. Botulinum spores, when consumed by humans, can cause the deadly nerve disease botulism.

Department scientists said their laboratory experiments showed that no nitrosamines were detected in cooked sausage where currently permissible levels of nitrate salts were used. At higher than normal levels of usage, they said, about 10 times the allowable quantity was needed before formation of nitrosamines could be detected.

By Mr. JACKSON:

S. 3164. A bill to declare a national policy to protect and manage islands of the Nation which possess unique environmental, recreational, historical, and cultural values; to authorize a study of our Nation's islands including recommendations of islands to be added to the national park, wildlife refuge, and forest systems; to encourage the establishment of State island conservation and recreation programs to add to the land and water conservation fund and authorize the provision of a portion of the additional funds to State and local governments for the acquisition of islands and the purchase or lease of Federal surplus island property; and for other purposes. Referred to the Committee on Interior and Insular Affairs.

NATIONAL ISLANDS CONSERVATION AND RECREATION ACT

Mr. JACKSON. Mr. President, I introduce for appropriate reference the National Islands Conservation and Recreation Act.

This measure would preserve the recreational and environmental qualities of America's remaining undeveloped or minimally developed islands. The proposal would declare a new national policy to protect and manage islands which possess unique environmental, recreational, historical, and cultural values. To implement this policy, it would authorize a study of the Nation's islands by the Secretary of the Interior, with the assistance of the Secretary of Agriculture. Recommendations would be made as to those islands which should be added to our national park, wildlife refuge, and forest systems and those islands which would be eligible for inclusion in island conservation and recreation programs managed by State and local governments. The annual total of the land and water conservation fund would be increased by $200,000,000—to $500,000,000—of which $60,000,000 would be made available to States and local governments pursuant to agreements with the Secretary of the Interior, to study, plan for, and acquire island lands, and $15,000,000 to State and local governments to lease or acquire Federal surplus property and facilities situated on islands.

Mr. President, I am deeply disappointed by the Nixon administration's failure to act to protect our island heritage. In 1970 the Department of the Interior issued an excellent report, entitled "Islands of America," with recommendations to preserve the recreational and environmental qualities of America's remaining undeveloped or minimally developed islands. Contained in that report was suggested legislation, entitled the "National Island Trust Act." Although that proposal, which would create a single pilot project off the coast of Maine, is inadequate to the task; neither it nor any alternative legislation has been introduced by the Nixon administration. The National Islands Conservation and Recreation Act, the proposal of much wider scope which I introduce today, would remedy this failure of Federal action.

Our Nation's islands represent an untapped opportunity to add to our recreational resources and to enhance the quality of our environment. Yet, if strong measures are not soon taken the very wealth and technological achievement which would allow us to enjoy the natural beauty of our islands may impair, if not destroy, our chance to do so. Al-

though, in 42 of our States, approximately 3 million acres of undeveloped or minimally developed island lands remain which have valuable recreational potential, we have little time in which to act to preserve these lands from development. Industry and commerce demand island waterfront sites for the inexpensive transportation and means of disposing effluents which such locations provide; more and more Americans are seeking second homesites or hotel space on island lands; and bridges, cars and boats are rendering these once isolated islands more accessible to all who seek to develop them.

These pressures to develop idle island land are particularly severe on islands near our urban centers. It is an astounding fact that, at a time when urban beaches and playgrounds are rendered nearly useless by overcrowding and when "no trespassing" signs are sprouting at an ever-more-rapid pace along shoreline once available for public use, there are situated less than 25 miles from cities of 50,000 or more persons almost 1 million acres of undeveloped or minimally developed island lands—1 million acres of beaches, fields, and woods. Our urban youngsters, indeed all of us, deserve the opportunity to escape the ever-present asphalt of the cities and to explore these "treasure islands."

The administration's failure to act to protect our islands is particularly unfortunate at this time when pressures for development coincide with rapidly increasing demands for recreation—demands which will be even more acute in the decade ahead. A 1967 study of the Bureau of Outdoor Recreation concluded that the greatest increase in America's recreational interests would come in activities which are water based or related. It found, for example, that by 1980 swimming would be the No. 1 outdoor recreation activity, increasing 72 percent between 1965 and 1980. Yet, on the mainland virtually all the beachfront readily accessible to our urban areas has already been dedicated to one or another use—too often a use other than recreation.

During the 9 years I have served as chairman of the Senate Committee on Interior and Insular Affairs, Congress has created six national seashores and lakeshores. In addition, the Land and Water Conservation Fund Act and the Federal Land for Parks and Recreation Act have provided better recreational opportunities within easy access of the cities. Last session, the Senate passed a bill to create the Gateway National Park on the shores of the New York Harbor, within sight of downtown New York City. In February last year, I introduced the National Open Beaches Act to acquire and protect public access and public rights to the use of the Nation's beaches. And 2 years ago, I introduced the first proposal for a national land use policy to insure wise planning and use of our finite land base.

But more must be done. Our beaches are already overcrowded and too much of our shoreline is festooned with signs which read: "Private Beach—No Trespassing," or "Subdivision: Lots for Sale." With careful planning and wise governmental actions, the nearby islands can and should be drawn within the recreational ambit of our urban population. My bill would encourage such planning and actions.

If we properly protect our Nation's islands for recreational purposes, we will also have preserved important historical and cultural values, and have enhanced the quality of our environment. Our islands display an unparalleled variety of natural features and shelter a great diversity of plant and animal life. In addition, they have played a critical historical role, serving as sites for the colonization, sanctuary, and embarkation in the exploration and settlement of this Nation—across the Aleutians in the West may have come our continent's first inhabitants, the forefathers of the American Indians; the Atlantic seacoast islands received the first European explorers and settlers; and the islands of the inland rivers served as stepping stones for the pioneers on their westward journeys. In our literature and imagination, we still explore new islands, we still escape from our less than perfect world to a simpler island ambience. More's "Utopia," "Robinson Crusoe," "The Swiss Family Robinson," and "Treasure Island" evoke for us the mystery and the beauty of islands—the same mystery and beauty we have one last chance to save.

Mr. President, I ask unanimous consent that the text of the bill and appendices from the 1970 Department of Interior report be printed in the RECORD at the conclusion of my remarks.

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

S. 3164

A bill to declare a National policy to protect and manage islands of the Nation which possess unique environmental, recreational, historical, and cultural values; to authorize a study of our Nation's islands including recommendations of islands to be added to the National Park, Wildlife Refuge, and Forest Systems; to encourage the establishment of State island conservation and recreation programs, to add to the Land and Water Conservation Fund and authorize the provision of a portion of the additional funds to State and local governments for the acquisition of islands and the purchase or lease of Federal surplus island property; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Islands Conservation and Recreation Act."

FINDINGS

SEC. 2. The Congress hereby finds that:

(a) There is a national interest in preserving and enhancing the environmental, recreational, historical and cultural values of the Nation's islands;

(b) our Nation's islands display an unparalleled variety of natural features, shelter a great diversity of plant and animal life, have served as sites for colonization, sanctuary, and embarkation in the exploration and settlement of this Nation, and thus possess unique environmental, historical and cultural qualities;

(c) recreational demands of our Nation's citizenry, particularly those for water-based activities, are increasing at a rapid rate; that existing recreational sites and facilities cannot long meet those demands; that a too long neglected source of additional recreational sites and facilities is the vast acreage of undeveloped and minimally developed island land within short distances of urban centers; and, therefore, that our Nation's islands possess valuable recreational potential;

(d) all islands, including those islands which possess sufficiently valuable recreational, environmental, historical or cultural qualities to warrant protection, are rapidly succumbing to pressures for industrial, commercial, and residential development; that industrial and commercial demand on scarce island resources and the pressures resulting from modern means of transportation are degrading the amenities and recreational qualities of once isolated islands; and,

(e) the Federal Government, in concert with State and local governments and the private sector, must act to insure the protection and enhancement of the environmental, recreational, historical and cultural values of the Nation's islands for present and future generations of Americans.

POLICY

SEC. 3. To strengthen the environmental, recreational, and cultural well-being of the people of the United States, the Congress declares that it is the policy of the United States that islands or groups of islands of the Nation which possess unique environmental, recreational, historical, or cultural values which warrant preservation and enhancement should be protected and managed through the combined efforts of Federal, State, and local governments and the private sector to insure that future generations shall have the opportunity to enjoy the Nation's island heritage.

PURPOSE

SEC. 4. The purpose of this Act is to establish a National policy to preserve and manage islands with unique environmental, recreational, historical or cultural values and to implement this policy by—

(a) authorizing a study of the Nation's islands and providing for recommendations of those islands which should be included in the National Park, Wildlife Refuge, and Forest systems, and those islands which are suitable for acquisition by State and local governments for park or recreation purposes;

(b) encouraging the establishment, by agreements between the States and the Secretary of the Interior, of island conservation and recreation programs;

(c) authorizing additional funds for the Land and Water Conservation Fund and provision of a specific portion of those funds to State and local governments exclusively for the purposes of studying, planning for, and acquiring island lands and for acquiring or leasing surplus Federal facilities situated on islands.

ISLAND CONSERVATION AND RECREATION PROGRAMS

SEC. 5. (a) The Secretary of the Interior (hereinafter referred to as "the Secretary"), with the advice of the Secretary of Agriculture, shall undertake and complete a study of the Nation's islands. The report of such

study shall be submitted to Congress and the Governors of the States no later than two years from the date of enactment of this Act.

(b) The report shall include recommendations to Congress by the Secretary as to which islands, island groups, or parts of islands, (hereinafter referred to as "islands"), should be added to or created as units of the National Park, Wildlife Refuge, and Forest systems.

(c) In the report, the Secretary shall also recommend which islands should be acquired, with Federal assistance, by the States pursuant to this Act.

(d) Islands recommended by the Secretary as eligible for acquisition by the States pursuant to this Act shall:

(1) possess outstanding environmental, recreational, historical, or cultural values; and,

(2) be largely undeveloped.

(e) Federal funds for the acquisition of any island or islands shall be made available to the States upon execution of agreements between the Secretary and the concerned States which shall substantially conform with the requirements of sections 6 through 8 of this Act.

(f) Priority for federal assistance shall be given to those islands which are:

(1) most accessible to urban areas;

(2) most immediately threatened by the pressures of development;

(3) within the jurisdiction of State and local governments which have demonstrated the capacity to take all steps necessary to protect and enhance the islands' relevant values; and

(4) within the jurisdictions of State governments which have developed programs and procedures under State law which would protect and enhance the islands' relevant values without requiring fee purchase of all lands involved.

ELIGIBILITY

SEC. 6. (a) The Secretary is authorized to enter into agreements with the several States providing for the protection and management of islands within their jurisdiction for recreational and environmental purposes and for Federal assistance to such States from the Land and Water Conservation Fund to acquire property necessary to insure that such purposes are carried out.

(b) Prior to entering into each such agreement, the Secretary shall:

(1) be satisfied that the relevant islands meet the criteria of subsection (d) of Section 5; and,

(2) that the relevant islands and the State and local governments involved qualify for federal assistance under the priorities provided in subsection (f) of Section 5.

AGREEMENTS

SEC. 7. Each such agreement shall require that:

(a) the State shall develop and maintain an island plan to preserve and enhance the environmental, recreational, historical, and cultural values of the islands involved. The plan shall be in accord with the comprehensive State-wide Outdoor Recreation Plan submitted by the State pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended.

(b) the State shall undertake a study of present State and local laws, regulations, and plans of relevance to an island conservation and recreation program, and issue guidelines for the adoption or amendment and enforcement of State and local laws, regulations, and plans to insure the success of such a program;

(c) the State shall prepare biennally a report on the program together with any recommendations which would be of assistance to the program;

(d) the State shall transmit to the Secretary:

(1) the island plan, within eighteen months of the date of the agreement and subsequent revisions thereof, as soon as is practicable;

(2) the study of, and recommendations concerning, State and local laws, regulations, and plans within one year of the date of the agreement; and,

(3) the report on the program within twelve months of the date of the agreement and biennally thereafter.

MISCELLANEOUS

SEC. 8. Each agreement may contain such other terms and conditions as the parties thereto deem desirable.

FEDERAL JURISDICTION

SEC. 9. Nothing in the agreements authorized by this Act shall be construed to relinquish the functions, powers, or duties of the Congress with respect to the control of navigable waters, nor shall any provision thereof be construed in derogation of any of the constitutional powers of Congress to regulate commerce among the States and with foreign nations.

FEDERAL FINANCIAL ASSISTANCE

SEC. 10. (a) Financial assistance may be provided to any State pursuant to subsection (c) of section 2 and subsection (h) of section 5 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended, for the purposes of developing the island plan and the study of State and local laws, regulations, and plans, upon the signing of an agreement by the Secretary with the State pursuant to sections 6 through 8 of this Act.

(b) Prior to provision of financial assistance to the States for the purposes of acquisition of island lands, interests therein, or development thereon pursuant to subsection (c) of section 2 and subsection (h) of section 5 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended, the Secretary shall:

(1) have signed an agreement or agreements with the State pursuant to sections 6 through 8 of this Act;

(2) review and approve the island plan;

(3) review the study of, and recommendations concerning, State and local laws, regulations, and plans as to adequacy thereof to insure effective management of an island conservation and recreation program; and

(4) review State and local efforts to adopt new or amend existing laws, regulations, and plans pursuant to the recommendations of the study and determine that such efforts are in good faith and are likely to succeed.

SEC. 11. Section 5 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended, is amended by adding a new subsection (h) after subsection (g) as follows:

"(h) (1) Notwithstanding any other provision of this section, including the apportionment formula of subsection (b) of this section, financial assistance from the $60,000,000 of the Fund available only for planning, purchase, and development of island lands as provided for in clause (3) of subsection (c) of section 2 of this Act shall be paid to State and local governments in accordance with the requirements of, and pursuant to, the National Islands Conservation and Recreation Act."

"(2) For a period of five full fiscal years from the date of enactment of the National Islands Conservation and Recreation Act, payments from the $60,000,000 of the Fund available only for planning, purchase, and development of island lands as provided for in clause (3) of subsection (c) of section 2 of this Act shall not exceed seventy-five per centum of the cost of such activities. The remaining share of the cost shall be borne by the State in a manner and with such funds or services as shall be satisfactory to the Secretary. After the five full fiscal year period, payments to the States shall cover not more than 50 percentum of the cost in conformity with all other payments under the Act pursuant to subsection (c) of this section."

SEC. 12. Section 203 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, is further amended by adding after the end of the first sentence of subsection (k)(2) thereof the following new language:

"The heads of all Federal agencies are each directed to submit to the Administrator no later than one year after the date of enactment of the National Islands Conservation and Recreation Act a review of all Federal lands and facilities within their respective jurisdictions which are located on the Nation's islands. Said reviews shall include recommendations of those Federal lands and facilities which would be appropriate for disposal pursuant to this subsection for inclusion within the State island conservation and recreation programs as provided for in such Act."

SEC. 13. Subsection (c) of section 2 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended, is further amended as follows:

(a) In clause (1), strike "and not less than $300,000,000 for each fiscal year thereafter through June 30, 1989" and insert in lieu thereof, "not less than $300,000,000 for each of the fiscal years 1971, 1972, and 1973, and not less than $500,000,000 for each fiscal year thereafter through June 30, 1989."

(b) In clause (2), strike "or $300,000,000" and insert in lieu thereof "$300,000,000 or $500,000,000".

(c) After clause (2), add a new clause (3) as follows:

"(3) Of the $500,000,000 authorized to be appropriated for each fiscal year after fiscal year 1973—

(i) a sum of $60,000,000 shall be paid out of the Fund only for the purposes of planning, acquisition and development of island lands by State and local governments pursuant to subsection (h) of section 5 of this Act; and

(ii) an additional sum of $15,000,000 shall be paid out of the Fund only for the purposes of leasing or purchasing surplus Federal real property and facilities situated on islands.

AUTHORIZATION OF APPROPRIATIONS

SEC. 14. There are authorized to be appropriated such sums as may be necessary for the Secretary to administer the program established by this Act.

APPENDIX I

AMERICAN ISLANDS: NUMBER 10 ACRES AND LARGER AND ACREAGE BY SIZE AND STATE [1]

State	Number (acres)					Total acreage [2]
	Total	By size class				
		10 to 99	100 to 499	500 to 999	1,000 or more	
Total	26,325	19,349	4,025	1,669	1,282	28,643,834
Total excluding Alaska	20,637	14,211	3,922	1,641	863	7,493,627
Alabama	242	177	44	9	12	66,288
Alaska	5,688	5,138	103	28	419	21,150,207
Arizona	72	63	9			3,692
Arkansas	261	155	87	4	15	78,450
California	692	521	97	18	56	629,278
Colorado	180	168	11	1		7,783
Connecticut	89	82	6	1		4,757
Delaware	105	85	16	2	2	20,329
Florida	4,510	2,444	837	1,112	117	840,727
Georgia	434	257	80	25	72	351,077
Hawaii	29	19	5	2	3	168,504
Idaho	193	161	27	2	3	15,598
Illinois	420	321	80	12	7	70,908
Indiana	36	26	8	1	1	5,487
Iowa	277	214	53	6	4	27,648
Kansas	44	34	8	1	1	6,739
Kentucky	104	76	24	2	2	35,174
Louisiana	2,482	1,401	751	166	164	1,279,282
Maine	1,149	954	133	26	36	277,689
Maryland	247	167	57	10	13	103,266
Massachusetts	210	164	31	5	10	138,719
Michigan	379	280	68	8	23	458,313
Minnesota	850	749	79	14	8	57,827
Mississippi	128	78	30	6	14	115,265
Missouri	180	89	60	15	16	52,271
Montana	253	222	30		1	14,087
Nebraska	161	125	32	1	3	17,190
Nevada	427	396	26	5		8,506
New Hampshire	179	159	16	3	1	10,353
New Jersey	453	331	101	13	8	94,128
New Mexico	23	22	1			925
New York	789	650	102	18	19	134,883
North Carolina	522	364	101	23	34	204,819
North Dakota	106	93	11	2		8,514
Ohio	64	54	6	2	2	9,240
Oklahoma	61	48	12	1		4,665
Oregon	337	258	69	3	7	75,232
Pennsylvania	266	242	23	1		13,120
Rhode Island	29	23	3		3	17,419
South Carolina	727	418	179	51	79	544,352
South Dakota	59	45	9	4	1	7,008
Tennessee	280	214	50	3	13	55,416
Texas	416	314	64	15	23	354,365
Utah	155	138	14	1	2	53,498
Vermont	38	26	7	2	3	35,214
Virginia	311	219	57	15	20	96,866
Washington	657	487	123	10	37	554,045
West Virginia	90	83	6	1		4,939
Wisconsin	766	474	252	15	25	291,417
Wyoming	100	87	10	3		6,896
Puerto Rico	18	10	4	1	3	57,675
Virgin Islands	32	21	11			3,045
District of Columbia	5	3	2			739

[1] 1968 data. Excludes the main island of Puerto Rico, the 3 major Virgin Islands, Guam, Samoa, and the Trust Territory, the 5 major Hawaiian Islands, and the 3 principal New York Islands—Manhattan, Staten Island and Long Island.

[2] Some acreage of islands less than 10 acres in size is included if within an inventoried group or were designated as having recreational potential.

APPENDIX II

AMERICAN ISLANDS: COMPARISON OF RECREATION POTENTIAL OF ISLAND ACREAGE WITHIN 25 MILES OF URBAN AREAS OF 50,000 PERSONS AND OVER, BY DEVELOPMENT STATUS AND STATE [1]

State	Total island acreage by percent developed [2]			Acreage with recreation potential by percent developed [3]		
	Total	None to 25	26 to 100	Total	None to 25	26 to 100
Total	2,498,345	2,027,200	471,145	1,329,850	1,010,520	319,330
Total excluding Alaska	2,498,092	2,026,947	471,145	1,329,850	1,010,520	319,330
Alabama	54,489	40,380	14,109	27,490	25,390	2,100
Alaska	253	253				
Arizona	180	180				
Arkansas	28,611	14,303	14,308			
California	363,438	352,276	11,162	348,784	348,761	23
Colorado	280	280				
Connecticut	1,768	1,042	726	1,584	1,241	343
Delaware	5,373	4,582	791	4,129	3,338	791
Florida	224,938	219,328	5,610	111,040	111,040	
Georgia	214,183	213,943	240	104,316	104,316	
Hawaii	1,115	159	956	611		611
Idaho						
Illinois	36,972	30,982	5,990	8,308	8,038	270
Indiana	3,886	3,867	19	3,434	3,434	
Iowa	14,436	14,436		5,639	5,639	
Kansas	1,826	1,826				
Kentucky	5,491	5,491		2,056	2,056	
Louisiana	141,255	141,255				
Maine	50,597	31,551	19,046	38,450	22,806	15,644
Maryland	7,163	7,163		6,638	6,638	
Massachusetts	32,860	19,402	13,458	26,274	13,503	12,771
Michigan	93,454	27,195	66,259	32,970	1,914	31,056
Minnesota	8,772	7,307	1,465	4,119	4,119	
Mississippi	43,435	42,185	1,250	9,770	8,520	1,250
Missouri	19,951	19,951		6,822	6,822	
Montana	765	765				
Nebraska	4,600	4,600		4,500	4,500	
Nevada	1,020	1,020				
New Hampshire	784	700	48	660	612	48
New Jersey	36,407	12,440	23,967	11,389	11,207	182
New Mexico	200	200				
New York	90,458	61,966	28,492	40,123	19,676	20,447
North Carolina	8,391	8,391				
North Dakota						
Ohio	8,255	2,000	6,255	6,290	314	5,976
Oklahoma	1,366	1,366				
Oregon	33,431	32,296	1,135	31,068	29,128	1,940
Pennsylvania	7,379	5,723	1,656	3,278	3,278	
Rhode Island	17,294	17,087	207	17,090	16,995	95
South Carolina	218,739	215,089	3,650	23,272	9,972	13,300
South Dakota						
Tennessee	18,869	9,670	9,199	10,359	1,359	9,000
Texas	243,094	190,094	53,000	48,300	20,800	27,500
Utah	46,780	46,780		41,425	41,425	
Vermont						
Virginia	7,291	7,291		200	200	
Washington	347,129	160,037	187,092	311,537	135,649	175,888
West Virginia	2,105	1,675	430			
Wisconsin	14,062	13,269	793	4,528	4,433	95
Wyoming						
Puerto Rico	34,502	34,502		33,022	33,022	
Virgin Islands						
District of Columbia	739	619	120	375	375	

[1] 1968 data. Excludes the main island of Puerto Rico, the 3 major Virgin Islands, Guam, Samoa, and trust territory, the 5 major Hawaiian Islands, and the 3 principal New York islands—Manhattan, Staten and Long Island.

[2] For the purposes of the island inventory, "development" included building sites as well as land associated with the site such as yards and storage areas. Agricultural land, land used for forest production, and public and quasi-public recreation developments were considered as undeveloped; whereas, a private resort was inventoried as developed.

[3] Excluded from this category are most of the 1,500,000 acres already available for public recreation.

APPENDIX III

AMERICAN ISLANDS: ACREAGE BY OWNERSHIP AND STATE [1]

State	Total [2]	Federal	State	Other public	Quasi-public [3]	Private
Total	27,731,905	21,210,066	1,412,202	55,077	9,692	5,044,868
Total excluding Alaska	6,617,954	1,033,500	530,899	40,517	9,692	5,003,346
Alabama	65,851	4,513	8,940	184	.....	52,214
Alaska	21,113,951	20,176,566	881,303	14,560	.....	41,522
Arizona	3,692	3,176	30	50	.....	436
Arkansas	78,405	12,800	35	.....	.....	65,570
California	619,854	80,612	14,309	2,111	.....	522,822
Colorado	7,323	596	668	20	.....	6,039
Connecticut	4,133	.....	1,189	104	.....	2,840
Delaware	19,278	9,853	1,373	.....	.....	8,052
Florida	793,042	251,078	54,550	842	.....	486,572
Georgia	350,901	28,103	15,140	60	100	307,498
Hawaii	163,504	31,236	868	3	.....	136,397
Idaho	8,807	2,763	2,000	500	.....	3,544
Illinois	38,175	9,743	15,620	47	.....	12,765
Indiana	5,487	.....	110	.....	.....	5,377
Iowa	27,533	16,592	5,007	440	.....	5,494
Kansas	6,729	55	1,138	.....	.....	5,536
Kentucky	34,093	475	797	.....	15	32,806
Louisiana	1,213,186	4,965	107,260	1,800	.....	1,099,161
Maine	39,177	31,270	7,450	307	40	110
Maryland	104,246	30,674	10,851	80	157	62,484
Massachusetts	75,040	4,468	9,336	3,384	75	57,777
Michigan	428,174	136,841	120,638	1,426	888	168,381
Minnesota	56,401	21,064	5,895	808	1,217	27,417
Mississippi	115,247	3,545	280	.....	1,150	110,272
Missouri	51,742	9,217	2,876	578	.....	39,071
Montana	5,869	1,074	75	85	.....	4,635
Nebraska	14,867	.....	966	.....	.....	13,901
Nevada	8,506	2,355	48	86	.....	6,017
New Hampshire	2,992	78	178	725	383	1,628
New Jersey	76,830	4,239	7,534	1,666	568	62,823
New Mexico	905	180	130	.....	.....	595
New York	12,709	3,427	5,761	1,278	.....	2,243
North Carolina	189,489	24,743	400	25	.....	164,321
North Dakota	8,524	1,777	5,412	50	219	1,066
Ohio	8,805	197	665	290	188	7,465
Oklahoma	3,460	2,866	569	25	.....	.....
Oregon	24,486	7,003	14,184	30	.....	3,269
Pennsylvania	11,700	.....	1,403	421	.....	9,876
Rhode Island	17,738	1,375	120	195	460	15,588
South Carolina	533,782	40,987	4,430	20	.....	488,345
South Dakota	3,690	2,327	316	.....	50	997
Tennessee	56,498	11,676	2,986	.....	.....	41,836
Texas	324,556	145,622	14,246	5,076	280	159,332
Utah	53,088	2,137	2,165	.....	.....	48,786
Vermont	34,081	60	1,445	80	130	32,366
Virginia	95,241	14,970	12,381	395	.....	67,495
Washington	482,621	21,154	21,230	2,213	528	437,496
West Virginia	545	446	15	4	.....	80
Wisconsin	263,827	14,460	32,463	11,204	3,244	202,456
Wyoming	6,819	3,278	375	32	.....	3,134
Puerto Rico	57,625	32,095	14,129	3,873	.....	7,528
Virgin Islands	3,045	699	913	.....	.....	1,433
District of Columbia	636	636	.....	.....	.....	.....

[1] 1968 data. Excludes the main island of Puerto Rico, the 3 major Virgin Islands, Guam, Samoa, and trust territory, the 5 major Hawaiian Islands, and the 3 principal New York islands—Manhattan, Staten, and Long Island.

[2] Ownership data is fragmentary; therefore, total acreage is less than that shown in app. I.

[3] Nonprofit organizations such as Boy Scouts, YMCA, and the Nature Conservancy.

APPENDIX IV

NAMED ISLANDS WITH STATE, REGIONAL, OR NATIONAL RECREATION POTENTIAL UNAVAILABLE TO THE PUBLIC [1]

Island	Percent developed [2]	County	Acreage [3]	Body of water
ALABAMA				
Aikin Island [6]	None	Baldwin	13,300	Tensaw River.
Dauphin Island [5]	1–25	Mobile	2,100	Mississippi Sound.
Grand Bay Island group [6]	None	do	275	Do.
Gravine Island [9]	None	Baldwin	675	Tensaw River.
Isle Aux Herbes [6]	None	Mobile	800	Mississippi Sound.
Justins Bay Island [9]	26–50	Baldwin	900	Apalachee River.
Little Dauphin Island [5]	1–25	Mobile	200	Mississippi Sound.
Long Island [9]	None	Jackson	805	Guntersville Impoundment.
Pelican Island [9]	None	Mobile	75	Mississippi Sound.
Sand Island [9]	None	do	80	Mobile Bay.
Sand Island [5]	None	do	160	Gulf of Mexico.
Tensaw Island group [9]	None	Baldwin	8,000	Mobile River.
Subtotal (12)			27,370	
ALASKA				
Frying Pan Island [9]	None		50	Sitka Sound.
Kasiana Island group [4]	None		180	Skilak Lake.
King Island group [7]	None		2,500	Bering Sea.
Little Diomede Island [7]	None		1,900	Do.
Spruce Island group [4]	None		11,200	Marmot Bay.
Swan Island [9]	None		19	Walker Lake.
Subtotal (6)			15,849	
ARIZONA				
Horse Island group [9]	None	Yuma	184	Colorado River.
Subtotal (1)			184	
ARKANSAS (none)				
CALIFORNIA				
Alcatraz Island [4a]	76–100	San Francisco	23	San Francisco Bay.
Blackberry Island [9]	None	Tehama	62	Sacramento River.
Deer Island [9]	None	San Bernardino	315	Colorado River.
East-West Marin Island group [11c]	1–25	Marin	14	San Rafael Bay.
Foster Island [9]	None	Tehama	274	Sacramento River.
Goat Island [9]	None	Shasta	252	Do.
Hall Island [9]	None	Riverside	621	Colorado River.
North Arcata Bay Island group [11c]	None	Humboldt	15	Arcata Bay.
North Bay-Eel River Island group [11c]	1–25	do	2,114	Eel River.
Ryan Island [9]	None	Butte	14	Sacramento River.
Sacramento-San Joaquin Delta Island group [9]	1–25	San Joaquin	288,780	Sacramento-San Joaquin. Delta.
San Miguel Island group [7]	None	Santa Barbara	14,000	Pacific Ocean.
San Nicholas Island [7]	1–25	Ventura	13,370	Do.
Santa Catalina Island [7]	1–25	Los Angeles	42,880	Do.
Santa Cruz Island group [7]	1–25	Santa Barbara	62,018	Do.
Santa Rosa Island group [7]	1–25	do	55,006	Do.
South Arcata Bay Island group [11a]	1–25	Humboldt	342	Arcata Bay.
South Arcata Island group [11c]	None	do	111	Humboldt Bay.
Tillas Island group [11c]	None	Del Norte	234	Smith River.
Todd Island group [9]	None	Tehama	192	Sacramento River.
Subtotal (20)			480,614	
COLORADO (None)				
CONNECTICUT				
Mason Island group [4a]	50	New London	396	Mystic Harbor.
Andrews Island group [4a]	2	do	60	Fishers Island Sound.
Brockway Island [9]	None	Middlesex	10	Connecticut River.
Calf Island group [4a]	2	Fairfield	32	Captain Harbor.
Candlewood Isle [9]	75	do	235	Lake Candlewood.
Canfield Island group [4a]	80	do	29	Long Island Sound.
Carting Island group [6]	None	do	95	Housatonic River.
Charles Island [4a]	None	New Haven	11	Long Island Sound.
Cockenoe Island group [4a]	5	Fairfield	22	Do.
Dart Island [9]	None	Middlesex	10	Connecticut River.
Essex Island group [5]	50	do	27	Do.
Fowler Island [6]	None	New Haven	30	Housatonic River.
Gildersleeve Island [9]	None	Middlesex	60	Connecticut River.
Goose Island group [6]	None	New London	115	Do.
Grassy Island group [4a]	5	Fairfield	75	Long Island Sound.
Great Island group [6]	None	New London	503	Connecticut River.
Green Island group [9]	None	Fairfield	132	Lake Candlewood.
Griswold Island group [4a]	None	New London	19	Long Island Sound.
Kings Island group [9]	85	Hartford	133	Connecticut River.
Manrissa Island [4a]	26–50	Fairfield	18	Long Island Sound.
Mink Island group [6]	None	New London	75	Lord Creek.
Nells Island [6]	None	New Haven	700	Housatonic River.
Nott Island group [9]	None	New London	68	Connecticut River.
Offshore Island group [4a]	None	New Haven	10	Branford Harbor Bay.
Pine Island [4a]	5	New London	15	Fishers Island Sound.
Pratt Island [4a]	75	Fairfield	12	Long Island Sound.
Ram Island group [4a]	10	do	39	Do.
Rich Island group [6]	None	Middlesex	82	Connecticut River.
Selden Neck Island group [9]	None	New London	500	Do.
Sheffield Island group [4a]	25	Fairfield	52	Long Island Sound.
Sixpenny Island [6]	None	New London	42	Mystic Harbor.
The Thimbles Island group [4]	100	New Haven	108	Long Island Sound.
Twin Island group [9]	None	Middlesex	14	Pocotopaug Lake.
Two-Mile Island group [9]	None	Fairfield	23	Housatonic River.
Watts Island group [6]	5	New London	59	Pataguanset River.
Wilcox Island group [9]	None	Hartford	34	Connecticut River.
Subtotal (36)			3,845	
DELAWARE				
Bombay Hook Island [6]	None	Kent	5,435	Delaware Bay.
Cedar Swamp Island group [6]	None	New Castle	200	Delaware River.
Little Cedar Island group [6]	None	Sussex	136	Indian River Bay.
Marsh Island group [6]	None	do	46	Litte Assawoman Bay.

*Footnotes appear at the end of this Appendix.

APPENDIX IV—Continued

NAMED ISLANDS WITH STATE, REGIONAL, OR NATIONAL RECREATION POTENTIAL UNAVAILABLE TO THE PUBLIC [1]—Continued

Island	Percent developed [2]	County	Acreage [3]	Body of water
DELAWARE—Continued				
Middle Island [6]	None	Sussex	10	Big Ditch River.
Pea Patch Island [6]	None	New Castle	315	Delaware River.
Reedy Island [6]	None	Sussex	6	Little Bay.
Reedy Island group [6]	10	New Castle	52	Delaware River.
Subtotal (8)			6,200	
FLORIDA				
Captiva Island [5]	1–25	Lee	800	Pine Island Sound.
Cedar Keys Island group [4]	1–25	Levy	1,600	Gulf of Mexico.
Drayton Island [9]	1–25	Putman	1,660	Lake George.
Egmont Key [5]	1–25	Hillsborough	387	Gulf of Mexico.
Estero Island group [5]	1–25	Lee	2,630	Do.
Fort George Island [9]	1–25	Duval	840	Fort George River.
Gasparilla Island [5]	1–25	Lee	1,420	Gasparilla Sound.
Hog Island [6]	None	Charlotte	840	Charlotte Harbor.
Kimball Island [9]	None	Lake	1,000	St. Johns River.
Little Gasparilla Island [5]	None	Charlotte	560	Gulf of Mexico.
Liverpool Island group [9]	None	do	7,320	Peace River.
Merritt Island group [5]	1–25	Brevard	78,640	Indian River.
North Captiva Island [5]	1–25	Lee	640	Pine Island Sound
Perdido Key Island [5]	1–25	Escambia	3,300	Gulf of Mexico.
Pine Island group [5]	1–25	Lee	9,050	Pine Island Sound.
Sand Key Island [5]	1–25	Pinellas	2,000	Gulf of Mexico.
Sanibel Island group [5]	1–25	Lee	10,055	Do.
Santa Rosa Island [5]	1–25	Santa Rosa	11,040	Santa Rosa Sound.
St. Vincent Island [6]	1–25	Franklin	12,000	St. Vincent Sound.
Ten Thousand Island group [6]	None	Collier	42,945	Gulf of Mexico.
Thousands Islands [5]	None	Brevard	1,000	Banana River.
Subtotal (21)			189,727	
GEORGIA				
Blythe Island [9]	1–25	Glynn	4,500	Turtle River.
Cumberland Island [5]	1–25	Camden	31,000	Atlantic Ocean.
Ossabaw Island [5]	None	Chatham	27,000	Do.
Sapelo Island [5]	1–25	McIntosh	20,000	Do.
Skidaway Island [5]	1–25	Chatham	14,350	Do.
St. Catherines Island [5]	None	Liberty	13 440	Do.
St. Simons Island [5]	1–25	Glynn	23,200	Do.
Wassaw Island [5]	None	Chatham	4,266	Do.
Wolf Island [6]	None	McIntosh	4,500	Doboy Sound.
Subtotal (9)			142,256	
HAWAII				
Kahoolawe Island [7]	None	Maui	28,800	Pacific Ocean.
Lanai Island [7]	1–25	do	90,240	Do.
Niihau Island [7]	1–25	Kauai	46,080	Do.
Sand Island [11] [c]	26–50	Honolulu	611	Mamala Bay.
Subtotal (4)			165,731	
IDAHO				
Baritoe Island [9]	None	Bonner	190	Priest Lake.
Eight-Mile Island [9]	None	do	100	Do.
Kalispell Island [9]	None	do	214	Do.
Kellers Island [9]	None	Jefferson	60	Snake River.
Schoffs Island [9]	None	Elmore	135	Do.
Sparlin Island group [9]	None	do	170	Do.
Three Island Crossing group [9]	None	do	30	Do.
Warren Island [9]	None	Bonner	200	Pend Oreille Lake.
Subtotal (8)			1,099	
ILLINOIS				
Blue Goose Island [6]	None	Hancock	31	Mississippi River.
Burlington Island group [6]	None	Henderson	1,475	Do.
Buzzard Island [6]	None	Hancock	290	Do.
Cambells Island [6]	26–50	Rock Island	270	Do.
Challicothe Island [6]	None	Ogle	155	Illinois River.
Davis Island [6]	None	Adams	30	Mississippi River.
Diamond Island [6]	None	Calhoun	640	Illinois River.
Dillin Island [6]	None	Adams	503	Mississippi River.
Eagles Nest Island [6]	None	Jersey	150	Do.
Grand Island [6]	None	Mason	3,800	Illinois River.
Hackley Island [6]	None	Hancock	156	Mississippi River.
Helmbold Island [6]	1–25	Calhoun	240	Illinois River.
Henry Creek Bar Island [6]	None	Henderson	30	Mississippi River.
Huff Island [6]	None	Hancock	149	Do.
Hunt Island [6]	None	do	47	Do.
Hurricane Island [6]	1–25	Calhoun	400	Illinois River.
Knapps Island [6]	None	Mason	320	Do.
Kuise Island [6]	None	Hancock	55	Mississippi River.
Mud Island [6]	None	do	97	Do.
Nilsin Island [6]	None	Adams	255	Do.
Paddy Island [6]	None	Henderson	35	Do.
Piasa Island [6]	1–25	Jersey	280	Do.
Polly Island [6]	None	Adams	24	Do.
Santa Fe Island [6]	None	Carroll	36	Do.
Shok Bar Island [6]	None	Henderson	30	Do.
Shucks Island [6]	None	Pike	64	Do.
Taylor Island [6]	None	Hancock	112	Do.
Taylor Island [6]	None	Pike	49	Do.
Twelve Mile Island [6]	None	Jersey	210	Illinois River.
Two Mile Island [6]	None	Henderson	120	Mississippi River.
ILLINOIS—Continued				
Wolf Island [6]	None	Iroquois	18	Iroquois River.
Wollpecan Island [6]	None	Grundy	60	Illinois River.
Subtotal (32)			10,158	
INDIANA				
Mink Island [6]	None	Posey	110	Wabash River.
Ribeyre Island [6]	None	do	3,224	Do.
Subtotal (2)			3,334	
IOWA				
Big Rush Island [6]	None	Des Moines	180	Mississippi River.
Big Soupbone Island [6]	None	Jackson	63	Do.
Bowman's Island [6]	None	do	35	Do.
Caseys Island [6]	None	Jackson	60	Do.
Cooks Island [6]	None	Clinton	75	Do.
Delphey Island [6]	None	Allamakee	336	Do.
Grape Island [6]	None	Lee	200	Do.
Hamm Island [6]	1–25	Dubuque	249	Do.
Hogback Island [6]	None	Des Moines	20	Do.
Horse Island [6]	20	Scott	53	Do.
Huble Island [6]	None	Jackson	40	Do.
Indian Island [6]	None	do	37	Do.
Jackson Island [6]	None	Allamakee	1,126	Do.
Keg Island [6]	None	Louisa	105	Do.
Little Soupbone Island [6]	None	Jackson	51	Do.
Mercer Island [6]	None	Des Moines	35	Do.
Nine Mile Island [6]	None	Dubuque	479	Do.
O'Connell Island [6]	None	Des Moines	490	Do.
Otter Island [6]	1–25	do	300	Do.
Railroad Island [6]	None	Jackson	500	Do.
Rush Island [6]	None	Des Moines	55	Do.
Snyder Island group [6]	None	Woodbury	150	Missouri River.
Towhead Island [6]	None	Muscatine	88	Mississippi River.
Trienes Island [6]	None	Des Moines	18	Do.
Winnebago Island [6]	None	Woodbury	300	Missouri River.
Subtotal (25)			5,045	
KANSAS				
Big Island [9]	1	Neosho	3,300	Neosho River.
Subtotal (1)			3,300	
KENTUCKY				
Big Island [6]	None	Wayne	40	Beaver Creek.
Brushcreek Island [6]	None	Lewis	27	Ohio River.
French Island No. 1 [6]	None	Daviess	325	Do.
French Island No. 2 [6]	None	do	448	Do.
Island No. 8 [6]	2	Fulton	4,623	Mississippi River.
Little Hurricane Island [6]	None	Daviess	400	Ohio River.
Low Gap Island [6]	None	Russell	13	Lake Cumberland.
Manchester Island No. 1 [6]	None	Lewis	28	Ohio River.
Manchester Island No. 2 [6]	None	do	105	Do.
Rocky Ledge Island [6]	None	Jefferson	108	Do.
Slim Island [6]	None	Union	620	Do.
Wabash Island [6]	None	do	2,337	Do.
Wolf Island [6]	2	Hickman	9,918	Mississippi River.
Wolf Island Bar [6]	None	do	1,070	Do.
Yellow Bank Island [6]	None	Daviess	140	Ohio River.
Subtotal (15)			20,202	
LOUISIANA				
Casse—Tete Island group [5]	None	Lafourche	2,150	Gulf of Mexico.
Chandeleur Island group [5]	None	St. Bernard	4,000	Do.
Grand Island [6]	None	do	1,200	Do.
Grand Isle [6]	1–25	Jefferson	1,000	Do.
Grand Terre Island group [5]	None	do	3,200	Do.
Isles Derniers group [5]	1–25	Terrebonne	4,200	Do.
Timbalier Island group [5]	1–25	do	2,000	Do.
Subtotal (7)			17,750	
MAINE				
Andrews Island group [4a]	5	Knox	430	Atlantic Ocean.
Appledore Island group [4a]	1–25	York	162	Do.
Ash Island group [4a]	1–25	Knox	91	Penobscot Bay.
Bailey Island group [4a]	80	Cumberland	470	Casco Bay.
Bar Island [4a]	None	Washington	84	Pigeon Hill Bay.
Bartlett Island group [4a]	10	Hancock	2,253	Blue Hill Bay.
Bear Island group [9]	1–25	Washington	190	Grand Lake.
Big Island [9]	None	Piscataquis	500	Lobster Lake.
Big Island group [9]	None	Washington	387	Sysladobsis Lake.
Big Island group [9]	None	Kennebec	36	Lake Annabessacook.
Big Wash Island group [4a]	2	Washington	170	Western Bay.
Birch Island group [9]	1–25	do	95	St. Croix River.
Black Cat Island group [9]	None	do	560	Grand Falls Lake.
Blue Berry Island group [9]	None	Penobscot	101	Endless Lake.
Bois Bubert Island group [4a]	1–25	Washington	1,053	Atlantic Ocean.
Burnt Island group [9]	None	Penobscot	69	Sysladobsis Lake.
Butter Island group [4a]	10	Hancock	1,769	East Penobscot Bay.
Cape Washington Island [4a]	None	Washington	20	Little Machias Bay.

Footnotes at the end of appendix.

APPENDIX IV—Continued

NAMED ISLANDS WITH STATE, REGIONAL, OR NATIONAL RECREATION POTENTIAL UNAVAILABLE TO THE PUBLIC [1]—Continued

Island	Percent developed [2]	County	Acreage [3]	Body of water
MAINE—Continued				
Clark Island group [4a]	3	Knox	254	Atlantic Ocean.
Cranberry Island group [4a]	30	Hancock	2,330	Do.
Cranberry Island group [9]	None	Penobscot	66	Mattamiscontis Lake.
Cross Island group [4a]	1–25	Washington	1,565	Atlantic Ocean.
Cunliffe Island group [9]	None	Aroostook	17	Allagash River.
Curtis Island [4a]	1–25	Knox	9	West Penobscot Bay.
Cushing Island [4a]	60	Cumberland	249	Casco Bay.
Damariscove Island group [4a]	None	Lincoln	518	Atlantic Ocean.
Dayton Island group [9]	1–25	Hancock	214	Nicatous Lake.
Deer Island group [4a]	30	do	24,117	East Penobscot Bay.
Doyle Island group [4a]	None	Washington	105	Wohoa Bay.
Drisko Island group [4a]	3	do	183	Western Bay.
Dunn Island group [4a]	1–25	do	192	Englishman Bay.
Dutch Island group [9]	1–25	Penobscot	30	South Branch Lake.
Dyer Island group [4a]	None	Washington	346	Narraguagus Bay.
Falls Island group [4a]	None	do	192	Straight.
Farm Island [9]	1–25	Piscataquis	875	Moosehead Lake.
Farm Island group [9]	None	do	88	Eagle Lake.
Flint Island group [4a]	None	Washington	258	Atlantic Ocean.
Foster Island group [4a]	None	do	426	Narraguagus Bay.
Frye Island group [9]	3	Oxford	1,026	Sebago Lake.
Georgetown Island group [4a]	15	Sagadahoc	12,241	Kennebec River.
Gooseberry Island group [4a]	None	do	14	Casco Bay.
Great Diamond Island group [4a]	60	Cumberland	445	Do.
Great Wass Island group [4a]	5	Washington	3,133	Atlantic Ocean.
Green Island group [4a]	None	Cumberland	11	Casco Bay.
Griswold Island group [9]	None	Androscoggin	338	Androscoggin River.
Halfmoon Island group [9]	None	Aroostook	90	Grand Lake.
Halifax Island group [4a]	None	Washington	319	Englishman Bay.
Hallowall Island group [4a]	None	do	160	Dennys Bay.
Hastings Island group [9]	1–25	Oxford	482	Androscoggin River.
Head Harbor Island group [4a]	10	Washington	1,699	Atlantic Ocean.
Holbrook Island group [4a]	15	Hancock	235	Penobscot Bay.
Horseshoe Island group [9]	1–25	Kennebec	484	Cobbosseecontee Lake.
Hoyt Island group [9]	26–50	do	508	Great Pond.
Ironpound Island group [4a]	1–25	Hancock	2,590	Frenchman Bay.
Isle Au Haut group [4a]	5	Knox	7,803	Atlantic Ocean.
Islesboro Island group [4a]	40	Waldo	8,725	Penobscot Bay.
Jewell Island group [4a]	None	Cumberland	198	Casco Bay.
Kittery Island [9]	None	Washington	20	Upper Hot Brook.
Large Green Island group [4a]	1–25	Knox	130	Atlantic Ocean.
Leyford Island group [9]	None	Piscataquis	354	Seboies Lake.
Libby Islands [4a]	None	Washington	200	Machias Bay.
Little Chebeague Island [4a]	10	Cumberland	91	Casco Bay.
Long Island [4a]	5	Hancock	4,450	Blue Hill Bay.
Long Island [9]	None	Washington	161	Baskahegan Lake.
Long Island group [4a]	None	do	147	Cobscook Bay.
Long Island group [4a]	60	Cumberland	830	Casco Bay.
Marks Island group [9]	1–25	Washington	185	Grand Lake.
Masters Island group [9]	1–25	do	216	Meddybemps Lake.
Matinicus Island group [7]	20	Knox	1,642	Atlantic Ocean.
Metinic Island group [4a]	2	do	368	Do.
Monhegan Island group [4a]	20	Lincoln	566	Do.
Monroe Island group [4a]	1–25	Knox	291	West Penobscot Bay.
Moose Island [9]	None	Washington	625	West River.
Moshier Island group [4a]	None	Cumberland	168	Casco Bay.
Mosquito Island group [4a]	1–25	Knox	221	Atlantic Ocean.
Norton Island group [4a]	1–25	Washington	189	Pleasant Bay.
Norton Island group [4a]	1–25	do	195	Western Bay.
Norris Island group [9]	1–25	Androscoggin	84	Androscoggin Lake.
Olamon Island group [9]	1–25	Penobscot	1,966	Penobscot Bay.
Orrs Island group [4a]	55	Cumberland	1,177	Casco Bay.
Peaks Island group [4a]	40	do	762	Do.
Petit Manan Island group [4a]	5	Washington	34	Atlantic Ocean.
Pillsbury Island [9]	None	Piscataquis	250	Eagle Lake.
Pond Island group [4a]	1–25	Washington	274	Atlantic Ocean.
Prune Island group [4a]	None	do	94	Third Machias Lake.
Rackliff Island group [4a]	1–25	Knox	418	Atlantic Ocean.
Richmond Island [4a]	None	Cumberland	215	Do.
Rogue Island group [4a]	1–25	Washington	1,938	Englishman Bay.
Rutherford Island group [4a]	26–50	Lincoln	1,355	Damariscotta River.
Sabasodegon Island group [4a]	30	Cumberland	6,351	Casco Bay.
Sally Island group [4a]	None	Washington	45	Atlantic Ocean.
Salt Island group [4a]	1–25	do	324	Machias Bay.
Seguin Island group [4a]	5	Sagadahoc	123	Atlantic Ocean.
Sheep Island [4a]	None	Washington	10	Dyer Bay.
Southport Island group [4a]	40	Lincoln	5,162	Atlantic Ocean.
Sprucehead Island group [4a]	26–50	Knox	147	Do.
Stevens Island group [9]	None	Oxford	100	Androscoggin River.
Sturdivant Island [4a]	5	Cumberland	70	Casco Bay.
Swan Island group [4a]	2	Kennebec	1,450	Kennebec River.
Swans Island group [4a]	10	Hancock	12,046	Atlantic Ocean.
Toothaker Island group [11a]	1–25	Oxford	882	Mooselookmeguntic Lake.
Treat Island group [4a]	25	Washington	100	Cobscook Bay.
Trott Island group [4a]	2	York	162	Atlantic Ocean.
Vinalhaven Island group [4a]	30	Knox	22,339	Penobscot Bay.
Westport Island group [4a]	20	Lincoln	5,492	Back River.
Whaleboat Island group [4a]	None	Cumberland	149	Casco Bay.
White Island group [9]	1	Washington	510	Big Lake.
Wood Island group [4a]	10	Sagadahoc	69	Atlantic Ocean.
Wood Island group [4a]	None	York	79	Do.
Subtotal (109)			156,201	
MARYLAND				
Adam Island [6]	1	Dorchester	142	Chesapeake Bay.
Ayer Island group [4a]	None	Worcester	54	Ayer Creek.
Barren Island [4a]	1	Dorchester	370	Chesapeake Bay.
Big Island group [6]	None	Somerset	50	Pocomoke Sound.
Bloodsworth Island group [6]	None	Dorchester	4,535	Chesapeake Bay.

Island	Percent developed [2]	County	Acreage [3]	Body of water
MARYLAND—Continued				
Byrnes Island group [9]	None	Frederick	36	Potomac River.
Chase Island [6]	None	Kent	16	Chester River.
Cherry Island [4a]	10	Dorchester	14	Choptank River.
Deal Island group [6]	17	Somerset	2,347	Tangier Sound.
Devil Island group [6]	None	Worcester	20	Assawoman Bay.
Dickerson Island [6]	None	Talbot	48	Choptank River.
Dunnock Island group [6]	None	Dorchester	256	Dunonock Island Creek.
[redacted]				
Eastern Neck Island [4a]	15	Kent	2,304	Chesapeake Bay.
Garrett Island [9]	None	Cecil	159	Susquehanna River.
Gibson Island group [4a]	25	Anne Arundel	811	Magothy River.
Hambleton Island [4a]	None	Talbot	42	Broad Creek.
Harpers Island group [6]	None	Dorchester	146	Blackwater River.
Harrison Island group [9]	2	Montgomery	333	Potomac River.
Heaters Island group [9]	3	Frederick	485	Do.
Holland Island [6]	1	Dorchester	143	Chesapeake Bay.
Jackson Island group [6]	None	Somerset	28	Annemessex River.
Jericho Island group [6]	2	do	754	Manokin River.
Kent Island group [4a]	10	Anne Arundel	22,542	Chesapeake Bay.
Lower Hooper Island [4a]	None	Dorchester	736	Do.
Mason Island group [9]	1	Montgomery	240	Potomac River.
Meekins Neck group [6]	5	Dorchester	4,471	Chesapeake Bay.
Middle Hooper Island group [4a]	20	do	1,686	Do.
Mills Island group [6]	1	Worcester	642	Chincoteague Bay.
Northeast Island [6]	None	Dorchester	29	Chesapeake Bay.
Point Lookout Island group [4a]	20	St. Marys	238	Do.
Pone Island group [6]	None	Dorchester	446	Do.
Pooles Island [4a]	2	Harford	173	Do.
Poplar Island group [4a]	1	Talbot	200	Eastern Bay.
Ragged Island group [4a]	2	Dorchester	106	Little Choptank River.
Reedy Island group [6]	None	Worcester	35	Assawoman Bay.
Roberts Island group [9]	8	Harford	99	Susquehanna River.
Seiden Island group [9]	1	Montgomery	464	Potomac River.
Smith Island group [6]	4	Somerset	9,906	Chesapeake Bay.
Shelldrake Island [6]	None	Worcester	344	Chincoteague Bay.
Shepherds Island group [9]	None	Washington	16	Potomac River.
Sherwin Island group [9]	None	Montgomery	260	Do.
South Hammocks Island group.[6]	None	Worcester	162	Assawoman Bay.
South Marsh Island group [6]	None	Somerset	2,884	Tangier Sound.
Spesutie Island group [4a]	20	Harford	1,526	Chesapeake Bay.
Spring Island group [6]	None	Dorchester	53	Do.
St. Catherine Island group [4a]	5	St. Marys	69	Potomac River.
St. George Island [4a]	40	do	510	St Marys River.
Sugarloaf Island [6]	None	Dorchester	224	Blackwater River.
Taylors Island group [4a]	10	do	8,094	Chesapeake Bay.
Tilghman Island group [4a]	18	Talbot	1,488	Do.
Tizzard Island group [6]	None	Worcester	150	Johnson Bay.
Upper Hooper Island [4a]	40	Dorchester	1,044	Chesapeake Bay.
Watkins Island group [9]	None	Montgomery	779	Potomac River.
Wroten Island [4a]	3	Dorchester	503	Honga River.
Wye Island [4a]	8	Queen Anne	2,112	Wye Narrows.
Subtotal (55)			75,324	
MASSACHUSETTS				
Big Ram Island group [6]	3	Bristol	238	Westport River—East Branch.
Brant Island group [4a]	5	Plymouth	16	Buzzards Bay.
Calf Island group [11b]	10	Suffolk	92	Massachusetts Bay
Cape Ann Island [4a]	50	Essex	11,730	Atlantic Ocean—Ipswich Bay.
Chappaquiddick Island [7]	10	Dukes	3,570	Atlantic Ocean.
Elizabeth Island group [4a]	25	do	8,268	Buzzards Bay.
Hog Island group [4a]	15	Essex	723	Essex Bay.
Hopkins Island group [6]	None	Barnstable	575	Nauset Bay.
Jules Island group [6]	None	do	283	Cape Cod Bay.
Kidds Island [9]	None	Franklin	18	Connecticut River.
Kimball Island [6]	None	Essex	20	Merrimack River.
Lieutenant Island group [6]	5	Barnstable	276	Wellfleet Harbor.
Long Island group [4a]	None	Bristol	45	Buzzards Bay.
Marblehead Neck Island group.[4a]	35	Essex	285	Massachusetts Bay.
Martha's Vineyard [7]	15	Dukes	63,000	Atlantic Ocean.
Muskeget Island [7]	None	Nantucket	300	Do.
Nantucket Island [7]	3	do	30,391	Do.
Narrows Island group [4a]	20	Suffolk	113	Massachusetts Bay.
Noman's Land Island [7]	None	Dukes	628	Atlantic Ocean.
Pearce Island group [6]	5	Essex	231	Annisquam River.
Peddocks Island [4a]	15	Plymouth	170	Hull Bay.
Pine Island group [11a]	None	Worcester	121	Sudbury Reservoir.
Plum Island [4a]	25	Essex	3,305	Atlantic Ocean.
Quincy Bay Island group [4a]	40	Suffolk	305	Boston Harbor.
Rawson Island group [9]	30	Franklin	210	Connecticut River.
Roger Island group [6]	None	Essex	418	Plum Island River.
Sanford Flat Island group [6]	3	Bristol	120	Westport River.
Strong Island group [6]	5	Barnstable	508	Pleasant Bay.
Thacher Island group [4a]	None	Essex	112	Atlantic Ocean.
Thompson Island group [4a]	None	Suffolk	231	Dorchester Bay.
Tuckernuck Island [7]	None	Nantucket	1,000	Atlantic Ocean.
Weepocket Island group [4a]	None	Dukes	11	Buzzards Bay.
West Island [4a]	20	Bristol	560	Do.
Weymouth-Hingham Island group.[4a]	5	Norfolk	124	Hull Bay.
Winter Island [9]	None	Essex	50	Massachusetts Bay.
Woodbridge Island group [6]	None	do	274	Plum Island River.
Subtotal (35)			127,693	

Footnotes at the end of appendix.

APPENDIX IV—Continued

NAMED ISLANDS WITH STATE, REGIONAL, OR NATIONAL RECREATION POTENTIAL UNAVAILABLE TO THE PUBLIC [1]—Continued

Island	Percent developed [2]	County	Acreage [3]	Body of water
MICHIGAN				
Andrews Island [4b]	5	Chippewa	14	Potagannissing Bay.
Apple Island [9]	None	Oakland	38	Orchard Lake.
Arnold Island [4b]	None	Chippewa	30	Lake Huron.
Ashman Island [4b]	None	do	62	Potagannissing Bay.
Au Train Island [4b]	None	Alger	105	Lake Superior.
Bald Island [4b]	1	Chippewa	75	Potagannissing Bay.
Beaver Island [10]	10	Charlevoix	35,465	Lake Michigan.
Beavertail Point Island [4b]	1	Mackinac	41	Lake Huron.
Bellevue Island [4b]	None	Chippewa	30	Do.
Big La Salle Island [4b]	1	Mackinac	1,012	Do.
Big St. Martin Island [4b]	None	do	951	Do.
Big Trout Island [4b]	None	Chippewa	94	Potagannissing Bay.
Birch Island [4b]	None	Mackinac	21	Lake Huron.
Bois Blanc Island [4b]	1	do	21,352	Do.
Boot Island [4b]	5	do	123	Do.
Boulanger Island [4b]	4	Chippewa	46	Potagannissing Bay.
Brown Island [9]	None	Presque Isle	55	Grand Lake.
Burnt Island [4b]	5	Chippewa	411	Potagannissing Bay.
Butterfield Island [4b]	1	do	32	Do.
Cass Island [4b]	1	do	74	Do.
Cedar Island [4b]	None	do	64	Do.
Celeron Island [9]	5	Wayne	120	Detroit River.
Charity Island [4b]	None	Arenac	280	Lake Huron.
Cherry Island [4b]	None	Wayne	30	Detroit River.
Claw Island [4b]	None	Chippewa	10	Potagannissing Bay.
Corvell Island [4b]	50	Mackinac	82	Lake Huron.
Crooked Island [4b]	1–25	Alpena	47	Do.
Duck Island [4b]	1	Chippewa	10	Whitney Bay.
Duck Island [10]	1	do	200	Lake George.
Espanore Island [4b]	5	do	120	Lake Huron.
Flat Island [9]	1	Marquette	15	Lake Michigamme.
Fox Island [9]	None	Grand Traverse	12	Long Lake.
Garden Island [10]	None	Charlevoix	4,372	Lake Michigan.
Garden Island [4b]	None	Chippewa	40	Lake Huron.
Gitche Manato Island [9]	None	Marquette	10	Lake Michigamme.
Government Island [4b]	None	Mackinac	215	Lake Huron
Grand Island [9]	None	Preque Isle	273	Grand Lake.
Grand Island [4b]	1–25	Alger	12,905	Lake Superior
Grape Island [4b]	2	Chippewa	80	Potagannissing Bay.
Gravel Island [4b]	None	do	20	Lake Huron.
Green Island [6]	None	Saginaw	35	Saginaw River.
Gull Island [10]	None	Charlevoix	240	Lake Michigan.
Gull Island [4b]	None	Chippeqa	16	Potagannissing Bay.
Gull Island [4b]	None	Delta	13	Lake Michigan.
Harbor Island [4b]	None	Chippewa	694	Potagannissing Bay.
Harris Island [4b]	None	do	11	Do.
Hart Island [4b]	None	do	20	Munuscong Lake.
Hill Island [4b]	30	Mackinac	235	Lake Huron.
Hog Island [10]	None	Charlevoix	2,071	Lake Michigan.
Island No. 8 [4b]	25	Mackinac	132	Lake Huron.
Island No. 12 [6]	None	Ionia	15	Grand River.
James Island [4b]	10	Chippewa	26	Potagannissing Bay.
La Pointe Island [4b]	5	do	23	Do.
Lighthouse Island [4b]	None	Marquette	40	Lake Superior.
Lime Island [4b]	5	Chippewa	900	Munuscong Lake.
Little Charity Island [4b]	None	Arenac	17	Lake Huron.
Little Gull Island [4b]	None	Delta	10	Lake Michigan.
Little La Salle Island [4b]	1	Mackinac	400	Lake Huron.
Little Lime Island	None	Chippewa	16	Munuscong Lake.
Little Presque Island [4d]	None	Marquette	14	Lake Superior.
Little St. Martin Island [4b]	None	Mackinac	472	Lake Huron.
Little Summer Island [4b]	None	Delta	506	Lake Michigan.
Long Island [9]	1	Grand Traverse	24	Long Lake.
Long Island [4b]	1	Mackinac	70	Lake Huron.
Long Island [4b]	None	Chippewa	17	Potagannissing Bay.
Long Island [4b]	3	do	40	Lake Huron.
Love Island [4b]	None	do	20	Munuscong Lake.
Mackinac Island [4b]	15	Mackinac	2,321	Lake Huron.
Macomb Island [4b]	1	Chippewa	240	Potagannissing Bay.
Manitou Island [4b]	10	Keweenaw	1,013	Lake Superior.
Maple Island [4b]	1	Chippewa	123	Potagannissing Bay.
Marion Island [4b]	1	Grand Traverse	600	Grand Traverse Bay.
Marquette Island [4b]	None	Mackinac	4,000	Lake Huron.
Meade Island [4b]	5	Chippewa	160	Do.
Middle Island [4b]	None	Alpena	255	Do.
Neebish Island [4b]	20	Chippewa	12,981	Lake Nicolet.
North Fox Island [10]	5	Leelanau	777	Lake Michigan.
North Island [4b]	10	Huron	88	Saginaw Bay.
North Manitou Island [10]	5	Leelanau	14,100	Lake Michigan.
Odiem Island [9]	None	Monroe	40	North Maumee Bay.
Patridge Island [4b]	None	Marquette	85	Lake Superior.
Peck Island [4b]	1	Chippewa	40	Patogannissing Bay.
Pipe Island [4b]	10	do	13	Do.
Rains Island [4b]	5	do	300	Munuscong Lake.
Ramsey Island [4b]	None	Marquette	26	Lake Michigamme.
Rocky Island [9]	None	Delta	10	Lake Michigan.
Rogg Island [4b]	None	Chippewa	29	Potagannissing Bay.
Round Island [4b]	None	Mackinac	392	Lake Huron.
Rover Island [4b]	None	do	16	Do.
Rutland Island [4b]	None	Chippewa	73	Potagannissing Bay.
Saltonstall Island [4b]	None	do	19	Do.
Shelter Island [4b]	None	do	70	Lake Huron.
Snake Island [4b]	None	Delta	10	Big Bay De Noc.
South Fox Island [10]	5	Leelanau	3,382	Lake Michigan.
South Island [9]	None	Grand Traverse	12	Long Lake.
South Manitou Island [10]	5	Leelanau	4,940	Lake Michigan.
Squaw Island [10]	1	Charlevoix	69	Do.
St. Helena Island [4b]	None	Mackinac	241	Do.
St. Martin Island [4b]	1	Delta	1,332	Do.
Stony Island [4b]	None	Huron	387	Saginaw Bay.
Stricklands Point Island [4b]	30	Chippewa	30	Potagannissing Bay.
Strongs Island [4b]	None	Mackinac	90	Lake Huron.
Sturgeon Bar Island [9]	None	Wayne	10	Detroit River.
St. Vitals Island [4b]	None	Delta	20	Big Bay De Noc.
Sugar Island [9]	None	Wayne	40	Detroit River.
Sugar Island [4b]	30	Chippewa	31,056	Lake Nicolet.
Sugar Island [4b]	None	Alpena	173	Lake Huron.
Summer Island [4b]	1	Delta	2,130	Lake Michigan.
Sweets Point Island [4b]	10	Chippewa	100	Munuscong Lake.
Thunder Bay Island [4b]	1	Alpena	218	Lake Huron.
Traverse Island [4b]	None	Houghton	91	Keweenaw Bay.
Trout Island [10]	1	Charlevoix	80	Lake Michigan.
Whiskey Island [10]	1	do	96	Do.
Wilson Island [10]	1	Chippewa	159	Potagannissing Bay.
Williams Island [4b]	None	Alger	33	Lake Superior.
Wood Island [4b]	None	do	170	Do.
Subtotal (116)			167,653	
MINNESOTA				
Alepo [9]	1	St. Louis	15	Lake Vermillion
Baylis Island [9]	1	do	75	Crane Lake
Bear Island [9]	None	do	150	Bear Island Lake
Beaver Island [6]	None	Sterns	225	Mississippi River
Blueberry Island [9]	None	St. Louis	15	Burntside Lake
Brownell Island [9]	None	do	10	Do.
Burnt Island [9]	None	do	40	Do.
Coleman Island [9]	None	do	3,200	Do.
Comet Island [9]	2	do	40	Lake Vermillion
Cramer Island [9]	1	do	20	Trout Lake
Dollar Island [9]	None	do	15	Burntside Lake
Drury Island [6]	None	Wabasha	64	Mississippi River
Hall Island [9]	None	St. Louis	75	Burntside Lake
Honeymoon Island [9]	None	do	55	Do.
Iatch Island [6b]	10	Winona	60	Mississippi River
Indian Island [9]	None	St. Louis	25	Crane Lake
Knotts Island [9]	1	do	55	Vermillion Lake
Last Girl Island [9]	None	do	40	Burntside Lake
Lock Island [9]	None	do	12	Do.
Long Island [9]	None	do	35	Do.
Lower Grey Cloud Island [6b]	None	Washington	1,358	Mississippi River.
Matson Island [9]	None	St. Louis	20	Lake Vermillion.
Oliver Island South [9]	None	do	40	Burntside Lake.
Oliver Island North [9]	None	do	35	Do.
Pine Island [9]	None	do	15	Do.
Bear Island [9]	None	Cass	1,022	Leech Lake.
Beaver Island [9]	1–25	Lake	10	Lake Superior.
Big Island [9]	None	Koochichin	178	Nett Lake.
Big Star Island [9]	1–25	Beltrami	1,155	Cass Lake.
Elmwood Island [9]	None	Itasca	37	Island Lake.
Fort St. Charles Island group [9]	1–25	Lake of the Woods	471	Lake of the Woods.
Garden Island [9]	1–25	do	690	Do.
Gary Island [9]	1–25	Lake	12	Basswood Lake.
Goat Island [9]	26–50	Hubbard	65	Lake Belle Taine.
Grand Portage Island [9]	None	Cook	50	Lake Superior.
Half Dog Island [9]	1–25	Lake	15	Basswood Lake.
Indian Grave Island [9]	1–25	do	15	Do.
Loon Island [9]	1–25	Murray	44	Lake Shetek.
Mile Island [9]	1–25	Lake	65	Fall Lake.
Minnesota Island [9]	None	Cass	252	Leech Lake.
Oak Island [9]	1–25	Lake of the Woods	1,626	Lake of the Woods.
Pelican Island [9]	None	Cass	166	Leech Lake.
Pike Island [9]	None	Ramsey	238	Mississippi River.
Pipe Island [9]	None	Cass	12	Leech Lake.
Seven Island [9]	None	Pine	20	St. Croix River.
Susie Island group [9]	None	Cook	360	Lake Superior.
Pine Island [9]	None	St. Louis	2,500	Lake Vermillion.
Ripple Island [9]	None	do	20	Burntside Lake.
Sioux Pine Island [9]	None	do	600	Trout Lake.
Snellman Island [9]	None	do	45	Burntside Lake.
Spider Island [9]	1	do	12	Lake Vermillion.
Sumpter Island [9]	None	do	10	Burntside Lake.
Three Island [9]	None	do	75	Iron Lake.
Upper Grey Cloud Island [6b]	None	Washington	1,047	Mississippi River.
Subtotal (54)			16,506	
MISSISSIPPI				
Cat Island [5]	None	Harrison	2,400	Mississippi Sound.
Deer Island [5]	1–25	do	530	Do.
Horn Island [5]	1–25	Jackson	3,690	Do.
Petit Bois Island [5]	1–25	do	1,470	Do.
Round Island [5]	None	do	80	Do.
Ship Island [5]	26–50	Harrison	1,250	Do.
Subtotal (6)			9,420	
MISSOURI				
Cora Island [6]	None	St. Charles	1,330	Missouri River.
Cuivre Island [6]	1	Lincoln	1,355	Mississippi River.
Dresser Island [6]	None	St. Charles	788	Do.
Fabius Island [6]	None	Marion	305	Do.
Fox Island [6]	None	Cole	150	Missouri River.
Howell Island [6]	None	St. Charles	2,511	Do.
Orton Island [6]	None	Marion	85	Mississippi River.

Footnotes appear at the end of this appendix.

APPENDIX IV—Continued

NAMED ISLANDS WITH STATE, REGIONAL, OR NATIONAL RECREATION POTENTIAL UNAVAILABLE TO THE PUBLIC 1—Continued

Island	Percent developed [2]	County	Acreage [3]	Body of water
MISSOURI—Continued				
Stillman Island [6]	None	Marian	120	Mississippi River.
Turkey Island [6]	None	Lincoln	128	Do.
Subtotal (9)			6,772	
MONTANA				
Bird Island [9]	None	Lake	30	Flathead Lake.
Bull Island [9]	None	do	110	Do.
Cedar Island [9]	None	do	25	Do.
Cemetery Island [11]	None	Lewis and Clark	20	Canyon Ferry Impoundment.
Council Island [9]	None	Fergus	20	Missouri River.
Cow Island group [9]	None	do	110	Do.
Cromwell Island [9]	None	Lake	360	Flathead Lake.
Hole-in-the-Wall Island group [9]	None	Chouteau	10	Missouri River.
Holmes Council Island group [9]	None	Fergus	15	Missouri River.
Iron City Island group [9]	None	do	15	Do.
Little Bull Island group [9]	None	Lake	35	Flathead Lake.
Melita Island [9]	Nohe	do	70	Do.
Norris Island group [9]	None	Chouteau	105	Missouri River.
Pablo Island group [9]	None	do	10	Do.
Shelter Island [9]	None	Lake	25	Flathead Lake.
Sturgeon Island group [9]	None	Blaine	50	Missouri River.
Wild Horse Island [9]	1–25	Lake	2,500	Flathead Lake.
Wolf Island [9]	None	Chouteau	10	Missouri River.
Subtotal (18)			3,520	
NEBRASKA				
Platte River Island group [9]	1	Colfax, Dodge, Butler, Cass, Douglass, Saunders, Sarpy.	5,170	Platte River.
Subtotal (1)			5,170	
NEVADA (None)				
NEW HAMPSHIRE				
Barndoor Island group [9]	10	Carroll	162	Lake Winnipesaukee.
Beach Island group [9]	10	Strafford	25	Bow Lake.
Bear Island [9]	None	Merrimack	105	Suncook River.
Bear Island group [9]	10	Belknap	290	Lake Winnipesaukee.
Big Island [9]	None	Carroll	9	Silver Lake.
Big Island [9]	10	do	13	Lovell Lake.
Big Island group [9]	None	Coos	182	Umbagog Lake.
Black Cat Island group [9]	30	Belknap	177	Lake Winnipesaukee.
Black Island [9]	20	Carroll	50	Moultonboro Bay.
Browns Island group [9]	None	Rockingham	102	Massabesic Lake.
Burnap's Island [9]	None	Sullivan	5	Connecticut River.
Chapman Island group [9]	None	Belknap	37	Lake Waukewan.
Chase Island [9]	None	Sullivan	12	Connecticut River.
Dunshee Island [9]	None	Cheshire	10	Do.
Evans Island [9]	None	Coos	30	Androscoggin River.
Gleason Island [9]	None	Grafton	10	Connecticut River.
Governors Island group [9]	None	Rockingham	272	Island Pond.
Governors Island [9]	20	Belknap	500	Lake Winnipesaukee.
Hart Island [9]	None	Sullivan	26	Connecticut River.
Hinman Island group [9]	None	Coos	13	Do.
Howard Island group [9]	None	Grafton	80	Do.
Hubbard group [9]	None	Sullivan	32	Do.
Isles of Shoals group [5]	None	Rockingham	131	Altantic Ocean.
Jarvis Island [9]	None	Sullivan	12	Connecticut River.
Johnston Island [9]	None	Grafton	8	Do.
Jose Island group [9]	None	Carroll	15	Moultonboro Bay.
Kelly Island [9]	None	Belknap	23	Pemigewasset Lake.
Ledge Island [9]	None	Sullivan	3	Connecticut River.
Log Cabin Island group [9]	None	Rockingham	15	Pawtuckaway Pond.
Long Island [9]	10	Carroll	1,170	Lake Winnipesaukee.
Loon Island [9]	None	do	6	Leavitt Bay.
Mark Island group [9]	10	Belknap	642	Lake Winnipesaukee.
Mayhew Island [9]	None	Grafton	40	Newfound Lake.
Moat Island [9]	None	Rockingham	15	Lamprey River.
New Castle Island group [4b]	60	do	570	Portsmouth Harbor.
Rattlesnake Island group [9]	15	Belknap	523	Lake Winnipesaukee.
Spring Island group [9]	30	Carroll	49	Green's Basin Lake.
Squam Lake Island group [9]	None	Grafton	755	Squam Lake.
Stebbin Island [9]	None	Cheshire	30	Connecticut River.
Stamp Act Island group [9]	10	Carroll	131	Lake Wentworth.
Stevens Island group [9]	None	Grafton	14	Connecticut River.
Stonedam Island group [9]	10	Belknap	146	Meredith Bay.
Sumner Island group [9]	None	do	53	Pemigewasset River.
Wentworth Island [9]	None	Coos	10	Androscoggin River.
Whortleberry Island [9]	15	Carroll	957	Lake Winnipesaukee.
Subtotal (46)			7,475	
NEW JERSEY				
Artificial Island group [6]	None	Salem	3,200	Delaware River.
Bonnet Island group [6a]	5	Ocean	520	Manahawkin Bay.
Brigantine Island [5]	60	Atlantic	2,450	Atlantic Ocean.
Bulls Island [9]	None	Hunterdon	80	Delaware River.
Chester Island [6]	None	Gloucester	140	Do.
Clam Island group [6]	None	Ocean	446	Barnegat Bay.
Conklin Island group [6]	None	do	1,866	Do.
Devils Island group [5]	None	Cape May	1,351	Ludlam Bay.
Devils Wedge Island group [5]	5	Cape May	712	Turtle Gut Bay.
Dildine Island group [9]	5	Warren	104	Delaware River.
Eagle Island [9]	None	Hunterdon	18	Do.
Ellis Island [4]	100	Hudson	24	Upper New York Bay.
Fortescue Neck Island group [6]	10	Cumberland	6,945	Delaware Bay.
Fowler Island group [6]	None	do	33	Maurice River.
Glassy Sound Island group [5]	None	Cape May	1,890	Richardson Sound.
Great Island group [5]	5	Atlantic	3,050	Egg Harbor.
Gull Island group [5]	None	Cape May	3,540	Jenkins Sound.
Gull Island group [6]	None	do	760	Townsend Sound.
Gunning Island group [9]	None	Monmouth	166	Shrewsbury River.
Ham Island group [6]	None	Ocean	248	Little Egg Harbor.
Herring Island [6]	None	do	40	Metedeconk River.
Hickory Island group [6b]	None	Salem	600	Salem River.
Hog Island group [6]	None	Atlantic	160	Mullica River.
Mashipacong Island group [9]	None	Sussex	514	Delaware River.
Monds Island [6]	None	Gloucester	150	Do.
Money Island group [6]	None	Salem	412	Do.
Mormandie Island group [6]	20	Monmouth	158	Navesink River.
Ocean City Island [5]	60	Cape May	3,450	Atlantic Ocean.
Osborn Island [9]	None	Monmouth	8	Manasquan River.
Pine Island Meadow group [6]	None	Salem	840	Salem River.
Pine Island group [6]	None	do	5,156	Delaware Bay.
Raccoon Creek group [6]	None	Gloucester	145	Raccoon Creek.
Rainbow Island group [5]	5	Cape May	1,270	Great Egg Harbor.
Rotary Island [9]	None	Mercer	29	Delaware River.
Sedge Island group [6]	None	Ocean	404	Barnegat Bay.
Seven Island group [6]	None	do	1,862	Great Bay.
Story Island group [5]	None	do	988	Little Egg Harbor.
Thorofare Island group [5]	None	Cape May	848	Jarvis Sound.
Tocks Island group [9]	None	Warren	50	Delaware River.
Treasure Island group [9]	None	Hunterdon	68	Do.
Upper Island group [5]	5	Cape May	3,897	Stites Sound.
Weak Fish Island group [5]	5	Atlantic	5,262	Reeds Bay.
Wildwood Island group [5]	80	Cape May	4,118	Atlantic Ocean.
Subtotal (43)			57,972	
NEW MEXICO (None)				
NEW YORK				
Barnhart Island group [9]	None	St. Lawrence	1,820	St. Lawrence River.
Beacon Island group [9]	None	Fulton	80	Sacandaga Reservoir.
Big Island group [9]	None	Oswego	75	Oswego River.
Big Island group [9]	10	Onondaga	502	Seneca River.
Big Island group [9]	10	Hamilton	114	Raque te Lake.
Bonsted Island group [9]	30	Oswego	25	Oswego River.
Bowman Island group [9]	None	St. Lawrence	27	Black Lake.
Campbell Island group [9]	None	Rensselaer	43	Hudson River
Cedar Island group [9]	None	St. Lawrence	120	Chippewa Bay.
Cherry Is and [9]	None	Orange	11	Delaware River.
Croil Island group [9]	None	St. Lawrence	785	St. Lawrence River.
Delano Island group [9]	None	Jefferson	98	Black River.
Dunham Island group [9]	None	Oswego	50	Oneida Lake.
East Bar Island group [6b]	None	Suffolk	70	Nissequoque River.
Esopus Island [9]	None	Dutchess	10	Hudson River.
Fire Island [9]	10	Suffolk	6,700	Atlantic Ocean.
Fishers Island group [4a]	30	do	2,730	Great Peconic Bay
Fox Island group [4b]	None	Jefferson	1,372	Lake Ontario.
Galop Is and group	None	St. Lawrence	515	St. Lawrence River.
Gardiners Island group [6]	5	Suffolk	3,307	Block Island Sound.
Glosky Island [9]	None	Onondaga	100	Oneida River.
Governors Island [9]	None	New York	180	Upper New York Bay.
Grand Island [9]	55	Niagara	18,310	Niagara River.
Great Island [9]	None	Westchester	323	Kensico Reservoir.
Green Island group [9]	None	Franklin	157	Upper Saranac Lake.
Green Island [9]	None	Saratoga	23	Hudson River
Griffin Island [9]	None	do	70	Do.
Grindstone Island group [9]	None	Jefferson	5,451	St. Lawrence River.
Gumaer Island [9]	None	Uls er	25	Rondont Creek.
Hen Island group [9]	None	Westchester	29	Mamaroneck Harbor.
Hiawatha Island [9]	10	Tioga	125	Susquehanna River.
Hoopers Valley Island [9]	None	do	20	Do.
Long Sault Island group [9]	None	St. Lawrence	898	St. Lawrence River.
Magdelan Island group [9]	None	Dutchess	194	Hudson River.
Maloney Island [9]	None	Onondaga	22	Seneca River.
Maple Bend Island group [9]	None	Washington	151	Lake Champlain.
Middleground Flats Island group [9]	None	Greene	175	Hudson River.
Moose Island group [9]	10	Essex	760	Lake Placid.
Newark Island group [9]	10	Wayne	204	Sodus Bay.
Ogden Island [9]	None	St. Lawrence	459	St. Lawrence River.
Peobles Island group [9]	None	Rensselaer	155	Hudson River.
Pepper Island group [9]	5	Montgomery	92	Mohawk River.
Pollepel Island group [9]	None	Dutchess	20	Hudson River.
Poors Island group [9]	5	Jefferson	86	Black River.
Quack Island group [9]	None	Rensselaer	143	Hudson River.
Rattlesnake Island group [9]	None	Greene	115	Do.
Robins Island [9]	None	Suffolk	442	Great Peconic Bay.
Rogers Island [9]	5	Columbia	175	Hudson River.
Schuyler Island [9]	None	Essex	168	Lake Champlain.
Sedge Island group [9]	None	Suffolk	111	Shinnecock Bay.
Simmons Island group [9]	None	Albany	76	Hudson River.
Sols Island group [9]	20	St. Lawrence	187	Raquette River.
Squaw Island group [9]	None	Erie	157	Niagara River.
Stockport Island group [9]	15	Greene	210	Hudson River.
Stoney Island group [4b]	None	Jefferson	1,422	Lake Ontario.
Thompson Island [9]	None	Saratoga	50	Hudson River.
Valcour Island group [9]	None	Clinton	1,024	Lake Champlain.

Footnotes appear at the end of this appendix.

APPENDIX IV—Continued

NAMED ISLANDS WITH STATE, REGIONAL, OR NATIONAL RECREATION POTENTIAL UNAVAILABLE TO THE PUBLIC [1]—Continued

Island	Percent developed [2]	County	Acreage [3]	Body of water
NEW YORK—Continued				
Walter Island [9]	None	Onondaga	14	Oswego River.
Wellesley Island group [9]	5	Jefferson	8,075	St. Lawrence River.
Wilson Hill Island group [9]	None	St. Lawrence	1,051	Do.
Subtotal (60)			59,903	
NORTH CAROLINA				
Battery Island [5]	1–25	Brunswick	60	Long Bay.
Bogue Banks Island [5]	None	Carteret	6,400	Atlantic Ocean.
Marshy Island group [5]	None	Currituck	1,500	Do.
Smith Island group [5]	None	Brunswick	11,000	Do.
Striking Island [5]	None	do	30	Dutchman Creek.
Subtotal (5)			18,990	
NORTH DAKOTA (None)				
OHIO				
Johnson Island [4b]	5	Ottawa	300	Lake Erie.
Kelleys Island [4b]	10	Erie	2,888	Do.
Middle Bass Island [4b]	20	Ottawa	750	Do.
Mouse Island [4b]	10	do	8	Do.
North Bass Island [4b]	10	do	705	Do.
Rattlesnake Island [4b]	20	do	65	Do.
South Bass Island [4b]	20	do	1,568	Do.
Squaw Island [4b]	None	Sandusky	3	Do.
Starve Island [4b]	None	Ottawa	1	Do.
Turtle Island [4b]	None	Sandusky	2	Do.
Subtotal (10)			6,290	
OKLAHOMA (None)				
OREGON				
Bolon Island [9]	30	Douglas	200	Umpqua River.
Booth Island group [9]	None	Lane	120	Siltcoos Lake.
Cascade Locks Island [9]	None	Hood River	20	Columbia River.
Cathlament Bay Island group [6]	None	Clatsop	650	Do.
Goose Island [6]	None	do	20	Do.
Government Island group [9]	None	Multnomah	2,268	Do.
Grassy Island [6]	None	Clatsop	80	Do.
Green Island group [6]	None	do	255	Do.
Johnson Island group [9]	None	Malheur	540	Snake River.
Karlson Island group [6]	None	Clatsop	1,155	Columbia River.
Lava Island [9]	None	Deschutes	10	Deschutes River.
Marsh Island group [6]	None	Clatsop	1,915	Columbia River.
Miller Sands Island group [9]	None	do	235	Do.
Minaker Island group [6]	None	do	265	Do.
Mott Island group [9]	None	do	1,000	Do.
Myrtle Island [9]	None	Douglas	28	Umpqua River.
Pearcy Island [9]	None	Multnomah	1,940	Columbia River.
Quinin Island group [6]	None	Clatsop	365	Do.
Russian Island group [6]	None	do	825	Do.
Sauvie Island group [9]	None	Columbia	26,720	Do.
Seal Island group [6]	None	Clatsop	342	Do.
Svenson Island group [6]	None	do	465	Do.
Tronson Island group [6]	None	do	135	Do.
Woody Island [6]	None	do	220	Do.
Subtotal (24)			39,773	
PENNSYLVANIA				
Ackerman Island [11a]	None	Crawford	13	Pymatuning Reservoir.
Bell Island [9]	None	Juniata	110	Juniata River.
Blood Island group [9]	None	Northunberland	316	Susquehanna River.
Clark Island group [11a]	5	Crawford	285	Pymatuning Reservoir.
Grafts Island group [9]	None	Dauphin	154	Susquehanna River.
Dodd Island group [9]	None	Bradford	35	Do.
Duncan Island group [9]	None	Lancaster	120	Do.
Georgetown Island [9]	None	Beaver	32	Ohio River.
Gould Island [9]	None	Luzerne	50	Susquenhanna River.
Great Island [9]	5	Clinton	250	West Branch. Susquehanna River.
Harris Island group [9]	None	Bradford	74	Susquehanna River.
Hawns Bridge Island [9]	None	Huntingdon	65	Juniata River.
Hendrick Island [9]	None	Bucks	40	Delaware River.
Hoge Island group [9]	None	Venango	40	Allegheny River.
Keifer Island [9]	None	Northampton	30	Delaware River.
Lagrange Island [9]	None	Wyoming	14	Susquehanna River.
Little Island group [9]	None	Luzerne	32	Do.
McClokey Island	None	Clinton	30	W. Branch Susquehanna River.
Mead Island group [9]	None	Warren	169	Allegheny River.
Montgomery Island group [9]	None	Northumberland	77	Susquehanna River.
Mowey Island group [6]	None	Bucks	325	Delaware River.
Nicholson Island group [9]	None	Armstrong	17	Allegheny River.
Phillis Island [9]	None	Beaver	40	Ohio River.
Prahis Island group [9]	None	Bucks	39	Delaware River.
Richard Island [9]	None	Luzerne	75	Susquehanna River.
Ross Island [9]	None	Armstrong	24	Allegheny River.
Scovell Island [9]	None	Luzerne	65	Susquehanna River.
Shawnee Island group [9]	None	Monroe	415	Delaware River.
PENNSYLVANIA—Continued				
Urey Island group [9]	None	York	49	Susquehanna River.
Weise Island [9]	None	Lancaster	90	Do.
Wharf Island group [9]	None	Dauphin	514	Do.
Whitherup Island [9]	None	Venango	10	Allegheny River.
Subtotal (32)			3,598	
RHODE ISLAND				
Bills Island group [4a]	None	Washington	37	Quonochontaug Pond.
Block Island [7]	10	do	6,504	Atlantic Ocean.
Conanicut Island [4a]	25	Newport	6,105	Narragansett Bay.
Dutch Island [4a]	5	do	75	Do.
Dyer Island [4a]	1	do	30	Do.
Goat Island [4a]	50	do	35	Newport Harbor.
Gooseberry Island [4a]	5	Washington	25	Point Judith Pond.
Gould Island [4a]	80	Newport	60	Narragansett Bay.
Hog Island group [4a]	10	do	182	Do.
Hope Island [4a]	5	do	75	Do.
Narragansett Bay Island group [4a]	30	Washington	36	Do.
Page Island group [9]	5	Providence	14	Pascoag Reservoir.
Patience Island [4a]	5	Newport	200	Narragansett Bay.
Phillips Island [9]	None	Washington	10	Yawgoog Pond.
Prudence Island [4a]	20	Newport	3,627	Narragansett Bay.
Ram Island [4a]	None	Washington	35	Point Judith Pond.
Rose Island [4a]	5	Newport	17	Narragansett Bay.
Sandy Point Island [5]	None	Washington	50	Little Narragansett Bay.
Ward Island group [5]	None	do	65	Ninigret Pond.
Subtotal (19)			17,182	
SOUTH CAROLINA				
Bay Point Island [5]	1–25	Beaufort	1,800	Atlantic Ocean.
Bull Island [11c]	26–50	do	3,500	May River.
Capers Island [5]	1–25	Charleston	200	Atlantic Ocean.
Capers Island [5]	1–25	Beaufort	200	Do.
Cedar Island [5]	1–25	Georgetown	3,500	Do.
Daufuskie Island [5]	1–25	Beaufort	5,882	Do.
Debidue Island [5]	None	Georgetown	8,400	Do.
Dewees Island [5]	1–25	Charleston	890	Do.
Edisto Island [5]	26–50	do	34,000	Do.
Fripps Island [5]	26–50	Beaufort	3,000	Story River.
Hunting Island [5]	26–50	do	3,000	Atlantic Ocean.
Kiawah Island [5]	26–50	Charleston	7,300	Do.
Morgan Island [9]	None	Beaufort	2,000	Coosaw River.
Morris Island [5]	None	Charleston	1,200	Atlantic Ocean.
North Island [5]	None	Georgetown	6,000	Do.
Persanti Island [9]	None	Clarendon	350	Lake Marion.
Raccoon Island group [9]	26–50	Charleston	2,500	South Edisto River.
Seabrook Island [5]	1–25	do	1,800	Atlantic Ocean.
Subtotal (18)			85,522	
SOUTH DAKOTA				
Gills Island [9]	None	Day	10	Enemy Swim Lake.
Kite Island [9]	2	Roberts	101	Big Stone Lake.
La Framboise Island [9]	None	Hughes	688	Lake Sharpe.
Subtotal (3)			799	
TENNESSEE				
Beef Island group [9]	1–25	Shelby	3,500	Mississippi River.
City Island [9]	51–75	do	2,500	Do.
Diamond Island [9]	None	Hardin	162	Tennessee River.
Long Island [9]	26–50	Sullivan	1,500	Boone Reservoir.
Loos Hatche Bar Island [9]	None	Shelby	500	Mississippi River.
Presidents Island [9]	26–50	do	6,500	Do.
Treasure Island [9]	None	do	400	Do.
Williams Island [9]	None	Hamilton	459	Tennessee River.
Subtotal (8)			15,521	
TEXAS				
Galveston Island [5]	51	Galveston	27,500	Gulf of Mexico.
Matagorda Island [5]	5	Matagorda	44,800	Do.
Matagorda Peninsula North [5]	5	do	18,500	Do.
Matagorda Peninsual South [5]	1	do	15,500	Do.
Mustang Island [5]	25	Nueces	15,300	Do.
San Luis Follets Island [5]	10	Brazoria	5,500	Do.
St. Joseph Island [5]	1	Aransas	33,000	Do.
Subtotal (7)			160,000	
UTAH				
Antelope Island [9]	1–25	Davis	41,425	Great Salt Lake.
Subtotal (1)			41,425	
VERMONT				
Burton Island group [9]	None	Grand Isle	920	Lake Champlain.
Isle De Motte [9]	20	do	4,672	Do.
Metcalfe Island group [6]	None	Franklin	160	Do.
North Hero Island [9]	7	Grand Isle	8,192	Do.

Footnotes appear at the end of this appendix.

APPENDIX IV—Continued

NAMED ISLANDS WITH STATE, REGIONAL, OR NATIONAL RECREATION POTENTIAL UNAVAILABLE TO THE PUBLIC [1]—Continued

Island	Percent developed [2]	County	Acreage [3]	Body of water
VERMONT—Continued				
Rabbit Island [9]	2	Rutland	15	Lake Bomoseen.
South Hero Island group [9]	35	Grand Isle	19,877	Lake Champlain.
Subtotal (6)			33,836	
VIRGINIA				
Burwell Island [9]	None	Clarke	160	Shenandoah River.
Cedar Island group [5]	None	Accomack	5,000	Atlantic Ocean.
Fisherman's Island group [5]	None	Northampton	1,100	Do.
Fleets Island [9]	1–25	Lancaster	1,100	Chesapeake Bay.
Goodwin Island group [9]	None	York	200	York River.
Hog Island [5]	None	Northampton	5,000	Atlantic Ocean.
Parramore Island group [5]	None	Accomack	12,000	Do.
Wallops Island [5]	1–25	do	5,000	Do.
Subtotal (8)			29,560	
WASHINGTON				
Allan Island [4]	None	Skagit	300	Barrows Bay.
Anderson Island [4]	None	Pierce	3,176	Puget Sound.
Blakely Island [4]	None	San Juan	4,430	Rosario Strait.
Camano Island [4]	None	Island	24,268	Puget Sound.
Cypress Island [4]	None	Skagit	5,430	Rosario Strait.
Decatur Island [4]	None	San Juan	2,250	Do.
Driscoll Island group [9]	None	Okanogan	360	Okanogan River.
Eliza Island [4]	None	Whatcom	130	Bellingham Bay.
Fidalgo Island [4]	15	Skagit	27,294	Rosario Strait.
Fox Island [4]	30	Pierce	3,364	Puget Sound.
Guemes Island [4]	15	Skagit	5,430	Bellingham.
Hartstene Island [4]	10	Mason	12,000	Puget Sound.
Herron Island [4]	None	Pierce	312	Case Inlet.
Indian Islnd [4]	5	Jefferson	2,784	Kilisut Harbor.
Lopez Island [4]	None	San Juan	18,560	Rosario Strait.
Lower Columbia River group [9]	None	Wahkiakum, Clark, Skamania, Cowlitz	4,960	Lower Columbia River.
Marrowstone Island [4]	10	Jefferson	3,652	Admiralty Inlet.
Orcas Island [4]	10	San Juan	36,480	Rosario Strait.
Patos Island group [4]	None	San Juan	220	Strait of Georgia.
Portage Island [4]	None	Whatcom	925	Bellingham Bay.
Puget Island Group [9]	10	Wahkiakum	3,950	Columbia River.
Saddlebag Island [4]	None	Skagit	28	Padilla Bay.
San Juan Island [4]	20	San Juan	35,200	Haro Strait.
Satellite Island [4]	None	San Juan	112	Do.
Shaw Island [4]	10	San Juan	5,120	San Juan Channel.
Skagit Island group [9]	None	Skagit	4,648	Skagit River.
Squaxin Island [4]	None	Mason	1,480	Peale Passage.
Stuart Island [4]	None	San Juan	1,848	Haro Strait.
Sucias Islnd group [4]	None	San Juan	712	Strait of Georgia.
Vashon Island [4]	30	King	151,620	Puget Sound.
Waldron Island [4]	5	San Juan	2,904	Haro Strait.
Whidbey Island [4]	None	Island	97,284	Puget Sound.
Subtotal (32)			451,231	
WEST VIRGINIA				
Buckley Island [9]	25	Wood	60	Ohio River.
Subtotal (1)			60	
WISCONSIN				
Allen Island group [6]	None	Crawford	180	Wisconsin River.
Basswood Island [4b]	None	Ashland	1,879	Lake Superior.
Bear Island [4b]	None	Ashland	1,714	Do.
Big Island [9]	1	Burnett	410	St. Croix River.
Blackhawk Island [6]	None	Juneau	10	Wisconsin River.
Brushwood Island [9]	None	Dodge	15	Fox Lake.
Cat Island [4b]	None	Ashland	1,291	Lake Superior.
Chambers Island [4b]	2	Door	2,800	Green Bay.
Champaign Island [9]	None	Bayfield	12	Lake Namakagon.
Coumbe Island [6]	None	Grant	355	Wisconsin River.
Detroit Island [4b]	None	Door	680	Green Bay.
Devils Island [4b]	None	Ashland	320	Lake Superior.
Feather Island [6]	None	Crawford	140	Wisconsin River.
Goose Island [6]	None	Vernon	310	Mississippi River.
Hacklin Island [6]	None	Crawford	85	Wisconsin River.
Harris Island [6]	None	Crawford	80	Do.
Hermit Island [4b]	None	Ashland	742	Lake Superior.
Hunter Island [6]	None	Crawford	50	Mississippi River.
Ironwood Island [4b]	None	Ashland	662	Lake Superior.
Krolls Island [6]	None	Crawford	18	Wisconsin River.
Little Island [6]	None	Grant	44	Wisconsin River.
Long Island [4b]	None	Ashland	134	Lake Superior.
Madeline Island [4b]	25	Ashland	15,176	Do.
Manitou Island [4b]	None	Ashland	1,365	Do.
Michigan Island [4b]	None	Ashland	1,564	Do.
Newton Island [6]	None	Crawford	100	Wisconsin River.
North Twin Island [4b]	None	Ashland	165	Lake Superior.
Nose Peak Island [6]	None	Marinette	13	Menominee River.
Oak Island [4b]	None	Ashland	4,971	Lake Superior.
Otter Island [4b]	None	do	1,32	Do.
Outer Island [4b]	None	do	8,033	Do.
Paines Island [9]	1	Bayfield	65	Lake Namakagon.
Patterson Island [6]	None	Grant	47	Wisconsin River.
Plum Island [4b]	1	Door	276	Green Bay.
Richmond Island [6]	None	Trempealeau	45	Mississippi River.
Rocky Island [4b]	None	Ashland	1,112	Lake Superior.
Sand Island [4b]	None	Bayfield	2,922	Do.
Snake Island [4b]	None	Door	21	Green Bay.
South Twin Island [4b]	None	Ashland	361	Lake Superior.
Steamboat Island [6]	None	Grant	34	Wisconsin River.
Stockton Island [4b]	None	Ashland	9,811	Lake Superior.
The Big Island [9]	None	Iron	1,994	Flambeau Flowage.
Trempealeau Mount Island [6]	None	Trempealeau	66	Mississippi River.
Washington Island [4b]	4	Door	15,700	Green Bay.
Weniger Island [6]	None	Crawford	200	Wisconsin River.
York Island [4b]	None	Bayfield	321	Lake Superior.
Subtotal (46)			77,615	
WYOMING (none)				
PUERTO RICO				
Cayo Caribe Island [11d]	None		11	Caribbean Sea.
Culebra Island [11d]	1–25		8,886	Atlantic Ocean.
Mona Island [11d]	None		14,032	Do.
Vieques Island [11d]	1–25		33,000	Do.
Subtotal (4)			55,929	
VIRGIN ISLANDS				
Booby Rock Island [11d]	None		1	Caribbean Sea.
Bovoni Cay Island [11d]	None		50	Jersey Bay.
Buck Island [11d]	None		42	Caribbean Sea.
Buck Island [11d]	None		180	Do.
Capella Island [11d]	None		22	Do.
Cas Cay Island [11d]	None		15	Atlantic Ocean.
Cinnamon Cay Island [11d]	None		1	Do.
Cockroach Island group [11d]	None		23	Caribbean Sea.
Cocoloba Cay Island [11d]	None		1	Do.
Congo Cay Island group [11d]	None		26	Atlantic Ocean.
Dog Island [11d]	None		13	Caribbean Sea.
Duck Island [11d]	None		14	Do.
Dutchcap Cay Island [11d]	None		32	Atlantic Ocean.
Flat Cay Island group [11d]	None		3	Caribbean Sea.
French Cap Cay Island [11d]	None		10	Do.
Grass Cay Island [11d]	None		49	Atlantic Ocean.
Great St. James Island group [11d]	None		158	Caribbean Sea.
Green Cay Island [11d]	76–100		13	Do.
Hans Lollik Island [11d]	1–25		489	Atlantic Ocean.
Inner Brass Island [11d]	None		128	Do.
Kalkun Cay Island [11d]	None		4	Caribbean Sea.
Little St. James Island [11d]	None		69	Do.
Lovango Cay Island [11d]	1–25		117	Atlantic Ocean.
Mingo Cay Island [11d]	None		48	Do.
Outer Brass Island [11d]	None		108	Do.
Patricia Cay Island [11d]	None		33	Jersey Bay.
Pelican Cay Island group [11d]	None		106	Atlantic Ocean.
Perkins Cay Island [11d]	None		1	Do.
Saba Island [11d]	None		34	Caribbean Sea.
Salt Cay Island [11d]	None		56	Do.
Savana Island [11d]	None		173	Do.
Thatch Cay Island [11d]	1–25		287	Atlantic Ocean.
Trank Cay Island [11d]	None		2	Do.
Waterlemon Cay [11d]	None		1	Leinster Bay.
West Cay Island [11d]	None		40	Caribbean Sea.
Whistling Cay Island [11d]	None		19	Atlantic Ocean.
Subtotal (36)			2,368	
DISTRICT OF COLUMBIA (none)				

[1] 1968 data. Excludes the main island of Puerto Rico, the 3 major Virgin Islands, Guam, Samoa and Trust Territory, the 5 major Hawaiian Islands, and the 3 principal New York islands—Manhattan, Staten and Long Island.

[2] For the purposes of the Island Inventory, "development" included building sites as well as land associated with the site such as yards and storage areas. Agricultural land, land used for forest production, and public and quasi-public recreation developments were considered as undeveloped; whereas, a private resort was inventoried as developed.

[3] Not included are a number of unnamed islands totalling approximately 200,000 acres with recreation potential.

[4] Inundated Mainlands—Drowned coastlines in large natural bodies of waters such as the rocky Maine islands or islands in the Great Lakes. (The island is similar to the mainland in geology and vegetation and a more appropriate descriptor is not possible.)

[a] Salt water.

[b] Fresh water.

[5] Barrier Island—Sandy, narrow and long islands or closely related island groups paralleling mainland coast for considerable distances.

[6] Marsh Island—Low elevation, subject to frequent and periodic flooding.

[7] Oceanic Island—Located at least 15 miles from the mainland coast. (Does not apply to the Great Lakes.)

[8] Coral Islands—Florida Keys.

[9] River or lake islands not otherwise described.

[10] ND—Precise data not available.

[11] Other.

[a] Impoundment.

[b] Barren.

[c] Bay Islands.

[d] Volcanic islands.

By Mr. JACKSON:

S. 3165. A bill entitled "The Educational Quality Act of 1972." Referred to the Committee on Labor and Public Welfare; and

S.J. Res. 203. A joint resolution proposing an amendment to the Constitution of the United States relating to attendance at neighborhood public schools and declaring a right to equal educational opportunity in the public schools. Referred to the Committee on the Judiciary.

THE GROWING CRISIS IN AMERICAN PUBLIC EDUCATION

Mr. JACKSON. Mr. President, I am submitting today a program to meet the growing crisis in American public education.

Recent court decisions mandating massive busing and outlawing traditional means of financing education have dramatized the glaring inequalities in our public school system. It is imperative that action be taken to relieve these inequalities without making our public schools into arenas of political and social combat.

The program I am proposing today includes a constitutional amendment to guarantee an equal public education without forced artificial busing and a financing bill to make that concept work now.

CONSTITUTIONAL AMENDMENT

The constitutional amendment, when ratified by the States, would achieve two goals:

First, it will prohibit mandatory busing of children by declaring that every parent has the freedom of choice and the right to have his or her children attend their local neighborhood public school.

Second, the amendment will abolish—once and for all—the system of unequal schools in this country. It will require the States to provide equal educational opportunity for all children—regardless of whether those children live in a poor neighborhood, a middle income neighborhood or a more affluent neighborhood. It will guarantee quality education for all.

This constitutional amendment will insure that the chid of a bus driver, the child of a factory worker, the child of a farmer will get as good an education within the public schools as the child of a professional person or a businessman receives.

The amendment will also declare as a matter of constitutional law that parents—not school administrators or the courts—will have the right to decide whether their children will attend their local neighborhood school. It affirms freedom of choice. At the same time, it would permit parents, if they so decide, to allow their children to be sent from a poor school to a good school.

Meanwhile, we cannot wait for the passage of a constitutional amendment while poor children—white and black—go every day to schools that are inferior or inadequately staffed or lacking in needed special programs.

I, therefore, also introduce today a bill designed to attack the problems of our schools without the device of forced, artificial busing.

EDUCATIONAL QUALITY ACT

The purpose of the Educational Quality Act of 1972 is to achieve equal levels of educational quality in the public schools by increasing Federal aid. Major emphasis is placed on helping local school districts which have limited financial resources and inadequate educational programs.

The bill would authorize the appropriation of Federal funds which would increase the Federal share of total expenditures for elementary and secondary education from 7 percent at present to a total of 33⅓ percent in fiscal year 1977. At present levels of spending this would mean an increase in the Federal share from $3.2 billion to $16 billion over a 5-year period.

PURPOSE OF PROPOSALS

Mr. President, I want to talk plainly about what I am proposing.

Unlike most of the other presidential candidates, I have said from the start that I am opposed to forced busing. But I have also said I was against a system that gives a rich child a better public education than a poor child. That is not fair. If it is public, it should be equal. For example, why should the child of wealthy parents, who goes to a public school, enjoy the special privilege of going to a newer school, a better equipped school, a school with a better teacher-pupil ratio—than the child of parents of low or moderate income?

We have allowed a system to grow up in this country where a child's education depends on the wealth of his parents or the wealth of the school district. That's not fair to the children. It is not in the American tradition. This gross inequality should now be banned by constitutional amendment.

It should also be specified in the Constitution that no governmental body has the right to transport children, against the wishes of their parents, from their home neighborhoods to distant schools solely for the purpose of achieving a racial balance.

We live in a diverse society composed of people of different races, of different national origin and of different economic and social status. The genius of America has been its diversity and our children must learn to live with people of all backgrounds. But forced busing, based on race, does not achieve this objective. On the contrary, it singles out a child because of the color of his skin and sends him off to school in a strange, sometimes distant neighborhood. And with all that, there is no guarantee of a better school at the end of the bus ride. That is not fair and it is not just.

Mr. President, I have no quarrel with a voluntary system under which children can be transported with the consent of their parents to a school outside of their neighborhood in order to receive a better education. All parents—be they black or white, brown or yellow—must have the right to a voice in where their children go to school, how many hours they spend going to and from school, and what kind of environment they find in the school. That parental responsibility cannot be totally abdicated to a school authority or to the Federal courts.

But why should a parent be forced to decide that his child must be transported far from home to get a good education? Why should the workingman have to let his child be bused miles away to school in a rich neighborhood to get a decent education? That is just not right.

That is why I am recommending this program to improve poor schools—so children won't have to be used in the future—and to provide the extra teachers and tools necessary to educate those who need special help.

There are thousands of highly qualified teachers in this country today unable to find jobs. This program will give them a new chance to be of service.

The legislative program I am recommending will cost money. I believe we can raise the necessary revenue through honest tax reform. The fact is that our present tax system is riddled with gimmicks and loopholes that favor rich taxpayers and large corporations. We have people with six figure incomes who pay no income tax at all and that is not fair.

And many additional billions could be generated by getting the American economy moving again. Last year alone, the Federal Government lost some $30 billion in revenues because of the recession created by the administration's shortsighted economic policies. Economic recovery, combined with tax reform, would produce many times the income needed to finance quality education for all of our children.

The program I propose will require the best efforts of all of us. We have talked and argued long enough. Now is the time for action—to establish parental freedom of choice, to right the wrongs of an unequal society, and to guarantee equal educational opportunity to every child.

Mr. President, I ask unanimous consent that the bill and joint resolution be printed in the RECORD at this point, together with a general outline of the bill.

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

S. 3165

A bill entitled the "Educational Quality Act of 1972"

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 "Educational Quality Act of 1972."

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds that the Nation's public schools are facing an unprecedented financial crisis; that reliance on local property taxes to finance public schools is creating unacceptable disparities in the quality of education available in the public schools; that the improvement of inferior schools and the maintenance of quality in educational programs generally require a concentrated and sustained effort to provide equal educational opportunities for all children in the public schools; that this effort requires that the Federal Government assumes new responsibility for elementary and secondary education; that the Federal Government must, while preserving local autonomy, assume a greater role of support for local schools, with particular emphasis on schools with limited educational opportunities or inadequate programs.

(b) It is the purpose of this Act to pro-

vide financial assistance to the States and local educational agencies to eliminate existing disparities in educational quality and encourage the establishment and maintenance of educational quality for all children in the public schools.

AUTHORIZATION

SEC. 3. (a) The Secretary shall carry out a program during the fiscal year 1973, and each of the four succeeding fiscal years for making general assistance grants to States and to local educational agencies as provided in this Act.

(b) There is authorized to be appropriated, for the fiscal year 1973 and each of the four succeeding fiscal years, such amount as may be necessary to make the grants provided for in this Act, but in no event may the amount so appropriated exceed an amount (determined by the Secretary) which, when added to the amount appropriated to carry out the provisions of all Federal education programs for elementary and secondary schools or schoolchildren, exceeds the percentages set forth in the next sentence of the aggregate current expenditures for elementary and secondary education made by all local educational agencies. The percentages referred to in the preceding sentences shall be 10 per centum for the fiscal year 1973, 18 per centum for the fiscal year 1974, 22 per centum for the fiscal year 1975, 27 per centum for the fiscal year 1976, and 33⅓ per centum for the fiscal year 1977.

GENERAL ASSISTANCE

SEC. 4. (a) From the amount appropriated under section 3(b), 50 per centum shall be allotted by the Secretary to each local educational agency in a State for making grants. The amount to which each local educational agency is entitled for any fiscal year shall bear the same ratio to the total of such funds as the number of children who will be in the membership of elementary and secondary schools within the jurisdiction of such agency at the beginning of the school year ending during the preceding fiscal year bears to the number of such children in all the States.

(b) From the amount appropriated under section 3(b), 50 per centum shall be allotted by the Secretary to each State, through its State educational agency, for making grants. The amount to which each State is entitled for any fiscal year shall bear the same ratio to the total of such funds as the number of disadvantaged children in the State as hereinafter determined bears to the number of such children in all the State.

(c) The number of such disadvantaged children shall be determined as follows: If the Secretary determines that satisfactory data for the purpose are available, such number shall be the number of children who are aged five to seventeen, inclusive, in the school district of such agency (based on the latest available data from the Department of Commerce) who are in families having an annual income of less than $3,000 from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act. In any other case, such number shall be the number of children of such ages in such county or counties in which the school district of the particular agency is located who are described in the preceding sentence, and shall be allocated among those agencies upon such equitable bases as may be determined by the Secretary. In the case of local educational agencies which serve in all or in part of the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the Secretary may allocate the number of children among such agencies in such manner as he determines will best carry out the purposes of this section.

An amount equal to not more than 1 per centum of the amount allotted under subsections (a) and (b) shall be allotted to Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands from the amount so appropriated according to their respective needs for assistance under this section, and the Secretary shall set the maximum amount which their local educational agencies shall be eligible to receive.

STATE ELIGIBILITY

SEC. 5 (a) Any State which desires to participate under this Act shall submit to the Secretary, through its State educational agency, an application in such detail as the Secretary deems necessary, which includes a plan for achieving equal educational quality in its schools within the five-year period covered by this Act. Such plans shall set forth specific goals for improving school facilities, the calibre of instruction and the quality of the curriculum in order to equalize educational quality in its schools.

(b) In order to remain eligible for continued participation under this Act, a State, through its State educational agency, shall make annual reports to the Secretary which—

(1) describe the method of distribution utilized by the State pursuant to section 6;

(2) describe the relationship of the programs and projects funded pursuant to section 6 to the goals of the State plan;

(3) evaluate the effectiveness of such programs and projects in achieving equal educational quality; and

(4) include such additional information as may be required by the Secretary for the performance of his duties under this Act.

STATE DISTRIBUTION

SEC. 6. Each State, through its State Educational agency, shall distribute the amount allotted in section 4(b) to the local educational agencies in the State in accordance with the State plan submitted under section 5(a). Among the factors which the State educational agency shall consider in distributing the funds under the section, in addition to the number of disadvantaged children within the jurisdiction of the local educational agency as determined in section 4(c), are: the level of professional and non-professional salaries, school construction requirements and costs thereof, per capita expenditures for education, pupil achievement levels and drop-out rates, student-teacher ratios, the number of pupils with special learning needs, and the projected growth of pupil population.

APPLICATION BY LOCAL EDUCATIONAL AGENCIES

SEC. 7 (a) Any local educational agency which desires to receive for any fiscal year a grant under this Act shall submit to the appropriate State educational agency an application which contains—

(1) a proposal for the use of funds granted under this section;

(2) such information as the Secretary and the State educational agency may reasonably require to enable them to evaluate the effectiveness of the grant expenditure and to perform their duties under this section;

(3) an evaluation of the effectiveness, including objective measurements of educational achievement, of programs and projects funded in the preceding fiscal year from funds provided under this section; and

(4) assurance that

(A) it will keep such records and afford such access thereto as the State educational agency may find necessary to assure the correctness and verification of such applications; and

(B) no more than 25 per centum of the funds received under this Act in any fiscal year will be used for capital outlay and debt service.

(b) The State educational agency shall not finally disapprove in whole or in part any application for funds under this Act without first affording the local educational agency submitting the application reasonable notice and opportunity for a hearing.

GENERAL PROVISIONS

Responsibility of Secretary

SEC. 8(a)(1) The Secretary shall approve an application which meets the requirements specified in section 5 and he shall not finally disapprove an application except after reasonable notice and opportunity for a hearing to the State education agency.

(2)(A) The Secretary shall from time to time pay to each State the amount which the local educational agencies of that State are eligible to receive under this Act.

(B) From the funds paid to it pursuant to paragraph (A) each State educational agency shall distribute to each local educational agency of the State which has submitted an application approved pursuant to section 7, the amount for which such application has been approved, except that the amount shall not exceed the allotment to that agency pursuant to section 4.

(3) The Secretary is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this section (including technical assistance for the measurements and evaluations required by section 5, except that the total of such payments in any fiscal year shall not exceed—

(A) 1 per centum of the total grants made to local educational agencies of such State within the fiscal year, of $150,000 whichever is greater;

(B) $25,000 in the case of Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

Enforcement

(b) Whenever the Secretary, after reasonable notice and opportunity for hearing to any State educational agency, finds that there has been a failure to comply substantially with the State plan in the application of that State approved under section 5, the Secretary shall notify the agency that further payments will not be made to the State under this Act (or, in his discretion, that the State educational agency shall not make further payments under this Act to specified local educational agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State under this Act, or payment by the State educational agency under this Act shall be limited to local educational agencies not affected by the failure, as the case may be.

Appeal

(c)(1) If any State is dissatisfied with the Secretary's final action with respect to the approval of its application submitted under section 5 or with his final action under section 8(a), such State may, within sixty days after notice of such action, file with the United States court of appeals for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

PAYMENTS

(d) Upon his approval of an application for assistance under this Act, the Secretary shall pay to the applicant such amount, in advance or by way of reimbursement, and in such installments consistent with such implementation of the approved plan as he may determine.

DEFINITIONS

SEC. 9. As used in this Act, except when otherwise specified—

(1) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control, or direction, of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, or a combination of local educational agencies; and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school; and where responsibility for the control and direction of the activities in such schools which are to be assisted under this Act is vested in an agency subordinated to such a board or other authority, the Secretary may consider such subordinate agency as a local educational agency for purpose of this Act.

(2) The term "elementary and secondary school" and "school" means a school which provides elementary or secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(3) The term "'Secretary" means the Secretary of Health, Education, and Welfare.

(4) The term "State educational agency" means the State board of education, or other public agency or office primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law for this purpose.

(5) The term "State" means one of the fifty States or the District of Columbia or Puerto Rico.

JOINT FUNDING

SEC. 10. Pursuant to regulations prescribed by the President, where funds are advanced by the Department of Health, Education, and Welfare and one or more other Federal agencies for any program, project, or activity funded in whole or in part under this Act, any one Federal agency may be designated to act for all in administering the funds advanced.

REPORTS

SEC. 11. The Secretary shall make annual detailed reports concerning the effectiveness of assistance under this Act in achieving the purposes of this Act. The report shall be submitted to the President and to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives.

REDUCTIONS NECESSITATED BY INSUFFICIENT APPROPRIATIONS

SEC. 12. If for any fiscal year the amount appropriated under section 3(b) is insufficient to make to local educational agencies the full amount of the allotment provided for in this Act, then the amount of each such agency's allotment or grant shall be reduced by a percentage (which shall be uniform for each such agency and both of such sections) which will result in allotments and grants which do not exceed the appropriations available therefor.

OTHER PROVISIONS

SEC. 13. The provisions of the General Education Provisions Act (title IV of Public Law 247 (Ninetieth Congress)) shall apply to the program of Federal assistance authorized under this Act as if such program were an applicable program under such General Education Provisions Act, and the Secretary shall have the authority vested in the Commissioner of Education by such Act with respect to such program.

S.J. RES. 203

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States to be valid only if ratified by the legislatures of three-fourths of the several States within seven years after the date of final passage of this joint resolution:

"ARTICLE —

"SECTION 1. No person shall be denied the freedom of choice and the right to have his or her children attend their neighborhood public school.

"SEC. 2. Every person shall have the right to equal educational opportunity in the Nation's public schools. This right shall not be abridged by economic discrimination in the allocation of the financial resources available to educational authorities.

"SEC. 3. The Congress shall have the power to enforce this article by appropriate legislation."

OUTLINE OF EDUCATIONAL QUALITY ACT OF 1972

Purpose—To achieve equality of educational opportunity by increasing federal aid for public schools and requiring each participating State to submit a plan for achieving equal educational opportunity in its schools. Special emphasis is placed on helping local school districts which have limited financial resources and inadequate educational programs.

Authorization—The Act would authorize appropriation of amounts which, when added to amounts appropriated for existing programs for elementary and secondary schools, would increase the Federal share of total expenditures—local, state and Federal—for elementary and secondary education to 10 percent in FY 1973 and increase it in each fiscal year thereafter to a total of 33⅓% in FY 1977. Federal aid would thus rise from its present level of about $3.2 billion to at least $16 billion in five years.

Distribution—50 percent of the funds appropriated by Congress would be distributed to local school districts on a per capita formula. The balance would be distributed to the states on the basis of the number of disadvantaged children (defined in terms of family income level) in the state compared to the total number of such children in the United States.

State Plans—Each state desiring to receive Federal funds under the Act would be required to submit a plan for achieving equal educational opportunity in its schools as soon as practicable but at least within five years. The State would distribute the funds available to it in accordance with its State plan in order to upgrade the quality of its schools. State plans would be subject to approval by the Secretary of Health, Education and Welfare, who would have authority to suspend Federal aid to states which were not meeting the goals set forth in their plans.

By Mr. McINTYRE:

S. 3166. A bill to amend the Small Business Act. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. McINTYRE. Mr. President, one of the most effective means the Congress has of maintaining surveillance over and control of the expenditure of Treasury funds is by establishing ceilings on Government lending programs.

With this in mind the Congress on July 25, 1962, enacted Public Law 87-550 which said in part:

It is the sense of the Congress that the regular business loan program of the Small Business Administration should be reviewed by the Congress at least once every two years. It is further the sense of the Congress that the Small Business Administration should submit its estimated needs for additional authorization for such program to the Congress at least one year in advance of the date on which such authorization is to be provided, in order to assure an orderly and recurring review of such program and to avoid emergency appeals for additional authorization.

In compliance with this directive of the Congress, the Small Business Administration has informed the Senate that while the present loan ceilings will be adequate for the remainder of this fiscal year, increases will be required in fiscal year 1973 for its various financial assistance programs.

The present ceiling is $3.1 billion for the Small Business Administration's regular business loans, for its loans to displaced businesses, and for financing the agency's prime contracting authority. The $3.1 billion ceiling also includes a subceiling of $300 million for economic opportunity loans made under title IV of the Economic Opportunity Act.

The Small Business Administration is asking that this ceiling be increased to $5.8 billion, including a separate ceiling of $450 million on Economic Opportunity loans.

There is also at present a ceiling of $450 million on loans to small business investment companies, and we are requested to increase this to $650 million.

In addition, there is a ceiling of $500 million on loans made to State and local development companies, and we are asked to increase this to $700 million.

Mr. President, I should like to make it clear that we are here considering only ceilings or limitations on the levels of these programs. We are not here concerned with appropriations or authorizations for appropriations.

The Small Business Administration has assured us that the increased ceilings as requested should meet its requirements through June 30, 1974.

Section 1 of the bill that I am now submitting is identical to a bill now pending in the other body and would enable the Small Business Administration to carry forward its programs at presently projected levels.

Section 2 of the bill would increase to $500,000 the maximum loan or loan guarantee that could be made by the Small Business Administration. Section 7 of the Small Business Act presently limits SBA's share of a loan to $350,000 and this figure has not been increased since SBA was established as a permanent agency in

1958. In the intervening 14 years costs of doing business have increased significantly. In order to assure the continued vitality of the small business segment of our economy adequate sources of capital must be available.

Mr. President, the term small business does not merely mean the family-run store on the corner, but encompasses 5 million business concerns which employ an estimated 35 million people. These businesses provide the strongest source of competition to the larger more concentrated big business establishments. If our free enterprise system is to operate effectively it must be anchored on the bedrock of a strong and competitive small business segment. History has shown that economic concentration is the forerunner of political concentration and that aid and assistance to small business results in more competition, more jobs, better products and a variety of purchasing choices for consumers.

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

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

S. 3166

A bill to amend the Small Business Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (4) of section 4(c) of the Small Business Act (15 U.S.C. 633) is amended—

(1) by striking out "$3,100,000,000" and inserting in lieu thereof "$5,800,000,000";

(2) by striking out "$450,000,000" and inserting in lieu thereof "$650,000,000";

(3) by striking out "$500,000,000" and inserting in lieu therof "$700,000,000"; and

(4) by striking out "$300,000,000" and inserting in lieu thereof "$450,000,000".

SEC. 2. That paragraph 4(A) and 5(A) of Section 7(A) of the Small Business Act (15 U.S.C. 636) are amended by striking out "$350,000" and inserting in lieu thereof "$500,000".

By Mr. BROOKE (for himself, Mr. BROCK, Mr. CRANSTON, and Mr. ROTH):

S. 3168. A bill to amend section 24 of the Federal Reserve Act to simplify, consolidate, and improve the law relating to the investment in mortages and residential real estate by national banks. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. BROOKE. Mr. President, I rise today to discuss a matter of great importance not only to this Nation's housing industry but also to the vast number of families who seek decent housing at a reasonable cost. The growth of our housing stock—and hence our ability to satisfy the ever-expanding needs of low-income families and others—depends in large part on the housing industry's access to credit.

National banks have long served as a significant source of capital for both businesses and consumers; however, they have been needlessly hindered from investing in real estate by outmoded and cumbersome statutes such as section 24 of the Federal Reserve Act. Although this statute has been amended several times, it still contains restrictions which must be removed if we are to facilitate the orderly development of unimproved real estate and the construction of a sufficient number of dwelling units to meet our national goals.

The bill which I am introducing today, along with my distinguished colleagues Senators BROCK, CRANSTON, and ROTH expands the powers of national banks by permitting them to make real estate loans against unimproved property; establishing realistic amortization requirements; liberalizing restrictions on the granting of construction loans; treating those loans which are guaranteed by Government agencies differently from other loans; eliminating the requirement that real estate loans be secured by first liens only; and other provisions which lend greater flexibility to the investment statutes.

Mr. President, I ask that a general explanatory statement, as well as a technical description and a copy of the bill, be printed at the conclusion of my remarks.

In conclusion, I respectfully urge the distinguished chairman of the Senate Banking Committee, Mr. SPARKMAN, to give careful consideration to this proposal during the mark-up session which is presently taking place on the 1972 housing bill. A great deal of interest in this proposal has already been expressed both during and after the hearings which took place on it before the Banking Committee. I am confident that its prompt enactment will further encourage the production of much-needed housing throughout the country.

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

S. 3168

A bill to amend section 24 of the Federal Reserve Act to simplify, consolidate, and improve the law relating to the investment in mortgages and residential real estate by national banks

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 "Mortgage Investment Act of 1972".

SEC. 2. Section 24 of the Federal Reserve Act is amended to read as follows:

"REAL ESTATE LOANS BY NATIONAL BANKS

"SEC. 24. (a) (1) Any national banking association may make real estate loans secured by liens upon unimproved real estate, upon improved real estate, including improved farmland and improved business and residential properties, and upon real estate to be improved by a building or buildings to be constructed or in the process of construction, in an amount which when added to the amount unpaid upon prior mortgages, liens and encumbrances, if any, upon such real estate does not exceed the respective proportions of appraised value as provided in this section. A loan secured by real estate within the meaning of this section shall be in the form of an obligation or obligations secured by a mortgage, trust deed, or other instrument which shall constitute a lien on real estate in fee or, under such rules and regulations as may be prescribed by the Comptroller of the Currency, on a leasehold under a lease which does not expire for at least 10 years beyond the maturity date of the loan, and any national banking association may purchase or sell any obligations so secured in whole or in part. The amount of any such loan hereafter made shall not exceed 66⅔ per centum of the appraised value if such real estate is unimproved, 75 per centum of the appraised value if such real estate is improved by off-site improvements such as streets, water, sewers or other utilities, 75 per centum of the appraised value if such real estate is in the process of being improved by a building or buildings to be constructed or in the process of construction, or 90 per centum of the appraised value if such real estate is improved by a building or buildings. If any such loan exceeds 75 per centum of the appraised value of the real estate or if the real estate is improved with a one to four family dwelling, installment payments shall be required which are sufficient to amortize the entire principal of the loan within a period of not more than thirty years.

"(2) The limitations and restrictions set forth in paragraph (1) shall not prevent the renewal or extension of loans heretofore made and shall not apply to real estate loans (A) which are insured under the provisions of the National Housing Act, (B) which are insured by the Secretary of Agriculture pursuant to title I of the Bankhead-Jones Farm Tenant Act, or the Act of August 28, 1937, as amended, or title V of the Housing Act of 1949, as amended, or (C) which are guaranteed by the Secretary of Housing and Urban Development for the payment of the obligations of which the full faith and credit of the United States is pledged, and such limitations and restrictions shall not apply to real estate loans which are fully guaranteed or insured by a State, or any agency or instrumentality thereof, or by a State authority for the payment of the obligations of which the faith and credit of the State is pledged, if under the terms of the guaranty or insurance agreement the association will be assured of repayment in accordance with the terms of the loan, or to any loan at least 20 per centum of which is guaranteed under chapter 37 of title 38, United States Code.

"(3) Loans which are guaranteed or insured as described in paragraph (2) shall not be taken into account in determining the amount of real estate loans which a national banking association may make in relation to its capital and surplus or its time and savings deposits or in determining the amount of real estate loans secured by other than first liens. Where the collateral for any loan consists partly of real estate security and partly of other security, including a guaranty or endorsement by or an obligation or commitment of a person other than the borrower, only the amount by which the loan exceeds the value as collateral of such other security shall be considered a loan upon the security of real estate, and in no event shall a loan be considered as a real estate loan where there is a valid and binding agreement entered into by a financially responsible lender or other party either directly with the association or which is for the benefit of or has been assigned to the association and pursuant to which agreement the lender or other party is required to advance to the association within sixty months from the date of the making of said loan the full amount of the loan to be made by the association upon the security of real estate. Except as otherwise provided, no such association shall make real estate loans in an aggregate sum in excess of the amount of the capital stock of such association paid in and unimpaired plus the amount of its unimpaired surplus fund, or in excess of 70 per centum of the amount of its time and savings deposits, which ever is greater: *Provided,* That the amount unpaid upon real estate loans secured by other than first liens when added to the amount unpaid upon prior mortgages, liens, and encumbrances shall not exceed in an aggregate sum 20 per centum of the amount of the capital stock of such association paid in and unimpaired plus 20 per centum of the amount of its unimpaired surplus fund.

"(b) Any national banking association may make real estate loans secured by liens upon forest tracts which are properly managed in all respects. Such loans shall be in the form of an obligation or obligations secured by mortgage, trust deed, or other such instrument; and any national banking association may purchase or sell any obligation so secured in whole or in part. The amount of any such loan, when added to the amount unpaid upon prior mortgages, liens, and encumbrances, if any, shall not exceed 66⅔ per centum of the appraised fair market value of the growing timber, lands, and improvements thereon offered as security and the loan shall be made upon such terms and conditions as to assure that at no time shall the loan balance, when added to the amount unpaid upon prior mortgages, liens, and encumbrances, if any, exceed 66⅔ per centum of the original appraised total value of the property then remaining. No such loan shall be made for a longer term than three years; except that any such loan may be made for a term not longer than fifteen years if the loan is secured by an amortized mortgage, deed of trust, or other such instrument under the terms of which the installment payments are sufficient to amortize the principal of the loan within a period of not more than fifteen years and at a rate of at least 66⅔ per centum per annum. All such loans secured by liens upon forest tracts shall be included in the permissible aggregate of all real estate loans and, when secured by other than first liens, in the permissible aggregate of all real estate loans secured by other than first liens, prescribed in subsection (a), but no national banking association shall make forest-tract loans in an aggregate sum in excess of 50 per centum of its capital stock paid in and unimpaired plus 50 per centum of its unimpaired surplus fund.

"(c) Loans made to finance the construction of a building or buildings and having maturities of not to exceed sixty months where there is a valid and binding agreement entered into by a financially responsible lender or other party to advance the full amount of the bank's loan upon completion of the building or buildings, and loans made to finance the construction of residential or farm buildings and having maturities of not to exceed sixty months, may be considered as real estate loans if the loans qualify under this section, or such loans may be classed as commercial loans whether or not secured by a mortgage or similar lien on the real estate upon which the building or buildings are being constructed at the option of each national banking association that may have an interest in such loans: *Provided,* That no national banking association shall invest in, or be liable on, any such loans classed as commercial loans under this subsection in an aggregate amount in excess of 100 per centum of its actually paid-in and unimpaired capital plus 100 per centum of its unimpaired surplus fund.

"(d) Notes representing loans made under this section to finance the construction of residential or farm buildings and having maturities of not to exceed nine months shall be eligible for discount as commercial paper within the terms of the second paragraph of section 13 of this Act if accompanied by a valid and binding agreement to advance the full amount of the loan upon the completion of the building entered into by an individual, partnership, association, or corporation acceptable to the discounting bank.

"(e) Loans made to any borrower (i) where the association looks for repayment by relying primarily on the borrower's general credit standing and forecast of income, with or without other security, or (ii) secured by an assignment of rents under a lease, and where, in either case described in clause (i) or (ii) above, the association wishes to take a mortgage, deed of trust, or other instrument upon real estate (whether or not constituting a first lien) as a precaution against contingencies, and loans in which the Small Business Administration cooperates through agreements to participate on an immediate or deferred or guaranteed basis under the Small Business Act shall not be considered as real estate loans within the meaning of this section but shall be classed as commercial loans.

"(f) Any national banking association may make loans upon the security of real estate that do not comply with the limitations and restrictions in this section, if the total unpaid amount loaned, exclusive of loans which subsequently comply with such limitations and restrictions, does not exceed 10 per centum of the amount that a national banking association may invest in real estate loans. The total unpaid amount so loaned shall be included in the aggregate sum that such association may invest in real estate loans."

GENERAL EXPLANATORY STATEMENT

Banks have taken a strong leadership position in trying to solve our urban problems. One area to which they have devoted particular attention has been the need for more housing and the related urgency to redevelop and revitalize our cities.

In their attempts to finance these legitimate needs of their customers and communities, however, national banks have been needlessly hindered by out-moded and cumbersome investment statutes. In the real estate area the impediment has been Section 24 of the Federal Reserve Act.

Section 24 was part of the original Federal Reserve Act enacted on December 23, 1913. In looking back at the initial legislation one is shocked to note how highly restrictive it was in the area of mortgage loans. They could only be made by country banks on improved and unencumbered farm land within a certain radius of the bank. There were also severe limitations as to term and ratio of loan to value. This was the genesis of national bank mortgage loan powers.

Section 24 has been amended many times when experience indicated it was safe and advisable to respond to the changing needs of our society and to increase the ability of national banks to meet the growth needs of their communities and promote business recovery.

Today, mounting unemployment, the need for more and better housing and other sophisticated problems unheard of in 1913 have produced a new urgency to reexamine Section 24. If the increasingly urgent housing needs of the community and the resources of the real estate industry are to be effectively joined to solve these critical problems, Section 24 must be amended.

It is believed the following recommendations are consistent with the needs of the community and the stability of national banks.

LOANS AGAINST UNIMPROVED PROPERTY

National banks may make real estate loans upon improved real estate including improved farm land and improved business and residential properties. They are prohibited from making real estate loans upon unimproved real estate. The Comptroller has taken a liberal position as to what constitutes improved real estate. Some of the rulings issued by the Comptroller in this area have been challenged.

The question is: Are real estate loans secured by unimproved real property suitable investments for national banks? Economic circumstances are so changed that these loans no longer carry the risk they once did. Indeed, state legislatures and the Congress itself acknowledged this change when they permitted state banks, savings banks and savings and loan associations to make real estate loans against unimproved property. These institutions have been making such loans over an extended period without damage to their stability.

If the same permission were now extended to national banks, it would greatly facilitate the acquisition of unimproved land for the large developments which are necessary if this nation is to solve its massive housing problems. If entire new cities are to be built on a conventional basis by drawing upon the fullest resources of the private sector, the removal of this restriction is essential.

In line with the powers of other financial institutions and modern practices, national banks should be permitted to make loans against unimproved property and it is recommended that:

(1) On unimproved property, the loan should not exceed 66⅔ percent of appraised value; and

(2) On property improved with offsite improvements such as streets, water supply, sewers and other utilities, the loan should not exceed 75 percent of appraised value. Property improved with a building would remain at 90 percent of appraised value.

AMORTIZATION REQUIREMENTS

The purpose of amortization is to diminish gradually the risk that results from long-term loans. For national banks, the amortization requirements for real estate loans are exceedingly complex. They vary with term and ratio of loan to value. Owing to a series of uncorrelated amendments over the years, Section 24 now, quite illogically, requires greater amortization on short-term loans than on long-term loans.

The Comptroller's Manual for National Banks, in the form of a chart, sets forth the official explanation of the law governing amortization requirements for real estate loans by national banks. This chart recently has been updated and appears as Subdivision C of Section 7.2125 of Part 7, Chapter I, Title 12 of the Code of Federal Regulations, which is reproduced here.

(c) Amortization requirements of 12 U.S.C. 371.

Loans as percentage of appraised value	Term of loan in years	Maximum rate of amortization
0 to 50	0 to 5	None.
	5 to 10	A-1, A-2, or A-3.
0 to 66⅔	0 to 10	Do.
	10 to 20	A-2 or A-3.
0 to 90	0 to 30	A-3.

NOTES

A-1: Installment payments sufficient to amortize 40 percent or more of the principal of the loan within a period of not more than 10 years.

A-2: Installment payments sufficient to amortize the entire principal of the loan within a period of not more than 20 years.

A-3: Installment payments sufficient to amortize the entire principal of the loan within the period ending on the date of its maturity.

It can readily be appreciated after examining this chart that it takes a sophisticated and experienced mortgage loan officer to understand, to interpret and apply these rules. Any attempt to explain the rules leaves the uninitiated as well as sophisticated mortgage lender and borrower stunned.

Upon analysis of all these rules, we are left with a curious reversal of the original intent of the Act. It no longer applies the safeguard where the risk occurs—with long-term, high-ratio loans.

Consider a specific case. It results in a

great deal of confusion and misunderstanding when a bank must inform a customer that his 70 percent five-year loan must be fully amortized by the fifth year whereas his 90 percent loan may be amortized over thirty years. The only way to reduce the heavy amortization payments required by the five-year loan—which is not needed for security purposes—is to extend the term of the loan which was never requested by the customer.

Under these rules a 90 percent, thirty-year loan is not reduced to 50 percent of value until the 18th year, while a 50 percent loan without amortization cannot be made for more than five years.

On the other hand, a 50 percent loan for six years carries heavier amortization than a 90 percent, thirty-year loan as it must bear amortization that will repay it within twenty years.

These examples illustrate what many banks find inconsistent and illogical in the present amortization requirements of Section 24. The net result has been the unnecessary stretching out of maturities in order to reduce amortization.

In the case of short-term loans, this is a positive hindrance to the acquisition and development of property for housing. Nonauthorizing loans in excess of 50 percent of appraised value are now required in order to finance property being acquired for development. But it is precisely at this critical acquisition and planning stage, when cash flow is diminishing and planning costs are increasing, that assistance is needed. Frequently, planning costs must be financed on an unsecured basis because of present restrictions. It is felt that national banks could make a more practical contribution if they were permitted to tailor amortization schedules such as in the case of ordinary business loans, to meet the economics of the project.

In the consumer area, i.e., where the real estate is improved with a one- to four-family dwelling, it is advisable to require some amortization at all times.

In view of the need for both flexibility and a margin of safety, it is recommended that:

Mandatory amortization requirements be eliminated for loans less than 75 percent of appraised value except where the property is improved with a dwelling for one to four families. For loans over 75 percent or where the property is improved with a dwelling for one to four families, require such payments as would fully amortize the loan within any designated period up to a maximum of thirty years.

CONSTRUCTION LOANS

National banks may make loans of no more than sixty months to finance the construction of residential or farm buildings. They may also make loans to finance the construction of industrial or commercial buildings. These loans are also limited to sixty months, but require a valid and binding "takeout" agreement with a financially responsible lender. Under this provision, the permanent lender, as distinct from the construction lender, advances the full amount of the bank's loans upon completion of the buildings.

Construction loans are not considered real estate loans. They are classified as ordinary commercial loans. There is no requirement that the loan be secured by a mortgage on the real estate upon which the building or buildings are being constructed. They are limited in an aggregate amount to 100 percent paid in and unimpaired capital plus 100 percent of its unimpaired surplus fund.

This part of Section 24 has worked fairly well but only with the application of considerable imagination and ingenuity.

With industrial or commercial building, when a takeout lender is not available, the construction lender can supply its own takeout in order to qualify the loan. The borrower may then call on the construction lender to actually fund the permanent loan but usually the intent is that another permanent lender will be located before the building is completed.

There is no reason why national banks should have to resort to this interim expediency in order to make a construction loan. National banks should be authorized to make sound construction loans even if the loan does not qualify as an ordinary commercial loan as is the case for state commercial banks and other financial institutions.

The requirement that construction loans for industrial or commercial buildings may not exceed sixty months and must be backed by a takeout is reasonable, if the loan is considered an ordinary commercial loan, but not if it is to be classified as a real estate loan.

Construction lending could be far more responsive to community growth needs of the 1970's if national banks were permitted to make real estate loans released from the term and takeout restrictions of Section 24. Term should be dictated by the needs of the project. The artificial limit of five years does not restrict most construction loans. Where it does apply, it impedes massive urban renewal projects that may go over a period of years in our inner city areas. The absence of a takeout lender should not be allowed to keep national banks from supplying badly needed construction financing.

To avoid national banks having to issue their own takeouts for construction loans and to permit them to make construction loans which do not qualify as ordinary commercial loans, it is recommended that:

National banks be permitted to make construction loans on a real estate basis up to 75 percent of value without a takeout or restriction as to term.

GUARANTEED LOANS

Under Section 24 certain insured or guaranteed loans are exempt from individual loan restrictions. Basically, these include loans insured under the National Housing Act or other Federal Acts and loans which are fully guaranteed and insured by a state on the pledge of its full faith and credit. These kinds of loans are taken into account in determining the overall amount invested by a bank in real estate loans. Such investments are limited to whichever of two totals is the greater: the amount of capital stock of the bank paid in and unimpaired together with its unimpaired surplus fund or 70 percent of its time and savings deposits.

Loans insured under Section 203b of the National Housing Act (FHA insured loans 1–4 family housing) or at least 20 percent guaranteed under the Servicemen's Readjustment Act of 1944 (VA loans), in addition to being exempt from individual loan restrictions, are not considered real estate loans in determining the bank's aggregate investment in real estate loans.

The exemptions presume that insured loans carry a lesser risk. There is no reason, however, why only certain insured loans are excluded from individual loan limitations and others from the aggregate amount invested in real estate loans, especially since loans guaranteed by a third party are not considered real estate loans. It is felt that the statute should be made consistent by excluding all guaranteed or insured loans from the limitations mentioned. This would further increase the maximum amount of bank assets available to invest in housing. This will be of special advantage to the smaller banks that reach their statutory loan limits first.

It is therefore recommended that:

All real estate loans insured under the National Housing Act or fully guaranteed or insured by a state where the full faith and credit of such state is pledged be exempt from individual loan restrictions and excluded from the aggregate amount that a bank may invest in real estate loans.

SUBORDINATE LIENS

National banks are restricted when making real estate loans to first liens. This rule was dictated by caution and the fact that a subordinate lien could be wiped out in a foreclosure.

The removal of this restriction now will not result in any undue risk as long as the subordinate lien and prior liens, taken together, do not exceed the applicable ratio of loan-to-value requirements. In the event of a foreclosure, the subordinate lienor can always protect itself by purchasing the prior liens. If the bank held all prior liens, the bank's subordinate position would qualify as part of a legal loan.

By way of illustration, if a national bank were to make a loan against a piece of property improved by an apartment building appraised at $1 million, its loan would be limited to $900,000. If the property were burdened by a first lien of $100,000, the loan would be limited to $800,000. If there were two prior liens on the property totaling $300,000, the loan would be limited to $600,000. If there were a foreclosure the bank could always protect its position by purchasing the prior liens.

Such a provision would assist in land assembly by permitting owners and developers to take advantage of existing financing, thereby reducing immediate cash outlay or expensive refinancing. The authority to take subordinate liens would place national banks on a part with other banks that already have this power.

Since a national bank may be called upon to protect its subordinate position, a limit should be placed on the aggregate amount that a national bank may invest in subordinate liens. The recommendation is that:

National banks be permitted to make real estate loans secured by other than first liens provided that the combination of the bank's lien plus prior liens does not exceed the applicable ratio of loan to value. Real estate loans secured by subordinate liens should be limited to 20 percent of the bank's unimpaired capital and surplus with an exception for loans insured under the National Housing Act or fully guaranteed or insured by a state.

BASKET PROVISIONS

Experience has shown that real estate provides excellent security for loans. In fact, the record shows real estate loans during the depression fared better than other types of loans and investments. There is no logic in prescribing rigid limitations on ratio of loan to value, maturity and amortization for real estate loans, if at the same time no restrictions are placed on ordinary commercial loans, some of which carry greater risk.

The Comptroller in 1959 supplied to Congress a table showing state statutory lending limits. At that time, 18 states imposed no limits on what state banks could lend on the security of real estate. If national banks were also freed from such restrictions, they would be able to make greater contributions to the financing of imaginative projects to revitalize the decaying inner cities as well as to generate financing for the entire new towns that must be built to meet the rapidly mounting community needs before us.

Ideally, there should be no restrictions.

However, it is thought advisable and recommended as an interim step that:

National banks be permitted to invest up to 10 percent of what may be invested in real estate loans in real estate loans free from individual loan restrictions.

CONCLUSION

Projections indicate that there will continue to be an acute shortage of housing funds over the next decade. National banks should be encouraged to make housing loans rather than discouraged by outmoded statutes. The recommendations proposed here, if enacted, would go a long way toward modernizing the real estate investment patterns of national banks, placing them on a par with other financial institutions, and allowing them to better serve their customers and assume an ever-expanding role in solving our housing problems and revitalizing our inner cities.

TECHNICAL DESCRIPTION

PURPOSE OF REVISION

The Federal Reserve Act was first enacted in 1913. Among its original provision was Section 24 which set forth the mortgage investment powers of national banks. As initially passed, this Section reflected the economy and thinking of the times by limiting real estate loans to improved and unencumbered farm land. Over the past 58 years Congress has amended this Section many times but always in a fragmentary manner to meet changing conditions. Recently Congress has amended Section 24 twice—first by the "Housing and Urban Development Act of 1968" and then by the "Emergency Home Finance Act of 1970"—both times in a piecemeal fashion in an effort to cope with multi-facet problems and developments. Section 24 in its present form is still outmoded, inconsistent and unable to respond adequately to developments in real estate finance and the problems of our times. National banks continually trying to provide leadership, are hampered by its provisions.

Attached hereto is a comprehensive revision of this Section. The primary purpose of this revision is to improve and update the mortgage investment tools of national banks to assist them in their efforts to respond not only to the demands of the real estate industry but also to major contemporary problems, mainly housing and revitalization of our cities. Enactment of this bill will facilitate the redevelopment of downtown urban areas, assist in site assemblage for housing and commerce and hasten the development of new towns and satellite cities and in the end, a better environment.

This revision is set forth in broad legal principles so that national banks may solve specific problems within their boundaries without the necessity of continually turning to Congress and the Comptroller for revisions and interpretations. It is only through this method we can expeditiously solve our current and future problems.

SUMMARY OF POWERS UNDER REVISED BILL

Section 24 as revised would allow national banks to do as follows:

1. Make real estate loans secured by other than first liens provided said lien when added to prior liens does not exceed the applicable ratio of loan to value. Loans of this type would be limited to 20% of unimpaired capital and surplus.

2. Make loans against unimproved real estate up to 66⅔% of appraised value and if improved with off site improvements up to 75% of appraised value.

3. Continue to make loans against improved real estate up to 90% of appraised value for a maximum term of 30 years but with no required amortization on any type of real estate loan except when it exceeds 75% of appraised value or improved with a dwelling for 1–4 families. Amortization where required is based on a minimum of a 30 year payout with no requirement that the loan be fully amortized by maturity if the term is less than 30 years.

4. Classify all loans insured under the National Housing Act or guaranteed by HUD when the guarantee is backed by full faith and credit of U.S. or fully guaranteed by a state agency or instrumentality thereof or state authority for the payment of which the faith and credit of the state is pledged as non-real estate loans and not subject to any of the limitations of conventional loans or included in the aggregate amount of real estate loans that may be made or in the aggregate of subordinate liens that may be made.

5. Continue the practice where loans are secured by real estate and other collateral, to subtract the value of the nonreal estate collateral from the loan and consider the balance only as a loan against real estate.

6. Consider a loan secured by a lien on real property where there is a firm takeout from a financially responsible party to advance the full amount of the loan within 60 months as a non-real estate loan.

7. Continue to consider loans with a maturity of not more than 60 months made against a building under construction secured by a firm takeout to advance the full amount of the loan and loans to finance the construction of residential and farm buildings for a term not in excess of 60 months as commercial loans and limit such loans to 100% of unimpaired capital and surplus.

8. Make construction loans up to 75% of appraised value without the necessity of a firm takeout.

9. Continue to classify loans where the lender looks to the borrower's general credit standing, or an assignment of rents where a mortgage is taken as a precaution against contingencies or where the Bank agrees to participate with the Small Business Administration as commercial loans.

10. Permit up to 10% of the maximum amount that may be invested in real estate loans to be placed in loans secured by real estate without the necessity that said loans conform to any individual loan limitations.

ANALYSIS OF CHANGES AND JUSTIFICATIONS

Section 24 is divided into five paragraphs. Paragraph 1 defines a real estate loan, the limitations on individual loans, what loans are exempt from these limitations and the maximum amount a national bank may invest in real estate loans. Paragraph 2 deals with farm tracts while Paragraph 3 covers construction loans. Paragraph 4 treats participation by national banks with various governmental agencies in loans to industrial and commercial business. Paragraph 5 covers loans where a mortgage is taken as a precaution against contingencies.

As revised the same general outline has been kept except that Paragraph 4 will be deleted and a new paragraph added to permit a certain percentage of assets to be invested in non-conforming real estate loans.

Following is a detailed analysis paragraph by paragraph of Section 24 as proposed.

PARAGRAPH 1

A. Dignity of lien and eligible real estate

National banks are now restricted to making real estate loans secured by first liens on improved property. This paragraph as revised would allow national banks to make loans secured by unimproved real estate to the extent of 66⅔% of appraised value and would remove the requirement that real estate loans be secured only by first liens provided the amount of the loan when added to the amount unpaid upon prior liens does not exceed the applicable ratio of loan to value requirements.

The addition of this amendment would go a long way in assisting builders and developers in meeting the capital requirements necessary to undertake large scale housing developments, new towns and satellite cities—by making funds available for land acquisition purposes. Also, the lifting of the requirement of a first lien has the same effect, as it assists in assemblages by permitting owners and developers to take advantage of existing financing thereby reducing cash requirements and avoiding in some instances, expensive refinancing. Both of these amendments would be extremely helpful in assisting the nation in meeting its housing goals.

The authority to make loans secured by other than first liens would not result in any undue risk because of the limitation that the Bank's lien plus all prior liens must not exceed the applicable ratio of loan to value requirements. In other words, if the Bank held all outstanding prior liens, the Bank's subordinate position would qualify as part of a larger legal loan. Also as the prior liens are amortized the Bank's position is being continually improved. Because sometime in the future the Bank may be required to protect its position, the aggregate amount that may be invested in subordinate liens when added to all prior liens has been limited to 20% of the Bank's unimpaired capital and surplus.

Enactment of these provisions would also place national banks on a parity with banks of various states that already possess these powers. One only has to look at New York's experience as evidence that the possession of these powers does not undermine the stability of banks.

B. Individual loan restrictions

The individual loan restrictions for national banks are exceedingly complex. They vary with term and ratio of loan to value. After numerous piecemeal amendments Section 24 has the anomalous result of requiring greater amortization on short term loans than on long term loans.

Presently no amortization is required if the loan has a term of less than five years and does not exceed 50% of appraised value. Once it exceeds either of these limitations amortization is required. If the loan does not exceed 10 years and 66⅔% of appraised value installment payments are required which must be sufficient to amortize (i) 40% of the loan within 10 years or (ii) the entire loan by the 20th year, or (iii) the entire loan by maturity. (i) and (ii) permit a balloon at maturity. (iii) adds nothing that is not already covered by (ii).

When maturity exceeds 10 years but not 20 years and the loan does not exceed 66⅔% of appraised value (ii) and (iii) may be used which require amortization based on a maximum term of 20 years. If the loan exceeds either 20 years or 66⅔% of appraised value, it must be fully amortized by maturity. No balloons are allowed at maturity in this latter situation. Of course, no loan may exceed the legal limits of 90% of appraised value or 30 years.

By way of example, if a loan is 70% of appraised value and has a five year term it must be fully amortized within the five year period. This is impracticable and a hardship. If you wished to provide for amortization payments based on a 30 year payout you are forced to make a 30 year loan. Amortization may only be lowered by extending the term when a loan exceeds 66⅔% of appraised value. This is illogical where 30 year 90% loans are permitted and could lead to

unsound business practices. A loan should be permitted to mature at any time regardless of the ratio of loan to value provided the installment payments are such that the loan would be repaid within a 30 year term.

The proposed revision would require amortization only if the loan exceeds 75% of appraised value, or if the real property is improved by a dwelling for one to four families. In those situations the payments must be sufficient to amortize the entire principal of the loan within a period of not more than 30 years without any requirement that the loan be for 30 years. This provision would remove the unrealistic requirement of greater amortization for short term loans which requires banks to stretch out maturities, and would permit national banks to set realistic amortization schedules especially when property is being acquired for development and does not have a cash flow at that particular time. Regular periodic examinations, to which national banks are already subject, will protect against misuse of this authority.

C. Definition of improved real estate

Comptroller's ruling Sections 2020(d) and 2020(e) classify real estate improved by camp sites in a commercial recreation area, trailer park camp sites, or offsite improvements and a residential tract almost completely surrounded by developed and rapidly developing residential property as improved real estate. Since the issuance of this ruling Section 24 has been amended to allow national banks to make loans up to 90% of appraised value of improved real estate. Whether or not this ruling should be allowed to stand as issued is questionable. Furthermore, the legality of these rulings have been questioned by a Congressional Committee.

The retention of the power to make loans against property improved with facilities and the addition of the power to make loans against vacant and unimproved property is desirable and necessary if we are to find a solution to our housing problems. To remove any doubt as to the legality of these loans different ratio of loan to value restrictions are established for unimproved property (66⅔% of appraised value) and property improved with facilities (75% of appraised value). This would permit loans to be made without the necessity of stretching the definition of improved property.

D. Construction loans

Construction loans are only permitted under Paragraph 3 in the case of industrial or commercial buildings where there is a valid binding takeout or where the loan is to finance the construction of residential or farm buildings provided the term does not exceed 60 months. Loans under Paragraph 3 are classified as ordinary commercial loans and limited to 100% of paid-in unimpaired capital and surplus. If the construction lender supplies the takeout, upon completion or maturity the loan is classified as a real estate loan and must comply with the requirements of Section 24.

Paragraph 1 as revised would permit construction loans up to 75% of appraised value without a takeout and construction loans made under the authority of Paragraph 3 which would also qualify under Paragraph 1, may be classified under either section at the option of the association.

Construction loans are already permitted for residential buildings without a takeout. There is no reason why this authority should not be extended to other buildings. The absence of a takeout does not increase the risk to the construction lender, especially since these loans will be restricted to a maximum of 75% of appraised value and included in the aggregate amount that may be invested in real estate loans. This proposed amendment will do away with the practice of the construction lender supplying its own takeout when one is not in existence and will permit flexibility to the construction lender upon completion of the building or maturity of the loan.

E. Exceptions

1. Loans Fully Guaranteed or Insured

Section 24 exempts from individual loan restrictions certain loans that are insured under various titles and sections of the National Housing Act and various other acts, loans which are fully guaranteed or insured by a state in which the full faith and credit of the state is pledged and loans which are guaranteed under title IV of the Housing and Urban Development Act of 1968 or under part B of the Urban Growth and New Community Development Act of 1970. The latter relates to loans guaranteed by the Secretary of Housing and Urban Development which are backed by the full faith and credit of the United States. There is no reason why all loans which are insured under the National Housing Act or guaranteed by the Secretary of Housing and Urban Development and backed by the full faith and credit of the United States should not be placed on a parity. There is also no reason why loans which are fully guaranteed by a state agency or instrumentality to which the full faith and credit of a state is pledged should not be treated the same as a loan directly insured or guaranteed. It is hereby proposed that the statute be amended accordingly and in a form that will not require the necessity of amending Section 24 each time a new title is added to the acts involved.

Real estate loans insured under Section 203 of the National Housing Act or at least 20% guaranteed under the Servicemen's Readjustment Act of 1944 are not taken into account when determining the percentage of assets that may be invested in real estate loans. This exclusion exists because of the reduction of the element of risk and for the same reason it has been extended to cover all real estate loans insured under the National Housing Act or guaranteed by the Secretary of Housing and Urban Development and backed by the full faith and credit of the United States or when insured or guaranteed by a state or a state agency or instrumentality where the faith and credit of the state is pledged.

2. Loans secured by Real Estate and Non-Real Estate Collateral

When a loan is secured by real estate and non-real estate collateral the practice as confirmed by Comptroller's rulings and national bank examinations is to reduce the loan by the value of the non-real estate security and treat the balance as a loan against real estate. This is a sound business practice and in order to remove it from any possible future attack it has been incorporated in this revision of Section 24.

3. Improved Property-Secured by a Takeout

Construction loans not in excess of 60 months, where there is a valid and binding agreement entered into by a financially responsible lender to purchase the loan upon the completion of the buildings, are not considered real estate loans because the association is looking to the credit of the permanent lender. This exception which is based upon the credit of another lender does not apply to any other type of loan secured by real estate. An exception similar in principle to the one in existence for construction loans has been written into the revision to cover any real estate loan where the loan is based upon the takeout of a financially responsible lender or other party. This is justified, as the element of risk is much less, because the takeout is not contingent upon completion of the building.

PARAGRAPH 2

Paragraph 2 has been amended to permit real estate loans secured by forest tracts to be made up to 66⅔% of value and to be secured by other than first liens. Loans secured by other than first liens must be included in the aggregate of amount of real estate loans that may be invested in other than first liens.

PARAGRAPH 3

This paragraph states that loans are available to finance the construction of industrial or commercial buildings where there is a takeout from a financially responsible lender. The words "industrial", "commercial" and "financially responsible lender" have been interpreted as descriptive rather than restrictive. To remove any possible doubt the words "industrial or commercial" are being deleted so that the language of Paragraph 3 only refers to buildings under construction unqualified as to purpose and the words "financially responsible lender" broadened to apply where there is a purchaser or other financially responsible party.

PARAGRAPH 4

Under the first part of this paragraph certain restrictions on loans secured by real estate were lifted if the loans were to industrial and commercial businesses in which Federal Reserve banks could participate, purchase or discount pursuant to Section 13b of the Federal Reserve Act or where the Reconstruction Finance Corporation or the Secretary of Housing and Urban Development cooperates or purchases a participation under the Reconstruction Finance Corporation Act, as amended or under 12 USC 1701g or 1701g–1.

These provisions are obsolete. The authority of the Federal Reserve banks and other agencies to act pursuant to these provisions has either been repealed or expired with the exception of the authority of the Secretary of Housing and Urban Development under Section 1701g to make loans and purchase obligations of any business enterprise for the purpose of providing financial assistance for production or distribution of prefabricated housing or housing components and for related purposes or for modernized site construction. The necessity for the authority to participate with the Secretary of Housing and Urban Development under Section 1701g is dubious and has not been used to any great extent if at all. For these reasons this part has been deleted.

The balance of the paragraph which deals with the participation of loans in cooperation with the Small Business Administration has been transferred to Paragraph 5 and the authority to make loans insured under the provisions of Section 203(k) or 220(h) of the National Housing Act without regard for the necessity of first lien as required under existing Section 24 has been deleted and is now covered in the Paragraph 1 under the exception dealing with loans insured under the National Housing Act.

PARAGRAPH 5

Comptroller's ruling Section 2000(h) classified a loan secured by an assignment of rents as a non-real estate loan. This is in agreement with authority and has been incorporated into Paragraph 5 as part of this revision.

The part of Paragraph 5 which classified loans based on other security as collateral where a mortgage is taken as a precaution against contingencies as an ordinary non-real estate loan has ben deleted as it is now covered by that portion of Paragraph 1 which

deals with loans secured by both real estate and non-real estate collateral.

PARAGRAPH 6

Experience indicates that prime real estate provides excellent security. However, under existing laws, perhaps outmoded, the loans which it secures become subject to loan to value restrictions, maturity limits and amortization requirements that are not applicable to ordinary commercial loans some of which carry greater credit risk. This new Paragraph would permit national banks to invest up to 10% of the amount that may be invested in real estate loans to be invested in real estate loans unfettered by the individual loan restrictions which are imposed by Section 24 and place them on a parity with other financial institutions such as insurance companies and savings banks.

CONCLUSION

The real estate investment powers contained in the proposed revision of Section 24 of the Federal Reserve Act have been in existence and used without jeopardy to the stability of state chartered commercial banks for many years. The addition of these powers will place national banks on a par in certain areas with other financial institutions but above all, it will give them the necessary tools with which to approach the nation's housing and redevelopment problems with renewed vigor and inspiration.

By Mr. WILLIAMS (for himself and Mr. CRANSTON):

S. 3169. A bill to amend the Securities and Exchange Act of 1934 to prohibit certain minimum commission rates, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

COMPETITION IN COMMISSION RATES

Mr. WILLIAMS. Mr. President, over the years the securities industry, the hub of our Nation's free enterprise system, has operated under a system of fixed commission rates. Under this system, rates charged to investors on the purchase and sale of securities are fixed under a minimum commission rate schedule, thereby eliminating any competition between firms for customer business through varying rates. This is the exact opposite of free enterprise. It could better be called paternalistic and certainly should have no place in a competitive economy.

This fact was recognized 3½ years ago by the Securities and Exchange Commission when it began a formal investigation of the fixed commission rate question. Thousands of pages of testimony were collected showing the need, the desirability, and the inevitability of competitive rates in the brokerage business. Unfortunately, however, the SEC after all of these years is still unable to formulate a plan for reaching this objective. In its recent statement of policy, the Commission took constructive steps for reducing the ceiling of fixed rates from $500,000, at which it had been set almost a year ago, to $300,000 effective in April of this year. But the Commission has given us no further indication of where it will go from there. The New York Times, in an excellent editorial published on February 7, 1972, stated:

It is unfortunate that the S.E.C. has not firmly established the policy of fully negotiated rates: that it is the only effective way to remove the principal incentive for institutional membership—and to remove the competitive advantage held by stockbrokers who also operate mutual funds of their own. Affirming that policy would also have avoided weakening the regional exchanges and forcing many institutions into public brokerage activities that they want no part of.

Mr. President, so that all Members of this body may have the benefit of this editorial I request unanimous consent that its full text be inserted in the RECORD at the conclusion of my remarks.

The Subcommittee on Securities, of which I am chairman, just last week published the first part of a two-part study of our Nation's securities markets. The subcommittee's findings reconfirmed previous conclusions of the SEC, the Justice Department, our Nation's leading economists, and many responsible members of the brokerage community; that the fixed commission rate system is responsible for many of the distortions and fragmentations which currently plague our Nation's securities markets.

In its report, the Securities Subcommittee stated:

While it is concededly impossible to predict the precise consequences of eliminating the fixed minimum commission rate system, it is equally impossible to predict the precise consequences of maintaining that system. There are risks in standing still as well as in moving forward. The experience of the securities industry over the past several years is hardly such as to inspire confidence in the adequacy of the present system. Among the significant events noted earlier in this report are (1) the disappearance of a large number of stock exchange member firms, by insolvency or merger; (2) the exposure of public customers to substantial losses, as a result of inadequate procedures by the firms and inadequate surveillance by the self-regulatory organizations and the SEC; and (3) continued erosion of the central market as an institutional customers sought to reduce their transaction costs to competitive levels by going to other markets which are not effectively tied in with the NYSE market. To the extent that fixed commission rates failed to prevent, or even aggravated, these conditions, the relative "risks" of moving toward a new system are correspondingly lessened.

The subcommittee, therefore, concluded that a date certain should be set for elimination of fixed rates on institutional size transactions—the transactions which have resulted in the most serious distortions and which have the most adverse economic impact on small investors. This may seem odd since we are talking about only the largest orders. However, these orders come from financial institutions such as mutual funds, pension funds, and insurance company annuity plans. It is through these vehicles that many millions of our Nation's citizens of modest means invest in the securities markets. These investors are the ones that the SEC has the greatest responsibility to protect.

Unfortunately, in its recent findings, the Commission appears to be more concerned with the income of a relatively small number of broker dealers and the adverse effects which competitive rates might have on profit and loss statements than on protecting the investing public. This is an attitude ill becoming a governmental agency. Therefore, I am introducing this legislation which would prohibit the fixing of minimum commission rates on a portion of a transaction in excess of $100,000 after December 31, 1973.

The December 31, 1973, date provides for an orderly transition to competitive rates. It is designed to open up the securities business to full and fair competition. And, in my opinion, it will benefit not only the consumer but the entire brokerage industry by laying down a definite timetable and procedures for the transition to competitive rates, enabling brokers to plan their future operations.

Small investors, too, have been victims of the fixed minimum commission rate system. They have been forced in many cases to pay for a full package of services which many of them neither need nor want. In this bill, therefore, I am proposing a method by which brokerage firms, subject to SEC supervision, could implement "unbundled" charges for the various types of services which they offer. I believe this approach will lead to an orderly transition to fully competitive rates. At the same time, it will enable the SEC to deal with any unsound discriminatory, or predatory pricing practices which may arise in the course of that transition.

The specific proposals in my bill are a workable and appropriate method of implementing the conclusions that the Subcommittee on Securities has reached in its study. I recognize, however, that others may have alternative proposals which would be as effective, or perhaps more effective, in reaching the desired goals. The Subcommittee on Securities, therefore, will hold 3 days of hearings on this bill on March 22, 23, and 24, at which it will solicit testimony from representatives of the securities industry and its customers, from Government and self-regulatory agencies, and from economists and others who have studied the commission rate question. I hope that those witnesses who disagree with the specific proposals in this bill will not simply express their opposition, but will offer constructive alternatives, so that the subcommittee will have the fullest range of suggestions before it in framing the ultimate legislation.

Mr. President, I now ask unanimous consent that the full text of my proposed legislation be included in the RECORD.

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

S. 3169

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6(c) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78f (c)), is amended to read as follows:

"(c) (1) Nothing in this title shall be construed to prevent any exchange from

adopting and enforcing any rule not inconsistent with this title and the rules and regulations thereunder and the applicable laws of the State in which it is located, except that, after December 31, 1973, no exchange shall maintain or enforce any rule fixing minimum commission rates with respect to any portion of a transaction in excess of $100,000.

"(2) Notwithstanding any other provision of this title, any broker which is a member of one or more exchanges may file with the Commission a schedule of rates for any class or classes of services or transactions which differs from the minimum rate then fixed by the constitution or rules of such exchanges. Such schedule of rates shall become effective thirty days after it is filed with the Commission or such later date as may be specified therein, and such broker shall thereafter charge the rates specified therein for all services and transactions covered thereby until it has filed a new schedule with the Commission which has become effective in the manner prescribed above. The Commission may, by order, after appropriate notice and opportunity for hearing, suspend the effectiveness of any such schedule, either before or after it has become effective, on the ground that the rates specified therein (A) will result in unfair discrimination between different customers or classes of customers of such broker, (B) will encourage uninformed trading or speculation by customers of such broker, or (C) will impair the financial responsibility of such broker or its ability to fulfill its responsibilities under this title. Pending final determination whether any schedule which has not yet become effective shall be suspended, the Commision may by order postpone the effective date of such schedule for a period not to exceed thirty days, but if after appropriate notice and hearing, it shall appear to the Commission to be necessary or appropriate in the public interest or for the protection of investors to postpone the effective date of such schedule until final determination, the Commission shall so order."

[From the New York Times, Feb. 7, 1972]

THE SEC'S HALFWAY HOUSE

The Securities and Exchange Commission's long-awaited report on market structure moves toward greater competition within a more closely integrated national securities market. But, by seeking to compromise the toughest issues, the S.E.C. may have intensified the problem it wants to solve.

The most critical issue was how much competition to allow among stockbrokers in the commission rates they charge customers. At present rates are fixed on transactions below $500,000. The S.E.C. decided to lower that ceiling to $300,000 next April. But this will still permit rate competition on only a small volume of business.

The S.E.C. says it favors lowering the ceiling to cover all "institutional sized" orders, but does not say what this means or when it will happen. It should have left no room for doubt in anyone's mind that it means to move to fully negotiated rates within a reasonable time.

To the extent that they expect fixed rates to continue, many institutions will still feel a strong incentive to join exchanges and deal in their own securities. Indeed, that incentive is strengthened by the SEC's decision that the New York Stock Exchange and the American Exchange should admit financial institutions.

To handle the hot issue of the inherent conflict between managing other people's money and operating as a stockbroker, the S.E.C. again sought to compromise. It says that if financial institutions join stock exchanges, their brokerage departments must do a predominantly public business—which means that significantly more than two-thirds of their securities dealings must be with customers other than their parent organizations. But this only threatens to increase the area in which opportunities for exploiting conflicts of interests may develop.

It is unfortunate that the S.E.C. has not firmly established the policy of fully negotiated rates: that is the only effective way to remove the principal incentive for institutional membership—and to remove the competitive advantage held by stockbrokers who also operate mutual funds of their own. Affirming that policy would also have avoided weakening the regional exchanges and forcing many institutions into public brokerage activities that they want no part of.

Indeed, ambiguity on fixed commissions is the major flaw in a report that has many commendable conclusions, such as eliminating rules that prohibit exchange members from doing business with nonmembers; permitting the "third market"—the over-the-counter market for stocks listed on exchanges—to continue, while bringing it under better regulation and surveillance; creating a unified stock tape to report all transactions and all bid-and-asked prices, on all exchanges, and rejecting the proposal that the New York Stock Exchange be exempted from the antitrust laws.

Having gone as far as it did, the S.E.C. should go further to make the nation's stock exchanges a model of open information and free price-competition. This will increase the efficiency and integration of the nation's securities markets, best serve stockholder interests and encourage sound investment and counseling practices.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 883

At the request of Mr. WILLIAMS, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 883, to establish an Institute on Retirement Income.

S. 963

At the request of Mr. MONTOYA, the Senator from Vermont (Mr. AIKEN), the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Maryland (Mr. BEALL), the Senator from Utah (Mr. BENNETT), the Senator from New Hampshire (Mr. COTTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arizona (Mr. FANNIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Florida (Mr. GURNEY), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Nebraska (Mr. HRUSKA), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from North Carolina (Mr. JORDAN), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Mississippi (Mr. STENNIS), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 963, a bill to authorize the Secretary of Agriculture to cooperate with and furnish financial and other assistance to States and other public bodies and organizations in establishing a system for the prevention, control, and suppression of fires in rural areas, and for other purposes.

S. 1925

At the request of Mr. WILLIAMS, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 1925, the Research on Aging Act.

S. 1975

At the request of Mr. TUNNEY, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 1975, a bill to lower the minimum age to serve on Federal juries from 21 to 18 years of age.

S. 2689

At the request of Mr. CHURCH, the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New York (Mr. JAVITS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. SAXBE), and the Senator from Illinois (Mr. STEVENSON) were added as cosponsors of S. 2689, a bill to promote development and expansion of community schools throughout the United States.

S. 2829

At the request of Mr. BAYH, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 2829, a bill to strengthen interstate reporting and interstate services for parents of runaway children; to conduct research on the size of the runaway youth population; for the establishment, maintenance, and operation of temporary housing and counseling services for transient youth, and for other purposes.

S. 2994

At the request of Mr. MCCLELLAN, the Senator from Illinois (Mr. STEVENSON) 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. 3057 AND S. 3058

At the request of Mr. PROXMIRE, the Senator from New Jersey (Mr. CASE) was added as a cosponsor of S. 3057, a bill to tax sulfur emissions and the sulfur content of fuel; and S. 3058, the Solid Waste Management Act of 1972.

S. 3125

At the request of Mr. JACKSON, the Senators from Idaho (Mr. CHURCH and Mr.

JORDAN) were added as cosponsors of S. 3125, a bill to amend the Soil Conservation and Domestic Allotment Act, as amended, to provide for a Columbia-Snake-Palouse program.

SENATE JOINT RESOLUTION 170

At the request of Mr. BAYH, the Senator from Louisiana (Mr. LONG) and the Senator from California (Mr. TUNNEY) were added as cosponsors of Senate Joint Resolution 170, a proposed amendment to the Constitution lowering the age requirements for membership in the Houses of Congress.

SENATE JOINT RESOLUTION 189

At the request of Mr. BROCK, the Senator from Illinois (Mr. STEVENSON), and the Senator from Pennsylvania (Mr. SCHWEIKER) were added as cosponsors of Senate Joint Resolution 189, to authorize the President to designate the week of March 26 to April 1 as National Week of Concern for Prisoners of War/Missing in Action and to designate Sunday March 26 as a National Day of Prayer for these Americans.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 221

At the request of Mr. BUCKLEY, the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Florida (Mr. GURNEY), the Senator from New York (Mr. JAVITS), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), and the Senator from Pennsylvania (Mr. SCHWEIKER) were added as cosponsors of Senate Resolution 221, a resolution to extend the good offices of the United States in resolving the Northern Ireland crisis.

ADDITIONAL COSPONSORS OF CONCURRENT RESOLUTIONS

SENATE CONCURRENT RESOLUTION 48

At the request of Mr. DOLE, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of Senate Concurrent Resolution 48, relating to the Holy Crown of St. Stephen.

SENATE CONCURRENT RESOLUTION 53

At the request of Mr. WILLIAMS, the Senator from South Carolina (Mr. HOLLINGS) and the Senator from New Mexico (Mr. MONTOYA) were added as cosponsors of Senate Concurrent Resolution 53, relating to International Environmental Standards.

SENATE CONCURRENT RESOLUTION 57

At the request of Mr. DOLE, the Senator from Colorado (Mr. DOMINICK), the Senator from Maine (Mrs. SMITH), the Senator from Hawaii (Mr. FONG), the Senator from North Dakota (Mr. YOUNG), the Senator from North Carolina (Mr. JORDAN), the Senator from Alaska (Mr. STEVENS), the Senator from Colorado (Mr. ALLOTT), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arizona (Mr. FANNIN), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Ohio (Mr. TAFT), and the Senator from Delaware (Mr. ROTH) were added as cosponsors of Senate Concurrent Resolution 57, calling for a national day of prayer for the cause of world peace.

ATOMIC ENERGY COMMISSION AUTHORIZATION, 1973—AMENDMENT

AMENDMENT NO. 879

(Ordered to be printed and referred to the Joint Committee on Atomic Energy.)

Mr. GRAVEL. Mr. President, "Never disagree with established policy."

That is point No. 10 in an advisory memo which the AEC has been giving to its witnesses in a national public hearing, the very purpose of which is to evaluate the AEC's presently "established" safety and licensing policy for nuclear powerplants.

According to a story in the Chicago Sun-Times, February 6, 1972, the AEC has acknowledged that such a memo exists. Colleagues who are interested in the story can read it in the CONGRESSIONAL RECORD, on page 3109.

Even if the AEC ostensibly rescinds its advice to witnesses, we all know, sometimes from personal experience, that fear of speaking out against "established policy" will remain as great as ever.

The implications of the AEC's advice are shocking. The AEC is trying to muffle expert dissent concerning the most potentially dangerous technology man has ever conceived, and neither Congress nor the public has anywhere to turn for independent expertise.

TEXT OF AMENDMENT

The amendment I am offering today is intended to remedy this disturbing situation. It is not an "antinuclear" amendment. It is a "proinformation" amendment, with the following text:

Adversary science: The Commission is hereby directed to establish under the Assistant General Manager for Administration, a Division of Adversary Science with regard to its civilian nuclear energy programs, including nuclear power reactors, nuclear fusion, and the use of nuclear explosions for peaceful purposes, and amounts equal to approximately 1% of the Fiscal 1973 development budgets in each of those programs shall be expended by the Division during Fiscal 1973 to fund adversary experts who shall independently investigate and publicly reveal alleged hazards and adverse ecological and economic implications of projects under development. In case experienced adversaries are not available, qualified people in related disciplines shall serve as adversaries. Except for miner administrative costs, the Division of Adversary Science shall expend its money through contracts with independent individuals, universities, and foundations, which shall communicate with Congress and with the public directly and without control by any division of the Commission or by the Commissioners. Each department, agency, and instrumentality of the executive branch of government is authorized and directed to furnish the Division upon its request with information and data which the Division deems necessary to carry out its function under this section. For the Fiscal Year ending June 30, 1973, there is authorized to be appropriated $2,895,000 for adversaries of civilian nuclear power reactors, $390,000 for nuclear fusion adversaries, and $68,000 for Plowshare program activities.

Cosponsorship of this amendment would be welcome.

LAST YEAR'S EFFORT

Last year, when the AEC budget came up for a vote on July 20, I proposed a similar amendment. I withdrew it when the chairman of the Joint Committee, Mr. PASTORE, promised that his committee would hold hearings on the proposal. Therefore, I introduced it on August 4 as a bill, S. 2430. Section 101 of that bill states the following:

It is in the public interest to provide funds to encourage an independent examination of all potentially controversial programs; it is especially unwise to fund only one point of view when the health and safety of the people of the United States are involved.

NO FAVORITISM: BENEFITS FOR ALL

Nuclear fission is not the only technology which involves public health and safety, of course; all major technologies do so. I am not singling out nuclear fission for attention. In fact, this very amendment includes the same 1-percent adversary funding provision for one of my favorite programs, nuclear fusion, and the same 1-percent adversary funding provision is also in the solar energy amendment which I am introducing today.

I hope that Congress will soon enact legislation to make adversary funding automatic for all technologies.

The adversary system, which produces so much otherwise hidden information in court procedures, can serve the same function in technology assessment. Adversary science can benefit both business and the general public by uncovering a program's possible adverse effects early, while there is still time to correct many of them.

RELATIONSHIP TO ENVIRONMENTAL POLICY ACT

Although presentation of the "adverse environmental effects" of technology is explicitly required by section 102 of the National Environmental Policy Act of 1969, Congress has not yet established the independent institutions to generate the required information. This amendment will help meet that need. At least with regard to some of the ABC's civilian nuclear energy programs, the amendment provides a practical mechanism for finding out what we are supposed to know.

The need for "some independent authority" in nuclear technology was described by Dr. Ralph Lapp, when he testified January 27 at the ABC's current "rulemaking hearings" on nuclear safety, as follows:

In order to match wits with the nuclear utility, the (citizen) intervener 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 intervener finds it almost impossible to obtain the services of qualified

persons to serve as experts. Too often, the intervener has felt that he was in contest with not only the utility and the nuclear venders, but also with the Atomic Energy Commission.

If local intervention is to serve as a check on development of unsafe reactors or on unsafe siting, then interveners must have access to some independent authority with which to challenge the organized technical resources of the utility.

Presently there exists no pool of nuclear expertise which is free of dependence on the AEC or the nuclear industry for money and for professional recognition.

RELATIONSHIP TO THE NATIONAL ACADEMY OF SCIENCES

The AEC has even been providing about one-eighth of the combined budget for the National Academy of Sciences, the National Academy of Engineering, and the National Research Council. According to the National Journal, January 16, 1971, the AEC provided $4 million of the Academies' $33 million budget in fiscal 1970.

When a national academy committee made a severely critical report in 1966 about AEC waste disposal practices, Congress and the public did not hear about it for more than 3 years. Meanwhile, the National Academy of Sciences allowed the AEC to sit on it.

RELATIONSHIP TO ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

If we count on the AEC's Advisory Committee on Reactor Safeguards for independent nuclear advice, we run into other problems.

For instance, the AEC is ruling out testimony by Advisory Committee members at the current "public rulemaking hearings" on reactor safety standards.

The duties of the Advisory Committee, which are spelled out in sections 29 and 182.b of the Atomic Energy Act, include making a review and public report for every powerplant license under consideration, and advising the Commission on "the adequacy of proposed reactor safety standards." The Committee is a group of 15 nuclear experts—mostly engineers—which the AEC appoints for 4-year terms.

The AEC's refusal to let them testify in the biggest safety hearings the Commission has ever held is disturbing, but understandable.

For years, the Advisory Committee has been warning the Commission quietly, and "quietly" is the important word here, that the need for additional safety research is "urgent" regarding the type of reactors now being licensed. Colleagues who are interested in the text, context, and references for some of these warnings can find them in the following items in the RECORD, which are also available from my office:

March 19, 1971, "Concern Over Nuclear Powerplant Safety."

July 20, 1971, "Atomic Energy Commission Authorizations, 1972."

NEW WARNING: IMPOSSIBLE QUESTION

Recently some of the Advisory Committee warnings have become less discreet, intentionally or not. On January 17, 1972, the Washington Post carried a story entitled, "Pennsylvania Asks AEC to Bar A-Plant," which tells about the appeal to the AEC by Pennsylvania's attorney General not to license the Newbold Island nuclear powerplants. The story reveals that three Advisory Committee members filed a quiet objection to licensing these two big reactors only 11 miles from Philadelphia and 5 miles from Trenton unless "further consideration" was given to improving the coolant system's margin of safety. The three experts are Dr. Harry O. Monson, senior engineer, Argonne National Laboratory; Dr. David Okrent, professor of engineering at UCLA; and Dr. Nunzio Palladino, dean of Penn State University College of Engineering.

"If the plant is too dangerous to be located near Philadelphia, where would it not be dangerous?" asks the Washington Post editorial on January 24, 1972; Mr. Packwood placed that editorial in the RECORD on January 31, page S750.

Members of Congress can not deal with the Post's important question, and neither can the business community or the general public, as long as we fund only one point of view—the AEC's established policy with which experts must "never disagree."

Colleagues who are interested in the idea of Adversary Science may enjoy reading a profound and constructive article by Dr. John W. Gofman in the September 1971 issue of the Bulletin of Atomic Scientists; this article was placed in the CONGRESSIONAL RECORD, volume 117, part XXXIII, pages 43555–43559, and reprints are also available from my office.

AMENDMENT NO. 880

(Ordered to be printed and referred to the Joint Committee on Atomic Energy.)

SOLAR POWER NOW

Mr. GRAVEL. Mr. President, the following statement was made on the "Today" show, February 2, 1972:

Environmentalists have raised a question whether we ought to be more vigorously exploring solar energy. I think we ought to look at that.

The speaker was AEC Chairman James Schlesinger, who is also quoted in the January 14, 1972, issue of Science magazine as saying that the next few years should find the AEC:

Looking more in terms of alternative means for satisfying national—energy—objectives—getting away from the attitude, to wit, that atoms are beautiful—In fact, atoms may or may not be useful, depending on the circumstances. We must broaden our range of instrumentalities in the whole energy field.

Solar power was named as one of our energy options by President Nixon in his energy message to Congress, June 4, 1971:

The sun offers an almost unlimited supply of energy if we can learn to use it economically—We expect to give greater attention to solar energy in the future.

Today the Senator from California (Mr. CRANSTON) and I are introducing an amendment to S. 3103, the AEC authorization bill for fiscal 1973, to provide $15 million for solar energy research and development this year.

My colleagues should note that the potential of solar power systems is not limited to the southern, sunny, or desert regions of the country. It is available in almost every State. Even Alaska has great sun-power manifest in the winds, which are a product of solar energy. Civil Engineering Prof. William E. Heronemus, at the University of Massachusetts at Amherst, states as follows:

The winds over the entire Aleutian Archipelago are very strong. It is now profitable to liquefy natural gas . . . and sell it to Japanese LNG carriers. Liquefied hydrogen prepared by wind power in the Aleutians and brought by LNG tanker to the California Coast might be very economic. And if automobile, truck, train, and airplane engines are gradually converted to use liquid hydrogen as proposed—by many—California might sparkle once again.

CONTENT OF AMENDMENT

Some indication of the variety of solar power systems which can deliver useful energy is provided in the amendment itself, which is written as follows:

Solar Energy Research: (a) The Commission is hereby directed under section 31.a. (6) of the Atomic Energy Act of 1954, as amended, to conduct solar energy research and development in order to accelerate the demonstration of large-scale solar power systems using light, heat, sea-thermal gradients, wind-power, and the process of photosynthesis, to produce electricity, hydrogen, methane, or other useful forms of energy. For such purpose, there is authorized to be appropriated, for the fiscal year ending June 30, 1973, $15,000,000, of which $150,000 shall be expended by the Assistant General Manager for Administration to fund adversary experts who shall independently investigate and publicly reveal alleged hazards and adverse ecological and economic implications of solar power projects under development. In case experienced adversary experts are not available, qualified people in related disciplines shall serve as adversaries. Except for minor administration costs, the money for solar adversary science shall be expended through contracts with independent individuals, universities, and foundations, which shall communicate with Congress and with the public directly and without control by any division of the Commission or by the Commissioners.

LAST YEAR'S AMENDMENT

In July 1971, I proposed an amendment to last year's AEC authorization which would have directed the AEC to spend $3 million on solar energy research and development.

The amendment was born the day the Joint Committee on Atomic Energy reported out H.R. 9388, the 1972 authorization, with an important amendment to the Atomic Energy Act cuddled inside section 201. That section authorized the AEC to conduct nonnuclear energy research and development.

Since I am on record as wanting an Energy Commission instead of an Atomic Energy Commission, I was pleased at the apparent agreement of the Joint Committee.

However, on July 20, 1971, the chair-

man of the Joint Committee, Mr. PASTORE, suggested that I withdraw my solar energy amendment in order to allow time for his committee to hold hearings, and I agreed.

CLEAN, SAFE, CERTAIN-TO-WORK SUNSHINE

So 1 year has been lost already. Now we are talking about the fiscal 1973 budget instead of the 1972 budget. I do not think there is any justification for losing another year. Let us start seeing some action regarding the one source of energy which might even be popular—clean, safe, certain-to-work sunshine.

With just 2 or 3 years of applied research and development, we might well be ready to build demonstration plants for some of the solar power systems.

What is in doubt, as the President indicated, is the cost of solar power, not its workability. Some estimates are that solar energy can be "competitive" even at today's prices. Such estimates will necessarily remain speculative until we fund the required engineering studies.

That is why I oppose loss of another year. There are already important solar projects which have been waiting to start for a year, due to lack of minor funding. The administration appears content to let them wait still another year.

PLANNING IN THE WHITE HOUSE

According to the Energy Digest, January 31, 1972, the White House Office of Science and Technology has organized an Energy Research and Development Goals Committee under Frederick Veinhold. He, in turn, has organized nine advisory panels to recommend energy funding priorities for next year's budget, fiscal 1974.

The panel which will deal with solar energy is under the codirection of Dr. Paul Donovan of the National Science Foundation, and William H. Woodward of NASA's Office of Aeronautical and Space Technology. Executive secretary of the solar panel is William Cherry, a solar engineer from NASA's Engineering Physics Division at the Goddard Space Flight Center in Greenbelt, Md.

About 30 technical people are being invited to participate in the consideration of solar cells, thermal conversion, photosynthetic and photochemical conversion, "innovative sysems," and residential uses of solar energy.

The Energy Digest says:

For further information, or to submit recommendations, ideas, and forth to the solar panel, contact William H. Woodward, Director of the Space Propulsion and Power Division of NASA, Washington, D.C. 20546.

EIGHTEEN YEARS LATE

That is encouraging. Thought and planning are needed before we spend half a billion or a billion dollars a year on solar energy development, which is probably what we ought to be doing. But it would hardly be reckless for Congress to spend $15 million in the meantime this year on promising projects which are ready to go.

I am not worried that my solar energy amendment is premature. I am worried that it is 18 years late.

We started funding civilian nuclear energy in 1954, and we have spent about 3,000 million tax-dollars on it so far. During the same period, we have spent less than 1 million tax-dollars on developing large-scale solar power systems.

If the funding had been reversed, I wonder which would look "competitive" today.

ONE WORRY: ASKING TOO LITTLE

I do have one worry about the solar energy amendment. I am worried that $15 million is to small an amount.

A rule-of-thumb in "high technology" is that you budget about $50,000 per scientists per year. That amount covers lab costs, supporting personnel, and other overhead, as well as his or her salary.

Consequently, for $15 million, we will see only 300 scientists and engineers applying their brainpower to solar power. In a country with a labor force of 80 million people, whose jobs allegedly depend on the lavish use of energy, this seems like a foolishly small effort to apply to the only inexhaustible source of clean, safe energy. We should probably authorize 10 times more effort this year.

So if the $15 million figure in this amendment is increased as a result of committee hearings, that will be fine.

Whatever the final amount is for fiscal 1973, I urge that 1 percent of it be spent to fund a band of critical solar skeptics. These solar adversaries would be assigned by this amendment to find and warn us loudly and early about alleged hazards and adverse ecological and economic implications of solar power projects. This kind of technology assessment is clearly required by section 102 of the National Environmental Policy Act of 1969.

EARLY WARNING SYSTEM

A loud and early warning system will not necessarily paralyze new ideas—it will simply sharpen them up and remove their flaws while it is still cheap and easy to do so.

COSPONSORSHIP WELCOME

This solar power amendment is designed to "get the show on the road" without turning it over just to the enthusiasts.

Chauncy Starr, who is dean of engineering at UCLA, including nuclear engineering, of course, said in the September 1971 issue of the Scientific American:

If only a few percent of the land area of the U.S. could be used to absorb solar radiation effectively (at, say, a little better than 10 percent efficiency), we would meet most of our energy needs in the year 2000. Even a partial achievement of this goal could make a tremendous contribution.

Many other experts agree. So let us begin this year. Solar power now.

Cosponsors for this amendment would be most welcome.

LIST OF SOME AVAILABLE PAPERS

For colleagues or others who would like to know more about solar power proposals, especially the ones which directly affect their States or businesses in their States, I am listing the references to a series of solar energy papers which I have previously placed in the RECORD. Reprints are available from my office.

The references are as follows:

July 8, 1971, pages 24010–24023, "The President's Energy Message."

July 20, 1971, page 26090, "Atomic Energy Commission Authorizations, 1972."

October 27, 1971, pages 37675–37684, "Solar Energy: The Andersons' Proposal."

November 2, 1971, pages 38787–38789, "Solar Energy: the Escher Proposal."

December 1, 1971, pages 43794–43798, "Winning Money for Solar Energy."

December 3, 1971, pages 44617–44619, "Solar Energy: the Ford-Kane Proposal."

December 7, 1971, pages 45165–45169, "Solar Energy: the Meinel Proposal."

December 7, 1971, pages 45180–45183, "Clean Energy via the Wind."

December 7, 1971, pages 45194–45197, "A National Network of Pollution-Free Energy Sources."

December 11, 1971, pages 46295–46297, "Solar Homes."

December 11, 1971, pages 46342–46348, "Making Gas and Oil."

February 9, 1972, pages 3587–3592, in Part II, "Gentle Solutions for Our Energy Needs."

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971—AMENDMENTS

AMENDMENTS NOS. 881, 882, AND 861

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

Mr. ERVIN (for himself and Mr. ALLEN) submitted three amendments intended to be proposed by them jointly to amendment No. 878 proposed to the bill (S. 2515) to further promote equal employment opportunities for American workers.

ADDITIONAL STATEMENTS

THE 24TH ANNIVERSARY OF CEYLON INDEPENDENCE, FEBRUARY 3, 1972

Mr. ELLENDER. Mr. President, February 3 marked the 24th anniversary of the independence of Ceylon, one of the loveliest and most progressive island nations in the world.

It has been my pleasure to visit Ceylon on several occasions in the past. I was there for a short time several weeks ago as I stopped off on my return to this country from Antarctica. On each of my opportunities to see that country, I have come away impressed with the work that is going on and the progress that is being made to better the lot of the people.

As a nation, Ceylon has always been very proud of the strong democratic traditions which have flourished since independence was gained 23 years ago. In that period, changes of government have been accomplished five times by peaceful democratic elections. Ceylon has proved that the concept of parliamentary democracy can take root and thrive effectively in that area of the world.

After my past visits to Ceylon I have pointed out the many admirable features of its government and people. I have also commented, however, on the possible difficulties facing its future de-

velopment. Most of these lie in the field of economics and are common to all underdeveloped nations.

Ceylon has been moving to solve these problems and at the same time provide a wealth of social services to its population. Because of some of the measures the government was forced to adopt due to the economic situation, I was informed that dissatisfaction in parts of the populace had developed early last year. An insurrection took place designed to seize governmental power. The attempt was unsuccessful, however, and after the situation cooled down the Prime Minister of Ceylon acted by granting amnesty to those involved.

I am told that most of those in rebellion voluntarily gave themselves up, that the tension has been reduced, and that law and order has been restored.

As a final note, Mr. President, I should like to point out that today Ceylon has the highest literacy rate in the countries of the region, with the possible exception of Japan. The parliamentary elections have been based on a universal adult suffrage dating as far back as 1931. A few years ago the age for voting rights was lowered to 18 years. All this has been possible as a result of education being brought within the reach of everyone by making it free from the kindergarten through university.

The rule of law is firmly entrenched in the country, and an active parliamentary opposition and a free press is a further testimony to the vitality of the democratic process in Ceylon. Another area in which Ceylon has made considerable progress is health. The life expectancy has been raised to 62 years owing to the greatly improved environmental sanitation, better medical treatment, and improved diet.

I am glad to pay this tribute to the people of Ceylon on the occasion of their 24th anniversary. May I wish them many more in the future.

AMBASSADOR LLEWELLYN THOMPSON

Mr. ALLOTT. Mr. President, last Friday it was my honor to serve as the representative of the President at the services in Las Animas, Colo., for the late and very much lamented Ambassador Llewellyn Thompson.

Ambassador Thompson was a great son of the Arkansas Valley in Colorado. His virtues—diligence, patriotism, calm good sense—are the virtues of the people who have made the Arkansas Valley a prosperous and wonderful place to live and work.

Ambassador Thompson's work for the Nation took him far from the land and people he loved so well. Twice it took him to the Soviet Union for difficult service. He gave of himself tirelessly, skillfully, selflessly.

When death took this good and learned patriot, he was a major source of wise counsel to the President, and to all those charged with the desperately difficult task of keeping the peace.

His services, as well as his charm and unfailing good spirit, will be missed by all of those who had the privilege of working with him over the years.

If you seek his monument, look at the record. It is a record of avoidance. We have avoided a catastrophe during years when the Soviet Union gained military strength; was ruled by disagreeable men engaged in internal power struggles; and gained a technological mastery of the weapons of mass destruction. In this period a stern but restrained American policy, formed and administered by men such as Ambassador Thompson, kept the peace. For that the world, as well as all Americans, owe an incalculable debt to Ambassador Thompson, and to those who worked with him and who today feel such a keen sense of loss.

Mrs. Allott and I join with the Thompsons' countless friends in expressing our deepest sympathy and respect to Mrs. Thompson, who, we earnestly hope, will continue to grace and serve this community for many, many years.

SEA TRANSPORTATION BETWEEN ALASKA AND LOWER 48 STATES

Mr. STEVENS. Mr. President, the Anchorage Daily Times of Saturday, January 29, 1972, contains an editorial concerning an issue of great moment to the State of Alaska. This is the ferry, MV *Wickersham*, a foreign-built ship which has been severely curtailed in its operations by the effect of the Jones Act. For several years, as the editorial indicates, the vessel has been able to operate only between ports in foreign countries and ports in Alaska. It cannot operate between the lower 48 States, especially Washington, and Alaska, the projected route for which the vessel was purchased and the route for which Alaskans have the greatest transportation needs.

Mr. President, I am certain a great many Members of both Houses are aware of this matter and are also aware that bills have been introduced in both Houses of Congress to rectify this situation temporarily until a new vessel, for which bids have already been received and a contract awarded, can be built. The estimated time of construction on the new replacement vessel will be approximately 27 months from now. In the interim, it is imperative for the State of Alaska and its many citizens that a waiver of the Jones Act be granted so the MV *Wickersham* can travel between the lower 48 States and Alaska. The editorial indicates the facts of the situation in a nutshell; but more than that, it illustrates the feeling of most Alaskans that the State urgently needs the services of this vessel now. I urge speedy action on the bills and ask unanimous consent that the editorial entitled "A New *Wickersham*," be printed in the RECORD.

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

A NEW "WICKERSHAM"

Bids have been opened on a new state ferry to replace the controversial Motor Vessel Wickersham, the queen of Alaska's marine highway.

And at long last the end may be in sight of the storms that have washed over the decks of this great white ship ever since former Gov. Walter J. Hickel added it to the state's floating inventory.

The Wickersham, as almost everybody knows, is a foreign-built vessel that cannot sail between the ports of two states without violating the Jones Act.

The Jones Act is an old federal law which is designed to protect the American shipbuilding industry. Under its provisions, ships built in foreign countries can operate between an American port and a foreign port—but they cannot engage in interstate commerec.

The Wickersham, as grand as it is, is not all that it should be—so far as Alaska is concerned.

Mr. Hickel's administration envisioned that the Jones Act could be outflanked somehow and that the magnificent Wickersham would be able to operate between Seattle and cities of the Southeastern Panhandle.

The governor reckoned without realizing the invincibility of the Jones Act. As a result, the Wickersham has never fulfilled its role. It has sailed from Seattle to British Columbia ports, or from British Columbia to Southeastern Alaska—but it has never served, for example, between Seattle and Juneau.

As a result, it has been a bust—as good as it is, as beautiful as it is, as comfortable as it is.

Besides that, it has been a political football from the day it was purchased.

But now its days are numbered.

Gov. William A. Egan has long ago announced it is the policy of his administration to sell the Wicky—as soon as possible.

Meanwhile, efforts have been going on in Washington to obtain a temporary waiver of the Jones Act to permit use of the Wickersham until such time as the state can replace it with an American-built ferry.

An essential item to passage of this waiver by Congress has been some firm evidence by the state that it means what it says about obtaining a replacement.

That now has come in the bid opening this week for construction of a new ferry of the Wickersham class. The apparent low bidder was the Lockheed Shipyard of Seattle, at a cost of $19.8 million. The 418-foot vessel is scheduled for completion in 27 months.

Now if Congress will cooperate, the Wickersham's last two years in Alaska service should be good ones. The outlook is favorable that the waiver finally will be granted.

HELP YOUNG AMERICA WEEK

Mr. EAGLETON. Mr. President, in the State of Missouri, the first week of February was declared "Help Young America Week."

The purpose of this special week was to promote the strengthening of ties between business, youth, and parents. This goal is most commendable.

The sponsors of this project have contributed $20,000 to each of the five most active nationwide youth organizations in America as a part of this program.

Through the fine work of the Boy Scouts of America, Girl Scouts of Amer-

ica, Girls and Boys Clubs of America as well as the Camp Fire Girls, the ideals of "Help Young America" will be reached. These organizations provide the guidance and leadership which helps contribute to the development of American youth.

Mr. Fred Bioren, of Kirkwood, Mo. is to be congratulated for his leadership in organizing support for these vigorous, outstanding organizations.

I wish to add my endorsement to the many others who are supporting the "Help Young America" campaign.

SCENARIOS FOR DISASTER: NOTES ON INDOCHINA 1972

Mr. GRAVEL. Mr. President, Gen. Douglas MacArthur once had a secret plan to end the war in Korea. His strategy—not revealed publicly until 1964—began with the use of 30 to 50 atomic bombs on key targets in China; 500,000 of Chiang Kai-shek's troops would then be unleashed for a mainland invasion. To interdict further Chinese support to North Korea, MacArthur favored sowing the entire border along the Yalu River with radioactive cobalt material—thus creating, so he thought, an impassable barrier that would last for 60 years.

Today, as America's military position in Southeast Asia deteriorates, one may justifiably fear that Richard Nixon's secret plan to end the war will take some cues from the late general. Recent events in Indochina suggest a major crisis will occur during this election year, possibly within the next 2 months. This conclusion is based on the following facts and analysis:

First. Although Nixon wishes to minimize the effect of the war on the United States because of its political harm to his reelection effort, he is still committed to eventual victory in Indochina. "Victory" means a non-Communist Southeast Asia plus an anti-Communist South Vietnam open to U.S. political control and U.S. capital penetration. Acceptable in the interim is a protracted war of low visibility to the American public, fought with U.S. technology but not troops, limited in scope so as to pose no threat to Chinese interests; a war which the United States cannot win but at least does not lose before the 1972 election.

Second. In various meetings with American radicals, representatives of the PRG and the DRV have expressed their desire to see Nixon defeated in the 1972 election. Undoubtedly they know a major liability to Nixon would be a new NLF/NVA offensive throughout Indochina. A major attack, suggestive of the 1968 Tet offensive, would shatter the illusion that the North Vietnamese military strength has been crippled by the bombings, or that indigenous revolutionary cadres have been rooted out by pacification programs. Restraint on their part makes sense only if they have some reason for believing Nixon will actually withdraw after the 1972 election and halt all U.S. bombing and end de facto support for Thieu. No evidence suggests Nixon would do this. Wisely, the Vietnamese insurgents have never relied on the strength of the U.S. antiwar movement in planning and executing their struggle.

Third. The recent heavy air bombardment of North Vietnam underscores Nixon's determination to militarily protect the U.S. policy stated in No. 1 above—even if his actions are labelled "escalatory." Although the actions were serious, they should not have been unexpected; the week before the air strikes saw numerous warnings in the press by Government spokesmen that a major air strike against the North was in the making.

The exact reason for the strikes still remains unclear. The Nixon administration knows by now of its inability to substantially interdict supplies going south. After the raids ended, military sources told Washington Post writer Peter Jay that supples destroyed were "fairly far back in the pipeline," to be used months from now—thus the raids, even assuming their strategic success, did not alleviate present U.S. concern over the central highlands. More likely Nixon used the raids as a warning, sharp but still limited, to the North Vietnamese that the United States would respond to an offensive with sustained bombing of the North. By limiting all Christmas sorties to below the 20th parallel—approximately 80 miles south of Hanoi—Nixon has evoked the memory of Johnson's change in bombing strategy in March, 1968—only Johnson deescalated the bombing by limiting it to below the 20th parallel. The irony seems more than coincidence, and reinforces the implied threat of the U.S. air attacks. In this way Nixon hopes to buy the calm needed for his success in Peking and in the U.S. presidential primaries.

A secondary reason for the raids might be that Nixon is using them as a provocation of the North Vietnamese. The December 26 raids followed a 2-month period in which 40 U.S. air strikes hit North Vietnam. These, coupled with the obnoxious behavior of U.S. representative to the Paris peace talks, William J. Porter, might be an attempt to goad the North Vietnamese into walking out of the talks. This would undercut the significance of the U.S. refusal to respond to the PRG seven-point peace plan; it would also give the United States freer military rein to attack North Vietnam with impunity, should it be seen as necessary.

Fourth. The national press has repeatedly in the past 2 months carried front-page stories quoting unnamed military, intelligence, and diplomatic sources who predict a major Communist offensive in the near future. For example, an AP dispatch of December 13 reports:

> North Vietnam is preparing a major offensive into South Vietnam's Central Highlands, probably timed to embarrass President Nixon during his February visit to China, diplomatic sources said today.

These sources go on to predict a second major offensive after the major party conventions in the United States this summer. Similar warnings have been front-page news several times since then, with the January 2 Washington Post predicting more massive air strikes against the North in the near future.

Since the 1968 Tet offensive the United States has had an interest in leaking warnings of this kind around the first of the year; more than in the past, however, these Government briefings appear to be for the purpose of either defusing the potential political impact such an offensive would have at home or preparing the public for a major increase in U.S. war activity should Nixon think it necessary. All of the frantic speculation about the central highlands, however, may be a U.S. attempt to shift the American public's attention—and also perhaps the attention of the North Vietnamese—away from Laos and Cambodia, either of which could possibly fall to the insurgents this year.

Fifth. Thus, two events in Indochina could trigger a Nixon escalation. First, if the North Vietnamese and the NLF in fact decide to ignore Nixon's Christmas air-strike warning, a case can be made for a Communist offensive in late January or early February before the rainy season begins; to provoke China into canceling Nixon's invitation to Peking when the United States responds to the offensive; to influence the early primaries, particularly the New Hampshire primary where McCloskey is running a much stronger campaign than expected; and, to take advantage of recent military progress in Laos. If the insurgents are successful despite ARVN efforts and U.S. close air support—perhaps encouraging support actions in South Vietnamese cities—then Nixon will have difficulty in ignoring the attack. Second, if the insurgents win total control of Laos or Cambodia, Nixon will suffer the beginnings of defeat in Indochina, and the U.S. military situation will automatically worsen in South Vietnam. Nixon is convinced that evidence of U.S. military failure in Vietnam is as politically damaging to him as escalation—perhaps more so. He may try to play down an offensive's significance and publicly ignore it, but if forced to act he will move, as he stated in announcing his 1970 invasion of Cambodia, "decisively and not step by step." Such "decisive" action might be the bombing of Hanoi proper, the naval blockade or mining of Haiphong harbor, air raids on the North Vietnamese dike system. Behind these contingencies looms the specter which must be faced: the use of nuclear weapons, perhaps to interdict the Ho Chi Minh Trail and to demonstrate the ultimate seriousness—or insanity—of U.S. intentions.

Sixth. Why a likelihood of drastic action. The military situation for the United States and its client governments appears to be much more precarious than it was in January 1968, during the Tet offensive. Instead of 530,000 military personnel, the United States will have 139,000 men in South Vietnam on February 1, of which only about 56,000 are combat troops; morale and combat efficiency remain low

to the point of disbelief. Heavy drug usage, racial conflicts, and "fragging"—the murder of American military officers by disgruntled American soldiers—are common for U.S. troops no longer engaged in regular combat activities. So bad is the situation that, in June 1971, Col. Robert Heinl wrote in Armed Forces Journal:

By every conceivable indicator, our army that now remains in Vietnam is in a state approaching collapse, with individual units avoiding or having refused combat, murdering their officers and noncommissioned officers, drug-ridden, and dispirited where not near-mutinous.

The U.S.-trained, U.S.-equipped armies of our client governments have yet to prove their military self-sufficiency. Lam-Son 719—the South Vietnamese invasion of Laos last February—resulted in a severe mauling of the "crack" SVN Ranger divisions; not only were the best fighting units of the ARVN destroyed, but the disaster instilled low morale among the rest of the army. In its Cambodian operations, however, the South Vietnamese Army has distinguished itself through widespread atrocities against the civilians. Columnists Evans and Novak reported in October 1971 that Col. Kas Chuon, Cambodian military governor of Svay Rieng, "now regards ARVN as a greater enemy than the Communist invaders, a view echoed by every officer and soldier we interviewed."

The Cambodian Army itself suffers from lack of supplies, no discipline, and corruption at all levels. The military situation worsened the month before last, when North Vietnamese Army troops confronted a Cambodian Army drive to reopen route 6, just 25 miles north of Phnompenh; UPI reported that half of the 20,000-man government task force "was said to have been virtually destroyed as a fighting unit." More recently, the government of Lon Nol finally moved against commanders who pad the size of their units and collect the extra paychecks for themselves; a census by the government resulted last December in the "abolishing" of 30 battalions which did not exist. Repeated military failures coupled with governmental corruption and Lon Nol's poor health have brought Cambodia to the edge of a major change in government.

By contrast, the Khmer Rouge—Cambodian Communist guerrillas—have grown from a few thousand 20 months ago to 15,000 to 20,000 in December.

In Laos, the surprise retaking of the Plain of Jars by Pathet Lao-North Vietnamese forces December 21 has jeopardized the crucial Long Cheng base, headquarters for the CIA's Meo tribesmen army. Although the plain has traded hands seasonally in the last 2 years, the insurgents now have control 2 months earlier than last year. Within a week 30,000 Meo dependents were evacuated from Long Cheng; sensitive intelligence equipment has been moved or destroyed as the military pressures against the base increases. The loss of the Plain of Jars preceded by a week the virtual loss of the Boloven Plateau to the south, placing Pakse, the second largest city in Laos, under siege.

Without dependable ground armies, the United States has increasingly relied on its air power and other highly automated weapon devices. Although U.S. air power has a great capacity to inflict mass terror and killing on the civilian population, its military value is limited by two factors. First, by all accounts it has been unable to interdict the movement of supplies needed by the NLF. In December, 1967, in the midst of the U.S. bombing operations on North Vietnam, the JASON division of the Government's Institute for Defense Analysis concluded that:

As of October, 1967, the U.S. bombing of North Vietnam has had no measurable effect on Hanoi's ability to mount and support military operations in the South . . . We are unable to develop a bombing campaign in the North to reduce the flow of infiltration into South Vietnam.

This unambiguous assessment has been shared by the CIA and other U.S. intelligence sources from 1966 through 1968; the recent report on the air war by the Cornell Center for International Studies agrees. Moreover, all flatly discount the notion that the air war against North Vietnam weakens their determination to fight. To the contrary, reports Jason:

The bombing clearly strengthened popular support of the regime by engendering patriotic and nationalistic enthusiasms to resist the attacks.

Of the bombing in Laos—presently the major focus of U.S. air attacks—the Cornell air war study states:

Despite the continued use of U.S. air power, the PL/NVA now control a greater fraction of Laos than ever before. Moreover, the civilian consequences of the bombing may have helped solidify popular support behind the Pathet Lao . . . We can only conclude that the widespread American bombing in the war in northern Laos has on balance had a clearly counterproductive effect.

The Cornell study also discovered that "close air support"—the tactical use of air power in conjunction with ground troop action—presently accounted for less than 100 percent of U.S. flight activity.

Second, the fact remains that a civil war cannot be won with air power alone; military control must be consolidated on the ground, and political loyalty must be established throughout the population. The indiscriminate use of U.S. air power in the last 7 years has merely strengthened and created political opposition, not only in South Vietnam but throughout Indochina. In fact, the present U.S. tactical emphasis on air power operates in the reverse. ARVN and Cambodian troops are sent out as "bait" to provoke a Communist counterattack and flush out the opposing troops so as to make them vulnerable to air attack. This strategy governed the 1971 Laos invasion; while U.S. bombers had a field day, the men serving as "bait" got ripped apart. Such a strategy—hardly conducive to building a strong, confident South Vietnamese Army—further confirms U.S. contempt for the lives of Asian people, be they "enemy" or "ally."

By contrast, the NLF and NVA appear relatively strong and well-organized. Government studies in 1968 show that 6 years of pacification activity in South Vietnam had failed to appreciably destroy the NLF infrastructure or to win any major political shift of loyalty toward the Government. It was then estimated that over 70,000 NLF cadre operated in South Vietnam, a figure repeated just last month as the strength of the "Vietcong Infrastructure." John P. Vann, a top USAID official in Vietnam working with pacification, privately estimated in fall, 1969, that 15 percent of the South Vietnamese population supported the NLF, 35 percent supported the Government, and 50 percent were undecided; the pro-Government 35 percent, he said, contained only Government employees and their families. At the same time, Daniel Ellsberg and Vu Van Thai guessed for Rand that NLF "hard-core" support totaled 25 percent of the population, Government support equaled 20 percent, with the remainder of the population wary of both sides. Operation Phoenix, the CIA-created program to assassinate and kidnap suspected NLF cadre, has generally been admitted to be—in the Washington Post's words—"one of the most notable failures of the war."

At present it remains unclear just how successful the NLF has been in organizing cadre within the new forced-draft urban population; that is, Vietnamese peasants systematically driven from their rural homes into the cities by U. S. pacification programs to enforce tighter Government security. However, reports of the last 2 years have shown an increase in urban opposition to Thieu and the United States among students, war veterans, elements of the middle class, and others. Also interesting is the news item of October 1970 quoting a CIA report that 30,000 Communists have infiltrated the South Vietnamese Government, Army, and police force. The military/political significance of these latter two factors remains difficult to assess; at the least it shows active and popular opposition to Thieu and the U.S. military presence exists in urban South Vietnam.

Thus, a major U.S. escalation of the war does not necessarily depend on the presence of a new NLF/North Vietnamese attack. While such an offensive might dramatize the weakness of the United States and its regime in South Vietnam, the fact remains that the military situation throughout Indochina is steadily, perhaps rapidly, deteriorating anyway. Nixon may escalate the war to prevent the loss of Laos or Cambodia. To make an escalation plausible, he would of course link it to the protection of U.S. interests in South Vietnam; this might further explain repeated intelligence leaks to the press about the coming spectacular" in the central highlands.

This prediction of a Nixon escalation only echoes other warnings made in the

last 2 years by men who once helped to make military policy. Leslie Gelb and Mortin Halperin, in a Washington Post article written just after the Cambodian invasion, predict that at some point the North Vietnamese will launch a major offensive and that Nixon may well act "in accordance with his threats, his concept of national interest, and his misguided view of the efficacy of 'decisive' escalation" and "launch an all-out attack against North Vietnam coupled with a blockade of Haiphong." Halperin, who served as an aide to Kissinger and consultant to Nixon's National Security Council until May 1970, repeats the warning in November 1970. Although predicting a confrontation for spring of 1971—not an election year—Halperin notes:

If many Americans cling to the hope that the President's rhetoric is a smokescreen to cover a total withdrawal by November 1972, Hanoi has no such illusions. Lacking a serious U.S. negotiating proposal in Paris, the North Vietnamese will seek to step up the war: Beyond a certain point the President will feel obliged to respond . . . and we should have no doubt his response will be massive.

More recently, Clark Clifford, Johnson's Secretary of Defense in 1968, concluded that Nixon would not desert the Saigon regime and would probably leave a residual U.S. force of 70,000 to 80,000 men in South Vietnam. Realizing this, the North Vietnamese would sometime this winter launch a military offensive. Says Clifford:

My great concern, is what Mr. Nixon's response might be. He might reverse the withdrawal. He might increase the bombing. He might reverse the withdrawal process and increase our troop strength. No one knows what he might do. We must remember that Mr. Nixon once said in a speech in Chicago [1955] that in modern warfare, tactical nuclear weapons must be considered conventional weapons. (*New York Times Magazine*, August 8, 1971)

During the Laos invasion last February, Nixon publicly announced he would not use nuclear weapons of any kind in Indochina. Beyond that, however, he refused to put any limit on the use of U.S. air power and pointedly refused to rule out an ARVN invasion of North Vietnam at some future date. Given the past performance of the South Vietnamese Army, the imminent loss of Indochina to U.S. control might well convince Nixon that limited use of nuclear weapons is his only available option. At that point the crisis becomes international and apocalyptic.

If approximately correct, the above analysis implies no change of direction for the American antiwar coalition, but it should add a sense of urgency to our activities. This is no time for sublety.

All Americans must now unequivocally denounce this war, this crime against human decency, and demand the immediate end of U.S. military involvement in Southeast Asia. To threats of U.S. escalation, opponents of the war should respond with pledges of strikes at the workplace and in the universities. Unlike last May, antiwar liberals soon may suddenly find civil disobedience at home more palatable than the prospect of a new mushroom cloud over Asia—and perhaps over us all. To prevent such a disaster, we must act now.

REAPPRAISAL OF FOSSIL FUEL CAPABILITIES

Mr. STEVENS. Mr. President, the quest for clean, and yet economically feasible, energy generation for meeting our immediate energy needs has necessitated a dramatic reappraisal of our fossil fuel capabilities.

Coal represents the largest, most accessible reserve of energy available within the continental United States. This fact alone, Mr. President, gives cause for closely evaluating feasible methods for utilizing this energy source. In this regard, the gasification of coal imposes a viable method for adapting this abundant energy source to meet environmental constraints.

Testifying recently before the Senate Committee on Interior and Insular Affairs, the distinguished junior Senator from Kentucky (Mr. COOK) addressed the subject of coal gasification.

In view of his illuminating remarks on this matter, I ask unanimous consent that Mr. COOK's statement of February 8, 1972, be printed in the RECORD.

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

REMARKS BY SENATOR MARLOW W. COOK

Mr. Chairman, my purpose in appearing before you this morning is twofold. First, to again lend my voice to those in the Congress, the executive branch, business and commerce who are determined to find solutions to the problems related to the feasible and economical gasification of coal. Secondly, I want to encourage all concerned to take a fresh look at existing programs and new proposals with particular emphasis on the manufacture and use of low BTU gas.

Mr. Chairman, I have followed with great interest the hearings which have been and are being held by this committee as it seeks answers to our multifaced energy problems.

You have long been recognized as a pioneer in this field. As you are aware, I was cosponsor of your bill, S. 4092, in July 1972, which was designed to establish a commission on fuels and energy, whose purpose is to recommend programs and policies intended to insure that United States requirement for low-cost energy will be met, and to reconcile environmental quality requirements with future energy needs.

I support S.R. 45, and have participated indirectly in some of the deliberations of the study group created by this resolution. I think that you have made great progress and I commend you for it. As these hearings today have been called to gather information on new technology for generating clean electricity from coal, I will limit my remarks to this specific area. As the Commonweatlh of Kentucky ranks first in the nation as a coal producing state, this particular subject is of paramount interest and importance to us.

MANUFACTURE OF PIPELINE GAS FROM COAL

Mr. Chairman, I have followed with interest the accelerated program submitted by the Office of Coal Research in fiscal year 1972, for the manufacture of pipeline quality gas—900–1000 BTU per cubic foot—from coal. This acceleration represents a tripling, not merely in dollars, but in the whole broad scope of research and development effort. This multiple approach to the problems that still need to be solved would enhance the potential for success.

The agreement by the gas industry to contribute $10 million of the $30 million required provides a sound government-industry partnership for these programs. However, in a recent decision, the Congress has reduced the appropriation for this program by some $5 million. This does not speak well of government's seriousness in formulating solutions. This action could lead to proportionate reduction in the contribution by industry to the accelerated program. In the final analysis this most important public interest program could be severely retarded.

This nation can ill afford the risk of denying itself normal growth because of failure to pursue programs designed to anticipate and satisfy its energy requirements. I understand that attempts will be made to restore these cuts in appropriations. I would support this effort. I note that in his fiscal 1973 budget presented to the Congress the President placed heavy emphasis on coal gasification projects.

DIRECT USE OF LOW BTU GAS

All of the above programs, including those funded as well as those unfunded, have as their goal the manufacture and upgrading of low Btu coal gas to gas of pipeline quality . . . that is 900 to 1000 Btu per cubic foot. As I have already stated, I support these programs, consider them essential, and recommend that they be pursued vigorously. We need pipeline gas for many uses. The present state of the art gives excellent promise for low Btu coal gas. The upgrading or methanation of this gas to raise it to pipeline quality has been the difficult and expensive step. I am confident that this problem will be solved.

However, while I encourage these efforts, I question that this approach can give us the whole answer to coal gasification. I believe that a way can be found for the economic manufacture and use of low Btu gas. I have been informed that substantial work has been done on a system which would permit the use of low Btu coal gas to manufacture electrical power. I have seen some drawings of a combined steam turbine—gas turbine cycle which could be applied to central station generators.

I have been informed that a working model of this system has operated successfully. In this particular cycle, all coal was gasified to produce a fuel gas with a heating value of only about 100 Btu per cubic foot. This of course, is about one-tenth the heating value of pipeline gas. The gas was scrubbed by electronic methods and chimney emissions met ecological standards.

To my knowledge this procedure has not been duplicated on a large scale. I suggest that we would be wise to initiate a program to do just that. I have written to the Secretary of the Interior and suggested that the Office of Coal Research consider the initiation of a research and development program which would prove or disprove the economic feasibility of the manufacture of electrical power from low Btu gas.

The commercial development of low Btu gas from coal would have several effects on our energy and fuel economy.

1. This committee is aware of the tremendous potential growth in gas demand as contrasted to the availability of domestic natural gas resources. But the national petroleum council study which produced supply and demand comparisons also reported another significant fact: 65% of the potential increase in demand between 1970 and 1985 is for power generation and industrial use: If the technology were available to use low Btu gas from coal and applied for these markets, a substantial part of the demand for pipeline gas could be reduced.

2. While a limited number of pipeline gas plants may be constructed in the Appalachian coal-mining area, it is probable that the majority will be located on or near the vast, untapped coal resources of our western States.

On the other hand, the development of low BTU gas technology and its application would be of significance to the smaller coal producers in Appalachia with less abundant but still substantial reserves. By shipping this coal to plants where on-site production of low BTU gas is practiced, those coal resources, unsuited for production of pipeline gas because of production capacity and insufficiency of uncommitted reserves, would be efficiently utilized to satisfy a large part of our total energy needs.

3. I have mentioned the possibilities of generating electrical power from low BTU coal gas. A significant consideration is the contribution this process would make in using the Nation's total fuel resources in the generation of electric power. While there is great hope that the atom will in the future provide us with all the low-cost electricity we need, there are many obstacles to overcome on the way to that goal, with more being discovered. The first large-scale breeder reactor to be built in the United States has only recently been announced; and even with the most optimistic assumptions for successful operation of this demonstration plant, it is unlikely that such power plants which use uranium efficiently will become a commercial reality before 1990. Even with success in the breeder development program, we will still, according to the Atomic Energy Commission, be generating half of our electricity with fossil fuels in the year 2000; if the breeder fails to mature as anticipated we will have to rely even more heavily on our fossil fuel resources. I submit that while we have spent billions on atomic power research, we have practically ignored the need for improvement in coal-to-electricity technology. Current methods for the use of coal to produce electricity have plateaued in efficiency and create many undesirable air and water pollution problems. One answer to both these problems lies in the development of low BTU gas from coal technology. The possibilities of a 45 percent or more increase in efficiency, virtual elimination of ash and sulfur pollutants, a 50 percent reduction in thermal pollution of cooling water, and with a reduction in electricity costs are exciting prospects.

I understand that witnesses who will appear before this committee today will provide the technical details and planned research programs to support the production and use of low BTU gas.

My investigations into the energy needs of our nation and the available domestic supply of fuels lead me to conclude that we can ill afford to ignore any opportunity to use coal as the cornerstone of our energy economy. We need high BTU gas of pipeline quality from coal and we need low BTU gas, or as I would prefer to call it, "clean fuel gas" from coal. I urge that this committee and the Congress place a high priority on the research needed to achieve both of these objectives.

This leads me to my final topic which I submit has possibilities as one method of producing low BTU gas. I am referring to the underground gasification of coal.

UNDERGROUND GASIFICATION OF COAL

Mr. Chairman, I have received a report, a Current Appraisal Coal Gasification, from the Bureau of Mines which concludes that, "While the underground gasification of coal is technically feasible, the economic feasibility is yet to be determined." I have a copy of this report with me this morning and if the committee has not received a copy, I should like to provide one for the record. The report, prepared by Arthur D. Little, Inc., suggests that limited activity in underground gasification of coal is justified but with limited scope. It recommends that such activity should be undertaken in two steps.

The initial step would be designed to: Extend the capability of available curved-hole drilling techniques to permit large diameter boreholes and longer travel distance in coal seams; analyze underground cavity size in terms of roof stability and performance of the gasification process; analyze and develop stowing methods and techniques of operation and identity of suitable stowing materials; and study the fire face temperature measurement techniques and methods for estimating fire-front position.

The second step would be the installation of a pilot underground gasification system to produce technical data on which reliable production-oriented costs can be estimated.

Of course the Bureau of Mines has not had sufficient time to analyze the report, but I have requested that they keep me posted on their findings.

The technology of underground gasification is about a century old. One method is to force hydrogen into the coal seam under conditions suitable for transforming the carbon content of the coal directly into pipeline quality gas (methane). This technique is highly desirable but is most difficult and expensive. To be successful it must be carried out at high pressure and at temperatures of about 1700 degrees F.

A simpler way to achieve gasification is the partial oxidation approach which produces a low BTU coal gas. The gasification agent in this case is oxygen rich steam.

I can not be too technical here as I am not an engineer, however, I submit that the present economic and competitive position of coal relative to other fossil fuels and nuclear energy warrants a new look at this method of coal gasification.

CONCLUSION

Mr. Chairman, in summation, I applaud all efforts that are being made to manufacture pipeline quality gas from coal. I would like to see an acceleration of these programs and more imaginative programs in the future which address the manufacture of low BTU gas. Such action is our best insurance that we can make optimum use of coal gas regardless of its BTU quality. I also submit that we can and must learn from the past by viewing yesterday's programs in today's environment.

And finally in providing an answer to specific energy problems we must not lose sight of the goal itself which is to provide total energy for the nation at a price which the nation can afford to pay.

COMMUNICATIONS WORKERS SUPPORT TITLE REFORM

Mr. PROXMIRE. Mr. President, last Thursday the executive board of the Communications Workers of America voted to support my bill, S. 2775, to reform the entire area of title charges.

The CWA board recognized the need for reform in this area in order to enable more people to buy homes. High closing costs injure those most likely to give the necessary push to continue the homebuilding boom. My bill will alleviate this problem. I hope other labor unions will follow the lead of the Communications Workers of America.

I ask unanimous consent that their statement be printed in the RECORD.

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

AID FOR HOME BUYERS

The largest single investment made by the average American is the purchase of a home. It is something the average worker pays for most of his life.

At the same time, the housing industry is an essential part of the American economy. In 1971 the only bright spot was housing. Housing units begun last year showed a 43 per cent improvement over 1970, and set a new record for housing starts in a single year.

This was made possible only because there was a record level of money available to builders and home buyers at declining interest rates. The repressive tight money policies which marked the first years of the Nixon Administration, coupled with a startling rise in the rate of inflation, combined to drive up the price of homes while at the same time depriving potential home buyers of the means to purchase them.

But even with more money available at lower interest rates, the potential home buyer still finds a stumbling block in his way before taking ownership of a home. This is the cost of settling the contract for the new home—the so-called "closing costs."

Many individuals who can afford the monthly payments required to own a home cannot scrape up enough money to pay all the required closing costs, such as title search, title insurance, tax escrow, transfer taxes, lawyer's fees and the like. The threshold to buying a house has suddenly become too high, and marginal home buyers are forced out of the market.

Recently conducted surveys throughout the country show that closing costs, which on a $40,000 home can run as high as $2,500 in some Maryland counties and as low as $750 in the Boston area, fluctuate greatly from area to area and from state to state. The reason given in many cases for this fluctuation is that except for taxes the difference in cost is primarily due to "custom." That is, the fees customarily charged by lawyers, real estate agents, title companies, and banks in the particular area.

"Custom" rather than reason is what underlies many of the title costs and lawyer's fees the home buyer must bear. Everyone in the real estate establishment seems to benefit from these "customary" charges except the home buyer. Lawyers get exorbitant fees for handling simple paperwork, real estate agents get large commissions, title companies promote unnecessary title searches and insurance for which they overcharge, and mortgage lenders get compensating balances and "points" for granting mortgages. People who buy one or maybe two homes in their lifetimes just do not have the economic clout to bargain with the real estate establishment.

In order to protect the consumer and bring about reform in this area, legislation is needed which would require mortgage lenders to absorb as part of their overhead the cost of title search and any title insurance they require as a condition for granting a home loan. In addition, the legislation should also prohibit price discrimination between mortgage lenders and home buyers in the sale of title services so that if the home buyer decides to purchase title insurance on his own to protect his equity, he will pay the same rate as does the lender.

This would surely diminish title service costs substantially while providing the same protection to the lender. It would also give some real force to efforts at improving our public land records, and could lead to the adoption by the states of new and improved land registration systems. Improved land recording systems would make it easier to search for titles, which would drastically reduce the fees lawyers charge for this service.

Therefore, the Communications Workers of America calls upon the 92nd Congress to enact into law Senate Bill 2775—the Prox-

mire Title Charge Reduction Act—as a first step toward reducing closing costs, reforming the land registration systems, and providing new impetus for home buying.

In addition, the Communications Workers of America also endorses efforts now underway in the courts testing the validity of fixed real estate fees.

NEED FOR EARLY ACTION ON H.R. 1

Mr. CHURCH. Mr. President, one of the most important bills to be considered by the Senate is H.R. 1, which would make major changes in the social security, medicare, medicaid, and public assistance programs.

In many respects, this bill makes badly needed reforms, including full benefits for widows, a new special minimum monthly benefit for persons with low lifetime earnings, cost-of-living adjustments, and several others. However, this measure still falls short of establishing the income strategy for coming to grips with the serious retirement-income problems which now affect millions of older Americans.

Recently, I testified before the Senate Finance Committee on this potentially far-reaching measure and urged several further reforms to perfect this proposal. Several of these recommendations, I am pleased to say, were initially developed in the reports and hearings of the Senate Committee on Aging, of which I am chairman.

Mr. President, I ask unanimous consent that the text of my testimony before the Committee on Finance be printed in the RECORD.

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

TESTIMONY ON H.R. 1

Mr. Chairman, thank you for the opportunity to testify here this morning on H.R. 1, a bill which may be the most important domestic legislation that the Senate will consider during this session.

As Chairman of the Senate Committee on Aging, I shall direct my remarks to the sections in the bill which are of vital concern to the Nation's elderly.

Several provisions in this measure, I am pleased to say, are either identical or similar to proposals I have advanced, such as:

Major increases in minimum monthly benefits for persons with long periods of covered employment;

Cost-of-living adjustments to protect the elderly from inflation;

Full benefits for widows, instead of only 82½ percent as under present law;

Liberalization of the retirement test;

An age-62 computation point for men;

Protection against retroactive denial of payments under Medicare;

Coverage of the disabled under Medicare; and

Replacement of old age assistance with a new income supplement program to be administered by the Social Security Administration.

These welcome changes provide a solid foundation for making many crucial reforms for strengthening and improving our Social Security, Medicare and income supplement programs for the elderly. However, more comprehensive and far-reaching action is needed now—not two or three years from now—if the aged are to escape from the economic treadmill which keeps them running but going nowhere.

Make no mistake about it, the elderly are slipping further behind on a number of key fronts in terms of achieving economic security.

Today more than 4.7 million persons 65 and older fall below the poverty line, nearly 100,000 more than in 1968. Older Americans are now more than twice as likely to be poor as younger Americans. One out of every four persons 65 and older—in contrast to one in nine for younger individuals—lives in poverty.

If the marginally poor are also included, their impoverished numbers swell to more than 6.5 million. The net impact of these figures is that one out of every three aged persons is poor or near poor.

And by poverty, I mean a "rock bottom" standard. According to Census definitions, it is $1,852 for a single person and $2,328 for an elderly couple. The near poor threshold is 125 percent of these figures: $2,315 for individuals and $2,910 for couples.

Inadequate retirement income also takes its toll in many other forms: substandard housing, isolation, loneliness, malnutrition, and poorer health.

For these reasons, it is absolutely essential that the Senate make important finishing touches to perfect the House-passed Social Security-Welfare Reform proposal.

LARGER AND EARLIER BENEFIT INCREASES

Heading the list in my judgment is the need for a larger benefit increase for Social Security recipients. The House-passed bill proposes a 5-percent across-the-board raise to take effect this June.

This proposal is certainly welcome, but it simply does not go far enough to deal effectively with the retirement income crisis which now affects millions of older Americans and threatens to engulf many more. To put it bluntly, adding a few dollars every one or two years is not going to solve this mounting problem.

Moreover, the rise in the cost-of-living since the last Social Security increase—which was effective in January 1971—is almost certain to outstrip the proposed 5-percent raise in H.R. 1.

With poverty on the rise for the elderly, a more substantial benefit increase is urgently needed, and not in June but to take effect January 1.

For these reasons, I am proposing—as I have in my omnibus Social Security-Welfare Reform proposal, S. 1645—that there should be an across-the-board increase which would average about 12 percent for all Social Security recipients. However, this rise would be weighted to provide for larger percentage increases for persons who need them the most, individuals with inadequate benefits because of low lifetime earnings.

For example, persons with average monthly lifetime earnings between $150 and $200 would be entitled to benefit increases averaging about 21 percent. And individuals with creditable earnings ranging from $200 to $300 would receive approximately an 18-percent raise.

A principal advantage of this approach is that it could lift large numbers of older Americans out of poverty without the necessity of resorting to welfare. Additionally, it recognizes this very basic fact: persons who now receive low Social Security benefits are less likely to have other resources than higher income beneficiaries.

And in terms of dollars and cents, this proposal would provide nearly $130 more per year than allowed under the 5 percent benefit increase in H.R. 1.

ELIMINATION OF POVERTY FOR ELDERLY

One of the major innovations in H.R. 1 is the replacement of the adult categorical assistance programs—aid to the aged, blind and disabled—with a new Federal program to be administered by the Social Security Administration.

This is certainly a step in the right direction. But the fundamental weakness is that the income standard would be too low for the elderly. The proposed $1,560 income level for fiscal 1973 for a single person is still about $300 below the 1971 poverty threshold. By the time 1973 rolls around, it is likely to be several hundred dollars below the poverty index.

For these reasons, I urge that the income standards be raised to a level to wipe out poverty once and for all for older Americans—to $160 a month for a single aged person and $200 for a couple. Moreover, I propose that these standards be adjusted annually with rises in the cost-of-living to make them inflationary proof for these low-income persons.

Certainly the wealthiest Nation in the world can make that commitment to a generation who worked so hard for the high standard of living we now enjoy.

MEDICARE REFORMS

Important as a soundly conceived income strategy is, we must not overlook the need for major improvements in Medicare. Today the rising costs of medical care and proposed cutbacks in coverage pose a very serious drain upon the limited incomes of the elderly. Medicare now covers only about 43 percent of their expenditures because gaps in coverage still exist.

One of the major gaps is coverage of out-of-hospital prescription drugs. This constitutes the largest health care cost which they must meet almost entirely from their own resources.

Today prescription expenditures for persons 65 and older average about $84 per year, nearly three times as high as for younger individuals. For aged persons with severe chronic conditions—about 15 percent of all older Americans—drug costs are six times as high as for younger persons.

Several renowned authorities—including the 1971 Social Security Advisory Council, the HEW Task Force on Prescription Drugs, and the White House Conference on Aging—have all gone on record in support of this badly needed coverage. And now, the Congress should go on record unequivocally to extend this long overdue protection for the aged.

Another major expenditure for the elderly is the $5.60 monthly premium charge for Part B of Medicare. In July, this will rise to $5.80. On an annual basis, this will mean that an elderly couple will pay nearly $140 for doctor's insurance. For persons living on fixed incomes, this can represent a very substantial expenditure.

Again, I recommend that this charge be eliminated for the aged. Instead, the Part B and Part A Hospital Insurance programs would be combined and financed by one-third contributions from employees, one-third from employers, and one-third from general revenues.

This proposal is patterned after the recommendation in the 1971 Social Security Advisory Council report. And for the typical retired worker, this change alone would be almost the equivalent of a 5 percent increase in benefits.

MEDICARE CUTBACKS

My earlier remarks have focused basically on positive action that the Senate can take to improve H.R. 1. Now I would like to turn to some undesirable provisions in H.R. 1 which, I believe, can limit the quality and scope of care for the aged.

Since other Members of the Committee on Aging will talk at greater length on many of these measures, I shall only concentrate on two of these proposals.

First, H.R. 1 establishes a new $7.50 copayment charge for each day in the hospital from the 31st to the 60th day. This, of course, would be in addition to the $68 deductible which the elderly would be required to pay out of their own pocket for hospitalization.

For an individual requiring 60 days in the hospital, this charge alone could add $225 to his bill. The irony of it all is that this provision is likely to hurt the very person that Medicare is supposed to help the most—the individual with a large health care bill because of a prolonged period in the hospital.

And remember this: About 9 out of every 10 persons who reach age 65 will require at least 1 stay in the hospital during their remaining years. About two out of every three will require at least two hospital stays.

Additionally, H.R. 1 would raise the deductible for Part B from $50 to $60, once again driving up the health care costs for the elderly.

These measures, I believe, should be deleted or substantially altered by the Senate.

WHITE HOUSE CONFERENCE ON AGING

At the recent White House Conference on Aging, 3,400 delegates from every State in the Union made a ringing call for action on several fronts.

Soon the Senate will consider H.R. 1, a measure that can be landmark legislation in providing genuine economic security for the aged.

Again, I reaffirm my strong support for early and favorable action on this bill, along the lines that I have outlined in my statement.

We owe this pledge to more than 20 million Americans who are now 65 and older. And we owe this pledge to the millions more nearing this age.

MAJOR CHANGES NEEDED IN OIL IMPORT QUOTA SYSTEM—RESIDENTIAL AND INDUSTRIAL FUEL OIL HEARINGS

Mr. McINTYRE. Mr. President, the Small Business Subcommittee of the Committee on Banking, Housing and Urban Affairs Committee, of which I have the honor to be chairman, has recently completed a series of hearings held over a 2-month period in which the cost and adequacy of supply of residential and industrial heating oil were extensively examined.

In view of the fact that the eastern seaboard of the United States, particularly the Northeast, is so heavily reliant on petroleum products to meet fuel needs, the problems encountered in this area received major attention.

Many of the fuel oil supply and price problems that are experienced in the Northeast result either directly or indirectly from the manner in which the mandatory oil import quota system is administered. The ever-increasing use of petroleum products in the United States, some 14½ million barrels per day presently, makes it incumbent upon the Federal Government to continually examine, update, and revise the system to reflect the needs of American business and consumers.

In view of the interplay between the oil import quota system and the price and supply of residential heating oil, which is commonly referred to as No. 2 home heating oil or distillate, the subcommittee during its investigation attempted to develop a hearing record which would focus primary attention on the manner in which the operation of the mandatory oil import quota system could be altered or revised to reflect more realistically current fuel oil requirements. The subcommittee also closely examined residual fuel oil supply and price problems. Residual fuel oil is a heavy oil used generally by industry and utilities.

During the course of the hearings, the subcommittee received testimony from the following witnesses: Washington, September 8—Robert E. DeBlois, chairman of the board, New England Fuel Institute, accompanied by Donald B. Craft, president, and Charles H. Burkhardt, executive vice president; Robert Greenes, chairman, Fuel Oil Committee, National Oil Jobbers Council, accompanied by Gregg Potvin, executive vice president; Arthur T. Soule, president, Independent Fuel Terminal Operators Association, accompanied by Myer Rashish, consulting economist; Robert D. Lynch, vice president, National Oil Fuel Institute, accompanied by George Gruberg, secretary and general counsel.

Washington, September 9—Dr. Hendrik S. Houthakker, professor of economics, Harvard University; Dr. Edward W. Erickson, professor of economics, North Carolina State University.

Washington, September 28—L. G. Rawl, vice president, marketing, Humble Oil & Refining Co.; John H. Lichblau, Petroleum Industry Research Foundation, Inc.

Washington, September 29—Kerryn King, senior vice president, Texaco, Inc.; Stanford G. Stiles, vice president, transportation and supplies, Shell Oil Co.

Boston, October 14—Edward M. Kennedy, U.S. Senator from the State of Massachusetts; David N. Merrill, vice president, Public Service Co. of New Hampshire; Robert W. Feragen, general manager, Northeast Public Power Association, accompanied by Alban G. Spurrell, manager, Braintree Electric Light Department; Walter R. Peterson, Governor of the State of New Hampshire, accompanied by John E. Henchey, city manager, Concord, N.H., and Caroline Gross; Frank W. Whitcomb, treasurer, Cold River Hot-Mix Corp.; A. Thomas Easley, executive vice president, New England Council for Economic Development.

Boston, October 15—Francis W. Sargent, Governor of the State of Massachusetts; Kenneth M. Curtis, Governor of the State of Maine; Silvio O. Conte, Representative in Congress from the State of Massachusetts.

Washington, October 19—Hollis M. Dole, Assistant Secretary for Mineral Resources, Department of the Interior, accompanied by John Rigg, Acting Director, Office of Oil and Gas; Ralph W. Snyder, Acting Administrator, Oil Import Administration; and Lewis S. Flagg III, Chairman, Oil Import Appeals Board.

Washington, October 20—George A. Lincoln, Director, Office of Emergency Preparedness, accompanied by Elmer Bennett, General Counsel; Robert Plett, Oil and Energy Staff; and Ralph Thompson, Congressional Liaison Staff.

Testimony received from Mr. DeBlois, of the New England Fuel Institute, pointedly characterized the basic issues covered during the hearings.

His statement, which I have summarized, clearly shows that the problem of oil prices, shortages, and threats of shortages of home-heating oil in New England stem from the fact that every drop of oil used in New England must come into the area by ship. New England has no oil production or refineries of its own. It is not connected with petroleum-producing areas by pipeline. Nor does it produce any coal or natural gas. There are limited amounts of hydropower available in New England but, by and large, our region runs on oil, and every barrel of oil must come by ship.

Fortunately, New England is blessed with a number of fine harbors and under normal circumstances could expect to bring oil into our region priced competitively with any other area in the country. Unfortunately, normal market price transactions—normal flow of oil—cannot take place. Why? Because as of 1959 New England, like the rest of a 43-State area, has been subject to mandatory oil import controls. These controls negate New England's natural advantage of deepwater harbor facilities because they prevent New England distributors from importing foreign oil—apart from heavy fuel oil, which is allowed free entry.

Unfortunately, no refineries have been built on the east coast of the United States since the mandatory oil import program was initiated 12 years ago. Moreover, east coast demand for this product is well over double the volume produced in east coast refineries. Thus, we must look to the U.S. gulf coast areas for a substantial part of our supplies.

Testimony received during the hearings clearly established that these geographical facts coupled with the inability, because of the oil import program, to buy home-heating oil in world markets at competitive market prices, have placed New England in the position of paying higher prices for home-heating oil than any other region of the country. The inequities of this situation are obvious.

What we have here is a Government oil import quota system, justified on the basis of national security, which causes prices in one particular region of the country to be disproportionately higher than in others. If one accepts the thesis, which I do not, that there is a valid national security justification for the oil import program, we in the Northeast are, in effect, paying more than our pro rata share of what should be a national burden. It is particularly unfortunate that the region that has to pay the highest prices for home-heating oil is the very region that needs and uses more heating oil per capita than any other in the country. The issue here is not whether national interests should override regional, but whether the burdens imposed on a citizenry on the basis of national security should not be equitably distributed among all.

Other burdens imposed on small businessmen by the oil import program are the competitive inequity caused by the size and economic strength of the major integrated oil companies, as well as the dependent position the quota program has forced on independent deepwater terminal operators. These independent terminal operators have the hardware—that is, the physical facilities to bring oil into the New England market from anywhere in the world—and, indeed, when they were allowed to do so before

the oil program was initiated, they were able to compete effectively with the major companies and bring to New England wholesalers and small retail distributors an alternate source to major company supplies.

The oil import program, of course, changed all that by forcing independent terminal operators to acquire their supplies from a small number of major companies, such as Humble, Shell, Mobil, and Texaco, with refining capacity located inside the U.S. market. In short, the independent terminal operators are forced into the incongruous position of having to compete for business with the very same major oil companies upon whom they are dependent. Why? Because they have to buy their oil supplies hopefully at a reasonable price from the same major companies that they compete with on the wholesale and retail level.

In order to facilitate a discussion of suggested changes in the administration of the Oil Import Quota System, several alternative proposals were developed prior to the commencement of the hearings, which were designed to reflect more realistically the needs of consumers of both residential and industrial heating oils. These suggestions were:

First. The continued exclusion of residual fuel oil from the Oil Import Quota System in district 1—all States bordering on the Atlantic Ocean plus Pennsylvania, Vermont, and West Virginia. And the expansion of this policy particularly into districts 2 through 4—all States east of the Rocky Mountains except those in district 1.

Second. Change the criteria used by the Oil Import Administration for determining the amount of allowable imports into the entire country east of the Rocky Mountains from a 12.2 percent maximum figure based on domestic production of crude oil to one based on domestic demand. From 1959 until 1962, the yardstick used in determining import allowables was actual domestic demand and consumption of petroleum products. In 1962, the percentage of allowables was increased from 9 to 12.2 and, at the same time, the criteria for determining the amount of imports was changed from consumption to domestic production.

Third. Increase the allowed imports of No. 2 fuel oil presently excluded from the mandatory oil import quota system from 40,000 barrels per day to 20 percent of total demand in district 1.

Fourth. Change the allowable percentage figure used under the quota system from 12.2 percent of domestic production to 20 percent of domestic consumption, excluding residual imports into district 1 and No. 2 oil presently excluded from the program.

Fifth. Obtain assurances from the Department of Justice and the Federal Trade Commission that they will vigorously maintain a continuing examination of business activities, particularly in the New England area, to assure that through mergers, acquisitions, and marketing practices there is not a lessening of the very limited competition presently operating in that area.

In considering changes in the manner in which the quota system presently operates, the hearings concentrated principally on the following areas: first, the impact of the oil import quota system on small business marketers and consumers; second, domestic and foreign refining capabilities of major integrated oil companies; third, dual distribution of petroleum products at various marketing levels—that is, situations in which small businesses engaged in the sale of petroleum products are forced to compete with major integrated oil companies, which is also under examination by Senator HART's Antitrust and Monopoly Subcommittee; fourth, vertical forward integration into wholesale and retail operations by large refineries, with particular emphasis on the New England marketing area; fifth, the overwhelming reliance by both industrial and residential users of petroleum products in the New England area and how New England homes, nearly 80 percent of which are heated by fuel oil, can be assured of an adequacy of product at reasonable prices; and sixth, difficulties in obtaining low sulfur content residual oil to meet recently enacted environmental control standards.

During the hearings, each witness was called upon to offer his opinion as to the effectiveness of the present oil import program, and identify problem areas in which administrative change is required. The following is a brief summary of the problem highlighted during the hearings and several suggested changes in the operation of the present oil import system.

CRUDE OIL

When the oil import quota system was originally introduced in 1959, the import level for the part of the country east of the Rocky Mountains was set at 9 percent of domestic demand. In 1962, the percentage figure was changed to 12.2 percent, but the basis upon which a determination as to amount was made was changed from demand to domestic production. While it is true that domestic production has continued to increase since the imposition of the quota system in 1959, this increase has not kept pace with increased demand and it is anticipated that in the next 2 to 3 years domestic production east of the Rocky Mountains will level off and begin to decline.

No other single Government-operated market mechanism purportedly designed to set quotas on foreign imports has been as controversial and criticized as the mandatory oil import quota system. Its adoption in 1959 by the Eisenhower administration was supported on the national security argument that the United States must protect itself from undue reliance on foreign services for its petroleum needs.

From the time of the quota's adoption until the present, the price of domestic crude oil has been substantially higher than that of foreign. This price disparity has at times been as high as $1.50 per barrel. The quota as implemented in 1959 sought to provide as an incentive to the domestic petroleum industry a secure and competitively protected market in the United States largely cut off from cheaper foreign oil. A set percentage of foreign oil was allowed entry into this country and the domestic refiners were the principal importers.

As an added incentive for developing domestic crude oil sufficiency, those who were fortunate enough to be allowed the right to import foreign crude under the quota system pocketed the difference between the low world price and the high domestic price. By so doing, the administrators of the quota program believed that the profits realized by importers of foreign oil would in turn be invested in domestic crude oil exploration and production activities. This, however, has not been the result. What has happened is that foreign investment by U.S. petroleum corporations has skyrocketed and domestic exploration and production has diminished in relation to demand.

Since its introduction in 1959, there has been growing dissatisfaction with the quota and the manner in which it is administered. Consumers of petroleum products are forced by a Federal Government policy to pay an estimated $5 to $7 billion a year to insure a fictitious domestic sufficiency. Petroleum producers zealously support a program that results in driving independent producers out of business by encouraging refiners to integrate backward into petroleum production. Small refiners consistently have been losing market share and competitive vitality because they must rely on major refiners, who are also domestic producers and importers of foreign oil under the quota, to supply them with their share of cheaper foreign oil granted through the quota. Independent deepwater terminal operators are denied the right to import crude oil and numerous products as a result of the quota and must therefore purchase supplies from the same refiners-marketers with which they are forced to compete. Finally, the major refiners are dissatisfied in that the quota system is operated in a manner that they claim contains too much uncertainty. This uncertainty is caused primarily because the quota system is based on the belief that its existence will assure and maintain domestic self-sufficiency. This, however, is totally untrue, but the Department of the Interior and the Office of Emergency Preparedness in their zeal to perpetuate the myth are forced into the incongruous position of continually readjusting the quota through exceptions and legal fictions to maintain a program which meets none of its purported aims at a cost that is totally unjustified both to the consumer and to competition within the industry.

What is needed are long-range solutions that will assure sufficient fuel supplies but also at reasonable costs. This aim, however, seems to run contrary to the goals of those administering the quota system. Those operating the quota program appear to be either unable or unwilling to make even those changes agreed on and advocated by both critics and proponents of the system. Several of those proposed changes will be discussed later. It should be noted here, however, that the degree of resistance to change in the quota appears to be proportionately inverse to political advantages gained as a result of deliberate uncertainty and inherent inconsistency. Accepting this hypothesis as true, one can be assured that no changes providing

equity, clarity, or removal of uncertainty will be made to the quota system during 1972.

This pattern of inconsistency is well illustrated by the OEP's 1971 "Report on Crude Oil and Gasoline Price Increases of November 1970" where it was found that a price increase instituted by Gulf Oil Co. and followed by the rest of the industry was not justified in the short term, but, as General Lincoln said in his letter to President Nixon accompanying the report:

Because the assurance of adequate secure petroleum supplies in the future is an urgent matter, and there are inevitable uncertainties about the timing and effects of other programs which may be instituted, I cannot confidently conclude that the November crude oil price increase was unnecessary.

In his testimony before the subcommittee, Mr. Burkhardt of the New England Fuel Institute clearly defined this country's crude oil production situation, and a chart supplied by the Department of the Interior further reinforces the obvious:

One curve is going down; the other curve is going up. We have to face the fact that the United States, again, will never be able to meet its petroleum energy demands from domestic sources. We have to be realistic about that. Any type of control that would force us to depend continually or to a larger extent than the present time on domestic sources is, to kind of put it crudely, "just whistling Dixie."

In his subcommittee appearance, Assistant Secretary Dole discussed the present operation of the quota and stated that with regard to the percentage of imports presently allowed entry:

The historic 12.2 percent ratio of imports to domestic production in Districts I–IV is already passe—there have already been two successive increases of 100,000 barrels a day, in 1970 and 1971, to supplement the basic import quota (not to mention bonded products and other imports outside the quota) so that currently the level of imports permitted approximates 17 percent of domestic production, exclusive of residual fuel. In effect, the basis for permitting imports is now in transition between production and demand. We are quite obviously moving toward the point where imports east of the Rockies will have to be allowed to the extent required to make good the gap between demand and domestic production, just as is now done on the West Coast. By 1985, this petroleum deficiency for the country as a whole could reach 11.8 million barrels a day, or 45% of our total requirement that year. More than half of these imports—six million barrels a day—would come from Eastern Hemisphere sources.

The plain fact is that the days of domestic petroleum sufficiency in the United States are over, and all available evidence indicates more and more dependence on foreign sources. In 1970 total U.S. production was 9.5 million barrels a day while consumption was more than 14.5 million barrels a day or a gap of over 5 million barrels a day. The administrators of the oil import quota system and the petroleum industry must accept this reality and base their decisions on facts and not on the worn out and discredited vest pocket cliches of national security and possible war with Canada. This country must be assured of a sufficient and continuing supply of crude oil and petroleum products, and if foreign sources are required then this must be recognized and accepted.

The witnesses from Shell and Texaco both associated themselves with Secretary Dole's assessment and Mr. King of Texaco, in responding to a question during the hearings, said:

I think that what you suggest is instead of being based on a percentage of demand, that it would be based more on the difference between what we can produce in this country and what we consume in this country; that would probably be a better yardsick. And I think we are fast getting to the point where since we will not have excess producing capacity in the United States, that that would be a practical approach.

During their appearance before the subcommittee, General Lincoln and Mr. Bennett of the Office of Emergency Preparedness took a position somewhat different from the overwhelming testimony that the formula used in determining imports in districts 1–4 must be changed from a production to a consumption basis. In resonding to subcommittee questions, both witnesses indicated that shifting to a consumption formula is not necessarily going to avoid possibilities of underestimating import needs in a particular year. General Lincoln summed up his position by saying:

In fact what we are looking at increasingly is the total number of barrels and not a percentage basis. We have moved away from the percentage and certainly there is going to be some increase in quotas allowed next year.

It is clear, however, that all the witnesses testifying during the hearings recognized that domestic production is decreasing while consumption is increasing, and the consensus position is that foreign imports must be increased.

In view of the above, it seems unreasonable to continue an oil import policy determined upon a declining production base. With crude oil consumption increasing at a present rate of 4 to 5 percent a year and with approximately 24 percent of our total petroleum needs presently being met by foreign imports, it would seem to be much more appropriate to use consumption as the criteria in determining the amount of foreign crude allowed entry in the United States.

As Representative CONTE said in testifying on future U.S. production capacity:

There is every reason to expect over the next several years a great increase in imports. Even some of the majors concede this must come. Perhaps, as this develops, the obvious logic of lifting quotas completely may prevail.

But for the short run, our best chance to break up the combination of Government fortifications against competition and price and supply relief, may well be to try and defeat prorationing more directly.

As we all know, State production controls interfere with interstate commerce which, under our Constitution, lies solely in the Federal domain. Such conduct would be prohibited without the express delegation of this authority contained in the Connally Hot Oil Act of 1935.

The Connally Act, which bans the interstate shipment of "hot oil"—that is, oil produced in violation of State production controls—is quite a contradictory document. While prorationing has been supported by the theory that it is strictly a conservation practice, even the State regulatory agencies, as well as the President's task force, have admitted this is a charade. Indeed, the Connally Act itself, while ostensibly designed solely to prevent waste, expressly recognized the danger of price fixing through unduly restrictive production controls. Section 4 of the act (15 U.S.C. sec. 715c) directs the President to suspend the act whenever he finds production so limited that it produces such a gap between supply and demand that it results in an undue burden on interstate commerce.

In December 1970, when the President removed Federal offshore oil production from voluntarily complying with state prorationing, he said that these controls are not needed for national security and—and here I am quoting—that these controls "actually interfere with the freedom of our domestic market system."

Mr. Chairman, I don't know what could be a clearer indication that the President has, in fact, found there is an undue burden on interstate commerce here. When I called this to his attention, and urged him to suspend the act, I was unsuccessful.

The President's failure here, of course, is not unique. No President has ever suspended the Connally Act. What is more shocking, however, is that no President has ever even complied with another provision of the act, section 5 (15 U.S.C. sec. 715d), that requires the careful gathering of data on which to make an informed judgment whether or not there is an undue burden on commerce.

It is one thing for critics like us to claim that suspension is called for. It is quite another for any Chief Executive to flatly refuse to perform his duty and study the question.

This sad history on nonenforcement is why I am convinced that the Connally Act must be repealed.

I share Representative CONTE'S concern with the manner in which this and previous administrations have ignored their responsibility in complying with the provisions of the act and join in calling for the immediate repeal of the Connally Hot Oil Act.

In response to questions raised by the Senator from Massachusetts (Mr. BROOKE) regarding the unique situation faced by New England in meeting energy demands, Secretary Dole said:

I think the best chances that the New England area have for making quantum jumps in their energy situation is to encourage the exploration offshore for oil and gas which would give them a close proximity to sources of oil which would almost guarantee that they would have refineries placed within their area so that the cost could be less.

Further testimony revealed, however, that this possibility is at least 10 years away and would cost several billion dollars. While it is hoped that future discoveries will ease the supply and price problems encountered in New England in the future, I am more concerned with the present and this is why it seems so ridiculous to continue to base the operation of the quota system on domestic production.

NO. 2 FUEL OIL—DISTRICT 1

No. 2 fuel oil or distillate is a light, clean fuel that is used primarily in individual residences or small businesses. In the late spring of 1970, the administration, in response to threatened shortages and severe economic hardships, granted a temporary allocation of 40,000 barrels per day of home heating oil into district 1 from foreign countries in the Western Hemisphere. This program was

initiated on a temporary or experimental basis and General Lincoln stated at the hearings that—

We have found that the supply of No. 2 heating oil to consumers in District 1 was adequate last winter and will be adequate during the coming winter.

While we in New England were appreciative of the action taken by the administration to assure adequate supplies, import limitations denied New England consumers price relief.

Unfortunately, the terminal operators who were importing No. 2 fuel oil under the temporary program were required to purchase the 40,000 barrels per day solely from Western Hemisphere sources. This restriction was a harmful and inequitable one. Within a few months from the time that the quota allocations were granted, prices for home heating oil in the Caribbean rose from 6.5 to 9.5 cents per gallon, an increase of almost 50 percent.

As Mr. Easley of the New England Council said during his appearance:

Such price escalation is particularly galling to New Englanders who are aware of the fact that their neighbors to the north in Montreal and the Province of Quebec, where there are no restrictions on imports from lower cost world sources, pay 2.4 cents in U.S. funds per U.S. gallon less than consumers in the major New England markets. Using Montreal as a basis, New Englanders are paying $110 million per year more to heat their homes than their neighbors across the border.

The time, effort, and resources of the leading public and private interests in six States of this country have been thwarted in most arbitrary ways, and, at times in this long struggle, decisions have been made in violation of clearly defined legal responsibilities and contrary to accepted administrative practice.

In his testimony, Mr. DeBlois emphasized the price problem by stating that:

The Western Hemisphere restriction, of course, hurts us in the price aspect because frankly from European free world refineries—I am talking about refineries in the free world in the European market—No. 2 fuel oil today is available at approximately a 6 to 6.5 cents price in cargoes. Now, even adding to this the transportation to bring it over, it is a considerable saving. In effect, what happened with the Western Hemisphere restriction was that the alternate source was available, as I mentioned, but the price advantage that was hoped for from that market immediately dried up so that the price advantage was taken away.

In his appearance before the subcommittee, Mr. John Lichtblau of the Petroleum Industry Research Foundation said:

We would recommend that the Western Hemisphere limitation on distillate heating oil imports be removed. The limitation makes virtually no contribution to U.S. national security which would be its only justification. Last year a total of 2.34 million barrels daily of oil was imported into the U.S. from overseas sources. The 40,000 barrels daily of distillate oil imports represented only 1.7% of that total. Virtually none of the other 98.3% were subject to source-of-origin limitations. The share of distillates will be even smaller in the future, since crude oil imports from overseas are expected to rise very sharply throughout the 1970's. It is therefore obvious that national security cannot be affected by controlling the source of origin of the distillate oil imports allocated to independent cargo buyers.

It is also doubtful whether Venezuela, for whose sole benefit the limitation was imposed, is really still helped by it. The distillate oil import quotas represent a very small share of the total 1.5 million barrels daily of imports into the U.S. of Venezuelan crude oil and the products made from it. Furthermore, since May 1970, when the promise was given to the Venezuelan government to limit No. 2 heating oil imports to products made from Western Hemisphere crude oil, the volume of No. 2 oil imports processed from such crude has actually increased very sharply. For the growing requirement of low-sulphur residual fuel oil at the U.S. East Coast has necessitated the diversion of the bulk of Caribbean No. 2 oil from sale as a separate product to its use as a blending ingredient with residual fuel oil in order to reduce the sulphur content of the latter. Thus, indirectly, much more No. 2 oil made from Venezuelan crude is now coming into the U.S. than had been foreseen at the time the Western Hemisphere limitation was put on direct No. 2 oil imports as a gesture towards Venezuela.

Caribbean oil suppliers have, of course, a natural geographic advantage over any Eastern Hemisphere exporters at the U.S. East Coast. Hence, prior to mid-1970, virtually all imports of this product came from the Caribbean, even in the absence of any Western Hemisphere source-of-origin limitation.

The imposition of the Western Hemisphere limitation had little effect in the second half of 1970 or the first half of 1971. For while No. 2 oil prices in the Caribbean rose sharply during this period, European export prices were still higher if freight rates are included. However, at the beginning of July 1971, the situation changed. Since then, the landed U.S. East Coast price of No. 2 oil from Western Europe has generally been lower than from the Caribbean.

During his appearance before the subcommittee, Mr. King of Texaco was asked to comment as to the appropriateness of maintaining the Western Hemisphere limitation and he stated that:

At the present time, the amount of No 2 fuel that comes from Venezuela in relationship to the total supply is no longer sufficiently important to Venezuela to warrant the continuation of that restriction.

In the context of the continuation of the No. 2 import program, the witnesses from Shell and Texaco stated that they accepted continuation of the allocation at the present level. Both witnesses indicated, however, that acceptance should not be construed as approval.

While the major impact on price that had been hoped for did not materialize, the program did have a positive impact. The added supplies gave New England its first winter in 5 years completely free of fear and threats of shortages, and independent deepwater terminal operators were able to defend their business vigorously and in some cases seek new business. General Lincoln testified that statistics show that in 1970 independent terminal operators increased their sales by 7 percent, whereas the refiner-marketers only increased theirs by 3.9 percent. This increase in competition is of extreme importance to home heating oil consumers in New England because vigorous competition is often reflected in lower prices.

It should be noted that the average New England homeowner uses 2,500 gallons of home heating oil per year, and a one-cent-a-gallon increase costs consumers in district 1 approximately $150 million a year. Testimony received during the hearings from several witnesses, including representatives from the New England Fuel Institute and the Independent Fuel Terminal Operators Association, indicates that No. 2 oil demand in district 1 can be expected to increase by at least 10 percent during 1972, from approximately 1 million to 1.1 million barrels a day. This increase is occasioned by the fact that large amounts of No. 2 oil are being used as a blending agent to get the sulfur content in heavy industrial oil down low enough to meet newly enacted environmental control standards.

Also an increasingly tight supply of natural gas is causing large numbers of users—including utilities—to switch to No. 2 oil. With increasing demand, it is imperative that aggressive competition be maintained, and in New England it is the independent terminals that offer the only source of competition against the large integrated major refiner-marketers.

During the hearings the question of the adequacy of storage was also raised by the Independent Terminal Operators Association and the New England Fuel Institute. A persuasive argument can be made that by increasing storage facilities in the Northeast shortage problems would be ameliorated and increased supplies would result in more aggressive price competition. In his testimony, Mr. Soule of the Independent Terminal Operators Association said:

If the program is established on a permanent basis with a significant level of imports assured, we would be prepared to make major investments in terminal storage facilities. This is one of the problems we face right now. We are not secure enough in our future to put any more investments into storage tanks, and one of the problems we get into during cold spells is that there is not enough storage and readily available assured supplies of product.

If the import program were expanded we could find other sources of supply that would permit us to maintain our relationships with the majors but also get additional oil; the economics would justify erecting more storage to take care of these peaks and valleys which are part of the problem of the heating business.

This increased storage capacity would be consistent with the national security objectives of the oil import program and would guarantee that ample supplies of heating fuels were always available in the Northeastern States. In addition, the investments would mean substantial employment for construction personnel in the areas along the East Coast.

Mr. Soule testified that if the import levels of No. 2 fuel into district I were raised to a level of 80,000 to 100,000 barrels a day there could be a significant impact on prices and competition—and the terminal operators would be prepared to embark upon a substantial storage expansion program.

During his appearance before the subcommittee, Mr. Bennett of OEP, in discussing No. 2 fuel prices, indicated his belief that retail prices had increased considerably more than wholesale prices. This assertion was challenged both by myself and witnesses during the hearings. The real issue here is the effect that the mandatory oil import quota system has on supply, price, and competition.

This attempt by OEP to throw suspicion on fuel oil retailers is, in my opinion, unfounded. The charts below clearly show that, if previously announced price increases by Humble Oil Co. go into effect, retail price increases in New England will have, in the last 8 years, approximated those at the wholesale level. As Mr. Easley ley of the New England Council for Economic Development noted:

The proponents of maintaining the status quo fail to point out that whereas they cite the distributors' markup as the highest in the country in the New England region, they neglect to point out that their margin of profit is the lowest in the country; that is, long hauls, relatively severe winter conditions. We have many situations that the southern area of the country, for example, does not have to contend with. The cost of doing business is higher.

Mr. Lichtblau also responded to this contention in his testimony and stated that:

Higher margins do not necessarily mean higher profits. Certainly, it costs more to deliver fuel oil in sub-zero weather on snow bound roads than in the relatively warmer climates prevailing in the South Atlantic.

I ask unanimous consent that a table on this subject be printed in the RECORD.

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

TABLE I.—No. 2 HOME HEATING OIL, HUMBLE OIL CARGO PRICES, NEW ENGLAND AREA [1]

[In cents per gallon]

1964	8.7
1965	9.1
1966	9.6
1967	10.1
1968	10.5
1969	10.3
1970	10.5
1971 (through August)	11.1
1972 [2]	12.1
8-year increase	3.4
8-year increase (percent)	39.0

[1] Average (unweighted) of prices posted during year. For example, Humble posted 8.9 cents in January, 8.3 cents in May, 8.5 cents in November 1964, and 9.1 cents in December 1964. The average of these (8.7 cents) is shown in table I above. These prices are actual selling prices for tanker lots.

[2] The 1972 price of 12.1 cents is the Jan. 1, 1972, price publicly announced by Humble. The company plans to raise cargo prices from today's level of 11.1 to 11.4 cents in November, 11.7 cents in December, and to 12.1 cents on Jan. 1, 1972.

NOTE.—All price data from 1964 to 1970 from Platt's Oil Handbook—issues 1964 through 1970, 1971 prices from Platt's Oilgram Price Service.

TABLE II.—No. 2 HOME HEATING OIL, WHOLESALE TANK CAR PRICES, NEW ENGLAND AREA [1]

[In cents per gallon]

1964	9.43
1965	9.70
1966	10.15
1967	10.88
1968	11.31
1969	11.25
1970	11.17
1971 (through July)	12.15
1972 (Jan. 1) [2]	13.15
8-year increase	3.72
8-year increase (percent)	39

[1] Prices are average of those quoted monthly for Portland, Maine, Boston, Mass., Providence, R.I., Hartford and New Haven, Conn.

[2] The 1972 price reflects to 1 cent per gallon cargo price increase Humble plans to have in effect on Jan. 1, 1972. It is assumed that the Humble cargo price hike will be passed along from the cargo buyer to the tank car buyer.

NOTE.—Source for all price data except assumed Jan. 1, 1972 price: Fuel Oil and Oil Heat, published by Industry Publications, Inc., Montclair, N.J.

TABLE III.—No. 2 HOME HEATING OIL, RETAIL PRICES, NEW ENGLAND AREA [1]

[In cents per gallon]

1964	15.37
1965	15.74
1966	16.28
1967	18.89
1968	17.56
1969	17.78
1970	18.32
1971 (through July)	19.84
1972 (Jan. 1) [2]	20.84
8-year increase	5.47
8-year increase (percent)	36

[1] Prices are average of those quoted monthly for Portland, Maine, Boston, Mass., Providence, R.I., and Hartford and New Haven, Conn.

[2] The 1972 price reflects the 1-cent-per-gallon cargo price increase Humble plans to have in effect on Jan. 1, 1972. It is assumed that the Humble cargo price hike will be passed along to the tank car buyer and ultimately to the retail customer.

NOTE.—Source for all price data except assumed Jan. 1, 1972, price: Fuel Oil and Oil Heat, published by Industry Publications, Inc., Montclair, N.J.

Mr. McINTYRE. Mr. President, as stated earlier, the No. 2 allocation program was first commenced in June 1970 on an experimental or temporary basis. The program was extended during 1971 but was still on a temporary basis and was scheduled to expire on December 31, 1971. As early as last May requests were sent to the Department of Interior and the Office of Emergency Preparedness urging that an early decision be made on the 1972 program. An early decision was requested so that plans could be made for meeting this winter's home heating oil needs. Without sufficient leadtime, supply and transportation arrangements are difficult if not impossible and result in uncertainty. Delays in administering such an essential program are inexcusable, for actions should be taken to assure that deepwater terminal operators and wholesalers are able to make the arrangements necessary to assure supply.

On November 5, 1971, the President signed Proclamation No. 4092 in which the temporary No. 2 allocation program was given permanent status and the import level was increased to 45,000 barrels per day. Although the proclamation did not remove the Western Hemisphere limitation, provision was made for surveillance of the program by the Director of the Office of Emergency Preparedness—OEP—and authority was granted to the Secretary of the Interior to lift the Western Hemisphere restriction, upon the recommendation of the Director of OEP, in the event price, supply, or other considerations so dictate.

The recent actions by the Venezuelan Government in raising taxes on crude oil and No. 2 fuel oil, limiting oil production, and announcing abrogation of their trade treaty with the United States, underscore the need to remove this restriction promptly. The Venezuelans are obviously not interested in helping the U.S. consumer; the U.S. Government should therefore, provide them no preferential treatment. Lower cost No. 2 fuel oil is available in Europe and east coast consumers should have the benefit of access to these markets, for the remainder of 1972.

In this regard, I might add that the price board must exercise proper surveillance of the energy market and assure that the price of crude oil and vital petroleum products remain stable.

A feature was also added that provides greater flexibility to the independent terminal operators and contributes to the concept of keeping refining capacity at home. The Secretary of the Interior was authorized to issue regulations making import tickets under the program valid for crude oil as well as for No. 2 oil so that the importers can either import No. 2 oil or import crude oil and exchange the crude oil for domestic No. 2 oil.

While the increased allocation was far from the 100,000 barrels per day that numerous witnesses and Members of the New England congressional delegation strongly endorsed, it does assure to the east coast an amount of imported product in 1972 equal in percentage terms to that granted in 1971—4 percent of total demand. The important feature of this proclamation is that it established on a firm, permanent basis a program which was originally implemented on a temporary or experimental basis.

Mr. Soule indicated to me after the administration announced its decision to make the No. 2 allocation program permanent and increase allowable imports to 45,000 barrels per day that this action will stimulate to some extent the construction of additional storage facilities. If the Western Hemisphere restriction is removed completely and permanently and import allocations under the current No. 2 fuel oil program are increased to the equivalent of 8 to 10 percent of total district 1 demand, I am sure that substantial additional fuel oil storage capacity can be provided for the Northeast.

NO. 6 FUEL OIL—RESIDUAL

When the mandatory oil import quota system was first instituted in 1959, crude oil plus all petroleum products were to some extent controlled by the quota system. As a result of increased demand for residual fuel oil in district 1, at the same time that the domestic refining industry was more and more reluctant to manufacture this product, residual fuel oil was exempted in 1966 from control under the quota system. This procedure is still being followed and all witnesses testifying during the hearings, including those from major oil companies, indicated that the continual maintenance of this exemption is critical to the economic welfare of the eastern seaboard of the United States. By exempting residual fuel oil from the mandatory oil import quota system, district 1 is granted the right to purchase this product on the world market. Price figures clearly show that residual fuel oil

in district 1 is at a lower price level than in other parts of this country, where this product is still controlled.

COMPARISON OF U.S. RESIDUAL FUEL OIL PRICES (PRICE PER BARREL)

	1969			
	Low	High	Average	Oct. 21, 1971
Boston (rack):				
No sulfur guarantee	$1.92	$2.39	$2.21	(1)
1 percent maximum sulfur	(2)	(2)	(2)	$4.35-$4.45
New York (rack):				
No sulfur guarantee	2.28	2.38	2.33	(1)
1 percent maximum sulfur	2.45	2.50	2.48	4.33
0.3 percent maximum sulfur	(2)	(2)	(2)	5.08
Chicago (terminal):				
No sulfur guarantee	3.05	3.15	3.10	4.20
1.5 percent sulfur	(2)	(2)	(2)	[3] 4.41
1 percent maximum sulfur	3.31	3.37	3.43	4.62
0.6 percent sulfur	3.47	3.58	3.52	4.725
Oklahoma (terminal, for northern delivery):				
No. sulfur guarantee	1.47	1.95	1.71	2.35-2.85
0.75 percent maximum sulfur	1.77	2.15	1.95	2.50-3.00
Gulf coast, cargo:				
No sulfur guarantee	1.47	1.47	1.47	2.00
Maximum 0.6 percent	1.93	2.13	2.03	3.70-3.80

[1] Posting discontinued Sept. 20, 1971. Last postings: Boston, $3.68 to $3.78 per barrel; New York, $3.51 per barrel (barge no maximum) (Sept. 20, 1971).
[2] Not available.
[3] Sept. 1, 1971.

Source: Platt's Oilgram Price Service.

In 1965, before residual oil was decontrolled in district 1, the average price per barrel for no sulfur guarantee product as reported by Platt's Oilgram Price Service was $3.16 in Chicago and $3.10 in New York, or close to identical. The table below, submitted to the subcommittee by Secretary Dole of the Department of the Interior, shows that average no sulfur guarantee residual prices per barrel for 1969 were $2.33 in New York compared to $3.10 in Chicago, or a cost savings to residual consumers on the cast coast of over 75 cents a barrel.

Price increases for all residual products in Chicago, New York, and Boston since 1969, however, are unconscionable and range in some instances as high as 100 percent. It is imperative that an in-depth economic analysis be conducted by the Office of Emergency Preparedness to determine whether these enormous price increases are justified.

While the hearings were in progress, serious questions were raised by a number of witnesses as to proposed changes in the manner in which residual fuel oil imports would be administered. On August 5, 1971, the Department of the Interior filed in the Federal Register a notice of proposed rulemaking with regard to imports of residual fuel oil in district 1. It was feared by many marketers and users of residual fuel oil that the Department of the Interior's action might have made it more difficult to import this product into district I and would have resulted in a change from a very liberal program to a rigid control system. During the hearings, Assistant Secretary Hollis Dole and other officials of the Department of the Interior assured the subcommittee that these proposed amendments to the oil import regulations did not constitute substantive changes in the program but were designed to expedite and streamline the processing of paperwork in connection with administration of the residual fuel oil exemption.

Another issue brought back to the subcommittee's attention during the hearings was the problems associated with recently enacted State environmental control standards. A number of States in district 1 have recently implemented air-sulfur content regulations establishing maximum levels of sulfur in fuel oil. Difficulties have been encountered in supplying this product along the east coast at reasonable prices, and cost per barrel of low sulfur residual fuel oil has skyrocketed in recent months. It is imperative that immediate steps be taken to not only bring a halt to these enormous price increases but to roll them back to a reasonable level.

In his appearance before the subcommitee, Mr. King, of Texaco, testified that in his company's opinion what is needed is an expansion of residual oil output, particularly low sulfur grades, from domestic refineries. Under Texaco's proposal, for each barrel of low sulfur residual fuel oil produced from domestic crude oil in domestic refineries located in districts 1 through 4, the refiner would be granted an allocation to import one barrel of crude oil from foreign sources. This proposal would appear to merit further consideration by the Oil Import Administration, particularly in view of increasing demand for low sulfur product and other circumstances not encountered in previous years. The bonus barrel proposal if implemented, however, should be supplemental to, not exclusionary of, present residual allowed entry outside the quota system.

In summary, the hearings recently completed were primarily concerned with the effect that the mandatory oil import quota system has on the adequacy and cost of residential and industrial heating oils and the resulting hardship placed upon small businesses and consumers due to the continuation of this quota program.

The hearing record clearly shows that by maintaining the price of crude oil and its refined products at artificially high prices, the petroleum producer and refiner realizes a tremendous financial gain through a mechanism that in many sections of the country results in increased taxes, higher prices, competitive disadvantages to many businesses, high utility rates, and even contributes to unemployment.

These inequities result from the fact that the burden placed upon the American people as a result of the continuation of this quota is not equally shared by all users of oil and its products. This is particularly true in my area of the country with our great reliance on heating oils to provide power for electric generation to run our factories and to heat our homes, schools, and buildings.

By denying New England and other sections of the country an opportunity to purchase crude oil, No. 2 fuel oil, residual, gasoline, and so forth, at prices established in a competitive world market, businessmen are placed at a competitive disadvantage to those companies that they compete with which are located in sections of this country receiving price benefits resulting from the inequitable manner in which the oil import quota system operates.

Mr. President, the testimony I heard at the subcommittee hearings this fall has served to reconfirm my strong conviction that the basic recommendation of President Nixon's Cabinet Level Task Force is as correct today as it was 2 years ago. The best solution to the oil energy problem is the abolition of the quota and its replacement with a tariff system. I have long advocated just such a move, but I have become convinced that the present administration will not take action on that recommendation.

For that reason, practicality dictates that I concentrate my immediate efforts on obtaining reforms within the present program which can be put into effect immediately.

In view of the ever increasing use of petroleum products in the United States, some 14½ million barrels daily presently, it seems inconceivable to me that such a burdensome quota would not be continually updated and revised to reflect the needs of American business and consumers. In this context, it is my hope that the administration will immediately take steps to implement the following suggested changes in the operation of the quota system to insure a more equitably distributed burden that would be shared among all of the consumers of crude oil and petroleum products:

First. Immediate and permanent removal of the Western Hemisphere restriction on No. 2 fuel oil imports allocated to district 1.

Second. An increase in the No. 2 fuel oil imports in district 1 allocated under the present program to independent deepwater terminal operators to a minimum of 80,000 barrels a day or 8 percent of total demand in district 1. This action would not only assure vigorous competition but would stimulate the construction of additional storage facilities.

Third. Domestic consumption rather than production be used as the basis for determining crude oil imports into the United States east of the Rocky Mountains, or in the alternative, import levels be the difference between consumption and production as is presently used in district 5, that is, those States west of the Rocky Mountains.

Fourth. That the present system of decontrol of residual fuel oil be maintained in district 1 and that the allocation procedures assure that eligible importers of this product into district 1 would receive all needed product during each allocation period.

Fifth. That a foreign crude oil bonus system be established where for each barrel of low sulfur residual fuel oil produced from domestic crude oil in domestic refineries located in district 1 the refiner would be granted an allocation to import one barrel of crude oil from foreign sources. This would encourage the construction of much needed additional refining capacity along the east coast and would also meet growing demand for low sulfur residual fuel oil. Crude oil

imports allowed entry under this proposal, however, must be in addition to residual oil presently excluded from the oil import quota system and imported freely into district 1.

TRANS-ALASKA PIPELINE

Mr. STEVENS. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial entitled "Saga of the South," published in the Anchorage Daily Times of Monday, January 24, 1972. The editorial very aptly expresses the views of a great many Alaskans that the trans-Alaska pipeline can indeed meet all environmental requirements of law and is quite similar to a number of pipelines that have been constructed elsewhere in the United States. One such pipeline is the Colonial Pipeline system. As the editorial indicates, the Colonial Pipeline system has recently added 471 miles of line between Baton Rouge, La., and Atlanta, Ga. This is a part of a master plan including additions elsewhere in the southern part of the United States.

Such pipeline additions cause little fanfare because they are being constructed safely and in full compliance with all requirements of law.

The same is true of the Alaska pipeline. It, too, will be constructed safely and in full compliance with all the requirements of law.

The other pipeline systems, such as the Colonial, are aimed at major markets in the United States. They, too, provide jobs for many people in their areas of the country. But, for these reasons also the trans-Alaska pipeline is necessary for the well-being of the entire country.

We in Alaska fully support the efforts being made elsewhere to meet our growing energy crisis, but we also desire to participate by bringing Alaskan oil to the lower 48 States. For this reason, the trans-Alaska pipeline is an immediate necessity.

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

SAGA OF THE SOUTH

Those of you who have followed the agonized on-again off-again developments in the saga of the Prudhoe Bay-to-Valdez pipeline will be interested in the other big pipeline story developing in the United States.

What other pipeline story, you ask?

Well, the Colonial Pipeline Co. expansion program, that's what—the one that has been planned, programmed and completed without any particular opposition, environmental frights, advice from a Wisconsin congressman or lobbying attacks from the Friends of the Earth and the Sierra Club.

The Colonial Pipeline project, which we've mentioned here before in months gone by, is now in operation.

Contrast it, if you will, to the proposed Alaska project.

The Alaska project calls for construction of a 48-inch pipeline that will run some 789 miles from the Arctic Slope in the north to Prince William Sound in the south.

The expansion of the Colonial Pipeline system added a 36-inch, 471-mile line between Baton Rouge, La., and Atlanta, Ga. It is only part of a building plan that also includes additions to Colonial's 32-inch pipeline between Greensboro, N.C., and Dorsey, Md., and a new 36-inch pipeline through Mississippi.

Operations on this new 471-mile line began Dec. 24 and if you failed to hear about it you can only blame the fact that the project was carried out with little fanfare.

So far as we know, there were no complaints from the groups which have done their best to stall the Alaska project.

The reasons for this are simple, we suspect.

The petroleum products which move through the giant Colonial system are aimed at the markets in the Middle Atlantic and East Coast states.

They provide jobs for thousands in the South, comfort and service for individuals and industry in the East, from New York to Florida.

The politicians know it.

Certain senators and congressmen who are seeking voter appeal on the environmental issue can safely take a strong stand against the Alaska pipeline—it is of little concern to them.

While they do that, they foster and encourage pipeline development in their own back yards.

Obviously, we have no objections to the Colonial Pipeline Co. expansion. We applaud it. We appreciate its importance to the people of a vast section of the nation.

But we are troubled by the hypocrisy of some who would deny Alaskans and West Coast residents some of the same things given the Eastern Seaboard.

SENATOR PELL

Mr. CHURCH. Mr. President, from many shared experiences on the Committee on Foreign Relations, I can attest how deeply involved my good friend and colleague, the distinguished Senator from Rhode Island (Mr. PELL), has been with the seabed nuclear arms prohibition treaty from its inception. Indeed, few Senators have ever been so closely and persistently involved with the development and successful conclusion of an international agreement.

Senator PELL first put forward the concept of the treaty in a Senate resolution in 1967. He conducted hearings on that resolution, served as a Senate adviser to the U.S. delegation at negotiating conferences, voted for approval of the draft treaty as U.S. delegate to the United Nations General Assembly in 1970, conducted ratification hearings by the Foreign Relations Committee last month, and is today presenting the treaty to the Senate.

It is one of the true satisfactions of public service to see an idea translated into action. Senator PELL has seen his idea translated into a treaty that has been accepted by the governments of more than 80 nations around the world. This treaty will not end the arms race. No one international agreement is likely to do so. But it is a step toward curbing the arms race that should be taken. Senator PELL can take great satisfaction in the fact that it has been done.

Mr. President, I ask unanimous consent that a chronology of the development of this treaty, including the contributions of the junior Senator from Rhode Island, be printed in the RECORD.

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

THE TREATY ON THE NONEMPLACEMENT OF NUCLEAR WEAPONS ON THE SEABED

A BRIEF CHRONOLOGY

1967

August 17: Malta submitted as an agenda item for the 22d U.N. General Assembly a proposal for a treaty to regulate and control the seabed and ocean floor beyond the limits of the existing national jurisdictions. The treaty proposed that the ocean floor be reserved exclusively for peaceful purposes and that the activities of all states be regulated in order to allocate the financial benefits from exploitation of the seabed primarily to the developing countries. This proposal gave impetus to the study of the control of the seabed and to the problem of preventing an arms race in that environment.

September 29: Senator Pell introduced S. Res. 172 which called on the President to initiate a U.S. move in the U.N. to consider the problem of exploitation of the seabed beyond the continental shelf and stressed the need for an international agreement which would ensure that the exploitation of the seabed would be considered free to all nations. Included in the resolution was a provision that the treaty should take into account arms control measures which would prevent the stationing of nuclear weapons or other weapons of mass destruction on the ocean floor. The resolution was referred to the Committee on Foreign Relations.

November 8: The U.S. Ambassador to the U.N., Arthur Goldberg, proposed that the General Assembly establish a committee to study the oceans. Besides studying the technical and legal aspects of the exploration of the seabed, Goldberg explained, the committee would need to investigate the problem of arms control in that area. He also noted that the committee should work with the Eighteen Nation Disarmament Committee (ENDC) on the subject.

November 17: In a Senate speech, Senator Pell called on the President "to make such efforts through the United States delegation to the United Nations" for that body to consider a declaration of legal principles governing the activities of states in the exploration of ocean space. These principles were listed in S. Res. 186 which he introduced. Among them was a proposal that all states would refrain from emplacing in the seabed nuclear weapons or other weapons of mass destruction. The resolution was referred to the Committee on Foreign Relations.

November 29: The Senate Foreign Relations Committee held hearings on S. Res. 172 and S. Res. 186. Senator Pell testified, along with Joseph Sisco, Assistant Secretary of State for International Organization Affairs, other representatives of both the State Department and the Defense Department, and witnesses from private organizations.

December 8: Senate Majority Leader Mike Mansfield commended the work of Senator Pell with regard to the seabed, pointing out that his "pioneering efforts in the Senate are already reflected in U.S. policies." On the same day, Senator Pell inserted the U.N. resolution which established the *ad hoc* committee to study the oceans. Subsequently, Senator Pell was appointed a Senate advisor to the U.S. delegation to the *Ad Hoc* Committee. (*See* entry below.)

December 18: The U.N. General Assembly passed resolution 2340(XXII) which established an *ad hoc* committee to study the exploration and use of the seabed and ocean floor. The Committee was composed of thirty-five countries and was to report to the 23rd U.N. Assembly (1968) on past and present actions of the U.N. and other international bodies regarding the seabed, existing international agreements on the area, scientific, technical, economic, legal, and other aspects of the question, and ways to promote inter-

national cooperation in the exploration, conservation, and use of the seabed.

1968

March 5: Senator Pell introduced S. Res. 263, in which a draft treaty on the peaceful uses of ocean space was incorporated, and urged the President to take the necessary steps for the U.S. to negotiate a treaty on the subject. One article of the draft treaty provided that the parties would "undertake to refrain from the implacement . . . on or in the seabed . . . of any objects containing nuclear weapons or any kinds of weapons of mass destruction . . . or the stationing of such weapons . . . in any other manner." The resolution was referred to the Committee on Foreign Relations.

June 28: In a Senate speech, Senator Pell inserted the statement of the U.S. representative to the *Ad Hoc* Committee, in which the U.S. proposed that the ENDC take up the question of arms limitation on the seabed and ocean floor. Senator Pell commended the efforts of the Executive Branch.

August 19–30: The *Ad Hoc* Committee to Study the Peaceful Uses of the Seabed and the Ocean Floor Beyond the Limits of National Jurisdiction held its final session in Rio de Janeiro, where a report to the General Assembly was adopted. The Legal Working Group of the Committee had raised questions regarding possible military uses of the seabed. While there was unanimity that the seabed beyond the limits of national jurisdiction should be used exclusively for peaceful purposes, there was disagreement as to what further procedure should be followed for consideration of the problem. Some countries, such as the United States, the Soviet Union, and the United Kingdom, favored referring the question to the ENDC, while others felt this aspect should not be separated from the whole issue of the seabed and the ocean regime. During the deliberations, it was noted that the question was already on the agenda for the current session of the ENDC, meeting in Geneva at that time.

September 27: In a Senate speech, Senator Pell inserted the final report of the *Ad Hoc* Committee and supported the idea that a permanent U.N. Committee on the Oceans be established.

December 21: The U.N. General Assembly adopted resolution 2467 (XXIII), in which Part A established a 42-member permanent "Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor Beyond the Limits of National Jurisdiction." In addition to studying the various aspects of international exploration of the seabed, the solution called on the committee to study the reservation of the seabed for peaceful purposes, and to take into account the studies and deliberations being pursued in the field of disarmament.

1969

January 21: Senator Pell introduced S. Res. 33, which listed a number of principles governing the activities in ocean space, and urged that the U.S. seek a declaration of principles through the U.N. As with his earlier resolution, there was a provision for a prohibition of the emplacement of nuclear weapons on the seabed. The resolution was referred to the Committee on Foreign Relations.

February 4: Senator Pell introduced S. Res. 92, which called on the President to take steps through the U.S. delegation to the U.N. to negotiate a treaty on the principles governing the exploration of ocean space. As with an earlier resolution, a draft treaty was included, containing provision to ban the emplacement of nuclear weapons.

February 7: The Senate Foreign Relations Committee referred S. Res. 92 to the Department of State for comment.

March 18: The fifteenth session of the ENDC opened in Geneva, where messages from both President Nixon and Soviet Premier Kosygin were read. Among the goals of the United States at the conference, Nixon cited a ban against emplacement of "nuclear weapons or other weapons of mass destruction on the seabed." Premier Kosygin declared that it was "of the greatest importance to agree that the seabed and the ocean floor shall not be used for military purposes but shall remain a sphere for man's peaceful activities."

At this time, the Soviet Union also tabled a draft treaty which prohibited any use of the seabed and ocean floor beyond the 12-mile limit for military purposes. The proposal included a prohibition of the emplacement of nuclear weapons or other weapons of mass destruction. Inspection was to be carried out "on the basis of reciprocity" of "all installations and structures on the seabed and the ocean floor and the subsoil thereof."

March 25: In a speech to the ENDC, director of the U.S. Arms Control and Disarmament Agency (ACDA) Gerard C. Smith expressed the view that a complete demilitarization of the seabed was not practical since a prohibition of conventional weapons would present "insuperable verification problems." Rather, he noted, the most urgent task concerning the seabed was to reach agreement on a prohibition of weapons of mass destruction, including nuclear, chemical, biological, and radiological types of weapons.

May 22: The United States submitted to the ENDC a draft treaty prohibiting the emplacement of nuclear weapons and other weapons of mass destruction on the seabed and ocean floor beyond a three-mile costal limit. The proposed inspection procedure would allow parties to the treaty to observe the activities of other states without infringing on their rights under international law; if such observation failed to confirm that the terms of the treaty were being met, the parties were free to consult with each other.

May 23: In a speech on the Senate floor, Senator Pell described the U.S. proposed treaty of May 22 as "a very significant beginning," and expressed the hope that "the major differences between the United States and the Soviet Union can be ironed out in a manner reflective of the true interests of the international community as a whole."

July 3: At the opening of the second session of the ENDC in 1969, a message from President Nixon was read, in which he expressed his hope that a seabed treaty might be concluded. Soviet Ambassador to the ENDC Roshchin called the U.S. proposal "inadequate," stating that it did not propose a complete demilitarization of the seabed and thus would allow a conventional arms race to spread to that environment.

July 24: The Subcommittee on Ocean Space (chaired by Senator Pell) of the Senate Foreign Relations Committee held the first in a series of hearings on S. Res. 33. Testimony on arms control issues was heard from William Hancock, General Counsel of the U.S. Arms Control and Disarmament Agency. Other Administration and private witnesses were heard on July 25, 28, and 30.

On this same date a reply from the State Department concerning S. Res. 92 was received by the Foreign Relations Committee.

October 7: In a joint action in the Conference of the Committee on Disarmament (CCD),[1] the United States and the Soviet Union tabled a draft treaty banning nuclear weapons and other weapons of mass destruction from the ocean floor beyond a 12-mile "maximum contiguous zone," measured from coastal baselines (in accordance with the terms of the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone and other established rules of international law of the sea). Included in the prohibition were "structures, launching installations, or any other facilities specifically designed for storing, testing, or using such weapons." Article III of the proposal outlined verification procedures, granting nations the "right to verify the activities of . . . parties . . . if these activities raise doubts concerning the fulfillment" of treaty obligations. Inspection was to be carried out in such manner as to avoid infringing on the rights of states under international law, and could be undertaken either individually or with another party to the treaty. Parties were to undertake to consult and cooperate with each other on enforcement of verification provisions. Approval of amendments to the treaty was required by a majority of the parties, including the nuclear-weapon states party to the treaty.

In comments to the CCD on the treaty, Soviet Ambassador Roshchin said that it did not affect the rights of states regarding their off-coast waters or seabed. The verification procedures, he explained, reflected the view of many CCD representatives, since the provisions allowed for the "widest possible participation" in inspection. U.S. Ambassador James Leonard noted that the treaty would not interfere with the peaceful uses of nuclear energy, nor were submarines prohibited from anchoring or resting on the seabed, since submarines and other vehicles were allowed to navigate above the seabed. Regarding the verification procedures, he said they were not intended to interfere with the "legitimate activities on the seabed," nor would states be obligated to disclose those activities which were not contrary to the purposes of the treaty.

October 8: Senator Pell inserted in the *Congressional Record* the draft treaty presented to the CCD the previous day. In addition, he inserted a joint statement which he made with Senator Clifford Case, in which the prohibition was called "a monumental reminder of man's earnest quest for peace."

October 9: The Canadian representative to the CCD discussed the verification procedures of the draft treaty, pointing out that the provisions were vague and did not guarantee the right of all parties to participate in verification procedures. Morover, he expressed the view that the interests of coastal states were not protected and that there was not adequate provision for settlement of disputes over verification. Similar views were expressed by representatives of Italy and Sweden. Further criticism of the treaty focused on the veto power by nuclear-weapon states over amendments.

October 21: The representative of the United Kingdom pointed out a "loop-hole" in the treaty because of the existence of a "gap" between the outer limits of the territorial sea of some countries and the 12-mile contiguous zone, where the ban would not apply; in the case of the United Kingdom, this strip was nine miles wide, since the United Kingdom claims only a three mile limit on its territorial sea. He also objected to the term "other weapons of mass destruction," since it was not precise. He considered the verification procedures "sound" and "realistic."

October 30: The United States and the Soviet Union submitted a revised version of the seabed treaty to the CCD. In response to the British argument of October 21, new language of the treaty sought to eliminate the possibility that the ban would not apply to any gap which might exist between the territorial sea of some countries and the 12-mile contiguous zone. Other amendments included a provision for recourse to the U.N. Security Council in case of disputes over verification, a new article which provided a review conference in five years, and the omission of the veto power by nuclear weapon states over amendments. Despite these changes the revision was still not acceptable

[1] Formerly the ENDC, until its membership was expanded and the name changed in August 1969.

to a majority of the members of the CCD. Rather than commending it to the U.N. General Assembly, it was submitted only as an annex to the CCD report to the U.N.

November 17: In a speech to the First Commission of the U.N. Central Assembly, U.S. Ambassador Yost commented on the draft seabed treaty. He said it prohibited "the only weapons which it might be militarily advantageous to station on the seabed," and verification was based on the parties' "existing rights under international law, including especially the right of observation." Soviet Ambassador Roshchin also urged support of the revised draft.

November 20: The Swedish representative to the U.N. commented on the revised draft in a speech to the First Committee, calling the verification procedures "totally inadequate."

December 12: The First Committee of the U.N. General Assembly adopted a resolution which referred the revised draft treaty back to the CCD for further consideration. The resolution called upon the CCD to take into account the suggestions made at the U.N. Besides criticism of inspection procedures, opposition had also been voiced that adequate participation in inspection had not been accorded to coastal states for protection of the continental shelf. Canada, Brazil, and Mexico were prominent among these nations suggesting changes in the revised draft.

1970

April 23: A second revised version of the U.S.-Soviet draft seabed treaty was presented to the CCD. More detailed language was used in Article III, regarding verification. Without changing the substance of the provision, the new language was largely an elaboration of the manner in which consultation and cooperation in verification was to be carried out, with particular emphasis on informing the state or states suspected of a possible violation. Although the ban of the treaty clearly applied to the area outside the 12-mile contiguous zone, a separate article was devoted to the view that nothing in the treaty would support or prejudice any rights or claims which a state may assert concerning waters off its coast. (There is still no standard measurement of a state's territorial waters, e.g., certain Latin American countries claim a 200-mile territorial waters zone.) Thus this provision disclaimed any implication that the treaty as a whole might define the territorial limits of coastal states.

September 1: A third revised draft treaty was submitted to the CCD by the United States and the Soviet Union. Further clarification of inspection added the right of countries to call on the U.N. to investigate suspected violations, a provision which would strengthen the abilities of those countries which did not have the resources for elaborate verification devices. In addition, a new article, which obligated the parties to continue negotiations for further measures to prevent an arms race from the seabed, was added. (This provision originally had been in the preamble, but was moved to the operative section of the treaty.)

September 3: In the CCD's annual report to the U.N. General Assembly, it was concluded that "Delegations expressed satisfaction with the general consensus achieved" over the most recent draft seabed treaty. Moreover, the report stated, "hope was widely expressed that the draft treaty would be commended by the General Assembly and opened for signature at an early date."

September 16: In a Senate speech, Senator Pell inserted the September 1 version of the draft seabed treaty in the Congressional Record. In his comments on the proposal, he pointed out that the revisions of the treaty were concerned with unresolved questions in the law of the sea, e.g., the territorial sea, contiguous zone, and continental shelf rights. He noted that the imperative of achieving arms control had to "suffer because of the chaos nations have made of the law of the sea," and urged a new international conference to settle the unresolved issues.

November 17: The First Committee of the U.N. General Assembly adopted a resolution sponsored by 37 countries which would have the Assembly commend the U.S.-Soviet draft treaty on the non-emplacement of weapons of mass destruction on the seabed; request the depository Governments to open the draft treaty for signature; and express the hope for the widest possible adherence to it. The vote was 91 to 2, with six abstentions. (Peru and El Salvador opposed the treaty because of the 12-mile territorial limit, with France, Kuwait, Indonesia, Ecuador, Senegal, and Thailand abstaining.)

December 7: The U.N. General Assembly adopted resolution 2660 (XXV) which carried out the suggestions made in the resolution passed by the First Committee on November 17 (above). The vote was 104–2, with two abstentions. (Peru and El Salvador remained in opposition, Ecuador and France abstained.)

1971

February 11: Sixty-two nations, including the United States, signed the treaty in simultaneous ceremonies in Washington, London and Moscow.

July 21: Treaty was submitted by the Administration to the Senate.

1972

January 27: Senate Foreign Relations Committee conducts hearings on the treaty, with Senator Pell presiding.

February 8: The Senate Foreign Relations Committee voted unanimously to report the treaty favorably with a recomendation that the Senate give its advice and consent to ratification.

THE NEWS ABOUT PRODUCTIVITY

Mr. ALLOTT. Mr. President, current fears about the supposedly sharp and continuing decline in American productivity may be unfounded; and if they are, they can be very dangerous. Recent economic history has taught us the danger of the self-fulfilling prophecy. If we think that hard times are coming, the psychology engendered by that thought can create the conditions of hard times.

For example, if we believe our productivity is declining, we are apt to begin a scramble for illusory security, in protection from foreign competition, and in escape from competition in the domestic market.

Fortunately, there is considerable evidence that we have nothing to fear but fear generated by a mistaken impression about our declining productivity. So that all Senators can consider some of this heartening evidence, I ask unanimous consent to have printed in the RECORD an article entitled "The News About Productivity Is Better Than You Think," published in the February issue of Fortune.

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

THE NEWS ABOUT PRODUCTIVITY IS BETTER THAN YOU THINK

(By Sanford Rose)

A major theme of business oratory these days is something called "the crisis in productivity." Government officials are expressing anxiety about the slow rate at which output per man-hour has been increasing; President Nixon has related the problem to his concern about the competitiveness of the U.S. in world trade. And such influential businessmen as Patrick E. Haggerty, chairman of Texas Instruments, and H. I. Romnes, chairman of American Telephone & Telegraph, have argued at length that we will have trouble sustaining the postwar rate of productivity advance.

There is, furthermore, no doubt that something did happen to productivity in recent years. After averaging gains of well over 3 percent a year during 1946–65, the rate fell to 2.1 percent during 1965–70. It is true that the growth rate rebounded dramatically in 1971 and promises to stay at a high level in 1972 as well. (Fortune's Business Roundup has projected gains of over 4 percent this year.) But the current improvement has not affected the postprandial rhetoric. To a growing number of businessmen, the 1965–70 slowdown represents the proverbial harbinger of things to come, while the more recent improvement seems transitory; productivity does, after all, usually rise sharply in business recoveries.

There is also no doubt that a prolonged decline in productivity gains would be bad news indeed for the U.S. About four-fifths of the growth in output since World War II has resulted from the increased productivity of American workers; only about one-fifth was accounted for by increases in man-hours worked. If output per manhour had advanced during the entire postwar period at the 1965–70 rate, it would have risen only 70 percent as much as it actually did. Or, to view the same data another way, the improvement in American living standards would have been about 30 percent less.

The new pessimism about productivity rests on some plausible assumptions about structural changes in the U.S. economy. For many decades, productivity gains have benefited from the movement of labor from the farm, where the level of output per man-hour has been relatively low, to other sectors of the economy, where it is higher. But we are obviously nearing the end of these benefits; farm workers today represent a mere 5 percent of the labor force, and fewer workers will be leaving farms to enter more productive occupations.

In addition, many of those who do leave will no longer go into such high-productivity sectors as manufacturing. Employment in manufacturing will grow absolutely in the Seventies, but it will continue to drop *relatively*. Some current jobholders—on the farm and in the factory—as well as an increasing number of new members of the labor force will be moving into service industries. And in these industries—they include wholesale and retail trade, education, and health—levels of productivity are presumed to be quite low. In short, it is being argued that in the past the economy was helped by the flow of labor from low- to high-productivity occupations, but that in the future the flow will be in the other direction.

Nor does the pessimists' case end there. They also suggest that the work force has been developing attitudes inimical to large advances in productivity. Part of the problem is simply that the average age of the work force has dropped, and young workers do not, in general, put out as much effort as their elders. In addition, this particular generation of young workers is especially affluent, has had only limited contact with hard times, and seems to be cocky and comparatively unconcerned about hanging onto jobs. A growing proportion of young people seem not to respond to monetary incentives because they are no longer interested in increasing their consumption of material goods; to motivate them may require new approaches that appeal to their nonmaterialistic values. For example, companies may have to devise incentive systems that reward superior performance by giving employees opportunities to teach the underprivileged. Or, to attract members of the new generation, companies might have to undertake such socially useful tasks themselves. That might benefit

society in many ways—but it would presumably represent a drag on productivity.

All these points have some validity, and against the background of 1965–70 they seem to make a convincing case for a "productivity crisis." But the case is weaker than it looks. There are, in fact, reasons for being quite optimistic about productivity. The poor 1965–70 performance can be explained by cyclical and other temporary events, and the pessimists on productivity may well have committed the all-too-common error of extrapolating transitory problems into an eschatology of doom. For example, the attitudes of workers may indeed have deteriorated in the late 1960's. But this would seem perfectly natural for a period in which management was prepared to tolerate incredibly sloppy performance—which it was, so long as rising costs could be translated into higher prices. Now management has found that it can't pass on costs so easily, and it has started to crack down. So attitudes may very well improve.

GROUSING ABOUT THE YOUNG

The notion that something fundamental has happened to work attitudes in the past half-decade or so is difficult to document or to evaluate. Fundamental changes of attitude take a long time to develop and make their influence felt. Spokesmen for mature generations have perennially argued that the young are less concerned with doing a good job than they themselves were. Businessmen complaining that the young don't work as hard as their own generation do have a point; but their own generation doesn't work as hard as its predecessor, which in turn worked less than *its*. After all, the U.S. had a standard sixty-hour work week around the turn of the century. Yet as the length of the work week has dropped, the rate of productivity advance has generally speeded up—as the chart on page 99 makes clear.

In the short run, whether productivity advances rapidly or slowly depends less on the attitudes of the work force than on the state of the business cycle. The rate of productivity advance from 1965 to 1970 looks so bad partly because the 1960–65 performance was so good. In the first half of the decade, production had increased rapidly, while business did not hire as many people as it ordinarily would have to handle the increased output. As a result, the growth in productivity in the early to mid-1960's was well above its postwar average. Even if the economy had not slowed down late in the decade, some deterioration in this growth rate would have been inevitable.

Historically, productivity has increased fastest in the early phases of a business recovery, when production gains outstrip employment gains, and slowest in the early part of a business recession, when just the reverse occurs. Intermediate gains in productivity occur during the mature stages of both expansions and recessions. In 1960–65 we had the benefits of the early phase of a recovery; in 1965—70 we had the "mature," and therefore less productive, phase—and we also had the start of a new recession.

Moreover, the expansion of the 1960's was no ordinary business upturn. It lasted nearly nine years, longer than any previously recorded boom. To the average businessman, the economic indicators seemed ineluctably headed in one direction—upward. The country was caught up in the illusion of permanent prosperity. Employers seemed increasingly persuaded that nothing could weaken the upturn or the inflation that accompanied it. In 1968 the Administration tried to damp down the economy with an income-tax surcharge. The failure of the surcharge to achieve quick results served to reinforce the idea that recessions were obsolete.

The ebullient psychology of the business community had three effects on productivity, all negative. First, it led to excess investment in plant and equipment. This was apparent as far back as 1967, when rates of capacity utilization first slipped. Second, it led to an unprecedented decline in work discipline and labor standards. And, third, it led to a substantial amount of labor hoarding, which continued long after industrial output stopped growing.

THE NEWS FROM PENN CENTRAL

Of the three, labor hoarding was probably the most important reason why productivity gains practically vanished in 1969 and 1970. Industrial production finally turned down in the second half of 1969, but employment actually continued to rise throughout the year and during the first quarter of 1970. Looking back on so many years of prosperity, management seems to have regarded the downturn as a mere kink in the long upward curve and refused to trim work forces. As a result, productivity increased by only 0.5 percent during 1969—the smallest increase in nearly fifteen years—and by 0.9 percent in 1970. If businessmen had adjusted their work forces to declining output as promptly as they had in previous economic slowdowns, productivity might have risen by something between 1.5 and 2.5 percent in each of those years.

When businessmen finally realized that they were in a recession, they initiated massive layoffs; these were accelerated by the Penn Central crisis, which seems to have done a lot to convey the message. Employment in the goods-producing sectors of the economy dropped from about 24 million in the spring of 1970 to just over 22 million in November of that year. And while employment in the service industries moved up, the increase was far less than it had been before March.

In consequence, after declining sharply in the first quarter of 1970, productivity improved substantially in the second and third quarters. It stalled at the close of the year because of the General Motors strike, but then spurted forward again early in 1971. During the first three quarters of the year, output per man-hour advanced by about 3.5 percent, and the gain was probably about 4 percent for the full year.

These improvements compare favorably with the gains registered in past recovery periods. Productivity grew by 4.5 percent in 1955 and by 4.7 percent in 1962, to name two years that followed recessions. The 1971 productivity gain, though somewhat smaller, is actually more remarkable because output increased less rapidly during the year than in either 1955 or 1962. In addition, for most of 1971 rates of capacity utilization were bumping along at their lowest level since the recession began, thereby inflating overhead labor costs.

In the months ahead, as output continues to grow and utilization rates rise, even larger gains in productivity will be attained. For all the chatter about a "productivity crisis," the years 1971 and 1972 might well produce the greatest back-to-back gains in over twenty years.

ENTER THE TEENAGERS

Not all of the decline in productivity during 1965–70 was related to cyclical factors. There was also a new problem about the quality of the labor force. The problem arose, not from the alleged new attitudes of an affluent generation, but from a sharp rise in the proportion of women in the labor force. In 1965–70 the proportion of women rose more rapidly than it had in any other five-year period since the end of the war. More than five million women entered the labor force during this period, and close to 750,000 of these were between the ages of sixteen and nineteen. (In the first half of the decade fewer than three million women, and fewer than 500,000 teen-age women, had entered the labor force.) Women in general, and teen-agers in particular, are less productive than the average member of the labor force. The teen-agers lack experience and training, and many older women are less productive because they tend to enter lines of work—mostly clerical jobs—in which the level of productivity is quite low.

Unfortunately, conventional analysis of productivity changes does not adjust for changes in the labor force. Instead, it simply relates output to what are called "unweighted" man-hours; that is, all hours of work are considered identical. But when hours of work are weighted by the average wage earned—the earnings being a proxy for the quality of work done—it becomes possible to isolate the effect on productivity of changes in the labor force.

George Perry, a well-known economist at the Brookings Institution, has been doing just that; i.e., analyzing the relative impacts on productivity of labor-force changes and cyclical forces. Perry's measure of productivity shows output per man-hour growing by about 2.75 percent a year in the decade preceding 1965. If this rate had been sustained in the 1965–70 period, productivity should have increased by about 14.5 percent in those years. In fact, it increased by only 8.4 percent. Perry's work indicates that about 30 percent of the shortfall can be accounted for by unfavorable changes in the age-sex mix of the labor force. Another 50 percent could be attributed to the business cycle. And much of the remaining 20 percent, Perry feels, could easily be explained by the excess labor hoarding that took place in late 1969 and 1970. In short, the productivity slowdown of 1965–70 can be explained entirely in terms that bypass the pessimists' contentions.

It seems probable that the recent decline in labor quality is only temporary. For one thing, the teen-age labor force is expected to grow less than half as rapidly in the 1970's as it did in the 1960's. According to the Bureau of Labor Statistics, the sharpest growth in the labor force in the current decade will occur among those aged twenty-five to thirty-four, traditionally one of the more productive age groups. And while the proportion of working women will continue to rise in the 1970's, those entering the labor force will be better educated and presumably less content with routine clerical work.

In any case, there will probably be less such work available. Office automation and generally tighter labor standards will continue to wipe out a large number of the low-productivity and somewhat redundant clerical jobs that opened up in the latter stages of the great boom.

THE EXPERTS ARE ONLY GUESSING

What about other occupational changes, and especially the great shift from goods to services, which are expected to hold down productivity? It seems likely that these changes will indeed be a problem; but even here many people tend to exaggerate the difficulties.

According to well-publicized B.L.S. estimates, the shift from goods-producing to service industries could lower the rate of productivity growth by about 0.2 percent a year during the 1970's. The slowdown in the shift away from the farm will reduce it by an additional 0.2 percent. On the other hand, the B.L.S. is currently projecting an *increase* in productivity gains in many industries—e.g., construction and trade. These increases will offset about half of the loss from occupational shifts, leaving a net potential decline of about 0.2 percent. And it is true that any such long-term decline—from, say, a 3 percent to a 2.8 percent rate of gain in productivity—could lower the potential output of the economy by a total of $120 billion during the 1970's.

But the people at the B.L.S. frankly admit that their estimates are just guesses, and perhaps not very good ones at that. The main reason for this lack of certainty is that the bureau is simply not able to measure either the present level, or the rate of

growth—of productivity in the service sector. The bureau incorporates figures on the service industries in its quarterly report on productivity in the total private economy. It is, however, so wary of the service figures that it will not publish them separately.

In preparing these indexes, the B.L.S. uses output data from the Commerce Department's Bureau of Economic Analysis (until recently it was called the Office of Business Economics). Yet the B.E.A. does not have reliable figures on output for industries that account for as much as 40 percent of the gross national product. Most of these are service industries, and most of the difficulty is conceptual; that is, the B.E.A. is not certain how to define the "output" of a great many service industries.

For example, what is the output of a bank? One might suppose that it encompasses services provided to both borrowers and depositors. In fact, the B.E.A. excludes from its measure of output all services provided to borrowers and takes into account only some of those rendered to depositors, omitting, for example, bookkeeping and check clearing. Many economists are dissatisfied with this approach and would prefer to construct a measure of output that does include the number of checks cleared. Since banks have enormously increased their clearances in the last few years, use of this measure would undoubtedly increase the level of bank output and, as a result, raise bank productivity. Or, more precisely, it would raise *reported* productivity.

In other service industries, the problem of defining output is simply sidestepped. Ordinarily, an industry's contribution to G.N.P. is the value of its output less the value of the materials and services it uses. But this "value added" concept is hard to apply to the governmental and nonprofit parts of the economy—including most of the schools and hospitals in the U.S. In effect, B.E.A. has defined away the problem by assuming that these industries do not account for any "value added" and, therefore, have zero growth in productivity.

INFLATING THE RATE OF INFLATION

This failure to measure the productivity of many service industries leads to an understatement of the real gross national product—i.e., of G.N.P. adjusted for inflation. As it now stands, increases in the price of, say, bank and government services show up as additions to current-dollar G.N.P. But only *some* of the increases in government and bank services are recorded as additions to real G.N.P. If we had adequate conceptual tools with which the measure the output of service industries, real G.N.P. would probably have to be adjusted upward, and the implicit price deflator would have to be adjusted downward. In other words, we would discover that we had been overestimating the rate of inflation.

We may also overstate the rate of inflation because of our inability to measure changes in the *quality* of services. For example, it seems clear that the quality of personal medical examinations has risen considerably over the past few decades; it may not have risen as much as their cost, but surely doctors provide better and more comprehensive examinations than they used to. Yet the full amount of the increased cost of a checkup shows up as a price increase in the consumer price index and, in effect, the doctor's real output is assumed to have remained the same.

To be sure, problems of measuring output and quality are not unique to services. Bela Gold, a prominent economist at Case Western Reserve University and an authority on the steel industry, is persuaded that the quality of sheet steel is far higher than it was some years ago. Yet not effort has been made to revise output measures in the steel industry to reflect this fact.

It would be misleading to assert that all these measurement problems work to understate real G.N.P. and, consequently, productivity. Victor Fuchs, professor of economics at C.U.N.Y. and perhaps the leading authority on the service economy, feels that the growth in the output of retail stores is overestimated, not underestimated, because among other things, the customer is increasingly forced to wait on himself. Yet Fuchs, in company with most experts in the field, believes that (1) on balance we underestimate the output of the service industries and (2) though there is also some underestimation of output in the goods-producing industries, the measurement errors are far greater in services.

Since the importance of services in current-dollar G.N.P. is expected to increase, the understatement of real output and productivity must grow progressively worse. Stated somewhat differently, a growing proportion of dollar output will originate in sectors where increases in physical volume are most likely to be inadequately measured and often completely ignored.

Better methods of measuring output and productivity in the service industries are sure to come along, and they will do a lot to offset the effect of occupational shifts on reported productivity. These measurement changes might well reduce the net decline from occupational shifts during the 1970's to only 0.1 percent. Many people—including some in the B.L.S. itself—believe that in the end there will be no shortfall at all. In other words, the economy will continue to hold to about a 3 percent rate of improvement in output per man-hour.

ESSO LEARNS A LESSON

One reason for supposing that productivity may improve a lot in the next year or so is that many companies are being forced by Phase Two to give it some special attention. Large companies are required by the Price Commission to submit productivity data in order to qualify for price increases. Few companies—in either the service or the goods-producing areas—have ever bothered to calculate their output per man-hour. As they begin collecting the required data and making the inevitable intercompany comparisons, many managements will unquestionably be shocked into action.

Standard Oil of New Jersey received such a shock not long ago. Says Jerome Rosow, one of its executives and a former Assistant Secretary of Labor: "You can't begin to tell how good or bad you are until you have figures. A few years ago Esso was hard hit by the competition of small local refineries. People started saying that these companies were more efficient than we were, but we wouldn't believe this because it was inconsistent with our self-image. When we got comparative data, management was first incredulous, then astounded. Finally it started doing something about the problem."

In many companies a campaign to improve productivity will not prove overly expensive. More often than not it will require only minimal outlays for capital equipment. What is essential, however, is a managerial commitment to improve the organization of work and a willingness to set realistic standards for employees. A lot can be done just by applying the basic techniques of industrial engineering more rigorously.

Indeed, many industrial engineers can improve company productivity by 20 or 30 percent in quite prosaic ways. For example, Eric C. Baum, a Chicago-based engineer, was recently call in by DuBow Sporting Goods, which manufacturers many of the footballs, basketballs, volleyballs, and soccer balls sold in the country. DuBow had been gradually losing its share of the market because of soaring labor costs. Baum found that the company's molding equipment was being poorly utilized; many of the cavities in which the products were molded were in constant disrepair. He immediately initiated a program of preventive maintenance that solved the problem. Baum also got the company to install a conveyer that sped up packaging and eliminated the need for a large number of materials handlers. Finally, he introduced an incentive-pay system. As a result of several such elementary changes, DuBow's direct unit labor costs dropped by more than 20 percent, and, according to its president, Leonard Gross, the pretax profit margin rose from 8 percent to 21 percent.

In some cases, all that is needed to stimulate major productivity gains is the incentive-pay system itself, provided it has been properly designed and is adequate in coverage. Some of the steel industry's most intractable problems can be traced to the long-standing, but now disappearing, practice of restricting incentive-pay plans to production workers. Whenever management has granted incentive pay to maintenance workers, machine downtime has dropped sharply, and the productivity of both capital and labor has risen.

A great deal of the work of Joseph Quick, the chairman of a New Jersey-based industrial engineering firm, is directed toward slowing down the rise in *overhead* labor costs. Quick estimates that the jobs of only about 5 percent of all "indirect workers" in the U.S.—these are salesmen, draftsmen, office workers, etc.—are measured, while about 75 percent of all direct labor is currently being clocked. He says: "I find that about half the employees of a typical manufacturing company with a work force of about 1,000 are indirect workers. In most cases the jobs of 70 percent of these workers can be measured and controlled. And when that is done properly, about one-fifth are found to be redundant."

Quick begins by measuring the average amount of time necessary to perform various low-level mental functions. With these measurements, he establishes standards and then presents some of the workers involved with the evidence that their performance is subpar. In general, Quick says, people don't mind working harder. "When there are no standards against which to measure performance, people will work well below their level of capacity. But once standards have been devised and publicized, people are usually willing to raise their output to meet or even exceed the norm." Quick has raised the output of R. L. Polk & Co.'s clerical personnel by some 20 percent and that of Motorola's product inspectors by about as much.

Many of the techniques applicable to indirect workers in manufacturing can also be used in the service industries. According to Donald Spalding, president of Sewickley Valley Hospital in the Pittsburgh area, Quick's methods have greatly increased the number of tasks carried out by individual nurses while simultaneously improving the quality of their care. Marvin E. Mundel, an engineer in Silver Spring, Maryland, has been successful in establishing work standards for lawyers, computer programmers, and accountants in business and government. Mundel actually persuaded a group of lawyers in the Department of the Interior to log the amount of time necessary to handle the several thousand kinds of routine inquiries that make up the bulk of their work. On the basis of these records, Mundel formulated standards that, when circulated and discussed, were accepted by the department's lawyers and reduced future personnel requirements.

Mundel emphasizes the need to win the cooperation of those being measured, and he recalls that an attempt to set standards for lawyers in the Justice Department a few years ago led to a near rebellion. He adds: "If standards are simply flung at people, they will naturally resist." But, like Quick, he

feels that getting cooperation is not especially difficult.

MIGHTIER THAN THE COMPUTER

Right now more than 16 million people are working in wholesale and retail trade and, according to B.L.S. projections, that figure could rise to over 20 million by 1980. If trade can substantially raise its productivity, then the national rate of gain is almost certain to improve. In fact, the opportunities for productivity gains in this industry are good. The gains have come slowly in the past partly because of a lack of cooperation between manufacturers, transportation companies, warehouses, and stores. But if they ever got together they could do a lot.

Consider, for example, the opportunities in palletization. Grocery manufacturers and chain retailers use a forty-eight-by-forty-inch pallet, while many wholesale warehouses use a forty-by-thirty-two-inch pallet. As a result, when a trailer full of merchandise moves from the manufacturer to the warehouser, or from the warehouser to the chain retailer, it must first be unloaded by hand and then reloaded onto another pallet. With an ordinary trailer, this takes about four hours. If manufacturer, retailer, and wholesaler all used the same pallet, the operation would take approximately thirty minutes. Says Edgar Weinberg, an economist with the Productivity Commission, "Standardization of pallet size is probably more of a labor saver than the electronic computer."

Further gains in efficiency might be achieved by standardizing the sizes of packages and the cartons into which they are placed. Right now there are over 2,500 different sizes and shapes of shipping cartons in the warehouses of some food chains. If there were fewer sizes, there would be more incentive for companies to invest in automated warehouses, in which computers can fill orders and place cartons on a conveyer belt at an extremely rapid rate. But where there are too many types of cartons, it may be impossible to load them into trucks mechanically.

According to Gordon F. Bloom, a specialist on wholesale and retail trade who teaches at Massachusetts Institute of Technology, the U.S. packaging industry desperately needs a "nonproliferation treaty." Bloom wants the chief executives of leading manufacturers, wholesalers, and retailers to consult on methods of reducing the number of different cartons and packages. In the past, even executives who favored greater standardization have often been reluctant to cooperate because of the antitrust laws. Thus government may have to take the initiative in bringing the parties together.

TV CHATS WITH YOUR DOCTOR

In health care, where employment is also expected to rise sharply in the next few years, there are new opportunities to improve productivity. One is in data processing, which accounts for some 35 percent of the operating cost of a typical hospital. After many false starts, several large hospitals have had some real successes with new information systems.

The computer has increased the flow of patient information, for example, and routinized its processing. This means that the doctor is being freed from time-consuming paper work and fewer clerks are needed to transcribe and summarize reports. In the future, the computer can help to boost medical productivity by taking case histories from patients (who would respond to a succession of questions appearing on a computer screen), preparing diagnostic and therapeutic advice for physicians, and assisting paramedics in handling routine examinations and treating uncomplicated minor diseases.

Productivity in health care might also rise through increased use of two-way television, which will allow doctors to serve wide geographic areas without the need to travel. A television network consisting of a number of stations located in rural areas would be staffed by paramedical assistants. These stations would be in communication with a large teaching hospital in a metropolitan center. Says Dr. Octo Barnett, of the Massachusetts General Hospital: "It is both feasible and acceptable to use television communication to review x-ray films, look at blood smears through a microscope, and even have a physician talk directly with the patient."

In some cases, national productivity may be increased most rapidly by eliminating industries rather than trying to upgrade their performance. Although the productivity of most service industries is greater than we think, there certainly are some highly labor-intensive and non-computerizable services in which efficiency is obviously quite low. This is particularly true of personal services—e.g., TV and auto repair, barber and beauty shops. As their prices continue to rise, these service industries will gradually contract and we will increasingly learn to do without them, just as many reasonably well-off families have already learned to do without maids.

In a few instances, new kinds of goods have made possible a shift away from high-priced services. The popularity of the wash-and-wear shirt is at least partly attributable to the outsize price of laundering. And sales of the Proctor-Silex toaster have benefited from the fact that consumers can buy and quickly install spare parts when something goes wrong.

THE TROUBLE WITH VARIETY

Any realistic estimates of the prospects for productivity must be based on an awareness of certain pressures that work to limit gains. One pressure arises simply from the fact that as individuals—and societies—become richer, they tend to increase the value placed on leisure time. In consequence, they want to employ an increasing number of service workers and are willing to pay more and more for some of them.

There seems to be little doubt that we can maintain, even increase, the postwar rate of productivity gain—if we really want to. We can get rid of a lot of those repairmen by stepping up the do-it-yourself movement. We can produce more ball bearings per man-hour if we decide to produce fewer types of ball bearings. We can produce more automobiles per man-hour if we are content with fewer model changes and cars with fewer features. In short, we can get more productivity if we give up some leisure and variety.

The trade-offs involved in such questions, which were never simple, have become more complex than ever in the past few years, as we have become aware of the need to improve our environment. We are therefore demanding, for example, that the automobile industry "produce" cleaner air as well as more cars. If, while upgrading the environment, we also cling to our preference for almost limitless variety, it will be hard to get any increase in the rate of productivity gain. If, however, we forgo some of our investment in things like auto model changes, we can have cleaner air as well as more cars. That is, we will have a better environment and a higher rate of productivity gain. Within limits, the future pace of productivity advance will be determined by such choices.

HISTORY OF RELATIONS WITH CHINA

Mr. FULBRIGHT. Mr. President, one of the most distinguished commentators of the present scene, Mr. Richard L. Strout, has written an interesting account of a small part of the history of relations with China.

I commend it to the Senate and ask unanimous consent that it be printed in the RECORD.

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

END OF AN EPISODE?

(By Richard L. Strout)

WASHINGTON.—In 1945 President Roosevelt hoped that he could reconcile the differences between Generalissimo Chiang Kai-shek, the leader of the Chinese Nationalists, and Chou En-lai, leader of the Communist guerrillas. He sent a special representative on a very private misison, bypassing the State Department, with a minimum of consultation either with Congress or regular Chinese specialists. The intermediary was Gen. Patrick J. Hurley. The misison was a failure. Right to the end the ebullient General Hurley clung to the belief that Chinese peasants really supported Chiang and not Chou.

President Nixon will be seeing Chou En-lai later this month. This week the Senate Foreign Relations Committee heard two old China hands, former Foreign Service Officer John S. Service, who was driven out of his job, and Raymond P. Ludden, attached to the U.S. Embassy in Chungking in 1943. A third witness was Warren I. Cohen, Michigan State University, a student of Chinese affairs.

A reporter had mixed feelings looking at Mr. Service after all these years. Well dressed and with a fine, intellectual face, he would be distinguished in a crowd. His features are somewhat like those of Woodrow Wilson. He seems to hold no bitterness, and is now a professor at the Center for Chinese Studies at Berkeley. He has just returned from a six weeks' trip to mainland China.

At the critical period in 1945 the United States became the enemy of mainland China The Communists repeatedly tried to get American support but General Hurley was sure they would not last long. General Hurley was wrong. A unanimous statement from the embassy staff sent to Washington disagreed with the Hurley appraisal. It was disregarded. In a romantic trip through and behind the Japanese enemy lines Mr. Ludden visited the Chinese Communist headquarters. He reported that peasant support existed for the Communist beyond "reasonable doubt." His report was pooh-poohed.

Not only did the President let his personal adviser define American policy in Asia in 1945, but all the dissenting service officers were transferred out of China. All the men who charged that the Chinese Communists would be forced to turn to Moscow if Washington turned away were shipped out. Later General Hurley resigned, and showered the blame for his failure at a Senate hearing on those who disagreed with him.

It was, of course, possible to make a case on either side in 1945. But the United States was feeling a hysterical fear of communism. The debate got into politics and Senator McCarthy called President Truman "soft on communism." As Mr. Cohen testified, "the State Department specialists on China, especially O. Edmund Chubb, John Paton Davies, John Stewart Service, and John Carter Vincent, were abused and persecuted in one of the most shameful and destructive episodes in the history of the United States." They were cashiered and disgraced.

Developments in China, meanwhile, followed faithfully the forecast made by the ousted foreign service officers.

Today, with the Nixon visit, the strange episode may be coming to an end. Mr. Service is a quiet-spoken, articulate man; he told the senators that "all Americans" should applaud the initiative taken by the administration in the forthcoming visit. The only critical note was a regret that Japan had been

left out of the Nixon arrangements. That was the difficulty, witnesses reflected, in a president acting alone with a personal representative. They were pretty sure that if the Peking visit had been worked out with the State Department the essential need of getting Japan's cooperation would have been stressed.

As I write this I have on my desk an excerpt from Life magazine on June 28, 1954. It is almost impossible to recall today the poisonous atmosphere that existed in that frightened, hysterical time. This article helps to reconstruct it.

The Geneva Conference had brought Chou En-lai, now Premier and Foreign Minister of Red China, into full view of the Western world. Life magazine bluntly calls him "a political thug and professional assassin."

Across from this editorial is an article by a correspondent at Geneva. It ridicules Harold Wilson, then British President of the Board of Trade, for attending a reception by the Chinese. Mr. Wilson reported of Chou:

"We found him an extremely impressive personality. . . . He was entirely friendly and warm in all his dealings with us. . . . He had a quick sense of humor and seemed to delight in answering our questions with no attempt at evasion."

Such a description produced loathing, however, in the correspondent for Life, Godfrey Blunden. Even Anthony Eden dined with Chou. Blunden notes unhappily, who found him "very impressive."

The superior Americans cold-shouldered Chou. Physically, according to Life, he was passable enough: "Thirty-four years ago (i.e. in 1920) he was a coal miner in France, a worker in Paris's Renault auto plant. He is still young, 55. . . . The policy of the U.S. delegation not to recognize or fraternize in any way with the Red Chinese delegation hurt Chou's vanity." The writer adds:

"American diplomats know him for what he is—a ruthless intriguer, a conscienceless liar, a saber-toothed political assassin."

Mr. Nixon will be seeing him shortly in Peking.

BEEF—FIRST BILLION DOLLAR INDUSTRY IN KANSAS

Mr. PEARSON. Mr. President, the production and processing of beef in Kansas has become our first billion dollar industry. The excellent climate and natural resources of our State, combined with the know-how of our ranchers and farmers, have made possible the diversification of our agricultural base during the past decade.

Today, Kansas is utilizing efficiently its land and water resources to provide top quality beef for millions of consumers throughout America and overseas. There is no doubt as the demand increases for better quality beef in coming years that Kansas will share significantly in the growth of this primary industry.

Mr. President, the 59th annual convention of the Kansas Livestock Association was held in Wichita, Kans., on January 7, 1972. I ask unanimous consent that the resolutions adopted by the Livestock Association be printed in the RECORD. I believe the positions taken by the Kansas stockmen on issues of importance to the Nation should be considered seriously by Congress.

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

RESOLUTIONS 1972—ADOPTED BY THE 59TH ANNUAL CONVENTION OF THE KANSAS LIVESTOCK ASSOCIATION

ASSESSMENT

Be it resolved, we favor adoption of legislation to assure that real estate be appraised for tax purposes on the basis of its ability to produce net rental income, capitalized at seven percent interest.

Be it further resolved, time has demonstrated the assessment ratio study is invalid for comparing assessments between counties of Kansas. Therefore, the study and its use should be discontinued.

Be it further resolved, the Kansas Livestock Association supports the elimination of taxation of all personal property with the exception of licensed motor vehicles and categories of real property that are treated as personal property under Kansas statutes.

SCHOOL FINANCING

Be it resolved, that the Kansas Livestock Association favors legislation that would place the major reliance for school revenues on a local income base in lieu of the local property base, and the income tax be collected by the state and returned directly to the local school district of origin, and that we retain the tax lid until a school finance plan similar to the above is adopted. However, we favor elimination of giving option of local income tax to local governmental units. And, we oppose any additional statewide property tax levy;

Be it further resolved, we favor elimination of the county school foundation fund levy;

Be it further resolved, we oppose distribution formulas of state aid to schools that use a property valuation index to determine the relative need of school districts; and

Be it further resolved, all public educational programs not under the direct supervision of a unified school district board, shall be administered at the state level and shall be funded from non-ad valorem tax source;

Be it further resolved, we oppose the increase of federal aid to education until the states have had time to make a realistic effort to solve the problems of school finance, including those raised by recent court decisions on this subject.

AGRICULTURE LABOR

Whereas, the Kansas Livestock Association has a responsibility to the citizens of Kansas to encourage orderly and uninterrupted production of agricultural products, to agricultural employees to encourage fair and lawful treatment, and to its members in the promotion of harmonious balance of such responsibilities with the economic well being of the livestock industry, and

Whereas, there exists a need for legislation to set forth rights and corresponding responsibilities of agricultural employers, employees and employee organizations within the State of Kansas.

Therefore, be it resolved, that the Kansas Livestock Association go on record as 1) supporting enactment of legislation by the Kansas legislature which will permit and regulate organization by agricultural employees and define agricultural employer rights and responsibilities in such a manner that the public interest is protected and employer and employee relationships in the industry are maintained in a harmonious and cooperative fashion; 2) supporting the establishment of an appropriate state board to administer the provisions of such legislation; 3) seeking the support of other segments of the agricultural industry for this legislation.

STATE EXECUTIVE REORGANIZATION

Whereas, the State Board of Agriculture and the State Animal Health Board have effectively and efficiently fulfilled the needs of Kansas agriculture under their present organization,

Therefore, be it resolved, the Kansas Livestock Association opposes any change under the proposed reorganization proposal in said Boards.

MEAT INSPECTION

Whereas, the livestock industry of Kansas recognizes the need for continued excellent meat inspection program in Kansas and recognizes the need to preserve the well being of the locker type slaughter and processing operations in Kansas.

Therefore, be it resolved, that the Kansas Livestock Association supports Federal Legislation that would increase the funding of State meat and poultry inspection programs from 50 to 80 percent.

FINANCIAL SITUATION OF EXPERIMENT STATION AND EXTENSION SERVICE

Whereas, the livestock industry in Kansas has made rapid growth and beef production has become Kansas' first billion dollar industry, and

Whereas, research carried on at Kansas State University and Branch Stations has played a vital role in this important facet of Kansas economy, and

Whereas, there is increasing need for re-research in ecology, nutrition, environment, and other areas affecting agriculture.

Therefore, be it resolved, that we urge that funding for the School of Agriculture at Kansas State University be adequate to fulfill this need and that the cuts made by the Budget Director in the proposed budget be restored.

MARKETING

Whereas, a number of different methods of marketing livestock have developed since passage of the present public livestock market law, and

Whereas, there has been a great increase in unsupervised slaughter-swine buying stations presently exempt under the market law, and

Whereas, the present law needs revision and clarification in order to facilitate proper enforcement.

Therefore, be it resolved that the Kansas Livestock Association supports the revisions proposed in the substitute bill for House Bill No. 1511 introduced in the 1971 legislature of the Public Livestock Market Law and we recommend to the legislature and to the Governor that this substitute bill for House Bill No. 1511 be passed by the 1972 legislature.

PREDATORS

Whereas, the food habits of individual predatory animals sometime conflict with the production of Kansas livestock and thereby threaten the success and existence of some individual livestock enterprises, and

Whereas, the Cooperative Extension Service at Kansas State University has developed a program that employs one person that has resulted in a reduction of livestock losses,

Therefore, be it resolved, that the Kansas Livestock Association supports legislation to increase the staff and existing program in order to help Kansas livestock producers do a more adequate job of controlling the individual predatory animals.

PRAIRIE PARKWAY

Whereas, the Kansas Livestock Association recognizes the beauty of the Flint Hills region which has been preserved through the use of excellent conservation practices and feels that this beauty should be shared with all America,

Therefore, be it resolved, that the Kansas Livestock Association supports the extension of the Prairie Parkway system which would include a drive-through route advertised for

sightseeing and would include such items as campsites and observation points.

BRAND

Be it resolved, that the Kansas Livestock Association is in favor of the further development of superior investigation of the theft of livestock to be financed by the livestock industry. We would recommend to legislature that brand registration fees be increased from $10 to $15 effective April 1, 1972. We also encourage everyone to own a brand and to brand their cattle in Kansas.

AGRICULTURAL POLLUTION

Whereas, livestock producers share the concern of our society for the protection of the environment, and

Whereas, the Federal government has adopted regulations beyond the ability of existing technology to deal with agricultural and other wastes,

Therefore, be it resolved, that regulations and standards pertaining to agricultural wastes should consider the unique nature of agriculture and should not prohibit agricultural operations so long as reasonable steps are taken to prevent pollution,

Be it further resolved, that the Kansas Livestock Association is opposed to class action pollution suits as they would tend to encourage "crank" or "harassment" actions.

Be it further resolved, that the Kansas Livestock Association recommends that the Kansas legislature and the Federal government provide funds to Kansas State University and other research organizations for the purpose of improving the present technology in the field of agricultural pollution control and we support a Federal investment tax credit or other appropriate economic incentive to encourage construction of agricultural pollution control facilities.

OPEN BURNING

Whereas, fire is a natural phenomenon of grasslands and periodic range burning has been proven and accepted range management practice and no equivalent alternative control measures are available to prevent brush invasion and further deterioration of the range resources, and

Whereas, the State Board of Health in regulation 28–19–45 prohibits open burning and in regulation 28–19–26 states that it shall be prime facie evidence that a person owning or controlling property on which burning might occur is deemed liable and subject to prosecution.

Therefore, be it resolved, that the Kansas Livestock Association support legislation to establish regulations permitting established agricultural controlled burning practices.

DRUGS AND FEED ADDITIVES

Whereas, science and technology have provided agricultural producers with tools such as drugs and feed additives to improve both the quality and quantity of food, and

Whereas, the Kansas Livestock Association pledges its complete cooperation for a seven-day withdrawal and mandatory certification on the use of Diethylstilbesterol (DES), and

Whereas, Diethylstilbesterol (DES) and other drugs and feed additives have been found by the Food and Drug Administration to be completely safe when used as directed,

Therefore, be it resolved, that the Kansas Livestock Association is opposed to the complete banning of DES and other feed additives or drugs which contribute so much to the abundance of food in this country. We favor objective scientific research to determine the effects of any drug residues that might be detected and to determine what level of residue, if any, might be safe.

PORTS AND ENTRY

Whereas, the Kansas ports of entry offer a great service in animal health work to the livestock industry in the State of Kansas, and

Whereas, procedures used in some other states that do not have ports of entry have been proven to be very ineffective in livestock disease control work.

Therefore, be it resolved, that the Kansas Livestock Association recommends that the Kansas port of entry system in regard to animal health work be retained.

RANGE MANAGEMENT

Whereas, fires along railroad rights of way are destructive to adjacent lands and therefore to livestock producers.

Therefore, be it resolved, that the Kansas Livestock Association recommend that the Kansas Corporation Commission so regulate and supervise the railroads that fires along rights of way be eliminated.

WEATHER MODIFICATION

Whereas, the livestock industry is at the mercy of the weather,

Therefore, be it resolved, we recommend and urge that study and operations in weather modification of both positive and negative results be obtained.

TRANSPORTATION

Whereas, a number of instances of sickness and death in cattle being hauled by diesel trucks have been reported and some evidence points to diesel fumes as being a contributing factor, and

Whereas, these fumes can best be lessened or eliminated by the trucking industry.

Therefore, be it resolved, that the Kansas Livestock Association urges both the livestock producer and the trucking industry take such steps as necessary to eliminate this problem as quickly as possible.

HIGHWAY FUND USE

Whereas, highway transportation and its continued development is essential to the economy of this country and is one of the few programs set up on a pay-as-you-go basis with no subsidy from the federal, general or others funds, but is derived from a special tax paid by highway users, and

Whereas, cutbacks of this fund expenditure creates hardship upon a state through interrupted planning and curtailed construction programs, and since this federal highway trust fund is indeed a trust fund set up by Congress to be disbursed as collected back to the several states; now

Therefore, be it resolved, that the Kansas Livestock Association does hereby urge that this fund be kept inviolate for the use as originally set up and that the distribution of the monies therein be constant when orderly planned highway construction is properly projected and approved; and that special attention be given to the earliest possible completion of the Interstate Highway System and the further development of the "Farm to Market" and Primary and Secondary Federal Aid Highway Systems.

MARKETING

Be it resolved, that the Kansas Livestock Association opposes any legislation that would prevent any producer of an agricultural commodity from selling his product, when, where, to whom, and for what price, because of membership or non-membership in a farm organization or bargaining association.

ESTATE TAXES

Be it resolved, the Kansas Livestock Association commends the National Livestock Tax Committee for its work in behalf of the livestock industry. In particular, we support the work on recent legislation as related to unrealistic land valuations based on speculative and inflated land prices in determining valuations for federal estate tax purposes. This Association will continue to support work in this regard.

Whereas, for federal estate tax purposes, farm and ranch land is being appraised on the basis of its current sales price reflecting an inflated and speculative value; and

Whereas, these appraisal values represent unreasonable levies against farm and ranch operations; and

Whereas, a more realistic and equitable valuation of farm and ranch land can be determined based upon productivity or earning capacity;

Therefore, be it resolved, that the Kansas Livestock Association endorses the principle that the valuation of farms and ranches for federal estate tax purposes be made on the basis of the value of the farms and ranches for agricultural production; and

Be it further resolved, that legislation, similar to S. 1957 introduced in the U.S. Senate and to H.R. 1031 and H.R. 10325 introduced in the House of Representatives, which would permit valuation of farm and ranch land based on its earning capacity for federal estate tax purposes, be enacted.

APPRECIATION

The Kansas Livestock Association extends its thanks to the many individuals and business enterprises that have contributed so much to the success of this convention. Particularly we thank the committees for their hard work in creating and directing the policies of our Association.

The hospitality of the Sid Murray Insurance Agency, the 14 Production Credit Associations of Kansas, Central Soya of Abilene, Incorporated, Farmland Industries, Kansas Motor Carriers Association, the Fourth National Bank and Trust Company of Wichita, and the Wichita Livestock Market Foundation, is recognized and appreciated.

We express our thanks to the press, radio, and television stations for their coverage of our convention; to our convention speakers; to the Wichita Chamber of Commerce; and to our convention committee for its excellent planning and supervision.

Finally we give our sincerest thanks to President Fred Germann; President-Elect Kalo Hineman; Executive Vice President John Meetz; Fieldman Willis Huston; Director of Cattle Feeders Service Virgil Huseman; Editor John Ricklefs; Cattle-Fax Analyst Pat Koons; and the office staff for their efficient and loyal service throughout the past year.

THE ECONOMIC FUTURE OF BANGLADESH

Mr. CHURCH. Mr. President, over the past several months, speculators have quipped that the new nation of Bangladesh would be "an international basket case" or "occupy a prominent position on the world dole for a long time to come."

Dr. Gustav F. Papanek, of the Harvard University Development Advisory Service, who has had 20 years professional experience dealing with the economy of West Pakistan and the former East Pakistan, now Bangladesh, offers a different and more optimistic analysis. His research of Bangladesh's economic situation leads him to conclude that—

> Bangladesh is potentially a self-sustaining economy . . . but in the next few years it will urgently need help from the outside.

I ask unanimous consent that Dr. Papanek's timely paper, which he presented to the Senate Subcommittee on Refugees be printed in the RECORD.

There being no objection, the state-

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

STATEMENT OF GUSTAV F. PAPANEK

For the last twenty years I have been professionally concerned with the economy of Pakistan. Six of these years were spent in Pakistan, mostly as an adviser to its Planning Commission. Part of the time I was in East Pakistan, now Bangladesh. Subsequently I was Director of the Development Advisory Service of Harvard University, which worked with a number of countries, including Pakistan.

Others are far better qualified than I to talk about the moral and humanitarian aspects of help to the refugees, and those who have lost their homes, their possessions and often their means of survival. Therefore, I want to concentrate on some of the points which affect the question of whether it is in the U.S. interest to help Bangladesh:

First, what are the needs and what is the likely cost of helping with relief and reconstruction; second, can the Bengalis manage a relief, reconstruction and development program, or is most outside help going to be wasted by a chaotic administration; and, third, is any assistance simply an "Operation Rat-hole," an open-ended commitment to an area that will not be able to support itself in the foreseeable future. Finally, there is the even more difficult question of the attitude that the Bangladesh government is likely to take towards the U.S. and other countries.

No one has any very good answers to these questions; I certainly do not. On the question of need, we have unfortunately only the vaguest estimates of the destruction that has taken place and of the amount of rice that has been produced recently. The big harvest normally take place in December and no one was paying much attention to the gathering of statistics during the fighting. However, the reconstruction and rehabilitation program under discussion by Bengali economists is estimated to cost over $3 billion over the next 18 months or more. About two-thirds of this amount should come from Bangladesh's own resources, with approximately one billion needed from foreign assistance. Of this amount, nearly one-half could be in the form of surplus agricultural commodities (wheat, rice, vegetable oils, milk powder, cotton and cotton yarn).

These figures are based on the relatively pessimistic estimates of 1971 rice production recently made by Bengali economists, but to do anything else at this stage might mean taking unacceptable risks of castastrophe. Given these estimates and other assumptions spelled out in the Appendix, Bangladesh might need nearly 3 million tons of wheat and rice over the next 18 months.

While 2 million tons of foodgrains a year is a substantial amount, it is a fraction of what the U.S. alone has shipped in past years from its surplus stocks under PL480. India and Pakistan together have received as much as 12 million tons a year from the U.S. in the past. Their need has now practically disappeared and countries other than the U.S. also have surpluses, so the foodgrain needs of Bangladesh can be met quite readily, and at little real cost, from the U.S. and other surplus countries.

The reconstruction and rehabilitation program is to take 18 months, or more, so the annual cost of aid to Bangladesh during the next fiscal year might be of the order of $400 million in loans and grants plus another $250 million in surplus agricultural commodities.

In the past, the U.S. contributed about one half of aid to Pakistan. For relief to East Pakistanis last year the U.S. has provided well over half of the total cost. If one assumes that the US government will provide only a third of regular aid and two-thirds of the surplus agricultural commodities required, the US in the next fiscal year would need to make available commodities for the relief and rehabilitation program. Less than half these amounts would be required for the remaining months of this fiscal year.

These, of course, are very rough figures, really just guesses at this stage. They have been worked out only to give some idea of the possible cost to the U.S. of helping with the terrible human problems facing Bangladesh. It is clear that the costs are quite manageable, especially since over half of the U.S. contribution could probably be in the form of surplus agricultural commodities available in storage. To help with the most massive disaster since World War II, a disaster affecting some 75 million people, the real cost to the U.S. would be roughly four times what the Town of Lexington, Massachusetts, spends per year to provide services to its less than 35,000 people. Even in terms of a greatly reduced appropriation, the amount is less than 10 percent of this year's aid bill. While this is not negligible, we can certainly manage it, if the will is there.

The second question is the ability of the Bangladesh government to manage the relief and rehabilitation program. If the U.S. and others provide the aid, will much of it be wasted because there simply are not enough experienced and competent people to manage it?

There are bound to be problems and some degree of inefficiency. One only needs to imagine the problems in the U.S. if similar catastrophes had affected us: if 20 million Americans had fled to Canada and Mexico, several million more had left their homes, and two million had been killed, while most of our railway lines and roads had been put out of commission, we would also find it difficult to manage efficiently. Bangladesh has several assets in coping with its problems that lead me to believe it will manage fairly well:

1. Most important is simply the spirit of the government and the people. Pakistan after its independence in 1947 faced almost equally difficult problems of refugee resettlement and reconstruction, but with a much smaller, less experienced civil service, and managed quite well because of the early enthusiasm.

2. The government of Bangladesh is relying on a civil service that has had nearly ten years of experience in administering the area. Since about 1963 the government of East Pakistan has been almost wholly staffed by Bengalis. In the districts, as well as in the central government administration in Dacca most of the people are the same who have been in these positions for several years. Many of them are first-rate by any standards—bright, experienced, well-trained.

3. One of the great problems of administration in the past was that all significant decisions were highly centralised in the capital of Pakistan. The central government of Islamabad was not only physically distant from Dacca, but also less familiar with East Pakistan, less concerned about its problems than with their own home province of West Pakistan. Now decisions can be taken locally, in Bangladesh.

4. Finally, the present government and particularly the Prime Minister, Sheikh Mujibur Rahman, can take any decision within reason without having to worry about opposition. For the immediate future Mujibur Rahman's popularity and support will be such that no vested interests, no group, can effectively resist any decision he is likely to make. He can redirect the administration, set priorities for the transport system, eliminate all non-essential imports, and take steps that would improve the efficiency of management and the economy, but which would have been difficult for earlier governments.

In short, while the Bangladesh government faces an extremely difficult situation, it also has substantial assets in dealing with the country's problems. Some aid is bound to be wasted or used inefficiently, but the administrative capacity of the country is at least equal to that of others in comparable situations. To withhold aid because of administrative weaknesses would be an excuse, not a justification.

There remains the third question—if the U.S. becomes involved in helping Bangladesh, is this a permanent commitment? Is Bangladesh a "basket case," as so vividly suggested, so that we should count ourselves lucky that we have avoided an obligation for supporting it indefinitely?

There is no doubt that it is a desperately poor area with few assets, that will remain poor by world standards for decades to come. The most serious problem will be how to find jobs for a labor force that is increasing at 3 percent a year, in a country that has no minerals or oil, with a tiny industrial base, where land holdings already average less than one acre and where several million people already are partly or largely idle. To deal with this problem—which can be tackled seriously only after the most urgent relief and reconstruction problems have been solved—will certainly not be easy. Without outside help it is probably impossible.

But Bangladesh does have some real assets which, together with outside help, make the future far from hopeless:

First, it now has a government and political leadership that has near-universal support, a rare situation in any country. In addition, most of the population is much better off now than during the last year, with the fear of looting, arrest, rape and death removed. As a result of both factors, the government can carry out a sensible long-term economic strategy with little opposition and with little need to produce immediate economic results. This honeymoon will, of course, not last indefinitely and the government will have to show some improvement before too long, but it does have a valuable breathing space.

Second, the society and economy are quite egalitarian and homogeneous. There are few of the social and political tensions which result when there is a generally visible group of rich families amidst terrible poverty. The average income is low, but this is more bearable when most people do not see others around them living extravagantly.

Third, the Green Revolution is still ahead in Bangladesh. The new seed varieties are just being introduced, fertilizer consumption is still low, the potential for water control is just beginning to be tapped. A number of organizational and institutional problems must be solved before the potential can be exploited, but most of these were on the way to a solution by 1969. Even if Bangladesh succeeds only in producing half the rice yields per acre that Japan has achieved—and the climate and soils in Japan are less favorable for rice production—it would nearly double rice output. It is therefore quite possible for Bangladesh to feed itself, and even to become an exporter of agricultural products.

Fourth, the agricultural potential is especially great because the possibility now exists of joint planning for water development with India. Dams in India can reduce floods during the summer and increase the water available in winter and increase production in both seasons. Good relations with India will have other benefits: income from transit fees between Calcutta and Assam, access to the Calcutta market for fruits, vegetables

and jute, and access to cheap Indian products (coal, limestone, etc.).

Fifth, the country no longer has to bear the burden of a large military effort and of providing foreign exchange for development in West Pakistan. Pakistan spent 3 percent or more of its national income on the military, a high figure for a poor country. Bangladesh, with no obvious external enemy, can put most of these resources into development. It also earned over half of Pakistan's foreign exchange, mostly by exporting its jute, and directly or indirectly received less than 40 percent in the form of imports. So it should be in a firm situation on foreign exchange.

Finally, it does not have a large but inefficient industrial sector, but it does have a low-cost labor force. With sensible policies it could become a major exporter of the cheap industrial products on which Hong Kong, Taiwan and others have relied. Wages are rising in these other countries and Bangladesh could become a major producer of such goods as transistors, cheap radios, ballpoint pens, cheap toys and so on.

East Pakistan achieved a growth rate of over 5 percent a year between 1959 and 1965, with none of these assets, and with little net foreign aid. If Bangladesh now takes advantage of its new assets, if it follows sensible policies and receives outside assistance at the same rate as some other countries of its size it should be able to do substantially better than that. Bangladesh is potentially a self-sustaining economy and a commitment to help it therefore need not be endless. But in the next few years it will urgently need help from the outside.

The Awami League, which constitutes the freely elected government is a genuine nationalist movement, with a membership that ranges from conservative to radical. Some would feel right at home in one of the more conservative Chambers of Commerce in the U.S., others would feel equally comfortable in a meeting of a radical student group. But its leadership all the way down to the local level is essentially middle-class and moderate: lawyers, teachers, students, farmers, traders and professionals of various kinds. Their sympathies have been with the Western nations; one of their central demands has been for Parliamentary democracy. They are undoubtedly deeply grateful to India and the Soviet Union for their support and they will want to maintain close and friendly relations with both countries. But they certainly did not fight against domination from West Pakistan just to slip into domination by India. Nor do they have any particular sympathy for Communism. To be wholly dependent for political support on India and the Soviet Union would be regarded as undesirable by the Bangladesh government and to rely wholly on these two countries for aid would probably be inadequate for Bangladesh's needs. But if the U.S. persists in its current policies, which seem to me difficult or impossible to justify in terms of U.S. self-interest, the Bangledesh government will have no choice but to take its support wherever it can get it.

The present leadership of Bangladesh is pragmatic. It was the only leadership of a large, widely supported mass movement in the less developed world that was friendly to the West and specifically friendly to the United States. If we help them now, when help is badly needed, the old sympathies are likely to re-assert themselves. If we continue to sulk over the failure of our policy to keep Pakistan undivided and rebuff Sheikh Mujibur Rahman and his colleagues again, Bangladesh will at best have to turn to others for help, at worst will become an area of instability and of economic disintegration which will affect India and other neighboring countries. India and Bangladesh together have almost the population and economic potential of China. It would seem to me to be in the U.S. interest to have them friendly, not hostile. That alone should call for a change in policy, even if the monstrous tragedies of the last year do not move us to help Bangladesh on purely moral grounds.

ANNEX 1.—*Food grains (mostly rice) available and needed*

January–June 1972:	*Millions of tons*
Fall harvest 1971 (Aman)	5.5
Seed, feed, waste	−0.5
Available from fall harvest	5.0
Available from imports and stocks	0.3
Winter (Boro) harvest (minus seed, feed, waste)	1.0
Total available	6.3
Consumption:*	
December (66 million people)	.90
January (69 million people)	.94
February (71 million people)	.97
March (73 million people)	1.00
April-June (75 million people)	3.08
Total needed	6.9
Shortage: 0.7 million tons.	
July 1972–June 1973:	
Production (average of last 3 years)	11.3
Less seed, feed, waste	−1.1
Total available	10.2
Consumption* (76 million people; population would have been 78.5 million; assumes deaths, plus reduction in births, plus nonreturnees, means decline of 2.5 million)	
Total needed	12.3
Shortage: 2.1 million tons.	
Total shortage:	
January–June 1972	0.7
June 1972	2.1
Total	2.8

*Consumption at the rate of 335 lbs. a year, or somewhat less than 16 oz. a day, roughly the average consumption of recent years.

ENVIRONMENTAL DIVERSITY—A NECESSARY QUALITY FOR SURVIVAL

Mr. CRANSTON. Mr. President, I have long been concerned with the general unawareness of the role biological diversity plays in our ecosystems. On January 26, 1971, when I introduced the Nature Protection Act, S. 249, I pointed out to the Senate that ecologists have learned that complex and diversified ecosystems are generally stabler and have more compensatory resources to resist invasion from outside plants and animals. Conversely, simple systems or systems with only a few dominant species are more subject to destructive population variations and more vulnerable to invasion by foreign life forms.

The implications of this theory lead to a far more compelling argument for preserving rare or endangered animals and plants than our traditional views about the esthetic and recreational values of variety in our world.

An article on the subject of diversity, written by Dr. Kenneth E. F. Watt, of the University of California, Davis, appeared in the February 1972, issue of Natural History. Dr. Watt is an outstanding scholar known best for his use of a systems approach to the study of ecosystems. He has written a clear and explicit summary of a complex subject. I believe it should be of great interest and value to the Senate.

I ask unanimous consent that the article be printed in the RECORD.

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

MAN'S EFFICIENT RUSH TOWARD DEADLY DULLNESS; DIVERSITY IS MORE THAN THE SPICE OF LIFE . . . IT IS AN ESSENTIAL ELEMENT OF SURVIVAL

(By Kenneth E. F. Watt)

Is diversity of concern to people interested in natural history, conservation, and the environment? To answer the question fully, one must understand the exact meaning of diversity, the ubiquitous loss of diversity in the world today, and the reasons for the value of diversity.

An argument for preserving anything, particularly something rare, often turns out to be an argument in disguise for diversity. Thus it seems worthwhile to provide natural historians with a handy kit of powerful arguments for variety because all too often they feel defenseless when confronted with the arguments of developers, which are clearly supported by short-term economic benefits, at least for a few investors.

The rapid loss of diversity in the world is a serious and pervasive phenomenon. Everywhere we look, we see examples of a large number of diverse entities being replaced by a small number of similar entities. We all know about endangered species such as birds of prey and large mammals, including all species of whales. Most of the world's commercial fish stocks are in danger, shell collectors are depleting tropical beaches and coral reefs, and pollution will annihilate commercial shellfish populations, resulting in simplification of our diets. But progressive environment simplification is far more widespread than this. Half the butterfly species have disappeared in Holland in the last few decades. Conversion of the Russian steppe from wild plants to wheat fields has cut the number of insect species there by 58 percent.

In the economic sphere, there has been a tremendous reduction in the number of manufacturers (think of the number of automobile manufacturers in the United States in 1910). Our numerous corner grocery stores have been replaced by a small number of huge supermarkets. In many fields, large numbers of small businesses have been replaced by small numbers of large businesses, to the point where we now have close to a monopoly in the manufacture of automobiles, aircraft, and computing equipment. Similarly, in agriculture large numbers of small farms have been replaced by small numbers of gigantic farm corporations.

Textural and cultural diversity has declined in our cities, whether you compare different parts of the same city or different cities in different countries. Driving from an airport to the downtown section of a city, the signs tend to be in the same language (English) and to advertise the same products, whether one is in Rome, Beirut, or Singapore. Stores and banks seem to be stamped from a common mold.

Remarkably, the same process has occurred in the human population. An extraordinarily high proportion of the world's population is now very young. The variety once found when many human age classes coexisted in approximately equal numbers has gone.

There are too many examples of the decline of diversity for this situation to have come about by chance. There is indeed an underlying explanation: we live in an age, and a culture, that puts tremendous emphasis on efficiency and productivity as

desiderata for mankind. Since variety is inimical to these goals, variety has suffered and will continue to suffer. Unless powerful and compelling arguments can be offered to stop this loss of d'versity, we will soon be living in a homogeneous—and boring—world.

The large number of specific arguments for maintaining the diversity of particular sets of plants, animals, or other items, all fall into four categories: (1) diversity promotes stability; (2) it insures against risks; (3) it utilizes more completely the sun's energy; and (4) it promotes the mental well-being of humans.

STABILITY

There are only two basic elements in all theoretical arguments as to why diversity promotes stability. The first is the idea of spreading the risk (the same idea applies when you buy insurance from the largest insurance company). If an organism feeds on many different species, the chances of all its food sources being wiped out in some catastrophe are less than if the organism feeds on a few, or only one, species. The second idea is that a system functions more harmoniously if it has more elements because it then has more homeostatic feedback loops.

This abstract language can be translated into concrete examples. The greater the variety of foods the human population has available for harvesting, hunting, or fishing, the less the likelihood of human catastrophe due to a disaster befalling a particular food species. A most chilling example was the potato famine in Ireland, where an entire human population was excessively dependent on one food species. The situation is fundamentally the same when an Indian tribe depends greatly on salmon at a certain time of year, and then something happens to the salmon population (pollution or modification of the environment in the spawning stream due to a hydroelectric installation, for example). What few people realize is that the entire human population is now setting itself up for the same situation. For example, as we rapidly deplete the stocks of more and more oceanic species through overfishing and pollution, we cut off optional food sources that we might need desperately in the future. The larger the human population becomes and the more the sources of food decline, the more precarious is our situation.

Our great preoccupation with productivity and efficiency and our lack of concern about diversity increase the precariousness of our economic lives, as well as of our food. Consider what happens when we try to maximize the manufacturing efficiency of aircraft. We are led, inexorably, to a situation in which a small group of corporations manufacture all aircraft in the United States. Each corporation is so large that it dominates the economies of the communities in which its plants are located. Thus, if a corporation meets with disaster, the community is in deep trouble. This is the case in Seattle, where Boeing sales slackened with saturation of the international aircraft market. Architectural writer Jane Jacobs discovered this principle of relating the economic stability of cities to their corporate diversity when she applied current ecological theories about the relation between diversity and stability to her urban studies.

In a most curious way, diversity appears to affect our economic, social, cultural, and political processes. For example, a slowly growing or nongrowing human population has a greater evenness of numbers in different age classes than a rapidly growing population. In a rapid-growth situation, young people are being added to the population so quickly that their numbers become unusually high relative to the numbers of older people. This strains society's ability to generate adequate educational taxes from the older group for the large younger group It also is difficult for a rapidly growing society to create new jobs at the rate at which young people want to enter the labor force. This will be obvious as unemployment in the United States climbs above 6.0 percent of the prospective labor force when the next age class graduates high school and college in June, 1972.

The more even the numbers of people in different age classes, the easier it is to maintain good communication between generations. Thus, all the present discussion about a "generation gap" has its ultimate origin in the lack of diversity in human age classes.

Many similar arguments relating diversity and different forms of stability could be put forth. But the fundamental structure of all such arguments would be the same, whether the subject is a human society or a rare plant. The reason for preserving it is that it may, in some unknown fashion, be important to the maintenance of stability in a part of the planetary ecosystem.

INSURANCE AGAINST RISK

The second class of arguments for maintaining diversity is similar to the argument for buying life insurance. You don't really want or expect to use it, but you buy it just in case. Similarly, a civilization does not expect its acts to harm the world, but just in case they are destructive it would be nice to have at hand other things to fall back on. For example, when we develop new strains of plants and animals, we do not plan on producing lines that will deteriorate in the future. We do not plan on producing strains of collie dogs in which the females will have progressively more difficulty bearing viable offspring, or strains of wheat that will succumb to rust, or berries that after many generations will no longer have much flavor. When these unintended events occur, we fall back on our "insurance policy," either by backcrossing our domestic strains to wild strains or by shifting our attention to new strains or species. But what if there are no new strains or species to replace the unsatisfactory ones?

The insurance value of diversity applies to more than just individual species or strains of plants and animals. Suppose a civilization irrigated farmland in such a fashion that long-term, irreversible destruction of the soil only showed up after a century. Suppose, further, that the entire landscape of this civilization had been managed in an identical fashion. Then when the entire landscape lost its fertility, the civilization would be without land to produce food. Further, it wouldn't even have any unmanaged land to compare with the managed lands for scientific investigations. A simple example of the importance of such comparisons is the few forest areas in Greece from which goats have been excluded. The contrast between the grazed and ungrazed lands is so startling that no argument from goat-lovers could withstand visual comparison of forested areas with and without goats.

It is tremendously important for any civilization to set aside areas where common cultivation practices are not adopted. If the same techniques are used everywhere, we can never know the long-term results of the practice. Thus, we can never know if intensive annual pesticide sprayings have long-term deleterious effects on orchards, forests, or woodlots unless we have unsprayed areas for comparison.

In short, a prudent civilization maintains the landscape under many different management strategies, including parcels of each soil and climate zone that are not managed at all. This landscape diversity has two values. First, we have a yardstick for determining if something unexpected or odd is gradually showing up in a managed area. Without the unmanaged areas, the odd or unexpected effect could be ascribed to something else, to a change in climate, for example. The unsettled arguments as to whether the changes in the landscape of the Mediterranean basin, the Middle East, North Africa, and northern India were due to climatic change or man's activities show clearly the importance of having unmanaged areas for checking. The second value of landscape diversity is that if a civilization unwittingly destroys its managed lands, it has other places on which to raise food while the destroyed areas are gradually rebuilt to productivity.

A generalization of this argument holds that an extremely prudent civilization would try to maintain other civilizations with different ideas about land use. Over the short term, the ideas of civilization *A* might appear vastly superior to those of civilization *B*. But over the long term it could turn out that the apparently "primitive" practices of civilization *B* were based on milennia of trial and error and incorporated deep wisdom that was unintelligible to civilization *A*.

FULLER USE OF ENERGY

The third argument for diversity originates in the theory of modern ecologists that any habitat contains a set of "niches," or functions, that may be filled, then the sun's energy that is captured by, and flows through, a system will be less than if all the niches were filled.

Perhaps the best known and most convincing illustration of this argument comes from Africa. Research shows that a mix of native animal species uses the landscape more economically than imported livestock. Each of the different types of antelope and other game consume slightly different mixes of food plants or parts of plants, so that a whole assemblage of different species uses the landscape more efficiently than, say, beef cattle would by themselves.

The same point has been demonstrated repeatedly in analyses of the first production per year per acre from different mixes of fish species. The more fish species there are in a body of water, the greater the gross production. Human understanding of this principle reaches its pinnacle in Oriental fish farming, where up to nine different species of carp are grown together in the set of proportions that makes best use of the resources in a pond.

MENTAL WELL-BEING

Humanity has given far too little thought to the fourth argument for preserving diversity. How much diversity in the world around us is optimal for the human mind? Might the extent of environmental diversity have any relationship to the average level of mental health in a population? Could a certain level of diversity be most satisfying—emotionally and esthetically—to the human mind because of the conditions during human evolution? Diversity in an environment may have a much deeper significance for man than is generally recognized. We know that human beings tend to hallucinate when kept in confined quarters and deprived of sensory stimuli. This could be interpreted as a protective device by the mind to provide an otherwise unavailable need. Reports have been published indicating that extremely refractory mental patients, who had not spoken to anyone in years, showed an almost miraculous response when taken to wilderness areas.

The recent popularity of skin diving as recreation may convey a deep message. It may be that the rate of incoming sensory stimuli while skin diving is optimal for the human mind. I know that after several hours of constant interruption by the phone and visitors, I almost jump with each new phone call. But I also know that I can become bored amid all this stimuli. The extremely deep satisfaction I derive from exploring the ocean edge of a tropical island may be telling me something important about my mind and all our minds. We have evolved over a very long period so that our minds can cope handily with a certain rate of incoming senory stimuli. We find the stimuli rate we can cope with in nature because we evolved

there. Either sharply higher or sharply lower rates of incoming sensory stimuli are bad for our nervous systems.

This is only anecdotal evidence, but more carefully designed and measured research leads to the same conclusion. For some years, Prof. J. Lee Kavanau of UCLA has been conducting experiments on small mammal behavior in heavily instrumented cages. These cages are wired, enabling the animal to change its environment and recording every move the animal makes and every detail of the conditions in the cage. The animals learn to control their environment by pressing levers. Kavanau has discovered that animals will press levers to select other than optimal conditions. In other words, confronted with a choice of living constantly in an optimal world but being bored, or of living in a world that is only optimal part of the time and experiencing variety, even a small rodent will opt for variety. It is reasonable to assume that humans would opt even more strongly for variety rather than constant optimality. Perhaps diversity is not merely a luxury for us. It may be something we need.

If, upon reflection, you agree with my general line of argument as to the intrinsic value of diversity, then important implications follow for many aspects of our lives. Particularly, the argument has important political implications.

For example, if diversity breeds stability, then it is worthwhile for a government to regulate the rate at which different interest groups acquire wealth and power. Undue concentration of power and wealth allows a small group of people to change the landscape to suit themselves, even though the change may not suit others. For example, wilderness mountaintops and tropical islands have been overdeveloped for second homes because the prospective profits for developers were very large relative to the total costs for society. Costs were small for the developers because they were not equitably divided within the society. If something went sour with the development—the lots didn't sell after trees were bulldozed—or if subsequent sewage and pollution control costs spiraled. then someone else, not the developer, absorbed the costs. Thus, the developer reaped a great gain from subdividing, and someone else paid the price. Given this situation it is scarcely surprising that so much of the world is being destroyed or that diversity is diminishing so rapidly.

A comparable situation exists with respect to the oceans, which our culture treats as an international "common property resource." Since no one or no one nation owns the oceans or their contents, no one has a motive for perpetuating the living diversity of the oceans. Consequently, the precious living treasures of two-thirds of the earth may be less diverse or even depleted in a short time. And there are too many links between oceanic and terrestrial life for such a loss to occur without profoundly affecting humanity.

THE CONCEPT OF DIVERSITY

To understand the intrinsic value of diversity, we must be explicit as to what we mean by the concept. Diversity measures two characteristics of any set of items: *evenness* in numbers of different items in the set; and *richness* in numbers of different items within the set.

To illustrate evenness, suppose we have two different sets comprising 25 items of five types:

Uneven set		Even set	
Cherries	14	Cherries	6
Apples	5	Apples	5
Pears	3	Pears	5
Bananas	2	Bananas	5
Lemons	1	Lemons	4
Total	25	Total	25

Richness depends on the number of items as well as the variety of items in a set. In the following table, the relative abundance of the first four items is the same in each set, but the second set is richer because it has both more items and rare items.

Types	First set	Second set
A	4	12
B	3	9
C	2	6
D	1	3
E		2
F		1
G		1
H		1
Total	10	35

In nature, an environment that is more tolerant of rarity has a larger number of species, or more richness.

Given that diversity measures both evenness and richness, can a single, simple measure combine both characteristics. In algebraic terms, we can arrive at such a measure, which will also give us a deeper understanding of diversity. Suppose we have N items in a set, divided into N_1 items of the first type, N_2 items of the second type, and so on, to N_n items of the *nth* and last type. Suppose N is 5, and we want to know the number of different ways we can arrange the five items in a row. The arrangement is $5 \times 4 \times 3 \times 2 \times 1$, which is typically written as $5'$. In general, the number of ways we can arrange N items in a row is N'. A measure of the ways in which we can arrange the items is given by

$$\frac{N!}{N_1!N_2!N_3! \ldots N_n!}$$

This can also be thought of as a measure of the variety, or diversity, within the set. By dividing the whole expression by N, we get a measure of the diversity per individual in the set. Using the first example of uneven and even sets, we get

$$\frac{1}{25}\left[\frac{25!}{14!\,5!\,3!\,2!\,1!}\right]$$

and

$$\frac{1}{25}\left[\frac{25!}{6!\,5!\,5!\,5!\,4!}\right]$$

The even set has 841 times more diversity per individual than the uneven set.

In the richness comparison, the diversity per individual is 15.6×10^{16} times greater in the richer set than in the less rich set. For those with an intuitive feeling for mathematics, this comparison will have great impact on their feelings about what mankind is doing to the plant by diminishing evenness and richness in the array of plants, animals, and everything else.

THE SULFUR TAX: PROS AND CONS

Mr. PROXMIRE. Mr. President, last week President Nixon submitted his environmental message to Congress. Included in that message is a proposal to tax sulfur emissions. The President deserves praise for backing the concept of a tax on sulfur. Last year, my colleague from Wisconsin, Congressman LES ASPIN, introduced a sulfur tax bill (H.R. 10890), and I introduced a companion to the Aspin measure in January (S. 3057).

Mr. President, I am convinced that taxing sulfur is the best way to abate harmful air pollution caused by sulfur oxide emissions. A tax on sulfur will provide refiners and users of sulfur-containing fuel with a direct economic incentive to remove the sulfur, either by desulfurizing the fuel or by eliminating sulfur oxides during the combustion process. A similar incentive will operate against smelters, sulfuric acid plants, and others that generate sulfuric byproducts into the air.

While I applaud the administration for endorsing the tax-the-polluter concept—an endorsement which I hope may soon carry over into the fields of water pollution and solid waste disposal—I find the specifics of the administration's sulfur tax bill deficient in a number of respects.

The administration proposal is keyed to the provisions of the Clean Air Act. The Clean Air Act requires the establishment of ambient air regions throughout the country, and directs the EPA to set primary and secondary standards for each pollutant that must be achieved in the regions. Primary standards are to be achieved by 1975, and secondary standards within a "reasonable time" thereafter.

For sulfur, the primary standard that has been established pursuant to the Clean Air Act is 90 micrograms per cubic meter. The secondary standard is 60 micrograms per cubic meter.

The administration's proposed sulfur tax would levy a tax only in regions where the secondary standards have not been met. If the primary standard has also not been met, the tax on the polluter would be 15 cents per pound of sulfur emitted. If the primary standard has been met, but the secondary standard has not, the tax would be 10 cents per pound.

The tax will not go into effect until 1976.

Here are some of the most serious drawbacks to the administration's sulfur tax:

First. It could give major polluters an incentive to move to, or locate in, regions that are now "clean" and which presently satisfy the secondary standards. By doing so, they would pay no sulfur tax. Thus, while this proposal might induce abatement in the worst regions, it might actually worsen air pollution in areas that now have little or no air pollution.

The bill could also provide an incentive for refiners of high sulfur content fuel to ship the fuel into "clean" regions, and to ship low sulfur fuel into "dirty" regions. Again, while this would help alleviate pollution in regions not meeting the standards, it could lead to a deterioration in regions which are now relatively free of sulfur pollution.

Second. It is unfair: Company X, located in a bad region, may have achieved 90-percent abatement, but ends up getting hit with a stiff tax because company Y, a big polluter, makes it impossible for the region to achieve primary or secondary standards. Thus, the amount of the tax is not wholly within the polluter's control, but depends also on how much his neighbors pollute.

Third. The Clean Air Act has a number of specific drawbacks to it, most significantly in its monitoring provisions. By keying the sulfur tax in with the Clean Air Act, these drawbacks will also affect the sulfur tax bill.

Fourth. The tax does not go into effect until 1976. Why the delay? Why allow sulfur pollution to run rampant until then? A far better approach would be to key the tax in gradually, at the rate of 5 cents per year.

Also, since the Clean Air Act requires all regions to at least meet primary standards by 1976, the 15 cents charge may be academic from the day it takes effect. And many experts believe that 10 cents per pound will be insufficient to induce the kind of abatement which is needed.

Fifth. There is no continuing incentive: Once a region achieves secondary standards, the tax goes off completely. One of the chief advantages of most pollution taxes is that the incentive to abate continues to operate, even after standards are met. But the administration's sulfur tax lacks this feature.

Sixth. Because the tax is tied in to the ambient air regions, it may be open to all kinds of political pressures. For example, suppose Company A is a big polluter. Suppose EPA and the Governor of the State have previously designated a large ambient air region which includes Company A—and that region, because of A, does not even meet primary standards. As a result, all polluters in that region must pay the 15-cent tax.

However, other polluters in the region could avoid the tax if two ambient air regions were carved out—one including Company A, and one including the rest of the region. If that were done, A would still be hit with the 15-cent tax, but the new second region might meet primary standards, or even secondary standards. Thus, all other polluters in the new region might have an opportunity to be freed of the tax. Clearly, this could open up substantial political pressures on EPA and the State Governors to gerrymander the ambient air regions.

Mr. President, a bill which is not keyed to the quality of the ambient air regions, which levies a "zero-base" tax, which begins to take effect on enactment, and which reaches a level of 20 cents per pound of sulfur would avoid all these pitfalls. I hope the Senate will take this into account when it considers the sulfur tax proposal.

WEDNESDAY IS DEADLINE FOR REQUESTING TIME AT PRICE COMMISSION HEARING ON UTILITY RATES

Mr. METCALF. Mr. President, I was pleased to read in last week's newspapers that the Price Commission has decided to conduct hearings next week to develop new policy and procedures for the regulation of price increases by the utilities.

I was in Montana when these hearings were announced. The newspapers and other media, very properly in my opinion, considered this to be one of the major stories of the week. The need for new policies and procedures is apparent in Montana as in other States which are served by utilities which would be excluded from Price Commission regulation under the present criteria, although they are enjoying extraordinary profits and have huge rate increases pending.

Upon returning to Washington and reading the hearing notice, I have learned that persons who wish to tesitfy are supposed to notify the Price Commission by Wednesday, February 16. I am sure that the utilities will be well represented. I hope the public is also. Requests to make an oral presentation should be sent to the Price Commission, 200 M Street NW., Washington, D.C. 20508.

Mr. President, I ask unanimous consent to have printed in the RECORD the Price Commission notice of hearing, as published in the Febduary 11 Federal Register, and a letter and enclosures on this subject which I sent to Price Commission Chairman Grayson on February 1.

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

PRICE COMMISSIONS PUBLIC UTILITIES AND PUBLIC BENEFIT CORPORATIONS—PUBLIC HEARINGS AND TEMPORARY SUSPENSION OF RATE INCREASE

Notice is hereby given that the Price Commission will hold public hearings on February 22, 24, 25, and 26, 1972, on the subject of the Commission's rules governing price increases by public utilities and public benefit corporations.

The hearings will be held in the auditorium of the U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. It is contemplated that a member of the Commission will preside at the hearings.

The Commission is not proposing any particular modifications to the current regulations applicable to public utilities and public benefit corporations. The purpose of the public hearings is to provide an effective forum for persons who wish to propose such changes which will enable the Commission, in cooperation with Federal, State, and local regulatory agencies, to achieve the goals of the Economic Stabilization Act of 1970, as amended, more effective and with a minimum of burden on the Commission, the regulatory agencies and the public utilities and public benefit corporations which are subject to the Commission's regulations.

The public hearings hereby scheduled reflect the Commission's intention to comport with the stated desire of Congress (section 207 of the Economic Stabilization Act of 1970, as amended) for public hearings on matters which have a significantly large impact upon the national economy.

Any person who has a substantial interest in the subject of the hearings, or who is representative of a group or class of persons which has a substantial interest in the subject of the hearings, may submit, on or before February 16, 1972, a written request to make an oral presentation. Any such written request should include a description of the substantial interest concerned: if appropriate, a statement of why the requesting person is a proper representative of a group or class of persons which has such an interest; and a concise summary of the proposed oral presentation. Oral presentations may be supplemented by written submissions filed with the Commission before or immediately after the oral presentation. The Commission reserves the right to select the persons to be heard at the hearings, to schedule and determine the length of their respective presentations, and to establish the procedures governing the conduct of the hearings. Except in extraordinary circumstances, no oral presentations will be allowed to last more than 1 hour. In addition, the Commission requests all other interested persons to submit written suggestions and comments on the subject for Commission consideration.

In order to allow time for any changes in the Commission's regulations which may result from these public hearings to be effective on the large number of public utility price increases which might otherwise go into effect before the changes are implemented, the Commission hereby decides, and orders, that all price increases by privately owned public utilities which were not legally in effect on February 9, 1972, are prohibited until the Commission implements the changed regulations, if any, or until March 10, 1972, whichever first occurs.

The time limit for review or other action by the Commission on any public utility or public benefit corporation price increase which has not elapsed by February 10, 1972, and on any public utility or public benefit corporation price increase to which the suspension of the preceding paragraph applies, is hereby extended to March 25, 1972, or to 15 days after the Commission issues modifications, if any, to its public utility regulations resulting from these hearings, whichever first occurs. The price increases to which this extension of time applies include those covered by Price Commission Decision, "Final Action on Rate Increases Reported Prior to January 17, 1972," published in the Federal Register on February 8, 1972 (37 F.R. 2859).

The suspension of price increases under this order does not apply to price increases to which § 300.16(c) of the current Commission regulations applies or to which this section would have applied had it been in effect earlier.

The Price Commission will consider written requests for exceptions to this suspension of price increases which are based upon good cause shown, such as gross inequity or extreme hardship.

All written submissions, requests to make an oral presentation, and requests for exceptions should be sent to the Price Commission, 2000 M Street NW., Washington, DC 20508.

Issued in Washington, D.C., on February 10, 1972.

C. JACKSON GRAYSON, Jr.,
Chairman, Price Commission.

[FR Doc. 72-2233 Filed 2-10-72; 11:47 am]

FEBRUARY 1, 1972.

Mr. C. JACKSON GRAYSON,
Chairman, Price Commission,
Washington, D.C.

DEAR MR. GRAYSON: This letter responds to requests made recently by members of your staff, and your Mr. Hogue's call, for back-up to my suggestion regarding Price Commission Form PC-35. That form was discussed in a meeting at the Office of Management and Budget attended by members of the Advisory Council on Federal Reports. Vic Reinemer and E. Winslow Turner represented me at that meeting.

One of our suggestions is to eliminate the request for information on rate of return as computed by the jurisdictional commissions. Most of those commissions use different rate bases, as can be seen on Table VII (facing page 38) of the enclosed Senate Document 56, "State Utility Commissions." The extent of the variation is described on pages 25–28. As is pointed out the rate of return as computed by a state commission can be as low as 5.33%, when the Federal commission looking at the same data computes it as 11.37%.

This variation results from divergent standards regarding fair value, reproduction cost new or depreciated original cost rate base, and allowance or disallowance in rate base of items such as accumulated tax deferrals, working capital, construction work in progress, contributions in aid of construction, customers' advances materials and supplies, plant acquisition adjustments and plant held for future use.

My second suggestion deals with provid-

ing your Commission with historical data on companies' return on common equity. That information is readily ascertainable. It is a uniform and fair standard of earnings after payment of interest. It shows what is available for dividends on common stock, reinvestment or nest eggs for future dividends. My second enclosure, a Congressional Record insert of information I received from the Federal Power Commission (which publishes this data in its annual statistical publications) shows the return on common equity of the major electric utilities for 1969 and 1970.

For your staff's information the Missouri Public Service Commission publishes comparative utility financial data more rapidly than Federal commissions do. Enclosed is an article, from a newsletter published by the National Association of Regulatory Utility Commissioners, regarding the Missouri commission's report on independent telephone companies. The Missouri commission published in June of last year comparative 1970 data on major utilities which the Federal Power Commission has not published yet.

My third suggestion was and is that the Price Commission arm itself with data that will show the decreasing cost of money and taxes and decrease utility revenue accordingly. Many of the several billion dollars in pending annual rate increases are based upon projections made prior to the freeze, when the cost of money was rising. Long-term interest rates on high grade utility bonds are now down from 9.1% to a 7.5% level, with expectation of further reduction.

Those pre-freeze rate requests also predated the Revenue Act of 1971, which increased the investment tax credit available to utilities by 33% and liberalized depreciation regulations for utilities. The marked decrease in utility taxes will continue because of the Revenue Act of 1971. Last year's and next year's tax reductions need to be taken into account.

I enclose the table entitled "Taxes Charged to Electric Operations" which appeared in the 1971 issue of the Edison Electric Institute's "Pocketbook Statistics." It shows that Federal taxes, as a per cent of revenue, decreased from 14.7% in 1955 to 9.8% in 1969 and 7.0% in 1970. Total taxes as a per cent of revenue decreased from 24% in 1960 to 20.9% in 1969 and 18.3% in 1970.

Your commission can obtain relevant data on this point by obtaining from the companies the same information they provide their stockholders. Enclosed is VEPCO's 26 January notice that 96.724% of its 1971 common dividends is not taxable. On the same day PEPCO announced that 99% of its 1971 common dividends are not taxable. The enclosed preliminary statement of income in 1971 for Montana Power shows how its taxes decreased despite a $1.5 million increase in revenue.

I call your special attention to the fact that the latter company, with operating revenues of $88 million last year, does not meet the Price Commission's unrealistically high reporting requirement of $100 million, yet its net profit amounted to 22.6% of revenue last year, as it did the year before, when it netted more than any of the other 100 major power companies. Yet that company now has pending before the State regulatory commission a request for substantial additional gas and electric rate increases. My final enclosure is my Newsletter discussion of this case and the board chairman's request for an increase to a return on common equity level *far exceeding that which the company already earns.*

You will not reduce some of the most inflationary rate increase requests unless you include in your regulatory attempts those companies that gross in excess of $50 million annually and I strongly suggest that the Commission appropriately revise its regulations.

Very truly yours,

LEE METCALF.

As provided by the FPC:

PERCENT RETURN ON COMMON EQUITY—CLASSES A AND B ELECTRIC UTILITY COMPANIES

State and company	1969 Return on common equity—percent	1969 Common equity—percent of total capitalization	1970 Return on common equity—percent	1970 Common equity—percent of total capitalization
Alabama:				
Alabama Power Co	13.6	34.6	12.1	34.4
Southern Electric Generating Co.[1]	12.2	33.6	13.5	33.8
Alaska: Alaska Electric Light & Power Co	8.1	55.2	9.0	50.1
Arizona:				
Arizona Public Service Co	10.0	31.5	10.1	32.3
Citizens Utilities Co.[3]	11.8	48.0	15.4	42.7
Tucson Gas & Electric Co	12.6	37.5	14.4	36.6
Arkansas:				
Arkansas-Missouri Power Co.[3]	12.3	29.2	10.7	27.5
Arkansas Power & Light Co.[3]	13.5	32.1	14.1	32.2
Arklahoma Corp.[1]	6.7	24.5	6.2	28.1
California:				
Pacific Gas & Electric Co	11.6	36.7	10.6	36.8
San Diego Gas & Electric Co	13.0	37.8	12.1	37.2
Southern California Edison Co.[3]	10.3	35.8	11.2	35.1
Colorado:				
Home Light & Power Co	8.9	59.5	10.3	61.4
Public Service Co. of Colorado	12.7	32.8	12.6	34.0
Western Colorado Power Co	5.5	65.9	5.5	67.1
Connecticut:				
Connecticut Light & Power Co	12.4	35.2	11.0	34.2
Connecticut Yankee Atomic Power Co.[1]	8.6	45.0	9.2	49.1
Hartford Electric Light Co	13.1	33.3	12.2	33.6
United Illuminating Co	13.0	34.3	12.0	33.8
Delaware—Delaware Power & Light Co	15.0	31.9	12.1	30.7
District of Columbia—Potomac Electric Power Co.[3]	8.1	32.6	9.0	30.6
Florida:				
Florida Power Corp	15.2	37.0	15.0	35.7
Florida Power & Light Co	11.9	41.6	11.9	41.9
Florida Public Utilities Co	13.2	31.8	16.7	32.9
Gulf Power Co	14.8	35.0	15.1	33.7
Tampa Electric Co	14.7	34.7	15.6	34.8
Georgia:				
Georgia Power Co	12.4	34.0	12.0	33.7
Savannah Electric & Power Co	12.6	35.8	12.3	33.0
Hawaii:				
Hawaiian Electric Co., Inc	10.7	32.5	10.2	32.4
Hilo Electric Light Co., Ltd	7.6	49.0	10.1	45.7
Maui Electric Co., Ltd	9.5	50.9	10.3	54.7
Idaho—Idaho Power Co.[3]	10.4	35.9	11.5	36.6
Illinois:				
Central Illinois Light Co	12.0	39.5	13.7	37.1
Central Illinois Public Service Co	14.8	36.2	14.4	37.5
Commonwealth Edison Co	13.8	39.1	13.6	36.1
Electric Energy, Inc.[1 3]	3.7	7.0	5.5	7.4
Illinois Power Co	17.4	34.8	17.2	35.7
Mt. Carmel Public Utility Co	8.5	61.0	8.5	61.8
Sherrard Power System	7.3	87.7	6.2	88.3
South Beloit Water, Gas & Electric Co	4.6	100.0	6.0	100.0
Indiana:				
Alcoa Generating Co.[1]	1.9	100.0	1.5	100.0
Commonwealth Edison Co. of Indiana, Inc.[1]	7.7	39.0	7.7	39.7
Indiana & Michigan Electric Co.[3]	17.9	31.6	17.5	32.7
Indianapolis Power & Light Co	15.6	32.3	13.9	31.9
Northern Indiana Public Service Co	15.3	39.1	16.3	39.2
Public Service Co. of Indiana, Inc	14.0	40.4	14.4	39.6
Southern Indiana Gas & Electric Co	14.9	38.1	15.4	38.3
Iowa:				
Interstate Power Co.[3]	11.2	30.7	11.2	30.0
Iowa Electric Light & Power Co	10.5	33.8	11.3	31.0
Iowa-Illinois Gas & Electric Co.[3]	13.5	36.9	12.3	33.4
Iowa Power & Light Co	13.5	34.0	11.2	33.6
Iowa Public Service Co.[3]	12.0	43.4	11.5	41.1
Iowa Southern Utilities Co	14.6	50.4	14.4	52.3
Kansas:				
Central Kansas Power Co., Inc	10.9	48.0	11.8	48.4
Central Telephone & Utilities Corp.[3]	16.4	43.9	13.1	44.2
Kansas Gas & Electric Co	12.4	43.7	12.8	42.7
Kansas Power & Light Co	13.1	45.8	14.9	43.4
Kentucky:				
Kentucky Power Co	10.6	39.7	5.6	39.5
Kentucky Utilities Co.[3]	12.7	48.8	12.9	44.3
Louisville Gas & Electric Co	13.9	46.5	13.8	46.3
Union Light, Heat & Power Co	9.2	54.9	9.2	50.9
Louisiana:				
Central Louisiana Electric Co., Inc	15.5	30.5	15.4	30.6
Gulf States Utilities Co.[3]	14.0	33.0	14.4	32.8
Louisiana Power & Light Co	14.1	32.0	13.7	33.0
New Orleans Public Service Inc	8.9	34.5	10.1	35.1
Maine:				
Bangor Hydro-Electric Co	10.4	35.5	9.6	34.5
Central Maine Co	10.0	38.2	11.1	35.7
Maine Public Service Co	11.7	36.1	5.9	35.4
Rumford Falls Power Co.[1]	5.5	100.0	6.3	100.0
Maryland:				
Baltimore Gas & Electric Co	13.2	38.8	12.2	39.9
Conowingo Power Co	6.4	76.1	6.6	77.3
Delmarva Power & Light Co. of Md	8.0	50.4	7.2	49.1
Potomac Edison Co	14.3	29.1	13.0	30.9
Susquehanna Power Co.[1]	7.5	60.8	6.4	80.8
Massachusetts:				
Boston Edison Co	11.4	38.4	11.6	35.6
Boston Gas Co	5.6	51.0	5.6	45.6
Brockton Edison Co	9.2	37.5	10.3	35.3
Cambridge Electric Light Co	7.8	50.7	9.0	51.1
Canal Electric Co.[1]	8.1	50.5	10.7	50.6
Cape & Vineyard Electric Co	9.4	50.0	7.9	51.0
Fall River Electric Light Co	7.7	54.5	8.3	54.6
Fitchburg Gas & Electric Light Co	8.9	56.3	8.7	44.6
Holyoke Power & Electric Co.[1]	4.7	56.9	11.3	57.8
Holyoke Water Power Co.[1]	6.7	46.1	7.7	47.7
Massachusetts Electric Co	8.1	41.3	9.9	38.4
Montaup Electric Co.[1]	6.9	54.0	6.7	49.5
New Bedford Gas & Edison Light Co	7.4	50.1	7.0	50.4
New England Power Co.[1 3]	11.9	32.3	9.3	30.4
Western Massachusetts Electric Co	9.8	43.3	9.1	41.4
Yankee Atomic Electric Co.[1]	5.5	77.1	5.4	80.6
Michigan:				
Alpena Power Co	7.9	84.2	8.8	85.5
Consumers Power Co	11.5	39.7	11.6	38.4
Detroit Edison	10.5	39.5	10.1	37.0
Edison Sault Electric Co	12.0	37.5	12.0	38.5
Michigan Power Co	6.1	47.2	8.0	47.3
Upper Peninsula Power Co.[1]	10.1	38.7	9.6	39.2
Minnesota:				
Minnesota Power & Light Co	13.3	36.6	13.5	37.7
Northern States Power Co.[3]	13.3	31.7	12.6	32.4

Footnotes at end of table.

State and company	1969 Return on common equity—percent	1969 Common equity—percent of total capitalization	1970 Return on common equity—percent	1970 Common equity—percent of total capitalization
Mississippi:				
Mississippi Power Co	11.8	34.9	13.2	34.2
Mississippi Power & Light Co	15.2	34.4	14.9	32.8
Missouri:				
Empire District Electric Co	14.3	32.5	14.5	32.4
Kansas City Power & Light Co.[3]	11.7	38.4	11.3	36.5
Missouri Edison Co	6.4	63.3	5.9	67.7
Missouri Power & Light Co	10.6	34.9	10.5	34.6
Missouri Public Service Co	13.6	25.4	13.0	26.9
Missouri Utilities Co	8.1	35.4	7.4	37.4
St. Joseph Light & Power Co	11.2	37.6	10.7	35.3
Union Electric Co.[3]	11.9	34.2	13.4	33.7
Montana: Montana Power Co.[3]	16.1	46.6	17.5	47.3
Nevada:				
Nevada Power Co	12.8	36.8	12.2	37.1
Sierra Pacific Power Co.[3]	12.1	34.9	11.7	36.3
New Hampshire:				
Concord Electric Co	9.3	39.9	9.2	40 8
Connecticut Valley Electric Co., Inc	6.4	74.8	7.1	76.2
Exeter & Hampton Electric Co	12.3	32.7	12.9	33.9
Granite State Electric Co	9.9	100.0	11.2	100.0
Public Service Co. of New Hampshire[3]	13.0	29.8	15.3	30.7
New Jersey:				
Atlantic City Electric Co	14.8	32.6	13.1	32.9
Jersey Central Power & Light Co	10.9	39.4	12.8	39.9
New Jersey Power & Light Co	4.4	37.9	2.4	42.0
Public Service Electric & Gas Co	11.8	34.8	10.7	34.8
Rockland Electric Co	10.6	63.5	10.7	57.4
New Mexico:				
New Mexico Electric Service Co	12.4	35.1	13.3	39.2
Public Service Co. of New Mexico	12.4	37.3	12.7	37.0
New York:				
Central Hudson Gas & Electric Corp	11.6	36.7	8.2	33.5
Consolidated Edison Co. of N.Y., Inc	7.9	31.3	7.4	31.3
Long Island Lighting Co	12.9	33.5	12.5	33.9
Long Sault, Inc.[1]	9.7	100.0	11.7	100.0
New York State Electric & Gas Corp	11.9	33.6	10.4	33.4
Niagara Mohawk Power Corp	9.9	31.4	9.4	32.0
Orange & Rockland Utilities, Inc	14.3	25.4	13.8	26.5
Rochester Gas & Electric Corp	12.3	32.8	11.1	31.6
North Carolina:				
Carolina Power & Light Co.[3]	11.7	36.1	10.1	36.0
Duke Power Co.[3]	12.6	34.4	11.2	31.0
Nantahala Power & Light Co	7.0	100.0	7.3	100.0
Yadkin, Inc	4.9	100.0	5.0	100.0
North Dakota:				
Montana-Dakota Utilities Co.[3]	13.0	37.5	13.3	38.2
Otter Tail Power Co.[3]	10.4	40.0	11.7	40.9
Ohio:				
Cincinnati Gas & Electric Co	16.4	40.8	15.8	36.5
Cleveland Electric Illuminating Co	14.7	51.5	14.5	45.0
Columbus & Southern Ohio Electric Co	12.1	36.1	12.1	31.9
Dayton Power & Light Co	14.7	37.4	12.5	36.6
Ohio Edison Co	15.2	45.6	14.9	42.4
Ohio Power Co	16.1	32.3	16.1	31.3
Ohio Valley Electric Corp.[1]	8.0	4.7	8.0	5.0
Toledo Edison Co	15.6	35.7	15.2	34.5
Oklahoma:				
Oklahoma Gas & Electric Co.[3]	16.5	33.2	17.4	33.7
Public Service Co. of Oklahoma	13.9	39.2	14.7	40.2
Oregon:				
California-Pacific Utilities Co.[3]	8.9	42.7	8.3	40.5
Pacific Power & Light Co.[3]	10.9	31.6	11.2	31.4
Portland General Electric Co	12.2	35.6	10.8	35.0
Pennsylvania:				
Duquesne Light Co	15.1	31.7	13.7	31.7
Hershey Electric Co	8.8	50.2	6.5	39.2
Metropolitan Edison Co	9.0	36.0	7.5	43.1
Pennsylvania Electric Co.[3]	12.3	35.5	10.8	36.3
Pennsylvania Power Co	13.5	36.4	13.4	33.5
Pennsylvania Power & Light Co	12.2	32.7	10.0	31.8
Philadelphia Electric Co	10.5	37.9	9.5	36.4
Philadelphia Electric Power Co.[1]	12.2	28.4	11.1	35.0
Potomac Edison Co. of Pennsylvania	5.4	100.0	5.6	100.0
Safe Harbor Water Power Corp.[1]	6.6	54.6	7.6	57.1
UGI Corporation	9.0	58.8	9.7	54.3
West Penn Power Co	15.4	30.8	15.2	32.5
Rhode Island:				
Blackstone Valley Electric Co	8.5	43.7	9.2	40.1
Narragansett Electric Co	9.8	37.5	10.9	37.0
Newport Electric Corp	11.2	39.2	10.9	35.1
South Carolina:				
Lockhart Power Co	5.9	100.0	5.6	100.0
South Carolina Electric Gas Co	14.8	31.7	14.1	31.8
South Dakota:				
Black Hills Power & Light Co.[3]	8.4	39.4	9.0	37.2
Northwestern Public Service Co	12.2	36.3	14.3	34.6
Tennessee:				
Kingsport Power Co	10.0	47.5	8.2	48.2
Tapoco, Inc.[1,3]	4.3	100.0	4.7	100.0
Texas:				
Central Power & Light Co	18.0	43.9	16.3	44.2
Community Public Service Co.[3]	13.9	33.1	14.1	33.6
Dallas Power & Light Co	13.2	37.0	15.1	37.4
El Paso Electric Co.[3]	17.2	39.3	17.0	40.8
Houston Lighting & Power Co	14.5	42.4	15.1	42.4
Southwestern Electric Power Co.[3]	15.6	37.9	16.1	39.1
Southwestern Electric Service Co	12.9	30.1	13.7	31.7
Southwestern Public Service Co.[3]	15.8	31.4	17.9	31.7
Texas Electric Service Co	16.8	39.8	17.3	38.6
Texas Power & Light Co	16.6	37.4	16.8	36.9
West Texas Utilities Co	15.5	45.3	16.4	44.5
Utah: Utah Power & Light Co.[3]	11.7	35.0	12.5	35.7
Vermont:				
Central Vermont Public Service Corp.[3]	10.4	29.6	7.3	32.8
Green Mountain Power Corp	12.0	31.0	10.6	32.0
Vermont Electric Power Co., Inc.[1]	4.1	15.1	6.5	12.5
Virginia:				
Delmarva Power & Light Co. of Va	8.4	55.1	7.1	55.5
Old Dominion Power Co	4.3	63.2	3.7	59.7
Potomac Edison Co. of Virginia	6.0	100.0	6.2	100.0
Virginia Electric & Power Co.[3]	12.4	37.0	13.5	34.7
Washington:				
Puget Sound Power & Light Co	9.4	31.7	9.4	31.1
Washington Water Power Co.[3]	11.1	32.1	10.4	33.0
West Virginia:				
Appalachian Power Co.[3]	17.3	31.8	19.4	31.4
Monongahela Power Co.[3]	15.6	30.2	13.6	32.2
Potomac Edison Co. of West Virginia	5.3	100.0	6.1	100.0
Wheeling Electric Co	8.3	39.7	9.9	40.1
Wisconsin:				
Consolidated Water Power Co	4.2	99.9	3.5	99.9
Lake Superior District Power Co.[3]	9.6	41.0	9.1	42.0
Madison Gas & Electric Co	9.2	48.2	8.6	44.0
Northern States Power Co	8.8	52.2	9.2	51.4
Superior Water, Light & Power Co	7.9	46.4	5.5	47.0
Wisconsin Electric Power Co	9.6	42.7	8.3	40.0
Wisconsin Michigan Power Co.[3]	7.9	50.2	7.2	51.4
Wisconsin Power & Light Co	12.9	38.4	12.2	36.0
Wisconsin Public Service Corp.[3]	10.9	32.8	11.3	30.5
Wisconsin River Power Co.[1]	5.5	60.9	5.5	61.7
Wyoming: Cheyenne Light, Fuel & Power Co.	8.8	55.8	10.0	57.0

[1] Does not serve residential customers.
[2] Also operates in other States.
[3] Also operates in adjoining States.

Note: In sec. VIII an overall rate of return was developed for electric operations only and the income statements of the companies were adjusted to achieve uniform accounting treatment of deferred taxes and investment tax credits, related to electric operations. Because of the complexities involved in determining return on equity applicable to electric operations only, the rates of return on equity shown in this section have been computed using the companies' overall equity and overall reported earnings based on the reported accounting treatment of deferred taxes and investment tax credits.

Missouri PSC Publishes Financial and Operating Analysis of Independent Telephone Industry

A financial and operating analysis of major independent telephone companies in the United States for the period 1961 to 1970 has been published by the *Missouri Public Service Commission.*

The information in the report consists of more than 50 relevant indices on each of the 145 largest independent telephone companies in the United States, all with gross revenues of one million dollars or more. This is the first time that this kind and amount of information on the independent telephone industry and the individual companies within the industry has been made available.

The report is based on company information supplied to the United States Independent Telephone Association.

Among the indices are financial ratios, such as return on equity, interest coverage, payout ratios, balance sheet items, the capital ratios, with and without short-term debt, and computations on the major income accounts, with subdivisions on percent of operating revenue allocable to each account. Also included is a dollar cost and revenue breakdown per company-owned telephone.

The report will be extremely valuable to all concerned with regulatory process because heretofore those interested in this type of information were limited by the extensive computations required to generate these indices. This publication will provide a ready reference for this information which the researcher can employ in the analytical process without the laborious preliminary efforts.

A new feature incorporated in this publication is a univariate statistical analysis on each one of the indices for all the companies for the year 1970. This statistical analysis will permit the user to study dispersions around any industry characteristic and will form the basis for a variety of preliminary studies on various subsets of the industry.

The computerized report was prepared by the PSC staff in conjunction with other research and is an example of the benefits the regulatory field can derive from carefully implemented electronic data processing techniques.

There is a charge of $5.00 per copy to cover the cost of printing. The document entitled "The Exclusive Directory of Independent Operating Telephones" may be obtained from the Office of Economic Research, Missouri Public Service Commission, Jefferson City, Missouri 65101.

EEI POCKETBOOK OF ELECTRIC UTILITY INDUSTRY STATISTICS—17TH EDITION, PUBLISHED 1971—EDISON ELECTRIC INSTITUTE

TAXES CHARGED TO ELECTRIC OPERATIONS—INVESTOR-OWNED ELECTRIC UTILITIES [1]

[Dollars in millions]

Year	Operating revenue	Total taxes [2]	Percent of revenue	Federal taxes	Percent of revenue
1970	$18,830	$3,452	18.3	$1,325	7.0
1969	17,164	3,585	20.9	1,684	9.8
1968	15,810	3,484	22.0	1,763	11.1
1967	14,569	3,144	21.6	1,570	10.8
1966	13,773	3,044	22.1	1,597	11.6
1965	12,887	2,872	22.3	1,510	11.7
1964	12,211	2,803	23.0	1,521	12.5
1963	11,577	2,692	23.3	1,502	13.0
1962	10,972	2,577	23.5	1,445	13.2
1961	10,301	2,451	23.8	1,385	13.4
1960	9,737	2,331	24.0	1,337	13.8
1959	9,144	2,192	24.0	1,271	13.9
1958	8,478	1,980	23.4	1,149	13.6
1957	8,054	1,858	23.1	1,108	13.8
1956	7,521	1,766	23.5	1,081	14.4
1955	6,934	1,641	23.7	1,015	14.7
1954	6,317	1,442	22.8	875	13.8
1953	5,940	1,339	22.5	824	13.9
1952	$5,426	$1,224	22.6	$753	13.9
1951	5,005	1,150	23.0	719	14.4
1950	4,510	948	21.0	561	12.4
1949	4,113	794	19.3	442	10.7
1948	3,886	712	18.3	391	10.0
1947	3,480	664	19.1	374	10.8
1946	3,127	644	20.6	378	12.1
1945	3,012	652	21.7	411	13.7
1944	2,955	677	22.9	442	14.9
1943	2,816	680	24.1	448	15.9
1942	2,609	628	24.1	397	15.2
1940	2,277	404	17.7	190	8.3
1937	2,031	308	15.2	[3] 101	5.0
1932	1,713	201	11.7		
1927	1,567	147	9.4		
1922	883	73	8.3		
1917	465	30	6.4		
1912	268	13	4.9		

[1] Alaska and Hawaii included since 1960.
[2] Includes Federal income tax deferments and credits.
[3] Separate data for Federal Taxes not available prior to 1937.

Sources: 1927–70 EEI Statistical Year Book; 1912–22 U.S. Census of Central Electric Light & Power Stations.

THE MONTANA POWER CO. AND SUBSIDIARIES CONSOLIDATED—PRELIMINARY STATEMENT OF INCOME, DEC. 31, 1971

	12 months, 1971	12 months, 1970	Increase over last year
Operating revenues	$88,226,473.00	$86,675,269.00	$1,551,204.00
Operating revenue deductions:			
Operating expenses, excluding taxes	30,655,307.00	28,462,551.00	2,192,756.00
Taxes:			
Federal income	13,183,861.00	13,832,980.00	(649,119.00)
Other	11,102,788.00	10,758,373.00	344,415.00
Amortization of investment credit (net)	195,932.00	(126,568.00)	322,500.00
Provision for deferred taxes on income:			
Accelerated amortization	(76,500.00)	(76,500.00)	0
Liberalized depreciation	1,004,758.00	1,014,878.00	(10,120.00)
Depreciation and depletion	6,926,803.00	6,958,774.00	(31,971.00)
Total, operating revenue deductions	62,992,949.00	60,824,488.00	2,168,461.00
Operating income	25,233,524.00	25,850,781.00	(617,257.00)
Other income and deductions:			
Other income (net)	$1,256,414.00	$646,349.00	$610,065.00
Allowance for funds used during construction	211,695.00	92,727.00	118,968.00
Total	1,468,109.00	739,076.00	729,033.00
Income before interest charges	26,701,633.00	26,589,857.00	111,776.00
Interest charges:			
Interest on long-term debt	6,170,604.00	4,794,493.00	1,376,111.00
Other interest expense	572,140.00	2,150,579.00	(1,578,439.00)
Total, interest charges	6,742,744.00	6,945,072.00	(202,328.00)
Net income	19,958,889.00	19,644,785.00	314,104.00
Dividends applicable to preferred stock	1,209,534.00	1,209,534.00	0
Net income available for common stock	18,749,355.00	18,435,251.00	314,104.00
Earnings per share of common stock	2.49	2.45	.04
Average number of shares	7,515,082.00	7,512,423.00	
Net profit	$22,627.00		

( ) Denotes decrease.

INCOME TAX STATUS—1971 COMMON DIVIDENDS

A copy of Form 1099, U.S. Information Return, showing total dividends paid to you during 1971 is enclosed. As required by law, this data has been filed with the Internal Revenue Service.

In the December 1971 Interim Report, we informed you that approximately 100% of dividends paid during 1971 on the common stock would constitute a return of capital and therefore would not be taxable as dividend income under the requirements of the Federal income tax law.

A tentative determination based on operating results for the year 1971 indicates that distributions to holders of common stock during 1971 may be treated for *Federal* and *Virginia* State income tax purposes as follows:

Date of payment	Dividends per share (cents)	Taxable as dividend income (cents)	Not taxable as dividend income (cents)	Percentage not taxable
Mar. 20, 1971	28	.92	27.08	96.724
June 20, 1971	28	.92	27.08	96.724
Sept. 20, 1971	28	.92	27.08	96.724
Dec. 20, 1971	28	.92	27.08	96.724

When preparing U.S. individual income tax return Form 1040, the gross amount (100%) of common dividends should be shown in Part I, line 1 of Schedule B and the non-taxable amount (96.724%) on line 4.

The portion of the above distributions indicated to be non-taxable as dividend income should be applied as a reduction of the tax cost or other basis of the shares until such basis has been reduced to zero. Thereafter, amounts determined to be non-taxable as dividend income are generally reportable as capital gains.

The tentative determination above is based upon data which has not been reviewed by the Internal Revenue Service.

Shareowners residing in states other than Virginia having state income tax laws should consult their state tax authorities as to the manner of reporting these dividends in their states.

G. A. SPENCER,
Treasurer.

This summer Electric Light and Power, an industry magazine which reports activities of investor-owned electric utilities, published statistics regarding performance of the 100 major power companies in 1970. The magazine included in its report one of the key indicators of profitability for each company, the net, after tax profit as a percentage of total revenue.

Dozens of rate cases are in progress around the country. Factual material which regulators and the public need to analyze the requests often are not published by government sources until after cases are completed. Therefore, in order to make this basic and important information generally available, I inserted the utility profit data in the 4 August issue of the Congressional Record.

The magazine report, and Congressional Record insert, show that Montana Power was the most profitable utility among the 100 companies. It netted 22.6 cents out of each revenue dollar.

These statistics were questioned by the board chairman of Montana Power in the rate case in progress in Helena. He testified, as quoted by the Associated Press:

"I'll agree that's what Metcalf says in the Congressional Record. But I won't agree that his facts are right." He said that the calculations I used were "totally unsound . . . totally immaterial."

My facts are his facts. As the magazine said, and as I said when placing the material in the Record, Electric Light and power used the figures supplied by each of the companies.

The original source of the figures was the company's own annual stockholders' report for 1970. So that everyone—including the board chairman—can verify them, I reproduce page 12 of that report below.

I have circled the total operating revenue ($86,675,269) and the net income ($19,644,785). The columns between those amounts show that all operating and maintenance expenses (which includes salaries), depreciation, taxes and interest were deducted in arriving at net income.

CONSOLIDATED STATEMENT OF INCOME—THE MONTANA POWER COMPANY AND SUBSIDIARIES

[Based on accounts prescribed by the Public Service Commission of Montana and the Federal Power Commission—Note 2]

	Year ended December 31	
	1970	1969
Operating revenues:		
Electric	$56,538,528	$52,882,083
Natural gas	29,517,394	27,509,281
Water	619,347	603,731
Total	86,675,269	80,995,095
Operating expenses and taxes:		
Operation	25,054,252	21,486,209
Maintenance	3,408,299	3,522,492
Depreciation and depletion (note 8)	6,958,774	6,644,963
U.S. and Canadian income taxes	13,832,980	14,606,625
Charge to normalize the effect of income tax reductions from investment tax credit (note 5) and accelerated amortization and depreciation	811,810	946,589
Other taxes	10,758,373	9,351,615
Total	60,824,488	56,558,493
Operating income	25,850,781	24,436,602
Other income and deductions:		
Nonoperating income (net)	$636,349	$394,338
Interest charged to construction	92,727	397,996
Total	739,076	792,334
Gross income	26,589,857	25,228,936
Income deductions:		
Interest on long-term debt	4,794,493	4,388,565
Other interest and deductions	2,150,579	2,471,188
Total	6,945,072	6,859,753
Net income	19,644,785	18,369,183
Net income per share of common stock (based upon average number of shares outstanding) after dividends of $1,209,534 on preferred stocks	2.45	2.29

The mathematician in your house may want to divide $19,644,785 by $86,675,269 and verify that it amounts to 22.6%, as the magazine and I reported. The board chairman's disagreement is with his own company or his own conscience.

The board chairman argued for a reasonable return on common equity. He testified—and here I quote from the Great Falls Tribune's Capitol correspondent, that "the return on common equity has been running around 12 per cent—about average for utilities—but about 14 per cent is needed to maintain a sound financial posture."

Return on common equity is an accepted measure of earnings, as is net profit. Return on common equity (common stock) is derived by subtracting preferred stock dividend payments from net income (net profit). What is left is available for dividends on common stock, reinvestment, or nest eggs for future dividends.

The Company's Consolidated Statement of Income on the preceding page does not include return on common equity. That figure is published, however, by the Federal Power Commission, which computes it from information furnished by each company in its annual report to the FPC.

Last month I asked FPC Chairman Nassikas to furnish me with the return on common equity, in 1970, of each of the more than 200 power companies that gross more than $1 million a year.

I just received the FPC's response and reproduce, on the following page, the section dealing with Montana Power. It shows that the company has a return on common equity of 16.7% in 1969, and that it rose to 17.5% in 1970.

The only company with a higher return on common equity was Southwestern Public Service Company. It earned 17.9%. That company is headquartered in Texas, which does not even attempt to regulate utilities.

PERCENT RETURN ON COMMON EQUITY—CLASSES A AND B ELECTRIC UTILITY COMPANIES

State and company	1969		1970	
	Return on common equity—percent	Common equity—percent of total capitalization	Return on common equity—percent	Common equity—percent of total capitalization
Massachusetts:				
Boston Edison Co	11.4	38.4	11.6	35.6
Boston Gas Co	5.6	51.0	5.6	45.6
Brockton Edison Co	9.2	37.5	10.3	35.3
Cambridge Electric Light Co	7.8	50.7	9.0	51.1
Canal Electric Co	8.1	50.5	10.7	50.6
Cape & Vineyard Electric Co	9.4	50.0	7.9	51.0
Fall River Electric Light Co	7.7	54.5	8.3	54.6
Fitchburg Gas & Electric Light Co	8.9	56.3	8.7	44.6
Holyoke Power & Electric Co	4.7	56.9	11.3	57.8
Holyoke Water Power Co	6.7	46.1	7.7	47.7
Massachusetts Electric Co	8.1	41.3	9.9	38.4
Montaup Electric Co	6.9	54.0	6.7	49.5
New Bedford Gas & Edison Light Co	7.4	50.1	7.0	50.4
New England Power Co.[1]	11.9	32.3	9.3	30.4
Western Massachusetts Electric Co	9.8	43.3	9.1	41.4
Yankee Atomic Electric Co	5.5	77.1	5.4	80.6
Michigan:				
Alpena Power Co	7.9	84.2	8.8	85.5
Consumers Power Co	11.5	39.7	11.6	38.4
Detroit Edison	10.5	39.5	10.1	37.0
Edison Sault Electric Co	12.0	37.5	12.0	38.5
Michigan Power Co	6.1	47.2	8.0	47.3
Upper Peninsula Power Co	10.1	38.7	9.6	39.2
Minnesota:				
Minnesota Power & Light Co	13.3	36.6	13.5	37.7
Northern States Power Co.[1]	13.3	31.7	12.6	32.4
Mississippi:				
Mississippi Power Co	11.8	34.9	13.2	34.2
Mississippi Power & Light Co	15.2	34.4	14.9	32.8
Missouri:				
Empire District Electric Co	14.3	32.5	14.5	32.4
Kansas City Power & Light Co.[1]	11.7	38.4	11.3	36.5
Missouri Edison Co	6.4	63.3	5.9	67.7
Missouri Power & Light Co	10.6	34.9	10.5	34.6
Missouri Public Service Co	13.6	25.4	13.0	26.9
Missouri Utilities Co	8.1	35.4	7.4	37.4
St. Joseph Light & Power Co	11.2	37.6	10.7	35.3
Union Electric Co.[1]	11.9	34.2	13.4	33.7
Montana—Montana Power Co.[1]	16.1	46.6	17.5	47.3
Nevada:				
Nevada Power Co	12.8	36.8	12.2	37.1
Sierra Pacific Power Co.[1]	12.1	34.9	11.7	36.3
New Hampshire:				
Concord Electric Co	9.3	39.9	9.2	40.8
Connecticut Valley Electric Co., Inc	6.4	74.8	7.1	76.2
Exeter & Hampton Electric Co	12.3	32.7	12.9	33.9
Granite State Electric Co	9.9	100.0	11.2	100.0
Public Service Co. of New Hampshire	13.0	29.8	15.3	30.7

In summary, the board chairman asks for an increase to 14% return on common equity, but the company, as shown by its own reports to the FPC, already makes 17.5%.

The company has made its own case for a substantial rate decrease.

TRACK RENAISSANCE IN THE SENATE?

Mr. PROXMIRE. Mr. President, Parade magazine, a publication which I find read with close attention by Members of the Senate recently carried an article on the impressive record of our gifted colleague, Senator ALAN CRANSTON, in the world of track. The article also mentioned my long distance runs as well as the physical fitness achievements of Senator STROM THURMOND. Senator CRANSTON was quoted as urging fellow Senators to enter track meets.

It is not my intention today to belittle Senator CRANSTON's achievements. They are truly remarkable. But I did want to mention one hitherto unsung Senate employee who is compiling a distinguished record in the track world and hopes to run his way into this summer's Olympics. I refer to Steve Stageberg, who not only runs 15 miles of practice a day, but also works on my staff. He has run the fifth fastest 3 miles in history.

I particularly wanted to mention Steve, because of the quality of his work for me as well as on the track. His job, referring the 1,000 or so letters a day that come in to my office to the proper desk, is a demanding one. Yet he not only performs the task with great speed

and efficiency. He also runs 5 miles each day before he reports to work and another 10 at the end of the day after he leaves my office.

This week Steve is in New Zealand at the request of the Amateur Athletic Union to participate in a series of track meets. I want to make it clear that he does not run under the aegis of my office or the U.S. Senate track club. But I am sure that all of my colleagues wish him the best in his bid to represent this country in Munich next summer.

PROTECTION AGAINST OVERPAYING INCOME TAXES

Mr. CHURCH. Mr. President, during the next few weeks millions of individuals throughout the Nation will file their tax returns.

On several occasions the Internal Revenue Service has stated that the Federal Government wants no person to pay more taxes than he legally owes. In fact, the Supreme Court has held that the legal right of a taxpayer to decrease the amount of his taxes by any lawful exemption, deduction, or credit cannot be doubted.

Yet, large numbers of Americans—and especially older Americans—overpay their taxes each year. Some are completely baffled by the intricacies in the Internal Revenue Code. Others are simply unaware of the existence of many legitimate deductions, credits, and exemptions.

This point was made very forcefully at hearings conducted nearly 2 years ago by the Senate Committee on Aging on "Income Tax Overpayments by the Elderly."

This hearing, I am pleased to say, produced a number of far-reaching changes to help protect older Americans from overpaying their taxes, including:

Simplification of the retirement income credit schedule by reducing the number of calculations and schedule transfers;

A procedure to enable older persons to elect to have the IRS compute their retirement income credit, provided they list the amount of their qualifying retirement income, tax-exempt pensions, and earned income;

Provision for the IRS to compute an individual's tax provided that, first, his income does not exceed $20,000; second, it consists only of wages, salary, tips, dividends, interest, pensions or annuities; and third, the standard deduction is used; and

Additional line references in schedule A, the worksheet for taxpayers who itemize their deductions, to give greater prominence to other tax-savings items, such as expenses for hearing aids, dentures, eyeglasses, and transportation for medical purposes.

But even with this assistance, there are still many helpful deductions which are still not listed on schedule A. It was for this reason that the Senate Committee on Aging included in its report on "Income Tax Overpayments by the Elderly" a section which lists many common deductions frequently overlooked by individuals who itemize their deductions.

This is not intended to be an exhaustive summary of all available deductions for elderly taxpayers. But it can provide a helpful checklist for persons who itemize their returns. And it can result in tax savings for the young as well as the old, because tax provisions usually apply with equal force to all age groups.

Mr. President, I ask unanimous consent that the section of the Committee on Aging's report which lists some common deductions frequently overlooked by taxpayers be printed in the RECORD.

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

COMMON DEDUCTIONS OVERLOOKED—NOT SPECIFICALLY LISTED ON SCHEDULE A

MEDICAL AND DENTAL EXPENSES

Arches.
Braces.
Chiropractor.
Crutches.
Batteries for hearing aids.
Insulin treatment.
Orthopedic shoes.
Podiatrist.
Oculist.
Optician
Optometrist.
Dermatologist.
Physiotherapist.
Psychiatrist.
Psychologist.
Psychoanalyst.
Psychotherapy.
Sacroiliac belt.
Seeing eye dog and its maintenance.
Vaccines.
Supplementary Medical Insurance (Part B) under Medicare.
Vitamins prescribed by a doctor but not taken as a food supplement or to preserve general health.
Wheelchairs.
Whirlpool baths for medical purposes.
Ambulance expenses.
Physical examinations.

TAXES

Additional sales tax deduction for the purchase of large items, such as an automobile.
Additional sales tax deduction (besides the table based on adjusted gross income of a taxpayer) for nontaxable income (e.g., Social Security or Railroad Retirement Annuities)
State transfer taxes on the sale of income producing property (e.g., securities)

CHARITABLE CONTRIBUTIONS

Travel expenses (actual or 6c per mile) for charitable purposes.
Cost and upkeep of uniforms used in charitable activities (e.g., Scoutmaster).
Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).
Out-of-pocket expenses (e.g., postage, stationery, phone calls, donated foods) while rendering services for charitable organizations.

INTEREST

Penalty for prepayment of a mortgage is deductible as interest.

MISCELLANEOUS DEDUCTIONS

Rental cost of a safe-deposit box for income producing property.
Fees paid to investment counselors.
Subscriptions to business publications.
Telephone and postage in connection with investments.
Uniforms required for employment and not generally wearable off the job.
Maintenance of uniforms required for employment.
Special safety apparel (e.g., steel toe safety shoes, helmets worn by construction workers, special masks, worn by welders).
Business entertainment expenses
Business gift expenses not exceeding $25 per recipient.
Employment agency fees for finding employment.
Cost of a periodic examination if required by employer.
Cost of installation and maintenance of a telephone required by the taxpayers employment (deduction based on business use).
Cost of a bond if required for employment.
Premiums for malpractice insurance for professional employees.
Expenses of an office in your home if your employment requires it.
Amounts a teacher pays to a substitute to take his place.
Educational expenses required by your employer to maintain your position or for maintaining or sharpening your skills for your work.

SHOE IMPORTS—THE PROBLEM IS STILL CRITICAL

Mr. McINTYRE. Mr. President, despite any hopes we have had that the devaluation of the dollar, the surcharge, and other actions might have had some effect in past on the problem of imports, the latest figures on shoe imports show that December was another record import month. More than 20,000,000 pairs came into this country from overseas.

The December figures complete the record for 1971 and the total for the year comes to 260,190,000, an increase of 10.4 percent over 1970.

What this means is that a few more jobs are chipped away from American workers. I see this particularly in New Hampshire. Unemployment has increased in New Hampshire in recent weeks, and week after week the New Hampshire Department of Employment Security has reported that the footwear industry in the State made major contributions to the unemployment.

This situation cannot be allowed to continue. I urge that action be taken. One solution would be early congressional approval of S. 37, which I introduced on January 25, 1971. It would put a halt to imports and help to save jobs in the American shoe industry.

So that the full story may be known, I ask unanimous consent to have printed in the RECORD the most recent and up-to-date facts on shoe imports from the New England and American Footwear Association.

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

IMPORTS, DECEMBER 1971—1971 TOTALS 260,190,000—UP 10.4% OVER LAST YEAR

With December's surge of imports totaling over 20,000,000 pairs, the twelve month tally came to 260,190,000 pairs with an f.o.b. value of $661,685,100. When compared to 1970 pairs increased 10.4% and dollar value increased 20.5%.

Although Italy dropped 4.0% in pairage compared to 1970, she still remained the top single source of imports—76,830,000 million pairs with an f.o.b. value of $280,700,000. Brazil, a new contender in the field, exported 7,938,000 pairs to the U.S., representing an amazing 230% increase over 1970. Spain showed a substantial growth rate of 47% in pairs and 60% in dollar value when compared to 1970.

Imported leather footwear for 1971 totaled 129,902,800 pairs valued at $506,575,500, representing a 9% increase in pairs and a 19% increase in value. Vinyl footwear totaled 117,801,100 pairs—a 14% increase over last year and was valued at $142,713,200 which represented a 38% increase over 1971.

The table below sums up the performance of imports when classified into the major age-sex categories.

	Percent change 1971–70		Average value per pair 1971	Estimated retail value 1971
	Pairs	Value		
Men's, youths', boys' leather	+15.1	+26.7	$4.98	$16.14
Men's, youths', boys' vinyl	+26.3	+36.0	1.43	4.63
Women's, misses' leather	+7.1	+14.5	3.56	11.53
Women's, misses' vinyl	+12.5	+41.3	1.20	3.89
Children's, infants' leather	+3.4	+11.0	1.62	5.25
Children's, infants' vinyl	+5.4	+17.9	.92	2.98

TOTAL IMPORTS OF OVER-THE-FOOT FOOTWEAR

(Thousands of pairs; thousands of dollars)

Type of footwear	December 1971 pairs	Percent change 1971–1970	12 months, 1971 Pairs	12 months, 1971 Dollar value	12 months, 1971 Average dollar value per pair	Percent change 1971–1970 Pairs	Percent change 1971–1970 Dollar value
Leather and vinyl—Total	19,014.4	+0.8	247,910.1	649,837.7	$2.62	+11.0	+22.
Leather excluding slippers	10,932.8	+2.1	129,902.8	506,575.3	3.90	+8.6	+18.5
Men's, youths', boys'	3,402.8	+14.7	38,504.2	191,924.3	4.98	+15.1	+26.7
Women's, misses'	6,888.0	+1.5	81,318.9	289,241.7	3.56	+7.1	+14.5
Children's, infants'	442.1	−30.9	6,973.9	11,323.2	1.62	+3.4	+11.0
Moccasins	19.9	−48.2	379.1	494.2	1.30	+29.3	−19.8
Other leather (including work and athletic)	180.0	−5.7	2,726.7	13,591.9	4.98	−7.8	+8.2
Slippers	16.1	−52.8	206.2	549.2	2.66	−34.1	−32.1
Vinyl supported uppers	8,065.2	−0.6	117,801.1	142,713.2	1.21	+13.8	+38.2
Men's and boys'	1,555.8	+17.0	20,548.4	29,362.1	1.43	+26.3	+36.0
Women's and misses'	5,684.7	−7.0	86,942.2	104,196.3	1.20	+12.5	+41.3
Children's and infants'	631.9	+5.9	8,794.5	8,057.3	.92	+5.4	+17.9
Soft soles	193.1	+160.6	1,516.0	1,097.5	.72	−4.4	−1.9
Other nonrubber types,—Total	1,092.2	+24.9	12,279.5	11,847.4	.96	+1.1	−32.3
Wood	160.0	−21.5	1,097.2	2,941.3	2.68	−71.8	−70.5
Fabric uppers	818.7	+35.1	8,729.2	7,365.9	.84	+20.3	+21.3
Other, (not elsewhere specified)	113.5	+74.9	2,453.1	1,540.2	.63	+145.6	+5.1
Nonrubber footwear—Total	20,106.6	+1.9	260,189.6	661,685.1	2.54	+10.4	+20.5
Rubber soled fabric uppers	3,883.3	−13.6	62,812.4	61,972.8	.99	+31.4	+37.4
Grand total—All types	23,989.9	−1.0	323,002.0	723,657.9	2.24	+14.0	+21.8

Note. Details may not add up due to rounding. Figures do not include imports of waterproof rubber footwear, zories and slipper socks. Rubber soled fabric upper footwear includes non-American selling price types.

Source. American Footwear Industries Association estimates from census raw data. For further detailed information, address your inquiries to the association, room 302, 342 Madison Avenue, New York, N.Y.

1971 IMPORTS, TOP 15 SOURCES OVER THE MILLION MARK

	1973 Pairs (thousands)	1973 F.O.B. dollar value (thousands)	1973 Average F.O.B. value per pair	3970 Pairs (thousands)	3970 F.O.B. dollar value (thousands)	3970 Average F.O.B. value per pair	Percent change 1971–70 Pairs	Percent change 1971–70 F.O.B. dollar value	Percent change 1971–70 Average value per pair
Italy	76,830	280,700	$3.65	80,035	261,793	$3.27	−4.0	+7.2	+11.6
Taiwan	61,704	48,634	.79	40,414	27,976	.69	+57.2	+73.8	+14.5
Japan	48,991	61,955	1.26	57,630	58,767	1.02	−15.0	+5.4	+23.5
Spain	30,974	124,425	4.02	21,130	77,876	3.69	+46.6	+59.8	+8.9
Brazil	7,938	23,345	2.94	2,408	6,124	2.54	+229.7	+281.2	+15.7
Hong Kong	5,023	4,682	.93	4,562	3,772	.83	+10.1	+24.1	+12.0
Mexico	3,390	9,470	2.79	3,936	8,389	2.19	−11.6	+12.9	+27.4
Korean Republic	3,145	5,808	1.81	1,902	2,928	1.54	+65.4	+94.9	+17.5
India	3,022	3,186	1.05	2,921	2,921	1.00	+3.5	+8.7	+5.0
France	2,828	15,254	5.39	3,061	13,897	4.54	−7.6	+9.8	+18.7
West Germany	2,403	16,147	6.72	2,744	14,891	5.43	−12.4	+8.4	+23.8
United Kingdom	2,297	17,591	7.66	2,759	19,408	7.03	−16.8	−9.4	+9.0
Canada	2,152	9,645	4.48	2,517	10,353	4.11	−14.5	−6.8	+9.0
Czechoslovakia	1,601	4,413	2 76	1,791	4,410	2,46	−10 6	+ 1	+12.2
Haiti	1,222	1,932	1,58	1,305	1,776	1.36	−6.4	+8.8	+16.2
Other countries	6,670	34,598	5.19	6,667	33,957	5.09	(1)	+1.9	+2.0
Total all countries	260,190	661,685	2.54	235,682	549,248	2.33	+10.4	+20.5	+9.0
Total top 15	253,520	527,087	2.47	229,015	515,291	2.25	+10.7	+21.7	+9.8
Top 15 as percent of total	97.4	97.8		97.2	93.8				

(1) No change.

REPRESENTATIVE HENRY REUSS—THE PATIENT PATRICIAN

Mr. PROXMIRE. Mr. President, Time magazine for February 21, now on the newsstands, contains an excellent story which notes the long overdue recognition by the public for Representative HENRY REUSS of Milwaukee.

It was the Chairman of the Federal Reserve Board, Arthur Burns, who said publicly last week in the Joint Economic Committee hearings of HENRY REUSS that—

If it weren't for you, I doubt that the Smithsonian agreement would have been concluded when it was.

Chairman Burns added glowing encomiums to that already deserved praise.

It was the Reuss report from the Joint Economic Committee last August which

charted the international economic course the President has since largely followed. It was HENRY REUSS whose amendment provided for the wage-price freeze and phase II. And HENRY REUSS has been a leader over a decade of anti-pollution and environmental legislation, for tax reform, and for constructive action to produce full employment, stability in prices, and productive economic growth.

As Time says of him, he has "consistently done his homework." There is no more intelligent or courageous Member of the House of Representatives. Time's praise is deserved indeed.

I ask unanimous consent that the article be printed in the RECORD.

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

THE PATIENT PATRICIAN

For years, U.S. Presidents could imagine few worse political nightmares than having to ask Congress to devalue the dollar. Any such act was certain to stir up a chorus of accusations that the U.S. was acquiescing to a devastating loss of international power. Yet, when the Nixon Administration last week submitted to Congress the Par Value Modification bill, which will devalue the dollar 8.57% by raising the price of gold, its prospects for relatively swift passage were all but certain. The man most responsible for anesthetizing the issue in Congress—and thus allowing an unavoidable economic adjustment to take place—is a thoughtful, patrician Democratic Representative from Milwaukee named Henry Reuss. Testifying before the Joint Economic Committee last week, Federal Reserve Chairman Arthur Burns told a blushing Reuss: "If it weren't for you, I doubt that the Smithsonian agreement [devaluing the dollar and realigning currency-exchange rates] would have been concluded when it was."

There is little doubt that the normally inconspicuous, 59-year-old Reuss (pronounced Royce) played a major role in setting the stage for that agreement. Last Aug. 6, as chairman of a congressional subcommittee on international economics, he issued a report recommending the unhitching of the dollar from gold. Mistakenly viewed by European speculators as an official hint of policy change, the report led to panicky selling of dollars on money markets. Nine days later, Nixon was forced to halt the outflow of billions of dollars from the U.S. by floating the greenback against other currencies. Reuss has no regrets: "The markets were in turmoil already, and I simply stated that the emperor had no clothes." Then Reuss put his knowledge of economics to work and lined up congressional backing for formal devaluation.

Although international finance is his recognized specialty, Reuss is also one of a handful of Congressmen who can knowingly assess the U.S. economy. In August 1970, he introduced the amendment giving President Nixon authority to impose wage and price controls. Nixon stubbornly refused to use the power for twelve months, until, in a stunning about-face, he declared a three-month freeze. At present, Reuss is striving to relieve the 5.9% unemployment rate by plugging a "Jobs Now" program that would create some 500,000 public-service positions. Nixon's plan to open 130,000 such jobs, Reuss says, is "a pitiful pooper of a program." He is also determined to close remaining loopholes in federal income tax regulations that allow a few wealthy people to get away with paying little or no tax every year.

Reuss himself might stand to lose from higher taxes on the rich. As the scion of a Milwaukee banking family, he owns $183,000 worth of stock in the city's Marshall & Ilsley Bank. He has never been active in banking, however; after graduating from Harvard Law School in 1936, he enlisted in the Army as a private, won a Bronze Star in the crossing of the Rhine and returned to Milwaukee to enter law and politics. In McCarthy-era Wisconsin, he lost his first three major races (for Milwaukee mayor, state attorney general and the U.S. Senate) before winning in 1954 the congressional seat that he still holds.

He also is interested in more emotional issues, notably the environment (he is an ardent camper and skier). It was Reuss who breathed life into the 1899 federal law regulating waste disposal in navigable rivers, and turned it into a modern-day antipollution measure. Still, Reuss is more at home discussing the fine points of currency-exchange rates with European bankers and statesmen or reading a book. When Nixon agreed in talks with French President Georges Pompidou to devalue the dollar, Reuss quoted the remark made by Henry IV after that cynical monarch converted to Catholicism in order to gain the French throne: "Paris is well worth a Mass." To that Reuss added: "Now Mr. Nixon has determined that Paris is worth a minor dollar devaluation."

That historical allusion, which would be lost on most voters, points up one of Reuss's weaknesses: he is considered a bit overgenteel for higher political office. Nonetheless, his seniority makes Reuss an odds-on favorite to succeed 78-year-old Wright Patman as chairman of the powerful Banking Committee. It would be a fitting reward for a patient Congressman who has consistently done his homework.

GENOCIDE CONVENTION

Mr. CHURCH. Mr. President, the Genocide Convention now awaits action by the Senate. Presidents Truman and Nixon have urged the passage of the Genocide Convention; so have the administrations of Presidents Kennedy and Johnson. In a message to the Senate on February 19, 1970, President Nixon said:

By giving its advice and consent to ratification of this Convention, the Senate of the United States will demonstrate unequivocably our country's desire to participate in the building of international order based on law and justice.

The Committee on Foreign Relations reported favorably on the Convention on May 4, 1971, and recommended that the Senate advise and consent to ratification thereof.

The current issue of the ABA Journal contains scholarly treatment of the Genocide Convention by former Justice Arthur Goldberg and Prof. Richard Gardner regarding points raised against ratification. I commend the article to the attention of the Senate, and ask unanimous consent that it be printed in the RECORD.

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

[From the American Bar Association Journal, February 1972]

TIME TO ACT ON THE GENOCIDE CONVENTION

(By Arthur J. Goldberg and Richard N. Gardner)

It is now more than twenty-five years since the United Nations first took up the question of the prevention and punishment of the crime of Genocide. On December 11, 1946, the General Assembly unanimously adopted Resolution 96(I), which affirmed "that genocide is a crime under international law" and requested the Economic and Social Council to draft a genocide convention. Two years later, on December 9, 1948, by Resolution 260A(III) the General Assembly unanimously approved the text of the Convention on the Prevention and Punishment of the Crime of Genocide.

Seventy-five countries now have ratified the Genocide Convention. The United States is the most prominent U.N. member that has not. One reason for our country's failure to ratify—very possibly the principal reason—has been the opposition of the American Bar Association recorded in a decision of the House of Delegates on September 8, 1949.

Since 1949, however, sentiment within the Association has changed. At the Midyear Meeting of the House of Delegates on February 23, 1970, a proposal to reverse the 1949 position and to place the American Bar Association on record in favor of the Genocide Convention failed by a vote of 126 to 130. Still more significant, every Section and Committee of the Association having specialized competence in the subject matter has come out in support of ratification of the Genocide Convention during the last few years; the Section of Individual Rights and Responsibilities, the Section of International and Comparative Law, the Section of Criminal Law, the Section of Judicial Administration, the Section of Family Law, and the Standing Committee on World Order Under Law.

Ratification of the Genocide Convention also has been endorsed by a number of past Presidents of the Association, including Bernard G. Segal, William T. Gossett, Charles S. Rhyne and Whitney North Seymour; by the Chairman of the Standing Committee on Federal Judiciary, Lawrence E. Walsh; by Solicitor General Erwin N. Griswold; and by many other leaders in the Association.

Two distinguished members of the Association, Eberhard P. Deutsch and Alfred J. Schweppe, however, appeared on behalf of the Association to testify in opposition to the Genocide Convention in hearings held before a Senate Foreign Relations Subcommittee on March 10, 1971, and presented the legal objections that have been raised against the convention.[1] Given the almost evenly divided vote in the House of Delegates and the support for the convention from relevant specialized Sections and Committees of the Association, we believe that it is appropriate to present the different viewpoints now existing in the Sections and Committees.

The authors of this article appeared at the Senate hearings on behalf of the Ad Hoc Committee on the Human Rights and Genocide Treaties (a committee of fifty-two national, civic, religious and labor organizations) and presented legal arguments in favor of the convention.[2]

The full Senate Foreign Relations Committee reported favorably on the convention by a vote of 10 to 4 and recommended that the Senate advise and consent to ratification. After carefully reviewing the arguments, the committee concluded:

"We find no substantial merit in the arguments against the convention. Indeed, there is a note of fear behind most arguments—as if genocide were rampant in the United States and this Nation could not afford to have its actions examined by international organs—as if our Supreme Court would lose its collective mind and make of the treaty something it is not—as if we as a people don't trust ourselves and our society.[3]

REPORT OF SENATE PROVIDES AUTHORITATIVE REFUTATION

We believe the report of the Senate Foreign Relations Committee provides an authoritative refutation of the legal arguments opponents of the Genocide Convention have employed to justify their opposition for nearly a quarter of a century.

We present here a point-by-point rebuttal

Footnotes at end of article.

of the legal arguments against the convention, drawing from our testimony to the Foreign Relations Committee as well as the committee's own report, in the hope that it may clarify the legal issues and contribute to speedy and favorable action by the Senate.

1. *The contention that the Constitution prevents ratification of the Genocide Convention because genocide is a "domestic" matter is without foundation.*

In his testimony to the Foreign Relations Committee, Mr. Deutsch declared himself fully in agreement with the decision of the United States to vote in favor of the General Assembly resolution on genocide of December 11, 1946: "Standing foremost as a world leader in the protection of individual rights, she could do no less." But he added that "having joined in such a declaration as to a matter *which lies, ultimately, within the domestic sphere of each of the world's nations,* the United States has gone far enough" (italics supplied). The italicized language is clearly incompatible with the statement in the General Assembly resolution that "genocide" is a crime under international law". Mr. Deutsch's extensive quotations from Resolution 96(I) neglected to include this key provision.

Nowhere in his testimony did Mr. Deutsch explain his conclusion that genocide is a "domestic matter". His reasoning on this general issue may be found, however, in a report which he prepared in 1967 as chairman of the American Bar Association's Standing Committee on Peace and Law Through United Nations. It is there stated that a convention deals with "domestic" matters when it deals "with the relation between a state and its own citizens".[4] But this is not the relevant constitutional test.

As the Supreme Court declared in *Geofroy* v. *Riggs* 133 U. S. 258, 267 (1890), the treaty-making power may be exercised on any matter "which is properly the subject of negotiation with a foreign country". The United States is a party to numerous international agreements relating to the activities of its own citizens within the United States (and therefore "domestic" under Mr. Deutsch's definition) because those treaties nevertheless deal with matters appropriate for international negotiation. Examples include treaties on narcotics,[5] public health [6] and nature conservation,[7] and the Supplementary Convention on Slavery, which Mr. Deutsch initially opposed on the ground that it also dealt with "matters essentially within the domestic jurisdiction of the United States".[8]

In the words of the Special Committee of Lawyers of the President's Commission for the Observance of Human Rights Year, of which retired Supreme Court Justice Tom C. Clark was chairman: "Treaties which deal with the rights of individuals within their own countries as a matter of international concern may be a proper exercise of the treaty making power of the United States . . . It may seem almost anachronistic that this question continues to be raised." [9]

What is "properly the subject of negotiation with a foreign country" and, therefore, a valid subject of a treaty is something the Senate has an obligation to determine in each case. We do not take the position that the executive branch can make any matter "international" by putting it in a treaty. But the question should be determined objectively in the light of the current interests of the United States in an interdependent world and contemporary concepts of international law—not on the basis of notions that may have been appropriate to a different historical era.

By any objective standard, genocide is a matter of international concern and is, therefore, an appropriate subject for the exercise of the treaty-making power. In our shrinking world the massive destruction of a racial, religious or national group in one country has its impact on members of this group in other countries, stimulates demands for intervention and inevitably troubles international relations. The fact that the United Nations General Assembly unanimously declared genocide to be a crime under international law in 1949 and that seventy-five members of the United Nations are parties to the Genocide Convention (including, to name just a few, such democracies as the United Kingdom, Canada, France, Mexico and the Scandinavian countries) is further evidence that genocide can no longer be considered a matter wholly within domestic jurisdiction. As was said by the Senate Foreign Relations Committee: "On both moral and practical grounds, the commission of genocide, involving as it must mass action, cannot help but be of concern to the community of nations."

2. *The contention that the Genocide Convention would alter the balance of authority between the states and the Federal Government is unfounded.*[10]

The Constitution by Article I, Section 8, specifically gives Congress the power to "define and punish . . . offenses against the law of Nations". Genocide is an offense against the law of nations and is thus within the power of Congress to outlaw. Moreover, the power of the Federal Government in this field has been confirmed in the Civil Rights Acts of 1957 and 1964 and the Voting Rights Act of 1965. The Association's Section on Individual Rights and Responsibilities said in its report: "Ratification of the convention will add no powers to those the Federal Government already possesses."

3. *The contention that ratification of the Genocide Convention would subject American citizens to trial in foreign countries like North Vietnam on trumped-up charges of genocide is wholly false.*[11]

There is nothing in the Genocide Convention that would provide warrant for charges by North Vietnam that our prisoners of war, being held under conditions in violation of the Geneva Convention, are guilty of genocide. This is a matter of great concern to the authors and, of course, many Americans regardless of their views about the war in Vietnam. As the Senate Foreign Relations Committee pointed out in its report, however, Hanoi can make trumped-up charges of genocide against our servicemen who fall into their hands with or without reference to the Genocide Convention. In the words of the committee: "It is reality that American prisoners of war in North Vietnam could now be charged by the Hanoi government for war crimes or genocidal acts on whatever trumped-up charges Hanoi wishes to make. Their peril will not be increased by approval of this convention while peril may be avoided for tens of millions by ratification of the convention."

As to the possibility of extraditing Americans from the United States to North Vietnam or other countries for acts of genocide allegedly having occurred there, it should be remembered that under the Genocide Convention, extradition would take place only in accordance with laws and treaties in force. We have no extradition treaties with North Vietnam. Nor do we make such treaties with countries whose legal systems do not afford basic procedural safeguards. We do not grant extradition in any event unless a prima facie case is established against the accused and unless the accused will be afforded by the requesting state the due process provided by our own law.

Finally, the Genocide Convention, in accordance with an agreed interpretation of Article VI which is contained in the relevant U.N. committee report, "does not affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State".[12] The Foreign Relations Committee expressed itself as fully satisfied on this point but recommended an understanding to this effect to remove any possible uncertainty. The Nixon Administration has further indicated that any agreements we make covering genocide will assert the right of the United States to refuse to extradite an accused if he is standing trial in the United States or if our Government elects to try him itself.[13]

4. The argument that ratification of the Genocide Convention would subject the United States to irresponsible charges of genocide arising out of Vietnam, our treatment of American blacks or other situations is without foundation.[14]

Here again, ratification of the Genocide Convention does not alter the present situation to our disadvantage. Even in the absence of our ratification, there is nothing to prevent a country from making baseless charges of genocide against this country in the U.N. If anything, ratification would improve our position, because the convention requires an "intent to destroy, in whole or part, a national, ethnical, racial or religious group as such".

The tragic events in Vietnam and the terrible loss of life, both military and civilian, that has occurred there do not meet this definition, whatever other domestic legal consequences may flow from allegedly illegal acts there. The treatment of the black community in the United States, which admittedly has suffered widespread discrimination for many years, also does not fall within the definition. In both cases the necessary intent to destroy a racial or ethnic group as such is missing.

As the Senate report indicates, ratification of the convention would, if anything, help us rebut these charges by subjecting our behavior to a precise legal definition of genocide.

5. The argument that provision for the settlement of disputes by the International Court of Justice would override the Connally Amendment and unreasonably limit our sovereignty is within substance.[15]

The Connally Amendment applies only to our acceptance of Article 36(2) of the court's statute, the so-called optional clause providing for compulsory jurisdiction across the board. Cases arising as a result of our adherence to the Genocide Convention would fall under Article 36(1) of the court's statute, which covers the court's jurisdiction as provided for in specific treaties. The United States has ratified many treaties containing the same type of provision for the settlement of disputes by the International Court of Justice as is contained in the Genocide Convention. Among these treaties are the Supplementary Convention on Slavery, the Antarctic Treaty, the Statute of the International Atomic Energy, and the Convention on the Privileges and Immunities of the United Nations ratified in 1970.

This provision for the settlement of disputes over the interpretation of the Genocide Convention does not unreasonably limit our sovereignty. Our interests are better served by having any charges of genocide against us considered in a judicial forum like the International Court of Justice than in more politically motivated forums. Of course, by this provision we do undertake a commitment to subject ourselves to third-party judgment in a limited sphere, as do the other parties to the convention. This exchange of commitments may be found in many treaties to which we have become a party. Where the exchange of commitments serves our national interest, as it does here, it provides no valid basis for objecting to the treaty.

It should be noted that the Soviet Union and other countries have ratified the convention subject to a reservation that they do not accept compulsory reference to the International Court of Justice. As a result,

Footnotes at end of article.

the United States will be in a position to invoke these countries' reservations in its own behalf to defeat the court's jurisdiction if a case charging genocide should be brought against us by those countries.

6. The argument that various provisions in the convention—"in whole or in part", "mental harm", "direct and public incitement to commit Genocide"—are loosely drafted and potentially harmful to our interests is without foundation.

Words in a statute or treaty are not self-interpreting. They must be read in the context of other provisions and in the light of the legislative or drafting history. The hypothetical interpretations of the Genocide Convention advanced by the critics are invalidated by the language of the convention itself and by the records of the negotiation.

Thus, "in whole or in part" does not mean that the killing of a single individual, profoundly deplorable as any killing is, becomes genocide.[16] As the negotiating history makes clear, substantial numbers must be involved, and for the definition of genocide to be satisfied the acts of homicide must be joined by a common intent to destroy the group. The understanding recommended by the Foreign Relations Committee to confirm this point is wholly consistent with the drafting history.[17]

"Mental harm", in turn, would not support propaganda charges of harassment of minority groups, as charged by some critics,[18] because mental harm becomes an element of genocide only when done with an intent to *destroy* a group. Moreover, as the negotiating history shows, this provision was inserted for the narrow purpose of prohibiting the permanent impairment of mental facilities, as through the forcible application of narcotic drugs. Once again, the understanding recommended by the Foreign Relations Committee is wholly consistent with the drafting history.

"Direct and public incitement to commit genocide" does not cover constitutionally protected speech.[19] It covers incitement which calls for the commission of mass murder, which is actionable under our Constitution as in other countries. As the Supreme Court declared in *Brandenburg* v. *Ohio*, 395 U.S. 444 (1969), "the constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation *except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action*" (emphasis added). In any case, as was stated in *Reid* v. *Covert*, 354 U.S. 1 (1957), no treaty can override a provision of the Constitution, and there is no doubt that the legislation passed in implementing the Genocide Convention must be interpreted in accordance with the First Amendment.

7. The contention that ratification of the Genocide Convention would subject American citizens to trial before an international penal tribunal is without foundation.[20]

Article VI of the convention provides that persons charged with genocide shall be tried "by such international penal tribunal as may have jurisdiction with respect to those contracting parties which shall have accepted its jurisdiction". This part of Article VI, perhaps regrettably, is a dead letter. No such international penal tribunal has been established, and there is no negotiation under way to create one. If such a tribunal were established, action by the Senate would be required, either in the form of advice and consent to ratification of a treaty or action on legislation, before the United States could accept its jurisdiction.

Finally, it should be underlined that the International Court of Justice has no criminal or penal jurisdiction and considers only cases involving states, not individuals.[21]

8. The argument that the convention does not define genocide as having been committed "with the complicity of government" is no objection to ratification.[22]

The convention is directed at "persons" whether they are "constitutionally responsible rulers, public officials or private individuals." Each government is committed under the convention to punish such persons. There is no reason why such individuals should not be held responsible for genocidal acts, even without government complicity.

9. The argument that the Genocide Convention abolishes the defense of "superior orders" is without foundation.[23]

The convention says nothing about a possible defense of "superior orders", but it is significant that the convention includes "intent" as an element of the crime of genocide. An authoritative review of the drafting history on this point summarizes the matter as follows:

"Ordinarily it would seem that no intent could be ascribed to persons merely fulfilling superior orders; intent implies initiative. However, superior orders would not be a justification in such cases where the guilty party was not only a tool of his superiors but participated in the "conspiracy to commit Genocide." Guilt could likewise be established in a case where, although acting under orders, the person was in a position to use his own initiative and thus act with the intent to destroy the group. The non-inclusion of a proviso relating to superior orders thus leaves the tribunals applying the Convention the freedom of interpreting it in accordance with the domestic legislation and the specific circumstances of the case.[24]

10. The argument that the omission of "political" groups makes the Genocide Convention worthless is unpersuasive.[25]

It is inconsistent for those who criticize the convention on the grounds that it subjects the United States to too much interference in its domestic affairs to complain at the same time that it fails to cover "political groups". In any event, the absence of one kind of group from the convention is no reason not to protect the groups that are covered.

RATIFICATION OF THE CONVENTION WOULD BE IN OUR BEST INTERESTS

We find the objections against ratification of the Genocide Convention to be without substance. The arguments in favor of ratification, on the other hand, seem to us compelling.

Our adherence to the Genocide Convention can make a practical contribution to the long and difficult process of building a structure of international law based on principles of human dignity. It will put us in a better position to protest acts of genocide in other parts of the world and will enhance our influence in United Nations efforts to draft satisfactory human rights principles.

We do not say that our adherence to this convention will work miracles. It may not bring very dramatic benefits in the short run. Let us remember, however, that none of the great documents of human civilization produced instant morality—not even the Magna Carta or our own Bill of Rights. The point is that they did shape history in the long run. We believe the same may be true of the Genocide Convention, if we only give it a chance.

GENOCIDE CONVENTION OUTLAWS REPUGNANT ACTION

The Genocide Convention outlaws action that is repugnant to the American people and to our constitutional philosophy. We should not decline to affirm our support for principles of international law and morality in which we believe. Our country was founded on a passionate concern for human liberty reflected by the Bill of Rights and the Constitution. We believe that concern is very much alive today, as is reflected by the report of the Foreign Relations Committee supporting the convention. It is inconceivable that we should hesitate any longer in making an international commitment against mass murder. At a time when our commitment to human rights is being questioned by some of our own people and by others overseas, it is particularly important that we ratify a treaty so thoroughly consistent with our national purpose.

About the authors: Arthur J. Goldberg, after a career of private law practice, served as Secretary of Labor from 1961 to 1963, as an Associate Justice of the United States Supreme Court from 1963 to 1965 and as United States Ambassador to the United Nations from 1965 to 1968. Educated at Northwestern University (B.S.L. 1929, J.D. 1930), he now practices in Washington, D.C. Richard N. Gardner, now Henry L. Moses Professor of Law and International Organization at Columbia University, was Deputy Assistant Secretary of State for International Organization Affairs from 1961 to 1965. He attended Harvard (A.B. 1948), Yale (LL.B. 1951) and Oxford (Ph.D. 1954), where he was a Rhodes Scholar.

FOOTNOTES

[1] *Hearings on the Genocide Convention Before a Subcomm. of the Senate Comm. on Foreign Relations*, 92d Cong., 1st Sess. 12-54 cited hereafter as 1971 *Hearings*. The testimony of Mr. Deutsch was virtually identical to his article with Orie L. Phillips, *Pitfalls of the Genocide Convention*, 56 A.B.A.J. 641 (1970).

[2] 1971 *Hearings* at 107-137.

[3] SEN. EX. REP. No. 92–6, 92d Cong., 1st Sess. (1971), cited hereafter as SENATE REPORT.

[4] *Human Rights Conventions, Hearings Before the Senate Comm. on Foreign Relations*, 90th Cong., 1st Sess., Part 2, 70 (1967).

[5] 1912 Convention Relating to the Supression of the Abuse of Opium and Other Drugs (T. S. 612); 1931 Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs (T. S. 863); 1953 Protocol for Limiting and Regulating the Cultivation of the Poppy Plant, the Production of the International and Wholesale Trade In, and Use of Opium (T.I.A.S. 5273).

[6] World Health Organization Regulations No. 1 (T.I.A.S. 3482), as amended (T.I.A.S. 3482 and 4409), and World Health Organization Regulations No. 2 (T.I.A.S. 3625), as amended (T.I.A.S. 5156, 4420, 4823, 4896, 5459 and 5863).

[7] 1940 Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere (T.S. 981).

[8] *Human Rights Conventions and Recommendations*, Draft of Proposed Report for Consideration by Section and Committee, April 1967.

[9] For another example of confusion as to the relevant constitutional test, see Raymond *Don't Ratify the Human Rights Conventions*, 54 A.B.A.J. 141 (1968). Mr. Raymond, evidently unaware of the treaty cited in note 7, takes the view that the United States can make treaties on the protection of wildlife only when birds fly from one country to another.

[10] This contention appears in the appendix to Mr. Schweppe's statement to the Senate subcommittee, 1971 *Hearings* at 71, although it is not in Mr. Deutsch's testimony.

[11] This contention appears in the testimony of Mr. Deutsch, 1971 *Hearings* at 20, 37–39.

[12] See ROBINSON, THE GENOCIDE CONVENTION—A COMMENTARY 83–84 (World Jewish Congress, 1960), containing citations to the drafting history on this point.

[13] *Genocide Convention, Hearings Before a Subcomm. of the Senate Comm. on Foreign Relations*, 91st Cong., 2d Sess. 45–46 (1970), testimony of George Aldrich, Deputy Legal Adviser, Department of State.

[14] This argument is made by Mr. Deutsch, 1971 *Hearings* at 18, 31–33.

[15] This argument is made by Mr. Deutsch, 1971 *Hearings* at 22, 46.

[16] This claim was made by Mr. Schweppe, 1971 *Hearings* at 61.

[17] 1971 SENATE REPORT at 1, 6, 18. ROBINSON, *supra* note 11 at 63.

[18] Mr. Deutsch, 1971 *Hearings* at 18–19, 33–34.

[19] As charged by Mr. Deutsch, 1971 *Hearings* at 45.

[20] This contention is made by Mr. Deutsch, 1971 *Hearings* at 21, 40–45.

[21] One of the exhibits submitted by Mr. Deutsch stated incorrectly that under the Genocide Convention the "U. N. World Court" would "hear cases of alleged incidents of physical or mental 'genocide' committed by individuals. . . . The accused in such cases would not be protected by the Bill of Rights." 1971 *Hearings* at 50.

[22] This argument is advanced by Mr. Deutsch, 1971 *Hearings* at 17–18, 30–31.

[23] This argument is made by Mr. Deutsch, 1971 *Hearings* at 39–40.

[24] ROBINSON, *supra* note 11 at 72–73.

[25] This argument is made by Mr. Deutsch, 1971 *Hearings* at 19, 35–36.

BARBARA COCHRAN, OF VERMONT—OLYMPIC GOLD MEDAL SKIER

Mr. STAFFORD. Mr. President, last Thursday in Sapporo, Japan, Barbara Cochran, of Richmond, Vt., captured America's first Olympic gold medal in Alpine skiing since 1952, winning first place in the special slalom event.

Racing through a heavy snowstorm, Miss Cochran finished with the fastest first-run time of 46.05 seconds, and the second fastest second run time of 45.19 seconds, to edge silver medalist Danielle Debernard of France by an incredible margin of two-hundredths of a second.

Miss Cochran, whose skiing family has been featured recently in Life and Parade magazines, followed the footsteps of Andrea Mead, now Andrea Mead Lawrence, of my hometown of Rutland, to Olympic greatness. Mrs. Lawrence won two Olympic gold medals in Alpine events in the 1952 Olympics, when American girls captured first place in all four women's Alpine races.

It is not coincidence that both of these girls hail from Vermont. Ever since the first ski lift in the United States was opened in Woodstock in 1934, Vermont has been noted for its challenging trails and expert courses.

It has been equally noted for the quality of its instructors and coaches. The ski school at Killington is world famous as a pioneer in the short-ski method which enables beginners to acquire the basic skills quickly. Stowe, Sugarbush, Stratton Mountain, Mad River, Bromley, Jay Peak, Pico, Burke Mountain, and Mount Snow have long been the places where experts go to ski.

Middlebury College, my alma mater, has been a spawning ground of a long line of great skiers and distinguished coaches. Most of them were taught by Bobo Sheehan, former varsity ski coach and Olympic coach.

Gordi Eaton, Fred Neuberger, Bob Beattie, and Johnny Bower have all been Olympic or national team coaches at one time, and all are from Middlebury. Also Barbara's coach, Hank Tauber, earlier skied for Middlebury.

Barbara Cochran, a great skiing individual, comes from a great skiing tradition. She has a sister and a brother on the Olympic team. Bobby was the top American finisher in the men's downhill event. Although she learned to ski on a slope her father built in the backyard, Barbara Cochran was able to develop and refine her talent on the finest ski slopes in the world.

She was taught by the best coaches, particularly her father, Mickey Cochran, who still coaches a great many Vermont kids in the fine points of Alpine racing.

Mr. President, I congratulate this young woman from Richmond. It is a tribute to her courage and perseverance, and the dedication of her family. I am proud to represent her home State.

MR. NIXON'S PEACE PLAN

Mr. CRANSTON. Mr. President, two articles published in the Los Angeles Times of Wednesday, February 9, are important in the light of the recent heated debate over the propriety of a few presidential candidates' comments on Mr. Nixon's peace plan as announced on January 25.

D. J. R. Bruckner accurately points out that when H. R. Haldeman, one of the President's closest advisers, accused some critics of "consciously aiding and abetting the enemy," he, in effect, called them traitors. The language used by Mr. Haldeman is exactly that which the Constitution uses to define treason.

This kind of language might have seemed appropriate to some at the height of the Red scare in the 1950's. It is completely out of place in the presidential campaign in 1972, and I am sure it repels the American people with the same intensity that it repels me. I find myself in agreement with Mr. Bruckner that—

> What we are seeking now looks like panic at the very top of our government. The war is an issue, all right, and the Administration has made it a very dangerous and ugly one.

Also included in this issue of the Times was an editorial which condemned not only Mr. Haldeman's description of the President's critics, but Mr. Nixon's attempts to disassociate himself from that description without specifically repudiating it. Both these pieces are excellent and well worth the time and attention of each of us here in the Senate.

As a footnote, next to the editorial there was a cartoon by the great award-winning cartoonist, Paul Conrad. I sincerely wish that cartoons could be reprinted in the RECORD, for this one is really excellent. It depicted Mr. Nixon with upraised arms. In one hand was a puppet, identified as Mr. Haldeman, holding a bucket of presumably red paint labeled "Democratic Traitors." In the other hand, the President held a sign which read:

> We are not responsible for the views expressed by members of this administration.

Certainly, a most thought-provoking cartoon, worthy of Mr. Conrad's very best work.

Mr. President, I ask unanimous consent that the two articles be printed in the RECORD.

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

[From the Los Angeles Times, Feb. 9, 1972]

DISSENT IS NOT THE NATION'S ENEMY

President Nixon is making a terrible mistake. He won the respect of much of the country with his serious and flexible approach to negotiations toward peace in Vietnam. Now he is throwing away that respect by the unconscionable attack being made by members of his Administration upon Sen. Edmund S. Muskie and anyone else who differs or criticizes.

The latest and most indecent was H. R. Haldeman's outrageous assertion that "the critics are now consciously aiding and abetting the enemy of the United States." Which is crying "treason," as destructively, as poisonously, as that word was ever thrown about in the worst days of the early 1950s.

H. R. Haldeman is Assistant to the President. No pieties from the President's press secretary about "room for honest criticism" can detach Haldeman's words from Mr. Nixon's attitude. The President is stuck with those noisome words until he specifically repudiates them.

Haldeman was the worst, but not the only. A series of spokesmen for the Administration tried, quite evidently in concert, to create the idea that only the President dare speak about Vietnam. Secretary of State William P. Powers, in a clumsy burst of partisanship, suggested Muskie's proposals would mean "total defeat" for the United States.

There is afoot here a crude attempt to make the war a patriotic issue for the political benefit of Mr. Nixon. It is too late for that. The issue in this was is not Us or Them, not the Flag against the Enemy, not "utter surrender" and "total defeat." No Americans we have heard of "are in favor of putting a Communist government in South Vietnam," as Haldeman said of Mr. Nixon's "critics."

There is one issue for the United States in Vietnam: how to get out. The President knows that. His Democratic challenges know that. The whole country knows that. Upon that central proposition hang all the arguments about ways to do it. The President has made his own proposals. His critics. Democratic and Republican, have made theirs. In content they differ on this point or that point; but they do not differ in intent from him. The aim is the same.

To suggest that it isn't, as the Administration is suggesting, is to throw the national discussion of Vietnam back to the primitive level of the Johnson years; is perhaps to retard the development of negotiations toward which Mr. Nixon opened the way; and is certainly to undo the progress the country has been painfully making toward resolution of the internal conflict about this awful war.

[From the Los Angeles Times, Feb. 9, 1972]

A DANGEROUS AND UGLY ISSUE

(By D. J. R. Bruckner)

SAN FRANCISCO.—The war has been brought home as a political issue in the ugliest, most personal way. Starting with Mr. Nixon's television talk on Jan. 25, in which the President revealed the history of the secret negotiations between Henry Kissinger and the North Vietnamese and the Viet Cong, the Administration has waged an escalating campaign to silence its critics and to convince the American people that the enemy is trying to influence public opinion in this country in order to win its aims in the war.

Of course the enemy is trying to influence opinion in this nation; every enemy does that in every war. But is it wise, or decent, for our own government to imply repeatedly that Americans who do not support the Administration unreservedly have been fooled by the enemy, used as dupes? If this is the way the war is to be presented as an issue in this political year, it could prove a disaster.

Maybe it was not so smart for Sen. Edmund Muskie (D-Me.) to present his own peace plan on Feb. 1. You will find very few people outside Washington who had much interest in it or even knowledge of it before the Administration started to campaign against Muskie. The White House press secretary, the secretary of defense, the secretary of the interior, Sen. Robert Dole (R-Kan.) and Secretary of State William R. Rogers all attacked Muskie publicly. The language used by Rogers in a press conference on Feb. 3 was at least intemperate, when he called the Muskie proposal, and Muskie's criticism of Mr. Nixon's eight-point peace plan, "inappropriate and harmful to our national interest".

If there was any doubt about the sanction of the White House on that outburst, that doubt should have been removed Monday morning when Mr. Nixon's powerful and intimate aide H. R. Haldeman appeared on the Today show and accused "some critics" of the Nixon policy of "consciously aiding and abetting the enemy." Now, that is language drawn from the Constitution where it is used to define treason.

This country has not been exposed to such violent personal attacks in a political campaign in 20 years—not, in fact, since Mr. Nixon went around the country in the 1952 campaign attacking the integrity of President Harry S Truman and casting doubt on the loyalty of the then Secretary of State Dean Acheson. Haldeman's remarks have a familiar ring of terror and threat in them. After all, this is not the Vice President out playing to the right wingers in the gallery; this is a voice from the inside of the White House, and a voice of great authority.

This venomous campaign is awfully dangerous. It would be dangerous in any election year when the nation is at war. But during this campaign year we also see the trial in Harrisburg, Pa., of the Rev. Philip Berrigan and his associates in the antiwar movement, and the pending trial of Daniel Ellsberg and his associates in the Pentagon Papers affair. And Mr. Nixon himself has made the American prisoners held by the enemy a major political issue.

Popular emotions are being assaulted from many directions. You have to wonder whether the Administration has decided that loyalty can be voted on and the war brought to an end by the decision of the American electorate in November. A national referendum on the war is what some of the wild outriders of the peace movement have wanted for a long time. Is that what the President wants too?

On television Sunday, Rogers said it is important that the North Vietnamese understand that the American people support the government in its conduct of negotiations. Well, the American people have supported their government, through two different Administrations, in the conduct of this war, at the cost of more than 50,000 lives and $130 billion. How much more is expected? Apparently, dumb acquiescence. Rogers said that he and the President have the responsibility, under the Constitution, for negotiating with foreign governments, adding: "And at a time when we have very sensitive negotiations going on, then I think it is incumbent on other branches of the government to let us conduct those negotiations." So much, in his opinion, for the Congress of the United States.

The Administration's publicity campaign will surely backfire. Congressional opposition to the war after all, is not an accident. Most members of Congress were members when the war started, and they have been voting men and money for it for seven years. They are politicians, too, and their conversion to peace, like Mr. Nixon's probably reflects a change of attitude among their constituents. The war is an issue which Mr. Nixon did not create, but which now threatens him; and there is only one way he can turn it into what he once called a "nonissue." That is, to end the war.

Xuan Thuy, the chief North Vietnamese negotiator, said in an interview Saturday that "it is not for us to help Nixon keep Vietnam and get reelected at the same time." Rogers said Sunday that the terms Thuy laid down for a settlement "would mean a total defeat for the United States." The terms he was talking about, which Thuy says are negotiable, are total military withdrawal and total withdrawal of support for the regime in Saigon. Now, the Administration, not its critics, has laid down the definition of defeat, and it is stuck with it.

What we are seeing now looks like panic at the very top of our government. The war is an issue, all right, and the Administration has made it a very dangerous and ugly one.

RSVP FOR IDAHO

Mr. CHURCH. Mr. President, for several years the Senate Special Committee on Aging has supported proposals to increase the range of service opportunities open to older Americans.

Individual committee members have advanced bills that would establish a nationwide senior community service program similar in concept to the pilot Senior Aides, Green Thumb, and Foster Grandparents programs. Under those programs, older persons work 20 or so hours a week for a modest wage.

In addition, we were successful in winning approval of a program which would make it possible for unpaid volunteers to participate, too. Even those who serve without pay, however, should not have to pay for out-of-pocket expenses, such as travel. In addition, some provision had to be made for administrative expenses. After much congressional discussion, the Retired Senior Volunteer program—RSVP—was established to work along the lines I have just indicated.

I am happy to report that the first grants have been made under that program and that $76,000 has gone to Idaho. Recently, an article in the Idaho Statesman described the plans of the Idaho Office on Aging to make good use of that grant. Modest though the sum may be, I feel certain that it will touch many lives, including the volunteer participants. We have much evidence that the people of Idaho will respond affirmatively when they see sensible opportunities to help others. RSVP is providing just one more way for them to do so.

I ask unanimous consent that the article be printed in the RECORD.

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

FEDERAL GRANT OF $76,000 WILL SUPPORT VOLUNTEER PROGRAM BY RETIRED IDAHOAN

(By Carrie Ewing)

Of what significance to Idaho is a $76,000 federal grant to a Retired Senior Volunteer Program?

Following a Tuesday announcement of the grant, Wil Overgaard, deputy director of the Idaho Office on Aging, explained the program and told how it will be initiated in Idaho.

Overgaard said RSVP is designed to offer older adults a recognized role in the community.

"We want to provide a meaningful life in retirement through volunteer service for those who want to serve in this way," he said.

Of the $76,000 federal funding to initiate RSVP, about $55,000 will be used for "out-of-pocket" expenses (meals and transportation for volunteers) and the balance for administration and equipment costs, he said.

"We expect the program to be in operation by June 1," he predicted.

Under the federal ACTION program, which has incorporated several volunteer programs—Peace Corps, VISTA, Foster Grandparents, among others—each RSVP is planned, organized and operated on the level he said.

It is developed under the auspices of an established community-service organization that is able to generate local financial support. Only one RSVP is permitted in a community service area.

"The entire volunteer program is designed to use the knowledge, skill, and expertise of the retired elderly, matching local needs with their interests, preferences and concerns," he added.

Three areas in Idaho tentatively have been designated for the opening of RSVP. They are Treasure Valley, with Boise as headquarters; Northern Branch, with Lewiston as headquarters; and Southeastern Branch, with Pocatello as headquarters. Overgaard was careful to note changes may be made as the program gets underway.

A local RSVP Advisory Committee for each area will guide the early development of the program and provide support and advice on major decisions, Overgaard said. A full-time program director will be appointed in each.

Overgaard said the Idaho program will aim to attract retired men and women over 60 into community volunteer service. They will serve in a variety of organizations, agencies and institutions which will be designated volunteer stations. They may be courts, schools, libraries, day-care centers, hospitals, nursing homes, Boy Scout offices, economic development agencies and other community-service outlets.

No restrictions based on education, income or experience will apply to RSVP volunteers. All that is asked of a volunteer is that one be willing to share the benefits of a lifetime of living, "which is no more than your accumulated experience, knowledge, interests, abilities, skills, understanding, maturity and dependability."

One must be in search of an opportunity to be useful, needed and appreciated. Volunteers must have the capacity to cooperate and accept instructions, and to accept a commitment to serve on a regular basis.

As is customary, seniors volunteering their services to RSVP, will receive no monetary compensation. However, they may request reimbursement for such actual expenses as transportation and a meal, Overgaard stressed.

Persons interested in enrolling to serve in the program may contact the Idaho Office on Aging, Statehouse, Boise. Overgaard suggested an applicant should signify the kind of service he is interested in rendering and the region in the state he can serve most conveniently.

INTELLECTUAL HYGIENE

Mr. ALLOTT. Mr. President, on the editorial page of today's Washington Post, Dr. Paul W. McCracken, Chairman of the Council of Economic Advisers, undertakes a necessary chore of intellectual hygiene. He demolishes the latest economic pronouncement from John Kenneth Galbraith, sometimes economist and author of the book splendidly entitled "Who Needs the Democrats."

Professor Galbraith lusts after wage and price controls. It is not clear whether Professor Galbraith favors controls on the wages of Harvard economists, or on

the price of his books. Dr. McCracken explains the more garish inadequacies of Galbraith's latest nostrums.

So that all Senators can enjoy Dr. McCracken's essay, I ask unanimous consent that it be printed in the RECORD.

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

CEA CHAIRMAN'S CRITIQUE—GALBRAITH AND PRICE-WAGE CONTROLS

(By Paul W. McCracken)

In his recent testimony before the Joint Economic Committee, the noted Democratic economist J. K. Galbraith again offered the country his remedy for its economic problems. The remedy is wage and price controls, now and forever. His prescription has the merit of being logical within the limits of his peculiar view of the economic system. He has been making clear for at least the past 20 years his scorn for the idea that prices serve to guide the economic system into producing what consumers want. Believing that prices are only labels stuck on real things with no other function than to extract income from consumers, Galbraith of course has no hesitation about "interfering" with these prices.

This view of the function of prices and how to keep them from being "too high" was of course common for centuries until people began to study the question with some theoretical rigor and empirical evidence. It is still common among uneducated people. Galbraith's view is unusual only in being held by the president of the American Economic Association and in being described by him as new.

Having no use for what others call the price system, Galbraith does not fool around making bows to it. Others who want to restrain wages and prices talk about voluntary and temporary "income policies." These would, allegedly, not really keep anyone from doing what he badly wanted to do; they never diverge far from what a competitive market would produce; and they would be over before they could do much damage. However, Galbraith goes at once to the logical conclusion of this line of thought. He wants an immediate, comprehensive, mandatory wage-price freeze to be followed later by permanent price and wage controls on the largest corporations and unions.

Well, why not? Haven't we all, and not least the Council of Economic Advisers, had enough of the endless sea of troubles that this inflation is, and should we not end them at a stroke with the clear, sure weapon of controls? The temptation is great, especially if someone else will administer the controls. But the temptation must be desisted, for several cogent reasons:

1. Despite Galbraith's dismissal of it, the adjustment of prices in the market does contribute to the efficiency of production and its adaptation to the desires of consumers. U.S. experience with general price control in wartime and with limited price controls in regulated industries shows the loss of consumer satisfaction that results. Observation of the pattern of production in other countries that have suppressed the price system confirms this conclusion. The tendency in the European socialist countries to increase reliance on market prices is evidence for it.

2. General price and wage control would be a serious threat to individual freedom. It is amazing that the press, so jealous of its own freedom, does not recognize what would be the implications of having the income of literally everyone in the country controlled by a government agency. In World War II newspapers were exempted from price control, to avoid the possibility of infringing on the freedom of the press. Does wage control violate the constitutional ban on involuntary servitude?

3. The common image of price-wage control is entirely wrong. The image is that a little band of dedicated, objective, analytical men in Washington would keep a few heads of powerful corporations and unions from exploiting "us." The fact is that it is "us" who would be and would have to be controlled. And the control would not be managed by Moses, or Buddha, or Galbraith (at least not forever) but by the same kind of people who run and operate all the other agencies in Washington. That is to say they would be political and bureaucratic.

As an aid to realistic thinking about the problem of price control I list in the accompanying table the items in the Consumer Price Index that rose most in the last year.

4. The idea of a freeze is illusory. Wages and prices would be in upward motion from the first day. Millions of workers are covered by contracts that call for wage increases still to come. But profit margins are very low. If these wage increases already contracted for are granted, price will have to rise. But then other wages will have to rise, as a result of escalator clauses or otherwise. In fact, the whole process may be inflationary because the standards for prices and wages that must be established in order to assure cooperation and "equity" may raise rather than lower inflationary expectations.

5. Wage-price controls threaten to speed up inflation from the demand side also. These controls, or less rigorous forms of incomes policy, are now commonly proposed as part of a package. One half of the package is restraint on prices and wages and the other half is pumping the economy quickly up to full employment by tax cuts or expenditure increases or both. The expansionist part of the package is easy and popular; the restraint part will be neither. Only a little common sense is required to forecast the relative strengths of the restraint part and the expansion part of the package. After all, the Johnson administration had its two-part package also—guideposts for restraint, and fiscal policy for expansion. The expansion ran away with the restraint.

Because he is so logical, the difference between Professor Galbraith and the Nixon administration on this matter is clear.

Believing that the price system contributes nothing to the well-being of the American people he is prepared to suppress it. Believing that the price system has a major part in the high standard of living and economic satisfaction of the American people, we are determined to strengthen it.

Being a novelist and wit, Galbraith can dismiss the problems of carrying out the policy he proposes. Being government officials we cannot.

Being a Democratic partisan, he can proclaim that we are now in an economic crisis. Being the successors to a Democratic administration, we feel relief at having averted the crisis to which the policies of our predecessors were tending.

Biggest increases in the Consumer Price Index June 1970 to June 1971

Item:	*Percentage increase*
Carrots	40.5
Green Peppers	30.4
Postal Charges	25.3
Cucumbers	22.5
Lettuce	19.6
Dried Beans	16.6
Canned sardines	15.8
Fish, fresh or frozen	14.2
Reshingling roofs	13.9
Canned tuna fish	13.5
Residential water and sewage charges	13.4
Semi-private hospital room	13.2
Oranges	13.2
Bus fares, intercity	13.0
Watermelon	13.0
Auto insurance rates	12.6
Private hospital room	12.4
Washing machine repairs	12.2
Repainting living room	12.1
Taxicab fares	11.9
Cracker meal	11.8
Airplane fare, chiefly coach	10.8
Railroad fare, coach	10.6
Fruit cocktail	10.5
Newspapers	10.2
Replacing sinks	10.0

EARTHQUAKE THREAT

Mr. CRANSTON. Mr. President, 1 year ago last Wednesday, an earthquake registering 6.6 on the Richter scale struck the San Fernando Valley in California. Sixty-four lives were lost, many more persons were injured, and between $500 million and $1 billion worth of property damage occurred.

One year later, too little has been done to prepare for the next major earthquake. Scientists say California will experience an earthquake that will register more than 8 on the Richter scale within the next generation.

Building codes have not been adequately strengthened to require new structures be more earthquake resistant. Particularly vulnerable older buildings too often have not been reinforced to withstand the coming earthquake. Basic seismological research has been limited.

These are problems both Federal and State governments should be concerned about. KGO radio, an American Broadcasting Companies, Inc. station located in San Francisco, broadcast an excellent series of editorials pointing out the dangers of the coming earthquake and the responsibilities of both citizens and the government. Mr. President, I ask unanimous consent these editorials be printed in the RECORD.

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

WE CALL TO YOUR ATTENTION—I

Preparations against an expected major earthquake in California are inadequate, slow and indecisive. With few exceptions, public apathy regarding this danger is general.

Adults, if they choose, can continue to play games with their own lives. But we can neither comprehend nor condone citizens of voting age permitting their children to be so endangered.

Over a third of a million California children still attend daily classes in 18-hundred school buildings any of which could become death traps. They do so despite enactment of a law four years ago to compel school boards throughout the State to conform with a statute requiring quakesafe schools.

Seventy-two bond elections held to implement that law have failed in California in three years for want of a two-thirds majority. Only 51 passed.

Now the State's four major cities confront such elections. The first is on Tuesday in Oakland, a 52-million dollar measure to restore or replace 39 schools housing 25-thousand pupils. Then Los Angeles, next week, for 200-million; San Diego, June 8th, 150-million and San Francisco, in November, 56-million.

Sixty months ago, before the Field Act was page one news, KGO Radio called for its enforcement and helped obtain the 1967 law to accomplish that.

The interval since then has increased the danger. So that today it is still more crucial to restate the plea: Common prudence dictates a "Yes" vote for all such measures to take children out from beneath roofs that can collapse in an earthquake.

SCIENCE SOUNDS A WARNING—II

Representatives of 18 nations, under U.S. and NATO sponsorship, are now gathering in San Francisco for a week-long conference on earthquake hazards. These scientists from around the world consider the current dangers of major quakes important enough to warrant immediate close study and exchange of information.

Yet the host State in which they meet is itself largely apathetic about those dangers and is delinquent in preparing against them.

California is sitting on what may be the biggest natural time bomb in the world, and the fuse is burning down fast. Experts agree a massive California earthquake is inevitable.

Up to now the time factor for this invisible threat has been vague—"somewhere in the next century." KGO Radio can now reveal that a long-awaited technical breakthrough may advance that timetable estimate radically.

We disclose this not to be alarmists but because public interest requires all such data. Renner B. Hoffman, long-time number one seismologist for the state of California, has just developed a formula which he says can determine the probability of major earthquakes.

He tells us his study, based on collected data, shows there is a 70 percent likelihood that California will suffer an earthquake of greater than 8 magnitude on the Richter Scale in the next ten years. And that the chance is as high as 48 percent that San Francisco's Bay Area will undergo a quake in the next eight years of 8.4 or greater. The 1906 disaster was 8.3.

We hope this new expert reckoning may help to awaken California from its lethargy.

THE CITY THAT KNOWS HOW—TO DIE—III

The earthquake of potentially catastrophic force which scientists generally agree is coming in California may be closer at hand than has previously been estimated.

KGO Radio has pointed editorially to a new scientific theory which indicates this conclusion. We believe such reports, whatever their ultimate degree of validity, underline the need for quicker, more concerned action by state, county and city governments to protect public safety.

In many cases officials continue to play what may be history's most dangerous game of roulette with nature.

San Francisco is an example. It is known that this city sits astride one of the earth's most active seismic zones. Right now it is the meeting site for an international conference of concerned earthquake scientists from 18 nations. Yet a city ordinance which could materially reduce possible widespread death and injury, and which was passed more than two years ago, remains completely unenforced.

The law requires inspection—and then either repair or removal—of parapets and other overhangs on buildings which might dislodge and fall in a strong tremor. It would cost 60-thousand dollars a year to hire necessary inspectors. The Supervisors unanimously asked for such funding. But it was stricken entirely from the current budget. Thus the hazard remains unmodified.

State government itself has been remiss in meeting some actual quake-related needs. We will detail that in our next editorial.

HOW TO BECOME A LATE GREAT STATE—IV

The only agency of California state government whose primary responsibility was earthquake research was abolished at the end of 1970. It was the earthquake engineering office of the California Department of Water Resources, which superintends the mammoth California Water Project, a three-billion dollar public investment.

The abolished bureau had made important strides in formulating earthquake safety building codes, dam construction, and developing new knowledge of how structural materials behave under quake stress.

Its scheduled but curtailed ten-year program would have cost one-tenth of one percent of the Water Project's outlay. But it was killed. Its 30 full-time and five-time member staff was slashed first to 11 permanent and five part-time, then to four permanent and three part-time.

Even after the February San Fernando quake, the staff was finally cut to just four workers statewide. This is not enough to maintain even the quake-monitoring instruments that might save major dams from destruction.

Experts say a bare bones minimum budget for state quake research is two-million dollars a year. The present budget is about 100-thousand.

That is an example of what Sacramento thinks of earthquake hazards. We will inquire further into the statewide problem in our next editorial.

STRONGER CODES AGAINST STRONGER QUAKES—V

There is urgent need throughout California for stricter construction codes to insure earthquake resistant buildings. Many present codes are inadequate to prevent substantial loss of life from structural collapse. Codes for dams and highways are virtually non-existent.

Strain levels on the San Andreas Fault in the Bay Area are now estimated to exceed 8.1 potential magnitude on the Richter Scale, and 8.4 in Southern California, greater than the 1906 quake.

Experts say release of such energies in a quake could cause up to 30-billion dollars damage and 100-thousand deaths.

Seismologists warn that most present codes provide for only one-tenth to one-twentieth of the potential force which could vibrate tall buildings. Yet the State is without a master agency to correct such shortcomings.

Quake problems are the secondary duty of several state agencies, but the primary job of none. We need a strong, expertly staffed California earthquake office. It could point the Legislature toward needed code reforms, collate the wealth of new earth research data and work with federal teams monitoring California Faults.

A bill to create such an agency, by Senator Tom Carrell, is now before the Senate Committee on Government Organization. It is SB 530. If you think this is a wise way for one of the globe's most earthquake prone areas to spend money, please tell Committee Chairman Ralph Dills, State Capitol, Sacramento.

THE SINS OF THE FATHERS—VI

It's hard to believe in the light of hazards which this editorial series has cited, but the present law fails to impose any penalty on school districts which fail to take required steps toward rendering their classrooms safe in an earthquake.

The Legislature should remedy that. In case of disaster, it is the children, not the officials, who suffer.

Up to 20 percent of the districts containing 18-hundred hazardous buildings have not even obtained up-to-date engineering analyses of how unsafe those buildings are. Twenty-three percent haven't even adopted a plan to make repairs possible, as the law decrees. Thirty-three percent have never held an election to raise funds. And where elections are held, they continue to fail.

Since this series began voters turned down bonds to safeguard the lives of 175-thousand pupils in Oakland and Los Angeles. The L.A. measure lost by a mere 11-hundred votes out of a half-million.

Meantime school building costs rise by 12-percent a year.

KGO hopes for three reforms:

Voters must at last separate their animosity against bond elections from the imperative need for safe schools. The Supreme Court can end the costly two-thirds majority bond election rule. And state government can put teeth in the 1967 law compelling school board compliance.

It can do so by notice that state funds will be cut off to offending districts, or it can file civil, criminal or class action suits against school boards which refuse to face reality.

HOW WE MEASURE UP—VII

No one knows for sure how San Francisco's skyscrapers will survive the next major earthquake.

No dependable assurance can be drawn from the survival of tall buildings in Los Angeles in the recent San Fernando shock. They were too far from the epicenter and the quake was not great enough to furnish definitive answers.

Engineers hope, and believe, most of our newer downtown prestige high-rises will perform well. But they are worried about hundreds of older small and medium office and apartment buildings, scattered throughout the city.

Some experts fear more than half of them could collapse in a major disaster. Many rest on potentially dangerous soft alluvial soil or unconsolidated fill. The recent 18-nation earthquake conference in San Francisco recommended all such buildings be phased out as soon as the economy permits.

The cost would be astronomical. It will cost 100-million dollars just to remove parapets from the city's buildings. We have not begun that job. Los Angeles has been at it 15-years and is two-thirds through a 65-million dollar project on 20-thousand buildings.

Finally, we have seen numerous condemned schools closed in the Bay Area. Such hard facts show that the huge costs of true quake hazard reduction may force an already overtaxed public to continue to live dangerously for an indeterminate time—unless the Federal Government promptly takes on a greater role in this crucial area.

KGO will explore that aspect of the story in our next editorial.

IT'S TIME TO CRY "UNCLE"—VIII

The Federal Government says the nation should adopt a "realistic but not hysterical sense of urgency" concerning earthquake dangers. Yet the federal machinery moves at snail's pace to reduce those dangers.

Washington must, in KGO's view, move quickly to provide large portions of the tremendous costs required to make vulnerable metropolitan areas in known seismic zones more safe.

Federal authority should set and enforce uniform standards of quake-resistant design and construction of public buildings and on private ones built with federal aid.

It should help urban centers survey existing buildings and identify hazards, then initiate long-term programs to abate them.

It should vastly expand strong-motion quake research and instrument monitoring—from the present 300-thousand dollars to at least 2-million annually.

It should sponsor tax reforms to provide deduction incentives for good buildings and penalties for minimum code ones. Property owners now hesitate to improve buildings for fear of increased assessments.

Cities withhold tough zoning and building policies to avert losing tax-base industry.

It's hard to sustain public concern about major earthquakes because they're so infrequent. As memory of big ones recedes, the average citizen's worry subsides.

Washington should back broad-scale public education, as KGO is trying to do regionally, to confirm that earthquakes pose contin-

uous wholesale dangers of the first magnitude, particularly in California.

YOU MAY ASK—IX

Why has KGO invested so much time in editorials about earthquake dangers? The President's National Task Force on earthquake hazard reduction provides an answer that explains our reasons.

It is human nature, says this expert panel, to minimize or ignore possible calamities we don't like to think about. That helps preserve our peace of mind between crises.

But this also discourages preparedness against disaster and invites future needless toll in lives and property.

Sensible safeguards, wisely arrived at, can yield high rewards for millions of citizens.

The motive behind these broadcasts is to stimulate public and official interest in what safeguards are attainable, and then to combat apathy and inaction so they may, in fact, be achieved.

Some will accuse us of fanning the flames of fear. We accept this if the end result is a safer California. The intent is to awaken not frighten. So any one who considers the intent to be scare tactics can crawl under a table in the next earthquake.

A long and careful survey of conditions on the city, state and federal levels made this editorial series, in our view, imperative. Their content is the result of expert scientific opinion and advice, the best we could obtain. Based upon that we will conclude this series with a set of specific recommendations.

THE SUMMING UP—X

Making California as relatively safe against future earthquakes as science and public dedication can insure will demand monumental costs of an already over-taxed people.

Thus the Federal Government, as we have earlier detailed, must divert major funds to this primary need.

But the state and cities must help themselves.

KGO urges these steps by the state—more action from the largely silent California Joint Committee on Seismic Safety. Faster revision of the ten-year-old basic building code. An expanded telemetered seismograph network to link more fault-monitoring stations throughout the state. Intensified research on tall buildings, freeways, overpasses and dams, by a central state agency.

Enactment of the Dent Bill, A.B. 75, for a 200-million dollar June, 1972 state bond measure to help bring all schools into compliance with quake safety laws. That total job will cost one-and-a-quarter billion dollars, and every school bond defeat adds 12 percent a year to that.

San Francisco, in double jeopardy between two major earth faults, should start enforcing its strict quake code, especially on medium-size buildings. Budget cuts now prohibit this.

We should, by orderly plan, phase out dangerous pre-1930 brick buildings and remove all parapets wherever they hang.

Other Bay cities should ban building on dangerous land and stop erecting schools astride quake faults as was done 15 times already.

Finally, our 219 hazardous schools must meet safety standards or be closed.

Nothing less than these joint measures will suffice in a coastal society that wants to survive, develop and prosper.

THE TRIAL OF MARY LINCOLN

Mr. MATHIAS. Mr. President, on Tuesday, February 8, Senator EDWARD W. BROOKE, of Massachusetts; Senator CHARLES H. PERCY, of Illinois, Senator MARLOW W. COOK, of Kentucky, Senator ADLAI E. STEVENSON III, of Illinois, and Senator WILLIAM BROCK, of Tennessee, and I were hosts at a reception during which we were privileged to provide a preview of the National Educational Television production "The Trial of Mary Lincoln," an experience that the whole country may share at 8 o'clock this evening.

The reception provided my colleagues and me with an opportunity to recognize Dr. Peter Herman Adler, the executive producer and conductor of "The Trial of Mary Lincoln." Dr. Adler is also the music and artistic director of the opera department of the National Educational Television in New York City.

In introducing Dr. Adler, I noted that public television was undergoing a period of some discussion in respect to some of its programing and policies, but that in my judgment there was widespread support in the country and the Congress for the cultural programing of public television.

Tonight "The Trial of Mary Lincoln" will be broadcast on public television nationwide. I urge Senators, particularly those who were unable to be at the preview, to take the opportunity to view this production. I believe that you will be made aware of the unique position that television occupies in modern American lives and, more importantly, the uniquely successful communication media television provides us. The production communicates in a most vivid way an important episode in American history.

Incidentally, to those of us in public life, it communicates not only the great opportunity for service, but also the penalty it exacts many times from our families and friends.

This original production, offered tonight and hereafter to millions of Americans, not only communicates fine acting, great voices, exceptional theater, but also provides a cultural and educational opportunity to young and old alike. I am sure the Senate will agree that this is among the legitimate purposes of public television.

Some Senators may recall that I have been attempting to bring the American bicentennial to life with a thoughtful program that will command national support and participation. I was somewhat critical of the operation of the American Revolution Bicentennial Commission. I should like to suggest that the Commission could well explore the possibility of utilizing public television as one of the instruments for commemorating the bicentennial of the founding of this country.

For instance, it could plan now to commission an original American opera, celebrating the bicentennial. A great work of art could be created which would live for centuries to come. I merely suggest this as a creative way to use public television, enhance its recognition and understanding of its cultural function and, at the same time, provide an appropriate means of celebrating the American bicentennial.

"The Trial of Mary Lincoln" proved to me and, I believe, my colleagues the validity of this approach. I respectfully suggest that it be considered both by public television and by the American Revolution Bicentennial Commission.

Life magazine on February 11 published a review, by Cyclops, of "The Trial of Mary Lincoln." I ask unanimous consent that it be printed in the RECORD.

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

A LINCOLN TRAGEDY IN COOK COUNTY—THE TRIAL OF MARY LINCOLN

If you go to the *Encyclopedia Britannica*, you will not learn much about Mary Todd Lincoln. You will be told that she was beautiful, high-spirited, well-educated and "much higher in social origin" than the Abraham Lincoln she married in November 1842; that she was, subsequently, self-willed and rather tyrannical and that, perhaps, "her narrow vision and her dogmatic firmness" may have been the saving of her husband, who was inclined to seizures of melancholy and indecisiveness. You will not be told that members of Mary Todd's family fought for the South during the Civil War. Nor that she lost three children before their maturity. Nor that a fourth child, Robert, brought suit in 1875 to have her declared insane, and succeeded in doing so.

At a time when history is almost immediately converted into theater—we have had on Broadway recently the Pope, the Berrigans, Churchill and Patrice Lumumba—it was inevitable that the materials of Mary Todd Lincoln's life would be turned into some sort of play. What was not inevitable was that they should be turned into an opera. *The Trial of Mary Lincoln* is the first work the NET Opera Theater has actually gone out and commissioned. It is a happy precedent, even happier because they didn't go to someone famous for the music; they went to 26-year-old Thomas Pasatieri. (Before young poets and playwrights complain too much about their problems of being published or produced, they should consider the lot of a young opera composer, who needs a theater, an orchestra and a cast that can sing and act before his work officially exists.)

Anne Howard Bailey contributed the libretto, an impressionistic affair consisting of flashbacks into Mary's past while she defends herself at the insanity hearings in the Cook County Courthouse—Cook County, of course, being a very good place for history and theater to get together for a trial; Julius Hoffman might as well have been the judge. Thus we see Mary in 1841, when Abe broke off their engagement; Mary in 1860 at a party celebrating Abe's election to the presidency, where she opposes the choice of William Seward as secretary of state; Mary during the Civil War, at the deathbed of a son, refusing to join in a Confederate plot, visiting wounded Union soldiers, dressing up extravagantly because "power must look the part," remembering the night at the theater; and, finally, Mary being declared insane. Who had a better right to insanity?

Abe himself is never seen, which is a little like Moby Dick avoiding Ahab throughout the novel but which simplifies dramatic matters. Miss Bailey is not didactic—the only point she seems to be trying to prove is that marriage was, at the time, Mary's only option, and that marriage to the President leads an ambitious woman to meddle in affairs of state, to be isolated for it, and ultimately to live a distorted life, the fretted edges of the public self and the private self rubbing the psyche ragged. This decent reticence on the part of the librettist lends strength to the production. Words don't war with music; they join and are indistinguishable. Pasatieri's operatic habit is Menotti's, very much like *The Consul*—that is, more theater than opera, without arias dropped like jelly beans into a pancake of plot, each part crafted to build a whole of shattering impact.

You can't hum a few bars from *The Trial of Mary Lincoln;* you can be devastated by an hour that tightens its grip on the awareness until the spring snaps and the key falls away into darkness.

Toward this end, mezzo-soprano Elaine Bonazzi is superb as Mary, her face a window on bad weather in the soul, her voice an amazing animal, leaping, burrowing, attacking and retreating. At the screening I went to, to everyone's embarrassment, the sound was afflicted with a buzz and the image was less than precise, owing to a faulty tape copy—certainly not what you will see on Feb. 14—but there was no doubt about the quality of Miss Bonazzi, nor about the splendid success of the Pasatieri-Bailey collaboration. I would watch it again through a glass brick, with trip-hammers sounding behind me, and still be mesmerized.

SEVENTY-THREE PERCENT FAVOR APPROVAL OF EQUAL RIGHTS AMENDMENT

Mr. BAYH. Mr. President, additional evidence that the American public overwhelmingly favors the Equal Rights Amendment has recently come to light. Following a debate on the amendment on the Advocates, a decisive majority of viewers—73.3 percent—responded affirmatively to the question, "Should the Equal Rights Amendment Be Adopted?"

The Advocates is a television program, coproduced by WGBH in Boston, and KCET in Los Angeles for the 213 stations of the Public Broadcasting Service, on which important issues of the day are debated. Both sides of the issue are fully and vigorously represented. After hearing all the arguments, the viewers are able to record their opinions. The results, then, are very significant, for those who respond have focused carefully on the issue at hand.

After the debate on the equal rights amendment, a total of 3,305 votes were received from all portions of the United States. Of the total, 2,422 voted to support the equal rights amendment, while only 878 registered opposition.

Mr. President, the House of Representatives has already overwhelmingly shown its support for the equal rights amendment, and the Senate should do the same.

I ask unanimous consent that the publication entitled "The Nation Responds to the Advocates" be printed in the RECORD.

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

THE NATION RESPONDS TO THE ADVOCATES

Should the Equal Rights Amendment Be Adopted?

Final Tally of Votes: Total: 3,305; Pro: 2,422; Con: 878; Other: 5.

ADVOCATES VIEWERS VOTE DECISIVELY IN FAVOR OF WOMEN'S RIGHTS AMENDMENT

Following a recent debate on the advocates, a decisive majority of viewers responded in favor of legislation which would prohibit legal classifications of any kind on the basis of sex.

A total of 3,305 votes were received, 2,422 (73.3%) of which were in support of the proposal "Should the Equal Rights Amendment Be Adopted?" 787 registered opposition and only five people put forward other opinions.

The advocates, which debates public issues, provides the largest public opinion poll in the United States. It is coproduced by WGBH, Boston and KCET, Los Angeles for the 213 stations of the Public Broadcasting Service.

State breakdown of mail response:

State	Pro	Con	Other
Alabama	4	10	3
Alaska	0	0	0
Arizona	56	33	0
Arkansas	7	0	0
California	571	171	0
Colorado	61	20	0
Connecticut	42	8	0
Delaware	22	3	0
District of Columbia	25	11	0
Florida	62	23	0
Georgia	30	29	0
Hawaii	7	1	0
Idaho	3	0	0
Illinois	120	53	0
Indiana	25	8	0
Iowa	14	9	0
Kansas	10	11	0
Kentucky	10	5	0
Louisiana	47	8	0
Maine	2	0	0
Maryland	40	8	0
Massachusetts	152	36	1
Michigan	37	22	0
Minnesota	35	13	0
Mississippi	43	1	0
Missouri	14	7	0
Montana	8	2	0
Nebraska	7	9	0
Nevada	4	2	0
New Hampshire	5	5	0
New Jersey	79	19	0
New Mexico	12	6	0
New York	207	80	0
North Carolina	38	13	0
North Dakota	1	0	0
Ohio	70	24	0
Oklahoma	24	10	0
Oregon	50	16	0
Pennsylvania	133	38	1
Rhode Island	24	3	0
South Carolina	11	10	0
South Dakota	3	2	0
Tennessee	9	10	0
Texas	38	25	0
Utah	7	2	0
Vermont	2	1	0
Virginia	30	12	0
Washington	88	42	0
West Virginia	4	7	0
Wisconsin	57	14	0
Wyoming	4	2	0
Unknown	67	33	0
Foreign	1	1	0

DEDICATION OF FREDERICK DOUGLASS HOME IN ANACOSTIA

Mr. HART. Mr. President, a dedication ceremony at 11 a.m. today marked the culmination of many years of effort to restore the Frederick Douglass home in Anacostia and to establish it as part of the national park system.

High on a hill overlooking the community of Anacostia stands the Victorian home purchased by Frederick Douglass on September 1, 1877. "Cedar Hill," the name given to the home, was built by one of the developers of the community, John Van Hook. This substantial house was a symbol of Douglass' achievements. In the fine rooms of Cedar Hill he kept the mementoes of an active and satisfying life—the bill of sale which released him from slavery, pictures of his coworkers in the cause of abolition and civil rights, an order signed by Lincoln, and a gift of silver from Queen Victoria. Here he lived; and was visited frequently by friends, children, and grandchildren. Douglass died in his home on February 20, 1895.

The National Association of Colored Women's Clubs wisely and generously preserved his home in Southeast Washington so that each new generation would be reminded of this man and of those events in our history which permitted Frederick Douglass, born a slave, to rise to high service in his National Government, and become a world figure in the endless struggle for human rights.

Frederick Douglass died in 1895 and was mourned throughout this country and abroad. The Legislature of North Carolina adjourned for the day as a mark of respect. The Legislatures of Indiana, Illinois, Massachusetts, and New York noted in resolutions the passing of this great American.

The London Daily News editorialized:

From first to last, his was a noble life. His own people have lost a father and a friend, and all good men have lost a comrade in the fight for the legal emancipation of one race and the spiritual emancipation of the other.

In 1962, at the request of Dr. Rosa Gragg of Detroit, then president of the National Association of Colored Women's Clubs, Representative CHARLES DIGGS and I sponsored legislation, which became Public Law 87–633, providing for the establishment of the Frederick Douglass home in Anacostia as a part of the park system in the National Capital.

It was intended that the house would be restored and refurbished, and developed as a "historic house museum" with proper safeguards to protect the historic furnishings and library. At the time it was hoped that the home would be staffed, and open to the public, in about 2 years.

The 1962 act, however, authorized only $25,000 for repairing and refurbishing the home of this famous man. More detailed examination of the property showed that damage to the house by Hurricane Hazel and other storms, plus termite damage, had resulted in severe deterioration.

Accordingly, Representative DIGGS and I introduced a second bill—H.R. 5968 and S. 835—to authorize the $413,000 estimated to be needed to restore and refurbish the home.

The bill became law and subsequently the funds were granted by Congress to implement it. In these efforts, Representative DIGGS and I received enthusiastic support from many key Members of Congress—including prominently Senator BIBLE, Senator CASE, and Representative JULIA HANSEN—as well as numerous individuals and organizations throughout the country who were interested in this effort.

And so at long last we open the doors of a national memorial to a great man. He was America's greatest abolitionist, "an unflinching, unflagging, and uncompromising advocate and defender of the oppressed" in an era when that role demanded courage and persistence of the highest order. Kenneth Rexroth, in Saturday Review, wrote:

Frederick Douglass was born free. His servile status was a juridical delusion of his owner.

His life, recaptured in his "Autobiography," was a testament to his freedom, to "his total inability to think with servility." Throughout his long and eventful life, at the center of freedom's greatest struggle, Douglass spoke not just of freedom for the slaves, but in hope that American society itself could be free

from the evils of slavery and discrimination. His is thus a classic story, not of a Negro who escaped to freedom, but of a human being who always knew he was free and devoted his life to helping all men and women realize their freedom. In his own time his greatness lay in his active and challenging spirit, and in our time it remains so. One of the most extraordinary accomplishments of this man was his contemporary message—in his own time and in ours.

Frederick Douglass rose to a series of official posts unprecedented for a black American in his era. He was an adviser to Presidents, U.S. marshal of the District of Columbia, recorder of deeds in the district, and minister to Haiti. But these accomplishments were surpassed by his outstanding leadership role for his people—his moral guidance and his vision of a free and united social order. Like Martin Luther King in our time, Frederick Douglass had a dream always before him. He said:

A nation within a nation is an anomaly. There can be but one nation and we are Americans.

For a time, before he moved to Washington, D.C., Frederick Douglass made his home in Rochester, N.Y., where he published the first successful Negro-owned newspaper. After he left Rochester, a marble bust of Douglass was set in a place of honor. On that occasion, the Rochester Democrat and Chronicle noted:

Frederick Douglass can hardly be said to have risen to greatness on account of the opportunities which the Republic offers to self-made men, and concerning which we are apt to talk with an abundance of self-gratulation. It sought to fetter his mind equally with his body. For him it builded no schoolhouse and for him it erected no church. So far as he was concerned freedom was a mockery, and law was the instrument of tyranny. In spite of law and gospel, despite of statutes which thralled him and opportunities which jeered at him, he made himself by trampling on the law and breaking through the thick darkness that encompassed him. There is no sadder commentary upon American slavery than the life of Frederick Douglass. He put it under his feet and stood erect in the majesty of his intellect . . .

Rochester is proud to remember that Frederick Douglass was, for many years, one of her citizens. He who pointed out the house where Douglass lived, hardly exaggerated when he called it the residence of the greatest of our citizens, for Douglass must rank as among the greatest men, not only of this city, but of the nation as well—great in gifts, greater in utilizing them—great in his inspiration, greater in his efforts for humanity—great in the persuasion of his speech, greater in the purpose that informed it.

"Cedar Hill" will serve as a tangible and living memorial. In providing such historic sites we invite our people to associate with the lives and works of these great men. Frederick Douglass was one of our greatest, and we owe his memory and contribution—and his contemporary spirit of freedom—this due honor.

THE ANTIDRUG IS COMING

Mr. BROCK. Mr. President, in our continued search for reason in a society turned to drugs, there is constantly cropping up a variety of contradictions—who or what is to blame.

Materialism-poverty, authority—lack of authority, reality—oblivion—all these seem to contribute. But since we accept the fact that we are a Nation of great contrasts—of divergent personalities, of miniscule interest groups and values, we must accept the fact that individuality reigns.

Roman Gary, in an article published in the New York Times, feels that through man's genius we will see a revolution in biochemistry that will produce the perfect antidote—an antidrug—or face extinction.

Perceptive, experimental, and yet insightful, Mr. Gary sheds an interesting light on this ever-present contemporary problem of a culture immersed in drugs.

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

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

THE ANTIDRUG IS COMING

(By Romain Gary)

PARIS.—The pious must of every study of drug addiction is to pin down its cause to social neglect and ensuing despair, to view it as a consequence of alienation, a passive form a dissent and revolt. This kind of "understanding" is tantamount to encouragement, as it supplies the youthful addict with a glamorous aura of the desperado type, a trash romanticism that flourished in the twenties in the books of future Fascists such as Ernst von Salomon and Drieu La Rochelle, a skull-and-bones posturing already played to a pitch by Alfred de Musset and his *mal du siècle* kids in 1830. The dark beauty of this psychological getup suits the young well and they buy it eagerly.

Contradictions, however, abound. Lack of parental authority and the break-up of family life are blamed, while almost in the same breath the "reactionary," "dictatorial" role of the father is denounced as the chief culprit. The gospel of total individual and group permissiveness and freedom is preached, and yet the same individuals chastise society and governments for their inability to provide guidance. Nobody seems to be bothered by the fact that you cannot defend your right to live "the way I want" and at the same time holler that the "system" does not supply you with an ideal or a purpose in life, that is, precisely, with a "system."

A civilization can provide you with many things, but it cannot provide you with yourself. And since when, pray, have the young been known to look toward governments for guidance, for a directive? What kind of youth would that be?

If our civilization—both its Western and Eastern tail-ends—is to survive, it will be the first wholly materialistic civilization in history to do so. The notion of life without a beyond, without transcendence, is very recent and entirely without precedent. I do not believe that mankind can tolerate a total addiction to reality without becoming addicted to irreality and oblivion as well. If an average American family already spends three months a year, hour by hour, glued to the TV set, it is clear that it will depend more and more on increasing doses of irreality. The shape of things to come is there.

Far from being a rebel, or a dissenter, therefore, the dope-seeker is quite the opposite: a conformist, a fellow traveler of our materialistic establishment. The fact is that the so-called reality—be it at its best in the Scandinavian perfect society or at its worst in Harlem—is the greatest dope pusher of them all. And let us not forget that the basic assumption of our culture is that there is simply never enough "fun," sex fun, alcoholic fun, which in itself is addictive, because it calls for bigger and bigger doses.

It becomes difficult, in 1972, to accept as credible the Orwellian vision of a society of uniformity and robots. A more likely alternative is a creative break-up, fragmentation with emphasis on variety, implosions rather than explosions, involutions rather than revolutions, with the over-all structure of society changing slowly, less in obedience to an ideological imperative than through a pragmatic adjustment to science and technology. Under the oceanic, crushing impact of demography, each individual will seek to compensate for his loss of significance by transfering his identity to a group, thus creating micro, infrasocieties with the already perceptible emergence of a group-ego.

Those who say that the Woodstock Spirit, the yippie movement and so forth have failed and are finished make me think of a Roman witness watching the crucifixion and then noting in his diary that Jesus died "a failure." Among the hundreds of American kids selling handmade jewelry on Parisian sidewalks, a recent inquiry found almost no dope users. If this process and the insistence on variety and differentiation continues, the trend toward mass drug culture will be interrupted, though I am unable to see how a civilization functioning within the materialistic limits of physiology can face itself without seeking solace in addition to oblivion and irreality.

Aside from a merciless fight against all the sources of heroin supply, the only ultimate answer to a chemical is another chemical. The antidrug drug will be there sooner or later.

It is probable that man will either perish or change, and that a biochemical revolution may well succeed where all the social revolutions have so utterly failed. The road is unknown and the thought disquieting, yet we have no other choice than to trust something that did succeed in pulling us through, now and then; the genius of man.

BOY SCOUTS OF AMERICA

Mr. MATHIAS. Mr. President, for well over half a century, one of the outstanding organizations dealing with the youth of this country has been the Boy Scouts of America.

One in every four boys between the ages of 8 and 16 is currently in a scouting program. That is 4½ million boys from third grade through high school.

I am indebted to the national headquarters of the Boy Scouts of America for having provided me in this, scouting's anniversary month, with a summary of scouting activities in Maryland. Mr. President, I ask unanimous consent to include in the RECORD a copy of this fine report, along with a covering letter from Alden G. Barber, chief scout executive, and the text of a speech on scouting given by Gov. Daniel J. Evans of Washington at last fall's National Governors' Conference.

We all owe a debt of gratitude to what scouting has done for generations of American youth.

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

FEBRUARY 3, 1972.

HON. CHARLES MCC. MATHIAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATHIAS: At the National Governors' Conference in Puerto Rico last fall, Gov. Daniel Evans of Washington made

a formal presentation on behalf of the Boy Scouts of America. Coinciding with Governor Evans' statement, separate reports were prepared for each Governor describing the progress of Scouting in his State. At this time of our anniversary celebration, we are pleased to share with you the report for your State.

You will no doubt be interested in knowing that we are proceeding with deliberate speed with our long-range plan BOYPOWER '76, whose goal is to deeply involve in Scouting a representative one-third of all Scoutage boys by the 200th anniversary of the Nation.

Scouting is proud of its accomplishments. But even now with Operation Reach, our nationwide fight against drug abuse, and Project SOAR (Save Our American Resources), our national Conservation Good Turn which is extending into its second year, it is clear that the complete record has yet to be written.

Sincerely,

ALDEN G. BARBER,
Chief Scout Executive.

BOY SCOUTS OF AMERICA,
North Brunswick, N.J., February 1972.

To: The Honorable Charles McC. Mathias.
Subject: Maryland and Scouting.

Maryland gives to Scouting through its people, its cooperation, and its locale. For its part, Scouting gives a program of benefit to the State and its people in genenral, with special attention to the young.

PEOPLE

In addition to its providing the location for important Scouting events and meetings, Maryland makes a contribution to the Scout movement through the people it supplies as leaders of the movement.

John D. Shapiro, president of the Laurel Race Course and director of the Metropolitan Baltimore Chamber of Commerce, has been on the BSA Executive Board since 1970. Mr. Shapiro is also a member of the U.S. Foundation for International Scouting.

John W. Noble of Easton and L. Vinton Hershey of Hagerstown are National Council members. Mr. Noble is a member of the regional executive committee. Mr. Hershey is a member of the advisory board of the regional executive committee.

CAMPING

Camping is an area of mutual interest to Maryland and Scouting. The three Scout councils in Maryland operate four camps, and last year 980 Scouts and Explorers in 529 troops and posts benefited from a long-term camping experience. These facilities were also host to 43 disadvantaged non-Scouts for summer camping.

Scouts from all parts of the country also are invited to use the 28 camping facilities in Maryland that are approved for the BSA National Campways tour program.

PROJECT SOAR

Project SOAR contributes to Maryland in the form of an ecological effort. This program to Save Our American Resources is yearlong, but a single 1-day event—Scouting Keep America Beautiful Day on June 5 of this year—serves to illustrate the program. On that 1 day, in Maryland, 2,500 adult volunteers and 15,000 Scouts and Explorers cleaned up 800 miles of the State highways, rivers, and coastline and spruced up 1,000 acres of parkland and collected more than 1,500 tons of litter and trash. And this is but a part of Project SOAR. The complete program is such a success that the BSA Executive Board has extended the program for at least 1 more year.

OPERATION REACH

Operation Reach is Scouting's approach to another major problem area. Developed in a few special pilot projects last year, Operation Reach seeks to have an impact on drug abuse. The program is now being extended throughout Maryland and the rest of the Nation.

MARYLAND SCOUTING FACTS

The Free State is a member of Scouting's Region 3. It has a total Scout population of almost 50,000. Included in this figure (as of the first of this year) are 2,600 young adults in 217 Explorer units, 21,000 Scouts in 800 troops, and 25,000 Cub Scouts in 700 Cub packs. Some 18,000 adult volunteers work with these youths. Backing them up is a professional staff of 40

But all is not statistics with Scouting in Maryland. For example, Scouts in and around the Hagerstown area received the U.S. Department of Agriculture's Green Seal Award for their continuing practice of conservation principles.

Last year the Honor Medal for lifesaving at the risk of one's own life—Scouting's highest medal—was given to Scouter Thomas Crum, of Millersville, who is associated with Troop 768 that is sponsored by the Baldwin Memorial Methodist Church.

All in all, Scouting has been and continues to be of service to the State of Maryland; just as Maryland has been and continues to be of service to Scouting.

REMARKS BY GOV. DANIEL J. EVANS OF WASHINGTON

In a recent Time magazine, I saw a New York City Boy Scout dressed in a beret, raising a clenched fist salute, and shouting that he was a member of the Black Stoners.

Because this was not the Boy Scouting I remembered, I read the story closer and found how much the Boy Scouts of America is changing. When I earned my Eagle Award some years ago, I knew how much it signified. But as a State governor, Scouting means something different now. It's an organized, contemporary, and universal program I can use to tackle problems like drug abuse, pollution, juvenile delinquency, and unemployment. And it's a huge private organization that is willing and ready to help every State. The Boy Scouts are the first and the largest youth organization to be chartered by Congress and as the Governors know, there is an annual Boy Scout report to all Governors as well as to the President of the United States.

Do you realize that one in every four boys between the ages of 8 and 16 are currently in Scouting programs? That's 4½ million boys from third grade through high school. That's Boypower. And, by 1976 the BSA will realize its goal of deeply involving in Scouting a representative one-third of all American boys.

Although we might think that the Boy Scouts are not troubled with slums, drugs, and crime, they do have these problems as they try to give disadvantaged boys the same opportunities for character development, citizenship training, and mental and physical fitness.

Although thousands of inner-city boys go to Scout camps each summer, the success of Scouting in the inner-city is not just hiking and camping. It's learning to treat rat bites instead of snake bites, reading a street map instead of a trail map, and tying knots to hold balcony railings instead of tent poles.

Camping is a tremendous opportunity for inner-city boys—many of whom have never been out of their neighborhood. And it's an opportunity for us. Since there are nearly 1,000 Scout camps in the Nation, they represent a lot of outdoor experiences for boys—not just Scouts. Last year thousands of non-Scouts attended Boy Scout camps.

Boy Scout camps with trained leaders are offering to help your government agencies with programs for inner-city and disadvantaged boys.

Do your housing authorities know how much difference Scouting makes in housing projects? It's been proved that an active Scouting program dramatically lowers vandalism and juvenile crime. And by using indigenous leadership, it teaches boys and adults a sense of community spirit, pride, and direction. It's a model of self-help that we can use.

Presently, more than 50,000 Scouts in housing projects are sponsored by housing authorities.

The drug abuse problem continues to grow throughout the Nation. Four pilot projects have given the Boy Scouts of America sample proof that it can make a contribution toward its solution. Consequently, its National Executive Board has approved Operation Reach as a nationwide fight against the use of drugs. The program will begin early in 1972. Scout units in many cities now have drug education programs in cooperation with state and municipal agencies.

Environmental pollution plagues all of us. But we've got a lot of support from the 6-million members of the Boy Scouts of America. This year they've launched a conservation Good Turn called Project SOAR, meaning "Save Our American Resources." It is a massive, unit-by-unit concern and action for air, water, and land pollution.

As part of Project SOAR, all 6-million Scouts and leaders in every State had a massive clean-up operation on June 5 called Scouting Keep America Beautiful Day.

While reports from Scout councils throughout the Nation are incomplete, facts already reported show that more than 1 million Scouts, adults, and other participants cleaned 112,000 miles of roadway and streambanks, and 240,000 acres of parks, recreation areas, and other public places. Trash collected totaled 558,000 tons and was hauled in 97,000 truckloads.

The response was so enthusiastic that the Boy Scouts of America and the co-sponsor, Keep America Beautiful, Inc., have agreed to continue the program during 1972, and tentatively set Scouting KAB Day for Saturday, April 29.

Besides cleaning up our States, there are many other things Scouts can do for us. Hard-core unemployment is at the root of many of our problems like drugs, welfare, and crime. Scouting is tackling the problem in two main ways. One is by hiring and training unemployed men to serve as indigenous Scout leaders for multiple Scout units.

But the most effective, long-range solution to hard-core unemployment is to encourage job training and information for kids. Younger Scouts get this through earning merit badges which expose them to vocations and hobbies that many times turn into rewarding careers.

High-school-age men and women can get specialized training in the new Exploring program by devoting their activities to learning about auto mechanics—or some other area like medicine or science.

Believe it or not, one of the most popular interests is enforcement. More than 2,000 teens are members of law enforcement Explorer posts sponsored by groups like the Los Angeles Police Department in Watts. Can you imagine the impact if every State police unit and police department used the Exploring program to communicate with youth?

These are only some of the problems and opportunities that Scouting is offering to help us solve. Scouting is a potent force in more than 25,000 cities and towns. It is highly effective and powerful resource that we as State officials can use. Let's accept their offer to help and join the Boy Scouts of America in their belief that America's Manpower DOES begin with BOYPOWER.

PRISON ENVIRONMENT FOR WOMEN

Mr. BROCK. Mr. President, continuing with the fourth article of a series of eight, Mr. Ben Bagdikian spent a

great deal of time doing research at Alderson—a women's reformatory in West Virginia—preparing this particular study.

His explicit discoveries relating to women coping with a prison environment are extremely revealing.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

[From the Washington Post, Feb. 2, 1972]

FEMALE HOMOSEXUALITY PREVALENT

(By Ben H. Bagdikian)

So far as anyone knew, she had a conventional sex life on the outside. But shortly after she arrived at the Federal Reformatory for Women in Alderson, W. Va., she stopped telling people her name was Charlotte and said it was "Charlie."

Charlie soon discovered the mysterious ways some of the inmates get hold of men's clothing—desert boots, dungarees, T-shirts, zipper jacket, visor cap. She began walking with a masculine swagger, talked tough, held a cigarette on the corner of her mouth, and shortly afterward established a relationship with another woman inmate whose manner was obedient and submissive while Charlie acted strong and protective. They were thought of by the other inmates and by the staff as husband and wife.

One of the peculiarities of women's prisons is widespread homosexuality. Estimates run to 80 and 90 per cent, far higher than for men's prisons.

But homosexuality is only one of the distinctive qualities of female imprisonment.

Women's prisons are the step-sisters of corrections. The literature on them is sparse, statistics on the female prisoners even less reliable than on males. The massive nine-volume report of the President's Crime Commission in 1967 barely mentions women.

The unkindest cut was from prisoner reformers, whose publication, The Freeworld Times, listed prisons that experienced unrest after Attica but ignored the sympathy strike of 130 federal women prisoners in West Virginia who were teargassed and 66 of whom were punitively transferred to other states.

One reason for lack of attention is small numbers. Of 21,000 federal prisoners, 800 are women. Of the third of a million prisoners in state, county and local imprisonment on any one day, 5 per cent are adult women.

But another reason is the peculiar status of women in criminal justice. In some offenses judges tend to be more forgiving of "the gentler sex." But when a woman violates moralistic codes, she gets harsher treatment than men.

Prostitution is a major cause of female imprisonment. For every prostitute there are dozens of male customers. The male participant is seldom arrested and when arrested seldom tried and when tried seldom imprisoned. In 1968 in the District of Columbia, 112 men were prosecuted for patronage of prostitution; 800 women were prosecuted for soliciting.

The impact of imprisonment on women appears to be profoundly different from that on men. Except in the most savage jails and state prisons, women inmates do not suffer the physical brutality and sense of imminent threat typical of the average male prison.

For one thing, women's prisons usually look less grim. They tend to resemble low-budget junior colleges. The buildings are called "cottages" and they may or may not have bars on the windows.

Women's prisons vary in their discipline, but all are less regimented and formal than the average male prison.

DISRUPTION OF FAMILIES

But the locked-up woman has special pains. The worst is separation from her children. At Alderson, 55 per cent of the inmates have dependents. When they were convicted, the law wiped out their rights as mothers and made the children subject to adoption. Once the children are placed in a foster home, the adoption agency may forbid the mother to communicate thereafter with her children.

Another special trauma is prison's disruption of the conventional role assigned females in society—homemaker, helpmate to a male, repository for the gentle virtues in humankind. Women are usually brought up to behave as though they are tender, accepting and sensitive. All these are antithetical to prisons.

Males are conventionally taught that they are supposed to be strong, tough, aggressive and able to endure privation. Prison reinforces all of these.

While homosexuality is common in men's prisons, it is more so in women's. Most women are conditioned to feel less than complete beings unless they have a man. But it is socially acceptable to touch each other, hold hands, and kiss. Confidential relationships among women in normal society are more common than among men.

A man without a particular woman is not considered deficient in outside society. There is glorification of the bachelor as supermale.

So the woman entering the all-female society of prison has special problems of social and sexual identity.

Jane Meyerding, 21, was imprisoned at Alderson. She says of her first week in prison:

"In orientation, I was in a dorm with eight or nine people and we'd spend a couple of hours talking before we went to sleep. You could just hear people trying to find themselves. Some who had never been exposed to homosexuality or to this kind of very compact social structure, they were throwing out ideas, just trying to decide who they were going to be while they were in there because they were so completely separated from anything they'd been before.

"Maybe they had been a mother and this was their whole thing—being a mother. But now they don't have their kids. So what are they?"

The result is homosexuality as an almost standard phenomenon among a majority of female prisoners everywhere. Whether it is in West Virginia or in South Carolina or in California, there is a typical scene in the yard of a women's reformatory:

A "butch," the male-like partner, dressed the same masculine style everywhere, hair bobbed as short as local regulations will permit, with her arm around the waist of the "femme," the female partner who is dressed conventionally, hair usually long.

The physical brutality and rape that can accompany male homosexuality in prison is usually absent in women's prisons, partly because of anatomy and partly because of the difference in socially acceptable closeness among women.

ATTITUDES TOWARD HOMOSEXUALITY

In some women's prisons, staffs are obsessed with homosexuality and inmates are literally forbidden to touch each other. In such places, women seated in groups to watch television or movies must keep an empty seat between each person. This does not stop homosexual affairs which, like heterosexual affairs in the outside world, have a way of transcending barriers. But thoughts of homosexualism dominate such institutions.

Virginia McLaughlin, warden at Alderson, speaks in a relaxed way about it.

"One of the problems in a women's prison is staff preoccupation with homosexualism. My own personal feelings are that what goes on between consenting adults is their own business. We try to say that we're not moralistic about it."

Some inmates and former inmates of Alderson dispute the total tolerance. "At Alderson," one former inmate said, "the staff will bust you if they catch you."

Mrs. McLaughlin isn't sure that all the apparent homosexualism is consummated in physical relations.

"Who knows how much real homosexualism goes on here? There's a lot of role-playing. I suppose that 80 or 90 per cent of the residents here are in boy-girl play. Within our culture, if you ain't got a man, you ain't got nothing. That model carries into this institution. So a lot of people dress and act in boy-girl ways. But a lot of it is just role-playing to fill out the public image we've said women are supposed to project."

She thinks that whatever happens sexually at Alderson is reversible.

"If you come into this joint heterosexual, you leave here heterosexual. You may play games here and spend 20 years doing it. But darn few women who have developed a permanent pattern on the outside get turned around permanently in here."

Mrs. McLaughlin, the first married warden of Alderson—she married the local football coach—presides over the most famous of women's prisons, the only federal one specifically designed for females and one obviously more relaxed than the mass of state and county institutions.

Like most prisons, Alderson is 100 miles from nowhere. There is no public transportation. The train doesn't stop there any more, only at the Greenbrier resort hotel 20 miles away.

It is an unlikely-looking prison. The setting in the foothills of the Appalachians is among forested hills and fast-moving creeks. The security is less than that in some fashionable girls' schools, the low chain link fence no challenge to a moderately athletic woman. It has 17 residential buildings in red-brick, vaguely Georgian colonial style, actually called "dormitories," arranged in quadrangles around tree-filled malls actually called campuses.

Mrs. McLaughlin is a shrewd, sharp-eyed, sophisticated woman whose office is decorated in abstract non-inmate art and whose non-government-issue coffee table has a shingling of highbrow magazines—The American Scholar, Intellectual Digest, Trans-Action, New Yorker . . .

Prisoners are called "residents"; they can dress almost as they wish and pay a lot of attention to the latest fashions. The food is good as institutional feeding goes, rooms are decorated individually and there are few matrons visible to the visiting eye. Two honor cottages are self-governing and have no staff in them at all (and are unkindly called "snitch houses" by other inmates; in prison an informer is known as a "snitch."

Mrs. McLaughlin knows she has the perennial problem of modern prisons: white rural staff, hired from the sourrounding area, in total control of the lives of prisoners who are mostly from big cities and mostly blacks.

She has a staff of 261 overseeing 530 inmates. Eleven per cent of the staff is black, compared to 54 per cent of the inmates.

"It's very important to have blacks on the staff, important for the role they play. The black residents need to see blacks who have made it and are 'square.'

"There's an immediate communications gap. There's the gap between the very young, inner-city residents and the older, white, middle-class oriented staff. But even between black staff and black residents there can be a gap nobody likes to talk about, a class gap."

One afternoon recently, she had her final interview with a young, fashionably dressed black woman who was about to join the staff. The woman nodded as she left, "Thank you,

ma'am." Mrs. McLaughlin smiled innocently and replied, "Why don't we drop that ———. 'Thank you ma'am' is lower-class white, you know."

Mrs. McLaughlin is sure that women prisoners are changing in attitude.

"Our drug problems's not so different. I looked at some board meeting minutes from 1950 and they had 40 per cent addiction then. But we are seeing more young offenders and a small but growing number of women who are active parties in regular crime. They don't just drive the getaway car or hide the money any more. They're pointing the guns.

"And we have militancy. They have a just concern with their rights. That's the way it is. Blacks have taken all they are going to take, being kicked around. Everyone has a right to say how they're feeling. Inside or out, we have to be concerned with individual rights. I don't care whether a person is in prison or out, they have fundamental rights."

WHO THE INMATES ARE

Mrs. McLaughlin is asked about the unprisonlike "dormitories" and "campuses." She enjoys smashing the stereotype of the hardhat warden issuing public relations mush.

"I don't care if this was the Greenbrier Hotel, it isn't fun. This is a prison with 500 miserable people forced to be together. It can't be good, they can't go home, they can't relieve the pressures by going out to the street to a show."

She is not euphoric about the power of an authoritarian figure bringing inner change. "These aren't 'girls,' the way they used to be called around here, and I'm not their mother."

But many of the inmates are, in fact, girls. Seventy per cent of the residents are 30 years or younger and a few are 15 and 16. They come from 40 different states and about 30 of them from foreign countries, convicted of crimes in the United States, usually smuggling dope. Thirty per cent have a history of prostitution.

"How are you going to teach a woman a trade that will earn her $1.25 on the outside when she's been in the habit of making $500 a night?"

If the women work in the prison industries they make from 19 to 47 cents an hour.

Forty-two per cent have a history of narcotics use. Only nine per cent have ever had a significant alcohol problem.

Like all prisoners, women inmates do not lack intelligence but have lacked sufficient schooling and what schooling they received obviously was deficient. About 60 per cent have average IQs or higher. About half of them went no higher than 9th grade but they test out at a median of sixth grade level.

They are serving federal sentences for postal violations such as mail fraud, 22 per cent; narcotics, 20 per cent; forgery, 18 per cent; involvement with stolen goods in interstate transportation, 12 per cent.

There have always been about 30 robbers and about 30 in for conspiracies of various kinds with only a few murderers and kidnappers.

Federal offenses are different from state. In one state prison for women, half were in for killing their husbands or boy friends and most of the rest for prostitution.

Like male prisoners, 90 per cent at Alderson have histories of prior arrests, with criminal arrests starting as young as age 7. Half of them earned less than $3000 a year before their imprisonment, but only 26 per cent had ever been on welfare.

The statistics support the bias of the criminal justice system and of the outside society. Mrs. McLaughlin tells interviewers, "If you're poor, if you're black, if you're twenty-six and you're a woman, the dice are loaded against you."

She likes to tell that to the residents and then add:

"But prisoners have responsibilities. I'm sorry if your mother didn't love you and I'm sorry if you have no money, but you've got to face the future."

"AN EMOTIONAL BINGE"

For all its bucolic grace, tolerant atmosphere and the warden's anticipation of traditional complaints, Alderson has had its troubles. It has its "hole," the segregation cells in which women are punished by being locked in a bare tiled cell with no transparent windows, a toilet, and a cot. There are tensions and bitterness.

In September, residents of Alderson held a memorial for the prisoners in Attica. It evolved into a strike for reforms at Alderson, with 130 residents occupying the prison's garment factory building for four days. Mrs. McLaughlin sent in food and blankets for the strikers and received their list of 42 demands.

Like most prisoner demands, these would be agreed to by many prison administrators if they were free to do so: reasons to be given for denial of paroles; more halfway houses; work release programs for qualified inmates; more caseworkers on the staff; more psychological counseling; more vocational training; better education within the institution; published standards for changing inmates' level of restraint; unlimited mail; disinfectant for all cottages; reasons given for severe disciplines, and so on.

But at some point, Mrs. McLaughlin decided the strike had gone on long enough. She called in help from other federal prisons. Male guards went through the campus, used tear gas, rounded up a predetermined list of inmates thought to be ringleaders, put them into a waiting bus (by mistake including one staff member), and transferred the women to maximum security institutions in Ashland, Ky., and Seagoville, Tex.

Mrs. McLaughlin refers to the strike as "an emotional binge" and the result of "two or three very troubled people; our psychiatrist says that we have about 50 people who are in and out of psychosis all the time." But the demands were consistent with what most correctional administrators are themselves asking for, at least when outside their own institution.

Nevertheless, Alderson is a far more humane institution than the average state and county prison for women. Elsewhere there are female prisoners subjected to terror and degradation and the same kinds of psychological pressures that afflict male prisons.

Tom Murton was a warden in Arkansas who unearthed murdered inmates and tried to reform the institutionalized savagery before he was fired by Gov. Winthrop Rockefeller. Because prisons are typically closed institutions protected by secrecy, their worst characteristics usually come out only with a riot or after an administrator has been fired.

A warden who preceded him at Cummins prison farm, Murton says, had an electric buzzer installed next to his bed in the warden's residence on the grounds of Arkansas State Penitentiary. When he pushed the button, the staff would select a woman inmate to go to the house to perform sex acts on the warden.

Black women were forced to "clip" grass on the prison grounds with their bare fingers, and for meals were permitted to eat only whatever white women prisoners left behind them. Women prisoners were beaten with leather straps.

When prisoners under sentence to the state prison were transported from the local county jail, all the prisoners—men and women—were put in the same covered van and it was usual that the women began their prison term by being gang raped in the van.

Lawsuits claim brutality to women in some prisons that match those in some men's institutions. In Louisiana, seven women prisoners brought suit recently in a federal court claiming that at the state prison the seven women were punished by being beaten, stripped to their underwear, three of them handcuffed together in one cell, four of them handcuffed together in another cell, and gassed repeatedly with a spray that burned their eyes and made it difficult for them to breathe, and that this went on for four days.

Last October in Miami, a civic committee of business and professional women protested "inhuman living conditions" for female prisoners in Dade County Jail.

The committee said women, often incarcerated for months, had total recreation facilities consisting of one incomplete deck of cards. It said 18 women lived in one large cell, rain leaked through windows soaking beds, very young girls in jail for their first time were left alone with experienced older prisoners and no exercise was permitted for weeks at a time.

In Michigan, Carole Morgan, a teacher for two years for women prisoners in the Detroit House of Corrections, said that an 18-year-old girl prisoner, finishing her term on a drug charge, once came to her hysterical because shortly before she was scheduled for release she was visited by a detective from the city narcotics squad who told her that if she did not become an undercover agent for them they would make sure that she served more time in jail.

LISTENING TO THE INMATES

Jane Meyerding, 21, was held in Monroe County Jail, N.Y., while being tried on charges arising from raids on Selective Service and FBI offices in Rochester. She said she and other women were stripped and searched before and after each court appearance, a process in which they did not resist but did not cooperate.

"When we were convicted and brought back to the jail they had a real field day . . . There was a man there when we were searched . . . The men brought us up the stairs and when it was my turn he put the handcuffs on me and dragged me over to where they wanted to strip-search me. He didn't take too much part in the actual stripping because I was just being passive . . . During the trial I wrote the judge a letter and he told the marshals to come over and stop the strip searches. But after the conviction they started all over again."

Compared to the institutionalized cruelty and neglect typical of many women's prisons, the residents of Alderson are fortunate and the experienced ones (40 per cent have been in prison before) know it. But even there they suffer destructive anxieties and psychological pressures.

For about an hour, the Resident Council, two women elected from each dormitory, discussed their anxieties. About 28 gathered around a long, polished table near the warden's office. Some of the women were stylishly overdressed, the others casual and cool. The accents ranged from Deep South black to university British. To the casual eye, it could have been the board meeting of an integrated middle-class PTA.

Some of the bitter complaints would require relocation of Alderson. For example, the separation of women from children because of Alderson's remoteness and lack of public transportation. Of twenty-eight women, 22 raised their hands when asked how many had minor children. When asked how many had not seen their children since their imprisonment, the same number of hands went up.

But the most bitter and impassioned complaint would take no revolution: quick response on parole applications, together with a detailed reason for denial of parole. At stake are years of a woman's life, but present procedure is casual.

A parole examiner visits the institution and interviews the prisoner in sessions that

inmates say range from three to five minutes, with a few 10 or 15 minutes. Then there is silence for up to four months. If the parole is denied, there is no reason given except, possibly, "lack of progress."

Nothing causes more frustration in prison than the mysterious and indefinite working of parole boards.

As one young woman, interviewed at random in her dormitory, said, "I got five. I know I did wrong. I'm doing good time. I take courses. I have a good record here. My mother is taking care of my kids. I get no answer from the parole board except not enough progress.

"I ask what that means and nobody can tell me. Why keep trying? I mean, if you want to drive someone crazy, then put them in an institution and never let them know when they're getting out."

In that respect, men and women in prison have a common experience.

THE VANISHING ARMADA

Mr. MATHIAS. Mr. President, the graceful skipjack, fabled in folklore of the Chesapeake Bay and around the groaning oyster board, is sailing into history. Years ago there were thousands, scattered across the winter seascape like a silent armada, hauling in tons of shell creatures from the frigid waters of the bay every day. Now there are more efficient ways of dredging. Motors are more powerful than wind-driven sails. Apprentice watermen cannot be found. The craftsmen that kept the boats afloat—sailmakers, marine carpenters, and others—are abandoning their crafts.

Today there are less than three dozen working skipjacks. In a few years there will not be any. The 20th century will have won, and the loser, for better and worse, will have been a way of life on Chesapeake Bay.

Potomac, the Sunday magazine of the Washington Post recently took note of this with an article on the effort to include the skipjack and a collection of classic oyster recipes in the Maryland presentation at next summer's Smithsonian Institution Folklife Festival. Mr. President, I ask unanimous consent to include these articles in the RECORD, and also I want to pay tribute to the artistic photograph by Bob Burchette, of the Post, which accompanied the article. Mr. Burchette captured the mood of his subject magnificently in a picture of three skipjacks in the midst of early morning Chesapeake Bay. The sun has just struck the sails of one of the boats, and is being reflected back in golden glory. Two other boats are working, shrouded in mist and semidarkness, in the background distance. A truly brilliant photograph illustrated this feature and these boats which are unique to Chesapeake Bay; I only regret it is not possible to reproduce the potograph as well, in the RECORD.

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

SKIPJACKS: ANACHRONISMS WITH SAILS

(By Richard Cohen)

TILGHMAN ISLAND, MD.—The man from the Smithsonian Institution asked his questions in a conversational way. His manner was breezy, sensitive to the fact that his subjects were trying to make a living like anyone else and if what they did was exotic and worth exhibiting at the annual Folklife Festival on the Mall, well, that was his perception of it, not theirs.

But, surprisingly, it is their perception of it, too. They know they are some sort of human buffalo herd, saved from extinction only because the State of Maryland values its antiques. Laws have been passed, regulations promulgated and a statutory reservation has been established to postpone the inevitable day when the last skipjack captain is lowered into an Eastern Shore grave and the last working skipjack is a rotting hull up in the mud of a Chesapeake Bay estuary.

"Yes, indeed," Captain Clyde Webster said. That's the way it will be. When he took to the water 50 years ago from Deal Island, thousands of skipjacks were working the bay for oysters. His grandfather followed the water. His father followed the water. His only son pumps gas.

He will be the last, he said. And it's all right with him. The hours are long. The wind is biting and capricious. The crews . . . well that's another story. Some are drunk and some are "colored" and some are both. The families with the short, blunt English names like Byrd, Muir, Daniel, Donalds, Selby and Webster are largely out of it already, with the young seeking work that is steady, that pays a pension, and offers insurance coverage, vacations, overtime, hours to spend with loved ones.

Things have changed. A machine can take up more oysters than a man. A boat under power does not need the wind. So from thousands, there are now only 33 skipjacks left but they stay at it, their captains knowing, Webster says, that they have somehow become romantic figures, sitting bulls, wierd old ladies holding out against the freeways, men making a living the way no one does it anymore. Under sail.

Ralph Rinzler, the bearded director of the Smithsonian's Folklife Festival gunned the General Services Administration car down Route 50, heading for Tilghman Island. With the help of Ben Evans, a native of Deal Island who had abandoned a life on the water for work as a school bus inspector with the State, Rinzler hoped to convince maybe five skipjack captains to sail their boats down the Bay and up the Potomac for the annual Folklife festival this summer.

Rinzler has been doing this sort of work for the Smithsonian for six years now. Before that, he was director of the Newport Folk Festival and he knows that if you approach a man and ask him what crafts he practices and what songs he sings he will tell you that he knows no crafts and the songs that he sings are his own business. So Rinzler is a careful, professional talent scout and before the winter has thawed he and his staff will have combed Maryland from the mountans of Garrett County in the West to the coves of the Eastern Shore looking for the true, the authentic, the rare and the interesting. He will bring them all together on the Mall over the July 4th weekend and do for Maryland this year what he did for Ohio last year and in the process prove that the melting pot myth is just that, a myth.

Nowhere is this truer than with the skipjacks, a bit of American ingenuity designed in the last half of the 19th century to sail the shallow Chesapeake Bay dredging for oysters in the winter and crabbing in the summer. Averaging 40 feet or more, the skipjacks were built to last and most of those still working the bay were built around the turn of the century. The *Susy Mae*, Captain Webster's 46-foot boat, was built in 1901, four years before he was born in Wenona, a small town at the tip of Deal Island.

But now Rinzler was desperate. He was late for his appointment with Ben Evans who had arranged for Rinzler to go out on a boat. It was one and a half hours until sunrise, Rinzler was late for the boat and the all-important element of trust would dissolve because a man at the motel had forgotten the wake-up call.

But Evans was still on the dock and had managed to find a boat willing to wait and accept company. With Captain Webster at the helm, the *Susy Mae* headed up the Bay toward Poplar Island, one of the most lucrative oysters bars anyone could remember. The bar, Evans declared, would be closed by the State at the end of the day to avoid depletion of the oyster stock.

Dredging for oysters, for all its romance, is basically a matter of math. A skipjack is allowed 150 bushels a day. Any more than that, and the state moves in and fines the captain. Each bushel is worth about $4. Thus, on a day when a skipjack can dredge up its limit, the boat can make $600. Out of each dollar, the crew gets 12 cents a man, the ship itself gets 22 cents and the captain gets about another 20 cents. If the boat makes its limit for five days, a crew member who gets a full share can make about $350. Such weeks are rare.

There is, first of all, the blunt fact that not all oyster bars are productive. Then there is the wind. Without it, a skipjack cannot dredge. It will not have the momentum to pull its iron and cotton dredge along the bottom and snare oysters. And then, the oyster season, Nov. 1 to March 15, is a period of ice and snow, a time when the skipjacks may be forced often to stay in port.

But mostly, it is a matter of wind. With it, a skipjack can make the limit and quit for the day at 10 a.m. Without it, the hopes of making a day's pay vanish. To make sure that the skipjacks get a minimum haul, the state allows them to use power two days a week. On those days, if the bar is kind and there is no ice, the boat will make its limit.

But most oystering nowadays is done from what are called patent tongers. They are two-man boats with a limit of 25 bushels a man. Run by power, the tongs dip into the bay and return to the boat filled with oysters. The tongs take in less per haul than a dredge but they are insistent and dependable, relying on gasoline and not wind for their power. It is ugly to see, conventional as an oil rig, but lucrative. On the December day the *Susy Mae* hosted Rinzler, it took in about 40 bushels, while the patent tongers made their limit. There was no wind that day.

Captain Webster knows the math, knows how much it costs to maintain a boat built in 1901 and concludes, "When you work it out, you ain't got much. People think you get rich with a boat. But you don't.

"I'll tell you something about water. Some days you get 150 bushels, some days you get nothing. I'll tell you something about water, boy, there's no money here."

By now, Webster had only one dredge in the water. His sails were up, his dredge was down and the boat went nowhere. The Bay, however, was humming with the noise of patent tongers, their motors working the tongs that would bring them their limit. Webster yelled, "Whoa," the dredge was winched up and the crew set to work culling the undersized oysters from the marketable ones.

Then the wind quit entirely and the skipjack fleet just sat on the water and Captain Webster, no disappointment on his face, set to work swabbing the deck and then swabbing it some more. The rest of the crew—four deckhands and a cook—took turns shaving out of a bowl and helping themselves to a pot of fried eggs. Ringler began to probe.

"Is there a place you go at night?" he asked.

"Sure, we sometimes go down to the store. But now the store is closed. When I was a boy I used to go girling a bit. Used to go to Princess Ann or take the steamer to Baltimore. You'd get a night's sleep and get to Baltimore."

Webster's answers are to the point. He volunteers nothing, but will answer everything.

He would prefer, it is clear, to talk to Evans about things back home in Wenona where they both come from. Webster will drive back there Friday night and stay for the weekend. The rest of the week, he and the crew will sleep on the boat, wherever the boat may be.

He turned to Evans and talked to him about a neighbor who had shot a deer only to have the animal collapse at his feet and die staring his killer in the eye. "He sold his gun," Webster said. "I swear he sold his gun. He won't shoot a deer or a bird no more."

Down below in the cabin, Paul Donalds had taken advantage of the calm to shave. A portly man in his 50s, Donalds was raised and has lived his life on the Eastern Shore. Recently, his son was injured in a motor vehicle accident while returning to Ft. Belvoir and Donalds came to visit him in Washington. It was the first time he had seen Washington and he said, frankly, that he was not inclined to return.

By 10 a.m., Webster had cut the motor on the engine that takes up the dredge. He had taken in 11 bushels of oysters, $44 for four hours of work. His sail, bought two years ago, cost $700. He spent $3,000 on the boat over the Summer. He had to feed his crew and pay the fines if the Marine Police caught him keeping undersized oysters or exceeding his limit. And they caught him once this year. Fined him $50.

Meanwhile, Rinzler worked at his craft. Who makes the dredges? A blacksmith. Who makes the trail boards? A little man on the Western Shore with one eye. Why are the dredges made partly out of cotton? Nobody knows. Who makes the main mast? A fellow near Salisbury. Who makes Skipjacks? Nobody.

Any nobody will. So they talk about the man who came from California to buy one for a pleasure boat and they talk about the fleets that once prevailed on the Chesapeake Bay and they talk about the man on Deal Island—was his name Harold Selby?—who once owned a fleet of 99, but they don't talk much of the 22, off Poplar Island that day, sitting on a Comstock Lode of an oyster bar, who couldn't make enough money to pay the cook because the wind died.

They sat out there in the cold and the fog, graceful and sleek, poking their masts into the low clouds and playing games with the light. Their crews slept or shaved or worked at working.

In the end, Rinzler netted three skipjacks for the festival. They will be at the Festival in July, the buffaloes of Chesapeake Bay. All cleaned and painted, they will look as pretty as they do right before the annual Labor Day races on the Bay. But next season, there will be fewer skipjacks than there were the season before, and someday there will be none.

"Yes, indeed," said Captain Webster, and he permitted no regrets.

OYSTERS—IN SEASON AND BEAUTIFUL FIVE DIFFERENT WAYS

(By Wendy Cortesi)

Since the advent of civilized man, and probably well before, oysters have been known both as a valuable food source and as a great delicacy. Early settlers in America were fortunate to find the oyster (which is rich in protein, certain vitamins and trace elements) a staple part of the Indian diet and available in great abundance. Although gourmands have been consuming oysters for centuries, sometimes in legendary proportions, the world has yet to make up its mind whether they should be fat or thin, large or small. (The Walrus and the Carpenter, in Alice in Wonderland, avoided the whole question and ate both with equal relish.)

The season for oysters taken from natural beds run roughly from September to April in the Chesapeake Bay area.

During the season, oysters can be bought in a variety of ways ranging from nesting neatly in the half shell on cracked ice, from Cannons Seafood in Georgetown at $2.50 per dozen, to muddy, unopened ones at the Washington waterfront and in other Chesapeake Bay towns for about $1 per dozen. (The Washington waterfront is open on Sundays.) They can be bought shucked or unopened at most fish markets, which also sell oyster knives, cocktail sauces, oyster crackers, etc. Oysters can be bought in large quantities from wholesalers at better prices. It is possible to keep them as long as a month, using as needed, if they are bought muddy and unwashed and kept constantly cold and damp. During a normal winter this can be done in an unheated attic or basement. They don't need to be fed. However, this can be risky, and if the weather turns warm, have an oyster party immediately.

TO OPEN

Scrub well with a brush and cold water. Chesapeake Bay oysters are often muddy.

Put the oyster on a sturdy table on newspapers, as they are quite messy, flat side up, holding it with the left hand. (Experts don't seem to need to put it on a table.) A glove helps in case the knife slips, although the blade is thin and rounded rather than sharp and pointed. With the right hand (reverse if left-handed) insert the oyster knife at the narrow end between the two shells, wiggling and pushing hard at the same time. When the ligament has been cut, the oyster makes a dull popping noise and the shell loosens. Then run the knife along the inside of the flat shell to sever the muscle which holds the shells closed. It is impossible to pry the shells apart at the edges without breaking it if this muscle is not cut. Remove the top shell and cut the other muscle in the same manner, freeing the oyster. Opening oysters is hard work. Practice helps but there may still be a few which are absolutely impossible to open even if you are doing it right. Discard any oysters that are open or, after opening, appear dry, discolored, or peculiar smelling.

Oysters-on-the-half-shell.—A delicacy the world over.

Traditionally served on cracked ice with cocktail sauce, horseradish, lemon, and oyster crackers. Use small oyster forks or toothpicks and allow at least 6 per person.

Or try them with:

Sauce mignonette.—a French variation. Combine finely chopped shallots, red wine vinegar, freshly ground black pepper, and salt to taste. (Allow 5–6 large shallots per cup of vinegar.) Let it sit for at least a half hour before serving in a small bowl—a little sauce to be spooned onto each raw oyster.

Fried oysters.—A Chesapeake Bay Specialty. Drain large, shucked, oysters on paper towels; dip in beaten egg and then in cracker meal. Pat firmly to seal. (If using small oysters put two together, one on top of the other, the fat head to thin tail, before coating with cracker meal.) Fry in deep fat until lightly browned. Drain on paper towels and serve.

Oyster stew.—The classic soup made with oysters. To serve 6–8.

1 quart shucked oysters—size according to preference.
1 pint light cream
1 pint milk (You can also use all milk or all cream.)
2 tbsp. butter
salt and pepper to taste

Drain oysters in a colander, reserving the oyster liquor.

In separate saucepans, bring the oyster liquor to a boil, heat together the milk and cream but do not boil, cook the oysters briefly in the butter and a couple of tablespoons of the liquor until the edges start to curl.

Combine all ingredients, add salt and pepper and serve piping hot with oyster crackers.

Oysters Rockefeller.—Probably the most famous and exotic way of preparing cooked oyster.

This dish supposedly originated in 1899 at Antoine's Restaurant in New Orleans and was so named because of its richness. There are numerous versions, all slightly different, but all presumably trying to come as close as possible to the original. It requires quite a lot of time to prepare but is not difficult.

To serve 8—as a first course.

4 dozen raw oysters on the half shell (the deep half)
2 cups finely minced fresh, raw spinach (about 5 oz., with the stems removed)
⅔ cup finely minced green onions—including green part (about 8)
1 cup finely minced fresh parsley—bottom third of stems removed (about ½ bunch)
1 cup finely minced fresh celery stalks
½ lb. butter, chopped, not melted
juice of 1 large lemon
3 tbsp. Worchestershire Sauce
3 tbsp. Pernod of Absinthe—an essential ingredient
salt and cayenne pepper to taste
8 round pie pans
rock salt—same as used to melt ice on sidewalks

First, mince all vegetables and combine in a large bowl.

Add the butter and chop further with two knives to distribute evenly. Add lemon juice, Worchestershire Sauce, Pernod, salt and pepper and mix with a fork.

Preheat boiler—to 400 degrees if it can be regulated.

Put a layer of rock salt in each pie pan and arrange 6 oysters on the half shell in each. (The salt keeps the oyster shells from tipping.) On top of each oyster put about a teaspoon (more if the oysters are large) of the vegetable mixture.

Broil about 5 minutes or until topping begins to brown.

Serve immediately in the pans, one pan of oysters for each person.

ANNOUNCEMENT OF POSITION ON VOTE

Mr. STEVENSON. Mr. President, on Friday, January 21, I was necessarily absent and was not positioned during the vote on Senator RANDOLPH'S unprinted amendment to S. 2515. If present and voting, I would have voted "yea."

CONCLUSION OF MORNING BUSINESS

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

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The PRESIDING OFFICER (Mr. EAGLETON). Under the previous 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.

AMENDMENT NO. 858

The PRESIDING OFFICER. The pending question is on agreeing to the amendment (No. 858) of the Senator from North Carolina (Mr. ERVIN).

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that time on the pending amendment (No. 858) begin running at 2 p.m. today, and that

the vote on that amendment occur at 3 p.m., with the same provisions in effect with respect to all other particulars as previously agreed to.

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

RECESS UNTIL 1:55 P.M.

Mr. BYRD of West Virginia. Mr. President, I move that the Senate stand in recess until 1:55 p.m. today.

The motion was agreed to; and at 12:42 p.m. the Senate took a recess until 1:55 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ALLEN).

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.

QUORUM CALLS

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 (Mr. BROCK). Without objection, it is so ordered.

Time is under control. Who yields time?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally against both sides.

The PRESIDING OFFICER (Mr. BAKER). Without objection, it is so ordered and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. ERVIN. Mr. President, several years ago I stated on the floor of the Senate that the constant agitation about racial matters was impairing our national sanity. If we needed any proof of the accuracy of that statement, such proof is furnished abundantly in the pending bill. Here there is a proposal to give to five bureaucrats, who are elected by nobody to do anything and who are responsible to nobody on the face of the earth, powers greater than those that the courts and the laws of the United States impose on the office of President.

Under the pending bill, these five men would have virtually autocratic powers to do virtually anything in the employment field. I say virtually autocratic powers because this bill is very skillfully drawn to make it impossible as nearly as human language will permit for the courts to reverse any decision made by these five men.

There is an old adage which expresses the most fundamental truth on the subject of juris prudence, and that is that out of the facts, all law arises.

Mr. President, if I have the power to write the verdict in a case, I do not care who writes the judgment, because the judgment has to follow the verdict.

My distinguished friend, the Senator from New Jersey, said, while quoting a man who knew better, Professor Wigmore, that the rule requiring a preponderance of evidence in a civil case is a vague rule.

With all due respect to Dean Wigmore's spirits, I would say that is an absurdity. Every day between the time we awake until the time we seek repose in slumber, we make many decisions on the basis of the preponderance of the evidence available to us. We certainly do not make our decisions on the basis of less than the preponderance of the evidence. We weigh all of the evidence, and then the evidence which weighs most heavily in our minds and has more convincing force is the evidence we follow.

Some years ago we started setting up administrative agencies with judicial or quasi-judicial powers. And these executive agencies were very loathe to have their opinions and ruling tested in the courts. When they first started passing laws to allow them to be reviewed in the courts, these executive agencies were able to persuade the Congress of the United States to adopt what is known as the substantial evidence rule. The substantial evidence rule is embodied in the pending bill.

What is the substantial evidence rule? Substantial evidence is any evidence more than a scintilla. And it has been defined in the courts many times to be less than the preponderance of the evidence. The preponderance of the evidence is the evidence which shows that an allegation is probably true or probably false.

Yet, when I offered an amendment before the Senate of the United States to the pending bill to provide that the courts should be free of the findings of facts made by a crusading board when the evidence showed that those findings of fact were probably untrue, the Senate rejected the amendment. The amendment provided that the courts would not be bound by the findings of fact unless those findings of fact were supported by the preponderance of the evidence. That meant in simple English, that the court would not be compelled to abdicate the exercise of its mental faculties and to do such violence to justice as to be bound by the findings of fact based upon the evidence which showed that the findings of fact were probably not true.

I have said here and I reiterate that those who back the pending bill wish to make it virtually impossible for a court to reverse the findings of the commission. The crucial thing that is involved here is that no man should be hailed before a court by a commission or be compelled to go to court to escape a judgment of the commission if that man, that employer, has fully complied with the law and has not practiced discrimination in any respect.

Yet, under the pending bill, the Commission can hail that man into court or compel him to go to court. And that man is denied the opportunity to disprove the very thing for which he has been unjustly hailed into court or unjustly compelled to go to court.

Why do I say that? I say that because the pending bill provides that before the Commission can do anything of an affirmative nature outside of investigating, it must attempt conciliation and must attempt to persuade the employer whom they charge with discriminating to take a course of action which does not discriminate. That is a condition precedent to the right of the Commission to take any action at all or to make any findings of fact or to make any recommendations or to render a judgment which impels an employer to seek relief in this kangaroo proceeding which makes a mockery of justice; and yet this bill provides that although a man has not discriminated and although the Commission is trying to make him do more than the law requires, he is denied the right to prove that in the court, and he is denied the right to show that the condition precedent to any action on the part of the Commission has taken place.

This provision is found on page 38 starting with line 7:

> If the Commission determines after attempting to secure voluntary compliance under subsection (b) that it is unable to secure from the respondent a conciliation agreement acceptable to the Commission, which determination shall not be reviewable in any court,—

Now, mind you, Mr. President, it does not say if they shall fail to get an agreement complying with the law, but an agreement which is satisfactory to the whims and caprices of the Commission. Then, it states:

> Which determination shall not be reviewable in any court.

This is just another one of the things to show that this bill is not so much concerned with obtaining justice, but with imposing the notions of the EEOC as to what policy is desirable upon a people who have not violated the law. If it had been done for any other purpose it would have said:

> If the Commission determines that it is unable to secure from the respondent a conciliation agreement complying with the law—

instead of the whims and caprices of the Commission. That is the way it would have been phrased.

A man sought to have the right in any litigation to show that the condition precedent to the right of a person to take action against him did not exist.

I said that this bill would give these five men more power than the President of the United States has because under this bill they could go into any State government, any county government, any school district, and they could actually appoint the officials there. This is the first time that I have ever heard it advocated in the Senate that the Senate shall pass a bill whose cosponsors do not know what it means. I have asked my good friend from New Jersey the meaning of the provision with reference to State employees of political subdivisions of States, and where it stops. He admits there is no limitation in the bill. I asked the dis-

tinguished Senator from Ohio (Mr. TAFT)—I am sorry he is not here—what protection the people in State government have against the EEOC if it told them that the Governor, whom the people of the State had elected, had been elected by them because of his race, or religion, or national origin; and he said we had protection in the courts under the guarantee of the Constitution that the United States should guarantee to every State a republican form of government.

Mr. President, I read all the decisions under that provision, and the courts of the United States have nothing to do with that provision. They cannot entertain any case to secure an interpretation of that provision, and they cannot entertain a case which is designed to find whether a State has a republican form of government.

The decisions state that there is a political power which belongs to Congress and Congress alone, and that, therefore, whatever Congress does must be accepted by everybody as being a republican form of government within the meaning of the Constitution. So there is no remedy there.

I say this is the most far-reaching bill that has been proposed to Congress since George Washington took his first oath of office as President, because it gives this commission absolute power, with no review except the sort of kangaroo proceeding imposed on the courts, which are denied the right to find according to what the evidence states is probably true.

What does it say about States? It says that a State is an employer. Then, they define an employee as a person who is employed by an employer. That is already established on that point. Then, Mr. President, you go to the dictionary to find out what an employer is, and it states he is a person or concern that employs another, usually for compensation, wages, or salary.

So under that definition the Governor of a State, although he is elected by the people of the State, would be an employee of the State. This gives the commission jurisdiction to deny any man, whether he is a Governor or a State supreme court justice or a State legislator, the office to which he has been elected by the people of his State or his district or county. Why do I say that? The bill states expressly that a State is an employer. It confers jurisdiction over every employer; it gives them jurisdiction over every employee of a State or political subdivision. Now, what is a State?

The court said in the celebrated case of Texas against White:

> A State, in the ordinary sense of the Constitution, is a political community of free citizens occupying a territory of defined boundaries and organized under a government sanctioned and limited by a written constitution and established by the consent of the governed.

In other words, it will be noted that the salient thing is that it is a political community of free citizens. They no longer will be free citizens if this bill passes because we will have a Federal agency that can supersede them in the selection of their officials and employees. And there is not a man in the Senate whom I have been able to discover who can point to anything in this bill which subjects it to a semblance of any other interpretation.

This amendment would remove from the jurisdiction of the commission the power to determine which persons are to be employed as physicians and surgeons in hospitals. Mr. President, if there is anything which shows what absurd lengths this bill goes to, it is the power it gives the commission to determine which persons a hospital shall select to perform surgery, or which persons it shall select to be members of its medical staff. There never has been, according to my understanding, a single doctor on this commission. Its members are no more competent to pass on the qualifications of surgeons and physicians than I am to perform the functions of an archangel.

The bill would make every public hospital and every private hospital that employed as many as 15 persons, subject to the jurisdiction of this commission.

There is one other thing that has caused this country much divisiveness and has caused this country much consternation and much turmoil, and that is the fact that we now have, in addition to local school boards, which should be allowed to select principals and teachers and superintendents, two Federal agencies which are exercising that power—the U.S. district courts and the U.S. courts of appeals and the Supreme Court of the United States. In addition to that, we have the Department of Health, Education, and Welfare. And this bill, for the first time, would place jurisdiction over the employment of all school superintendents, all school principals, all school supervisors, all schoolteachers in every one of the 50 States, in the Commission. They could say who were to be hired and who were to be fired and who could be promoted and who could not be promoted. They could say, "Not because of any external act that you committed which was illegal, but we find that although you did a legal external act, you had an improper motive in your heart when you did it."

Under this bill, the Commission could order school boards to hire certain teachers and pay them back salaries for the time they did not teach. As I said the other day, they are no more competent to select teachers than they are professors of anthropology.

I was struck by some of the rhetorical questions asked by my friends on the other side: "What do some people think about the fact that we cannot pass this bill quicker than we have?" I think I can answer that. I think some people in the United States are finding out that there are at least a few men who will stand up on the floor of the Senate and fight for freedom for the people of America. They will fight for the freedom of hospital boards to select their own physicians and surgeons. They will fight for the freedom of school boards to select their own teachers. They will fight for the right of the small businessman to choose the persons whom he thinks are most likely to make his business venture a success rather than a failure.

Mr. President, the bill before us would place the employment practices in the 50 States under the jurisdiction, as I have said of five men who are not elected by anybody to do anything, and who are not responsible to anybody for anything they do, and whose actions cannot be effectively reviewed by courts of justice. I say this because the bill puts the courts of justice in a straitjacket and compels them to carry out the decrees of the board by accepting their findings of fact, even though the evidence may show that those findings of fact are probably not true. So this bill would give five men on that commission more power than the President of the United States possesses.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WILLIAMS. Mr. President, I yield myself 5 minutes.

The amendment offered by the distinguished Senator from North Carolina would exempt from the coverage of the law, as it would be if the bill passes, all hospitals, public and private, in the hiring of physicians and surgeons, and in doing so it would be saying affirmatively that hospitals, in their selection of physicians and surgeons, can discriminate against a person because of his race, color, religion, sex, or national origin.

This amendment, I suggest to my colleagues of the Senate, is cut from new cloth. It is different from the other amendments we have had. It goes to some fundamental principles. When we were talking about the preponderance of evidence, when we were talking about extending coverage to State and local governments, that was one thing, but we cannot exempt hospitals, in the selection of physicians and surgeons, from the dictates of the Constitution and the basic law against discrimination. I think that we would be stepping back 100 years, and I am most strongly opposed to this amendment.

The amendment would mean that a physician, fully qualified and accredited by appropriate State and national authorities, could be denied employment with a hospital simply on the basis of race, color, religion, sex, or national origin and be unable to appeal to the Equal Employment Opportunity Commission for relief. There is no logic to this proposed amendment. It is not based on any showing of need. It is contrary to the present law and policy of this Nation with respect to equal employment opportunities.

We have seen, during the course of debate on S. 2515, that minorities and women have been, and continue to be, denied access to high-level and professional job categories. The medical profession, I regret, offers no exception to this pattern of discrimination.

The 1971 American Medical Association publication, Relative Data on the Profile of Medical Practices, shows that only 2.2 percent of this Nation's 334,000 physicians are black.

The Bureau of Labor Statistics reports that only 7 percent of all the physicians in this country are women.

There are, of course, many factors which contribute to underutilization and discrimination in the medical profession, such as the low enrollment of minorities and women in medical schools.

However, the availability of employment opportunities for minorities and women is a key factor. A substantial number of the physicians considered employed by public and private hospitals are interns and residents. Intern and resident programs are essential elements of a physician's medical education, and are the basis for training in the various specialized fields of medicine.

Statistics collected by the Department of Health, Education, and Welfare show a very serious underrepresentation of minorities. Among interns and residents employed by reporting hospitals, only 1,047, or 2.2 percent, were black. Although the number of blacks increased over the 1966 total—860 out of 34,188 were black—the proportion of blacks declined from the 1966 proportion of 3.5 percent.

I might point out that in the State of North Carolina in 1969, only 4 out of 883—0.5 percent—interns and residents were black. In Alabama, only 3 out of 384—0.8 percent—were black.

Further, a significant proportion of physicians in this Nation are considered "hospital based." According to statistics compiled by the American Medical Association, some 31 percent of the over 310,000 active doctors in this country work out of hospitals rather than private offices.

We must assure that access to these positions in hospitals is based on ability, rather than on arbitrary and capricious qualifications such as race, color, religion, sex, or national origin.

These figures, I believe, dramatically show why it is important to retain employment of physicians by private and public hospitals within the jurisdiction of EEOC.

In addition, the amendment by the distinguished Senator from North Carolina is wholly in conflict with the general need recognized by both public and private groups for more female and minority doctors.

The American Medical Association and the Department of Health, Education, and Welfare have established a goal to increase the number of blacks enrolled in medical schools to 12 percent of the total medical school enrollment by 1975.

The Comprehensive Manpower Training Act—Public Law 92-157—enacted during the first session of the 92d Congress, would provide financial assistance for medical training. Title VI of the Civil Rights Act of 1964 assures that this assistance is available to all without regard to race, color, religion, or national origin. A special section added to the manpower legislation assures that no person be denied assistance because of sex.

Simple justice demands that employment be equally available without discrimination to students who have completed their formal education.

Finally, the exemption proposed by the distinguished Senator would be in clear conflict with the Constitution and existing Federal law which require that opportunities for employment at publicly supported hospitals be available to all on an equal basis. The amount of Federal financial assistance in the field of health care is substantial. Since 1947 over $12 billion in Hill-Burton funds have been spent for the construction of health facilities.

Over 98 percent of the general and specialty hospitals in this country receive some form of Federal assistance for health services. In fiscal year 1971, 31 percent of the money spent on health care was Federal money—"The Size and Shape of the Medical Care Dollar," Social Security Administration, 1971.

As you know, the Constitution and title VI impose a legal obligation upon all Federal agencies to assure that Federal assistance be available to all recipients on an equal basis. HEW has taken several steps to assure that the hospitals which receive Federal assistance be available to all receipients on an equal basis, and comply with title VI.

That Department has determined that protection of the rights of the ultimate beneficiaries of Federal assistance, the patients, requires that professional staff members, including physicians, be employed on a nondiscriminatory basis.

Thus, while the amendment by the distinguished Senator may create an exemption under title VII, for physicians employed by hospitals the Constitution and title VI would compel that employment remain available on a nondiscriminatory basis.

Mr. President, I said earlier that this amendment, in my judgment, would roll this country back 100 years. Certainly we have seen the discrimination within the last 100 years that it would permit. I was visited in my office, before coming over to the Senate floor, by a very distinguished former Governor of the State of New Jersey, who is very proud of his Irish ancestry.

I asked Dick Hughes:

Dick, I have heard stories that in this country at one time there would be signs out where there were jobs available that no Irish need apply. When was that, in the last century?"

He said:

No, it wasn't. It was a lot more recent than that.

My administrative assistant, Ben Palumbo, is of Italian ancestry. I asked him:

I have heard that people with names ending in "o" indicating Italian background have been discriminated against on that basis. When was that, 100 years ago?"

He said:

My father says it was a lot more recent than that.

Irish, Italians, Jewish people, black people, and women—these are the people to whom we are trying to give an equal opportunity. The mayor of one of America's great southern cities shocked everyone not long ago when he suggested to his constituents that they "think black." What he meant by that was that his white constituency should try to understand the feelings and the thinking of the black man.

As I stand here leading the debate on this measure, I try to think as a young person would who has gone through that long, hard, and expensive trail to be the graduate of a medical school, be he man or woman, black or white, or whatever national ancestry. I say that in this Nation, which so badly needs doctors, it would be a terrible crime if, because of ethnic background, sex, race, or religion, the American people were denied the services of that new doctor.

That is exactly what this amendment would do. It would take from a doctor the protection that the Constitution gives him and would protect through this law. I think it would be against all that this country holds itself up to be, in an area of one of our greatest needs.

Right now, in the central city in New York City, there is one doctor for every 2,000 to 3,000 people. Rural America is crying for doctors. Yet this amendment would eliminate opportunities for those who already tend to be shut out because of their race, religion, sex, or national origin. This amendment stands out among all those proposed as representing exactly the opposite of what we should be doing in this country, which is opening up opportunities for everyone. I strongly oppose the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, will the Senator yield me 5 minutes?

The PRESIDING OFFICER. Does the Senator from New Jersey yield time to the Senator from New York?

Mr. WILLIAMS. Mr. President, I yield the floor. I yield the Senator such time as he may need, within our limitation.

Mr. JAVITS. Mr. President, I have heard with the greatest pleasure the statement of the Senator from New Jersey on this amendment. Interestingly, it seems to have roused him as almost no other amendment has, and I was very pleased to detect the note of indignation with which he addressed himself to this subject.

Mr. President, I shall not endeavor to go over the same ground; the Senator did it superbly. I do have, however, one or two other points I wish to raise.

First, this amendment is so completely regressive that it does not just try to undo what is in this bill, but it tries to undo what we did in the bill passed 8 years ago, in 1964. That is what the amendment is directed to. It proposes to undo a measure we enacted in 1964, about which we have heard no complaints. There have been a great many arguments here about the fact that this, that, or the other provision has worked out in an oppressive way, but I have not heard a single word said about the measure having worked out in an oppressive way as to doctors and surgeons.

As a matter of fact, it was one of the most striking evidences of discrimination that discrimination against doctors was exercised even in hospitals which were largely patronized by blacks. That was one of the most sensational aspects of the debate in 1964. So that is one point, Mr. President: An effort is being made to undo a measure which has been in effect for 6 years without any real complaint that it has not been working properly and effectively.

The other point, which I think is critically important, is that everything the Senator from New Jersey has said about continuing discrimination up until very

very recent times in respect of race and ethnic origin and color, as well as sex, is true.

Incidentally, I had that in my own family. My father was an immigrant from middle Europe in about the late 1880's, and I am old enough to know the discrimination which was practiced, overtly and blatantly, through many of my adult years in respect of employment.

One of the things that those discriminated against have resented the most is that they are relegated to the position of the sawers of wood and the drawers of water; that only the blue-collar jobs and ditchdigging jobs are reserved for them; and that though they built America, and certainly helped build it enormously in the days of its basic construction, they cannot ascend the higher rungs in professional and other life.

It will be remembered that one of the most cruel aspects of discrimination was the quota system practiced in many American universities when it came to doctors. It was the reason for the establishment of the Albert Einstein College of Medicine, one of the great colleges of medicine in the United States, in the city of New York. It involved a tremendous reaction. The first revolt within academic ranks on the part of students and faculty, as well as the general public, came when these facts came out.

Yet, this amendment would go back beyond decades of struggle and of injustice, and reinstate the possibility of discrimination on grounds of ethnic origin, color, sex, religion—just confined to physicians or surgeons, one of the highest rungs of the ladder that any member of a minority could attain—and thus lock in and fortify the idea that being a doctor or a surgeon is just too good for members of a minority, and that they have to be subject to discrimination in respect of it, and the Federal law will not protect them.

This would be most iniquitous. I simply cannot believe that in this year it would be seriously entertained as a possibility by way of exemption from this bill.

I hope very much, almost in self-respect, that the Senate will decisively reject this amendment.

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

Mr. JAVITS. I yield.

Mr. PASTORE. Mr. President, I understand, I appreciate, and I agree with everything the Senator from New York has said.

Down deep in my heart, I do not believe that the sponsor of this amendment intends to do what this amendment actually would do. There are those of us who come from nationalities that have been discriminated against in one form or another, at one time or another and particularly by our immigration laws. Our parents have lived under grave injustices, inequities, and discriminations that violate the very spirit of the Constitution.

I remember a time in my own State when individuals of certain racial extraction could not gain an internship in some of our hospitals. Today they accept them freely. But it was a hard road to recognition. I know the experience of one individual in particular. Today he is one of the greatest surgeons in this country. At the time I speak of, he was refused an internship in a certain hospital. Later, that very hospital begged him to come there to lecture—but by then he had become world renowned in his profession of medicine. That goes to prove that acceptance was not a matter of qualifications at all.

No one here questions the right of any hospital or any medical authority to reject anybody, regardless of the color of his skin, or membership in any minority group, if the applicant is not qualified. That is not the question. All we are saying is that where all qualifications are met, please do not put certain groups under the burden of proving that they are twice as good in order to be considered equal. That is what we are trying to avoid. Equality is equality, under any standard, and that is the one test that should be used in America. If you use any other test, you violate the very spirit of the Declaration of Independence. It was written indelibly, not only on paper, not merely as words, but as the will and the way in the hearts of all people who believe in freedom. I hope that that indelibility will indeed endure eternally in this great Nation of ours, and I hope the day never comes when for any reason any person who is fully qualified will be discriminated against because of the color of his skin or because he comes from southeastern Europe or from any other part of the world. That, of course, would be an injustice that America must consider intolerable.

For that reason I oppose this amendment—with all due respect to the Senator who sponsors it. I know he is a man of good heart. He is a humanitarian, completely and in every respect, and I do not think he intends to do what this amendment would do—I hope that the amendment will be rejected.

Mr. JAVITS. Mr. President, I would add one prayer to that so eloquently uttered by Senator PASTORE: that even if he and I are not here, as ultimately we cannot be, the spirit of our immigrant forebears may be voiced by someone on the floor of the Senate for as long as this Nation may endure.

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

Mr. WILLIAMS. Mr. President, how much time remains?

The PRESIDING OFFICER. The agreement was to vote at 3 o'clock. The Senator has 4 minutes remaining.

Mr. ALLEN. I yield back the remainder of my time.

Mr. WILLIAMS. I yield back the remainder of my time.

Mr. JAVITS. Mr. President. have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been ordered.

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

The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. JAVITS. 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 vote cannot occur until 3 o'clock, under the unanimous-consent agreement.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the vote occur now.

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

The question is on agreeing to the amendment of the Senator from North Carolina. (Putting the question.)

The amendment was rejected.

Mr. JAVITS. I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MESSAGES FROM THE PRESIDENT

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

REPORT ON ECONOMIC STABILIZATION PROGRAM—MESSAGE FROM THE PRESIDENT

The Presiding Officer (Mr. BROCK) 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 Banking, Housing and Urban Affairs:

To the Congress of the United States:

As required by Section 216(a) of the Economic Stabilization Act Amendments of 1971 (Public Law 92–210), I am pleased to transmit herewith the first quarterly report on activities under the new Economic Stabilization Program. This first report covers the period from August 15 through December 31, 1971.

RICHARD NIXON.

THE WHITE HOUSE, *February 11, 1972.*

EXECUTIVE MESSAGES REFERRED

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

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

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.

The PRESIDING OFFICER. Under the previous agreement, the amendment of the Senator from New Jersey is now in order.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the amendment of the Senator from New York be again temporarily laid aside and that the Senator from Alabama (Mr. ALLEN) be recognized for the purpose of offering an amendment.

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

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 38, lines 10 and 11, strike the comma on line 10 and the words "which determination shall not be reviewable in any court" on lines 10 and 11.

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

The yeas and nays were ordered.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. ALLEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Alabama will state it.

Mr. ALLEN. Will the Chair please rule on whether the amendment submitted by the junior Senator from Alabama is in order?

The PRESIDING OFFICER. The amendment of the Senator from Alabama is in order.

Mr. ALLEN. I thank the Chair.

Mr. BYRD of West Virginia. Mr. President, may I inquire of the distinguished Senator from Alabama as to whether he would be willing to enter into a time limit on his amendment?

Mr. ALLEN. I would be delighted to do so.

Mr. BYRD of West Virginia. What would the Senator suggest?

Mr. ALLEN. I would say 1 hour, to be equally divided.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that time on the pending amendment be limited to 1 hour to be equally divided between the mover of the amendment and the manager of the bill; that time on any amendment in the second degree, debatable motion, appeal, or point of order be limited to 10 minutes to be equally divided between the mover of such and the manager of the bill; but that the time on any amendment to the amendment, debatable motion, appeal, or point of order come out of the time allotted to the amendment in the first degree.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. ALLEN. Mr. President, the amendment which I have just sent to the desk for myself and the distinguished senior Senator from North Carolina (Mr. ERVIN) would knock from the bill one phrase, as follows: On page 38, beginning on line 10, "which determination shall not be reviewable in any court."

This bill as introduced and as amended by the committee empowers this Commission to act as court, jury, investigator, and prosecutor all rolled into one. It provides that if the Commission at the outset of the complaint and its investigation determines it is unable to secure voluntary compliance from the respondent under a conciliation agreement acceptable to the Commission, which determination shall not be revealable in any court, then this would knock out that phrase "which determination shall not be reviewable in any court."

Mr. President, the inclusion of this phrase in this section, giving the Commission the authority to make this determination without any review, is typical of the arrogance of the Commission, which was started as a conciliation agency, which has been in existence for some 7 years or more, and which now seeks the power not only to investigate complaints but also to file charges, to hear the charges, to reach a determination, to issue an order, and then to have the power to enforce those orders.

It does not desire any control over its activity. It inserts the phrase with reference to a determination of whether compliance under section (b) of this section can be obtained. The purpose of the amendment is to strike from the bill this one phrase.

Mr. President, I have previously discussed in great detail many of the inherent dangers and evils of S. 2515.

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. 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.

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. 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 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. Thus, the small businessman, already overburdened, would encounter new regulations, investigations, hearings and appeals far beyond his time, his energy, or his finances. If this bill becomes law, 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.

In my discussions of the bill, I have strongly denounced and criticized the fact that the legislation would give judicial function to the Equal Employment Opportunity Commission by permitting it to order respondents to "cease and desist" from alleged unfair employment practices with such orders subject only to limited review in a U.S. court of appeals. To vest in a single Federal agency the prerogative of bringing a charge, then investigating it, then trying the case, while at the same time sitting in judgment on it, and then enforcing its own findings is alien to guaranteed and fundamental principles of due process. It is in absolute contradiction with all that our constitutional system defends.

Mr. President, time and again throughout this debate we have heard the proponents of S. 2515 state, indeed insist, that title VII of the Civil Rights Act of 1964 has not been a success. That is the title setting up the EEOC. We have been told that the Equal Employment Opportunity Commission has been weak, innocuous, and behind in its work because it did not have cease-and-desist power. It has been pointed out to the Senate repeatedly that the EEOC is only a paper tiger because employers, employment agencies, and labor unions have refused to cooperate with the Commission in its mandate under title VII to conciliate charges of unfair employment practices found to be supported by facts adduced by EEOC investigations. All of these arguments have been made on the premise that the EEOC has diligently and faithfully endeavored to discharge its statutory obligation to attempt to conciliate unfair employment practice charges.

The language which we seek to strike out makes any decision it reaches with regard to whether the employer, the respondent, is pacified and whether a conciliation agreement can be reached, nonreviewable by any court whatsoever.

In listening to these arguments and the many statistics which have been presented to substantiate them, I became interested in the facts of the record. I wondered, Mr. President, just how the Commission has performed its conciliation role which all agree is the keystone of title VII of the 1964 Civil Rights Act.

I submit, Mr. President, that, on the basis of the EEOC's own figures, the answer is a dismal one.

For example, in the Commission's fourth annual report—its report for the 1969 fiscal year—the Commission determined that 12,636 charges warranted investigation, but completed investigation in only 7,543 of them. At the conciliation stage, the EEOC's total workload of cases was only 3,329 or 21 percent of the EEOC's total workload. Finally, the conciliation efforts of the EEOC were "fully successful" in only 486 cases—less than 15 percent of its conciliation caseload and less than 2 percent of the cases earmarked by it for investigation and conciliation. The report further states that EEOC conciliation efforts were "partially successful"—whatever that means—in 90 cases and wholly unsuccessful in 729 cases during the 1969 fiscal year.

Looking at the Commission's fifth annual report—its report for the 1970 fiscal year—the Commission determined that 16,348 cases warranted investigation, but it completed investigations in only 5,090 of them. At the conciliation stage, the EEOC's total workload of cases was only 2,956 or 18 percent of the EEOC's total workload. Finally, the conciliation efforts of the EEOC were fully successful in only 342 cases—less than 15 percent of its conciliation workload and less than 3 percent earmarked by it for investigation and conciliation. The report further states that EEOC conciliation efforts were partially unsuccessful in 105 cases and wholly unsuccessful in 732 cases.

Mr. President, a record so devoid of accomplishments quite naturally raises sharp questions. Why is the EEOC conciliation caseload so low in relation to its total caseload? Why is the Commission so singularly unsuccessful in its achievements in the conciliation area—the very area to which the Congress specifically directed it to devote its energies under title VII of the 1964 Civil Rights Act?

As I have previously stated, advocates of cease-and-desist authority for the Commission have pointed to the record I have just discussed as evidence of employer recalcitrance and a general unwillingness to cooperate in achieving equal employment opportunity objectives. Indeed, the Commission itself has not hesitated to suggest the same thing, and at the same time stamp its feet and cry for an expansion of its powers, including the right to issue orders enforceable against respondents in the employment field.

At that point I might point out that the proponents of the bill state that the EEOC now has approximately 1,000 employees; that in the next 2 or 3 years it is anticipated they are going to build up the number of employees to where they will have approximately 2,000 employees.

That seems to be a quality, an attribute, or a feature of all government agencies with which I am familiar; they want to grow in size, they want to be more important, they want to exercise more functions, they want to get more people under their control, they want to have greater jurisdiction, they want to be able to order more people around.

So here is a case, directly in point, of the expansion of the Federal bureaucracy; this is an example of mushrooming Federal bureaucracy; it is an example of another invasion by the Federal Government of the rights and everyday lives of the citizens of this country.

Mr. President, it is not often that we in the Senate have an opportunity to strike a greater blow at Federal bureaucracy, and a greatly expanding one at that, than we have with our vote on this bill, which constitutes a power grab on behalf of the Equal Employment Opportunity Commission.

Yes; we can strike a blow at increased Federal expenditures; we can strike a blow at the tendency of the Federal Government to take over the rights of our citizens, because under this bill the EEOC is going to have control of employment practices of States, counties, and the agencies of local government.

We have a chance, by standing firm, with respect to this bill by voting against any effort to cut off debate on this important issue, by voting against any effort to apply gag rule in the Senate.

This amendment would make the bill somewhat better. This amendment would make it subject to some control in making its determinations, subject to some oversight, and not allowing it to be a complete law unto itself.

Mr. President, on page 1 of the EEOC fourth annual report for the 1969 fiscal year, we find the unadorned and unexplained statement that "the Commission continued to be limited by a lack of enforcement power."

I submit, Mr. President, that mediocre accomplishments of the Equal Opportunity Commission and its failure to achieve a better conciliation record is due in large measure to the Commission's simple refusal to carry out the congressional mandate set forth in title VII of the Civil Rights Act of 1964.

Further evidence of the Commission's misfeasance in failing to conscientiously carry out its statutory mandate to achieve conciliation in unfair employment practices charges may be found in its own regulations. A cursory review of the legislative history of title VII specifically shows that the Congress intended that the filing of lawsuits by aggrieved individuals would be a "last resort" after the Commission has exhausted its conciliation efforts.

This desirable objective has been thwarted and frustrated by Commission procedures which permit the filing of lawsuits by charging parties without any finding of probable cause by the Commission and without any efforts on its part to conciliate at all.

This Commission has been operating for more than 7 years. They contend they have been doing a good job. They come in every year and apply for an appropriation; and I assume in support of that appropriation they point out what a good job they are doing and why they need more money to operate the Department. But, Mr. President, I point out that the Commission has not needed enforcement powers during the 7 years of its existence, so why should the proponents of this measure tie up the business of the Senate with this measure which seeks to give this Commission the authority to issue and enforce its own laws? Where is due process? There is none. There is no due process.

Mr. President, I commend the distinguished present occupant of the Chair, the Senator from New Hampshire (Mr. COTTON), for the valuable contribution he made to the amendment of this bill. The bill originally provided that the number of employees that an employer had to have to be covered by the bill would be reduced from the present law of 25 down to 8. The distinguished Senator from New Hampshire pointed out that that would bring under the control and operation of the Commission very small employers, employers who are already subject to so much Government redtape, already subject to so much Federal bureaucracy oversight, already subject to heavy taxation, and that to be harassed by this Commission would in all likelihood crowd these small businesses to the wall. Out of the goodness of their hearts the managers of the bill were willing to raise this number for required coverage after the several speeches by the distinguished Senator from New Hampshire, from 8 to 15.

That might not sound like a whole lot but it will prevent literally tens of thousands of small employers from coming under the oppressive provisions of this bill; and a great contribution was made by the distinguished Senator from New Hampshire (Mr. COTTON). I commend him on his activity in that regard.

I should like to call to the attention of the Senate that section 1601.25a(c) of the EEOC's procedural regulations states that:

> At any time after the expiration of sixty (60) days from the date of the filing of a charge—the charging party or the respondent may demand in writing that a notice issue pursuant to section 1601.25 and the Commission shall promptly issue such notice . . .

Section 1601.25, however, provides that such notice shall issue—

> In any instance in which the Commission is unable to obtain voluntary compliance as provided by title VII, and that the notice shall include—(b) a copy of the Commission's determination of reasonable cause.

Alabama employers and their counsel with whom I have discussed this matter have advised me that, despite the specific language of section 1601.25 and of the act itself, the Commission as a matter of practice continues to issue so-called suit letters in any case in which a charging party requests even though no "probable cause" determination has occurred and no attempt to conciliate has been made by the Commission.

All of this goes to say, Mr. President, that a charging party to date has been able to bring suit on his claim even though the Commission has never rendered a probable-cause decison in his case and no—I repeat—no conciliation has occurred. Because of this fact, we readily see from the figures I cited just a few minutes ago why only a very few cases reach the conciliation stage at all. Thus, the most important role of the Commission under title VII—concilia-

tor—is deliberately thwarted by its own regulations and apparent blase attitude to the expressed congressional judgment that conciliation is not only the preferred method for eliminating employment discrimination, but also that conciliation efforts of charges were intended to be a condition precedent to the bringing of individual lawsuits.

It is obvious that the EEOC to date has had only limited conciliation experience. It is apparent, too, that the Commission, on the demonstrable record, is according only perfunctory significance to its conciliation role because of its continuing obsession with obtaining from Congress the power to issue coercive cease-and-desist orders.

Presumably, the Commission well knows that a major failure on its part to conciliate will lend strength to efforts to obtain for it cease-and-desist authority.

Conciliation, Mr. President, can and should work. I know that Alabama employers have, by and large, sincerely tried to comply with both the letter and spirit of title VII. I am convinced that only a very low percentage of conciliation failures with Alabama employers is due to the latter's recalcitrance.

What I am trying to say, Mr. President, is that conciliation will work, given a fair opportunity, if, and when, the EEOC seriously and sincerely "gets with it." Instead of conferring additional administrative power and authority upon the EEOC as the bill before us so drastically attempts to do, what we really should be doing is to sharply remind the Commission of its statutory obligation to attempt to conciliate every appropriate case.

I am confident that the end result will be a heartening increase in both the number of conciliations attempted and the number of conciliation agreements achieved; in short, the kind of progress which the Congress intended and expected when it passed the act 8 years ago.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2½ minutes remaining.

Mr. ALLEN. I reserve the remainder of my time.

The PRESIDING OFFICER. The question before the Senate is on the adoption of the amendment. Does any Senator yield time?

Mr. ALLEN. Mr. President, in the absence of Senators representing the proponents of the bill, I ask unanimous consent that I may suggest the absence of a quorum with the time on the quorum call to be equally charged to both sides.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. 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. JAVITS. Mr. President, will the Senator from New Jersey yield me 5 minutes?

Mr. WILLIAMS. I yield the Senator from New York 5 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, as we understand the amendment—we have sought to analyze it quickly in the time which has been made available—it seeks to provide a court review where the Commission rejects, or is unable to secure, a conciliation agreement from the respondent.

We can hardly conceive seeking to deprive the Commission of the opportunity to use its judgment, through court review, to endeavor to obtain a conciliation agreement or to substitute a court for it in deciding whether a conciliation agreement is acceptable. We come to the conclusion that that is what the amendment means when it says if the Commission determines—that is, the determination after attempting to secure voluntary compliance under subsection (b)—that it is unable to secure from the respondent a conciliation agreement acceptable to the Commission.

Therefore, it seems to us that if this amendment is adopted, the words "acceptable to the Commission" might just as well be stricken, because if the Commission is not permitted to determine that it is unable to secure a conciliation agreement, certainly one is not going to stultify the Commission and demand that it accept one which is not acceptable to it. Therefore, the determination beomes meaningless.

It seems to me that if we are going to give them the power of entering into a conciliation agreement at all, it has got to be one which they regard as acceptable, and not one mandated upon them by a court. So, if the amendment is to prevail, the whole clause ought to be stricken and the statement just ought to be that if the Commission determines, after attempting to secure voluntary compliance to subsection (b), that it cannot secure voluntary compliance, then it may go ahead and issue a complaint, or—if the Senate decides tomorrow to vote on the substantive matter—if it has got to sue, that it then can go ahead and sue.

I cannot see how one can expect the Commission to stultify itself by being subject to an order of the court that it is able rather than unable to secure a conciliation agreement acceptable to it. I emphasize that the amendment does not seek to strike those words. They remain in the clause.

So it seems to be that the words "which determination shall not be reviewable in any court," if we strike those out, now that they have occurred, it would simply stultify the Commission as well as the process. Our understanding of what is sought to be done here may be incorrect, but that is the way it seems to us, Mr. President.

For those reasons, as we wish to favor rather than frustrate conciliation with respect to activities of the Commission, and most of these cases, the overwhelming majority, are settled as a result of conciliation agreements, and since there is no compulsion on the respondent—he does not have to enter into the conciliation agreement in any way, shape or form—it seems to me that the determination which this amendment would carry out is quite inappropriate, and that the Senate should reject the amendment.

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

The PRESIDING OFFICER. The time for the quorum call will come out of the Senator's time.

The clerk will call the roll.

The 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. How much time does the Senator yield himself?

Mr. WILLIAMS. I yield myself 5 minutes.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WILLIAMS. How much time remains on this amendment?

The PRESIDING OFFICER. The Senator from New Jersey has 21 minutes remaining, and that is all the time that is left on the amendment. The other side has used all of its time.

Mr. WILLIAMS. In the time that the author of the amendment had to explain the amendment, it was not fully made clear to me just exactly what the amendment encompasses and what the basic result would be if this amendment should prevail. I wonder if I could impose upon the Senator from Alabama to ask him one or two questions.

Mr. ERVIN. Mr. President, I think I can answer the Senator's questions, if the Senator will yield me time.

Mr. WILLIAMS. Yes. Under present law, in the situation where the Commission is unable to secure from the respondent a conciliation agreement that is acceptable to the Commission, is that a decision or a situation that is reviewable in a court of law?

Mr. ERVIN. It would be if it was prohibited by the bill, surely. It is a condition precedent to the Commission taking any action. It is a condition precedent to the court having jurisdiction that the Commission shall have attempted to effect a conciliation agreement conforming to the law. That is a condition precedent, and ordinarily a man would have a right to raise it in court as a defense.

For example, an employer who, we will assume, is willing to make an agreement complying with the law, which in full complies with the law, but the Commission is not willing to accept it. The bill would prevent the court from inquiring into the matter.

In other words, the Commission, by demanding more than the law requires, could say, "They have not come to an agreement satisfactory to the Commission," and no one on earth could dispute it in court.

Mr. WILLIAMS. At what time is this failure to arrive at an agreement reviewable in court?

Mr. ERVIN. Well, under the bill it would not be reviewable at all.

Mr. WILLIAMS. Without reference to that, but under the law as it is now, is it the Senator's judgment——

Mr. ERVIN. Does the Senator mean under the 1964 act?

Mr. WILLIAMS. Yes.

Mr. ERVIN. No, the 1964 act was written just as this act is being written, for the purpose of preventing a court from determining what the truth is.

As I say, a court cannot even inquire into the matter. The court cannot even inquire whether the Commission has made a false statement, and therefore brought a man into court who should never have gone to court. It is a condition precedent, just as there is a law in virtually every municipality that you have to give a notice before you can bring a suit against it.

Mr. WILLIAMS. It is clear that it is not in the law now. Is there anything in this bill, any language which suggests that the failure to reach an agreement is reviewable even if that language "which determination shall not be reviewable in any court" is stricken?

Mr. ERVIN. It should be reviewable.

Mr. WILLIAMS. At what point? That is the question.

Mr. ERVIN. It should be reviewable by the court when a man goes into court.

Mr. WILLIAMS. At what point?

Mr. ERVIN. Whenever it gets there.

Mr. WILLIAMS. At the point where it is found that there is no agreement?

Mr. ERVIN. Once the court reaches the case for trial, for hearing. In other words, if a man is perfectly willing to comply with the law, he ought to be able to show the court that he was willing to make an agreement in compliance with the law but that the Commission demanded more; and, therefore, he ought never have been brought to court. He ought to recover his costs and, as we lawyers say, go hence without delay.

The PRESIDING OFFICER. The Senator's time has expired. Does the Senator yield himself the remainder of his time?

Mr. WILLIAMS. Yes.

In other words, if the Commission is unable to secure from the respondent a conciliation agreement that is acceptable to the Commission, at that point the respondent cannot go in to have that situation reviewed.

Mr. ERVIN. That is right. In other words, nobody on earth can find that that statement is incorrect. It cannot be reviewed. Just tell the judge, "You have to shut your mind to the truth, if the truth is to the contrary."

Mr. WILLIAMS. Is it the Senator's viewpoint that, when the Commission discovers that it cannot get an acceptable agreement, at that point in time the respondent should be able to go to court?

Mr. ERVIN. No, not then. A man ought not be compelled to go to court if he is perfectly willing to abide by the law. If he was perfectly willing to abide by the law and the Commission asked for more than the law required, the Commission ought not have him silenced when he gets to court. In other words, you have to have a condition precedent.

Mr. WILLIAMS. If this is stricken, what would the court be reviewing? I would imagine that, in this whole business of conciliation and negotiation toward an agreement, a great deal of the record would be on the basis of conferences and telephone calls, personal meetings, where there is no record. What would the court be reviewing?

Mr. ERVIN. I would think that if the judge was qualified for his office, when it appeared that the employer was willing to comply with the law and that the finding of the Commission on this point was not the truth, he would dismiss the case and say that the employer ought never have been harassed.

Mr. WILLIAMS. At that point, I do not see where the record has been made that a judge would have before him with the elements for making an independent decision as to whether the respondent was willing to enter into an agreement.

Mr. ERVIN. You have it in the record. If the Commission kept a record—and it should have—and the employer came in and said, "We are willing to do this and that and that," that should go into the record; and then the Commission says, "That is not satisfactory to us."

Mr. WILLIAMS. We are talking rather loosely about the record. I am suggesting that the record could not be preserved in any printed form.

Mr. ERVIN. If the Commission does not preserve the record, it ought not be permitted to adjudicate the rights of other people.

Mr. WILLIAMS. This is in the very preliminary stages. No complaint has been filed. It has been informal mediation and conciliation. No record has been made. The judge would have nothing to go on.

Mr. ERVIN. If I were the attorney for the employer, a record would be kept, because I would write it out and hand it to the Commission; and if they could not read, I would get somebody to read it to them.

Mr. WILLIAMS. That is the most improbable hypothesis of all.

Mr. ERVIN. No, that is not improbable. Any competent lawyer, when he says, "My client is not violating the law and is willing to take this course, in full compliance with the law," will put it in writing. It would be the duty of the Commission to make a record of it, because unless they make a record to the effect that conciliation cannot be had, they cannot take action. That is a condition precedent.

Mr. WILLIAMS. I do not know how an objective record would be made without one party reporting the conversations on the telephone with the other party and vice versa, the sort of thing that makes for less than a precise record, I would suggest.

Mr. ERVIN. I learned a long time ago the truth of Lord Coke's statement that one scratch of a pen is better than the slippery memory of many witnesses. Whenever I represented a client who made a proposal or took a position, I reduced it to writing; and that is exactly what would be in writing.

Mr. WILLIAMS. That would be an ex parte document. The Senator would be making that out in his office, and it would not be reviewed by the other party as an accurate representation of what had happened.

Mr. ERVIN. It would be an accurate representation of what I was willing to do.

Mr. WILLIAMS. A scratch of the pen would have been after you had indicated to the other party what you were willing to do.

Mr. ERVIN. Not if I were the attorney for the employer. I would take it in there when they were talking. I would put it in writing. You are not going to have a record made of the slippery memory of the commission.

Mr. WILLIAMS. I am a former country lawyer from New Jersey, but I wish we had one of those major lawyers from New York here to help me on this point. Frankly, I just cannot see it. It seems to me that what we are talking about, in the working out of an agreement that aborts and does not come to pass, is not the kind of record with which any judge could deal. They would have an informal background of discussion—give and take—which did not jell into an agreement. All we would really have, perhaps, with any formality, would be the final words of the respondent's offer, and that is all, without any of the guts of what went into it.

Mr. ERVIN. I do not see why there would not be a record. There is a writing. A lawyer making a proposal on behalf of his client or stating his client's position is not going to trust to the slippery memory of a commission. He would put it in writing. If I were the lawyer for the man, there would be a record.

Mr. WILLIAMS. I would not want to burden any judge with a review of anything that imprecise as that record.

I yield to the Senator from New York on this.

Mr. JAVITS. Mr. President, the whole provision is self-operative in seeking to set a time when, if the parties cannot agree, something else should happen, whether it is litigation or a complaint leading to a cease-and-desist order.

I have never heard of a case in which a court could force anybody to make a settlement. The court might call them up to the bench and urge strongly that they settle and might imply that things go wrong if they do not. But to provide that some court should review the determination that they cannot settle is almost unheard of. I cannot conceive of how a lawyer could advance such a proposal.

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

Mr. JAVITS. I yield.

Mr. ERVIN. How is the court going to know that the Commission has been unable to get an agreement satisfactory to the Commission? How is the court going to know that? Is the Commission going to whisper it in the judge's ear, or is it going to have a written document?

Mr. JAVITS. If the Commission acts and the statute calls for a determination, the Commission runs the risk that its decision may be upset if the court determines, on review—and there is adequate judicial review—that the necessary procedures provided by law were not complied with—to wit, that they did not try

to conciliate and that they actually felt that they could not get a conciliation agreement. It seems to me that a pendente lite decision on that score would simply hold up the works forever and espouse the proposition that people can be made to settle, which just is not a judicial proposition.

Mr. ERVIN. How is the Commission going to give that information to the court—orally or in writing?

Mr. JAVITS. In addition, I think the other critical point is that negotiations for settlement are traditionally without prejudice. The Senator's amendment would seek to make the negotiation of a settlement a judicial proceeding, again an absolutely unheard of provision. No one's rights are cut off. The respondent can appeal in the event he is not satisfied and has gone through the necessary procedures. Also, the party most affected—to wit, the basic party in interest—the claimant, as it were—is not cut off from a suit that he is not a party to the settlement of. This bill adequately provides for that.

Under those circumstances, it seems to me inconceivable that we would enter into a court proceeding test, whether the Commission could or could not get a conciliation agreement, in terms of the fairness of such a conciliation agreement, which gets down to the point that we would substitute the court for the parties insofar as a settlement is concerned. If the court is going to get into that, to decide whether it will or will not restrain or permit the Commission to make a settlement, I cannot see how, without running afoul of the basic principles of settlement in litigated cases, we can do it through the courts at this stage of the proceedings.

The opponents of this bill have made many amendments to it which were arguable but, in the case of this amendment, I cannot see how it can stand the proposition among lawyers in respect of the problems of settlement of a case or of conciliating one.

Mr. ERVIN. If the Senator will yield, I would ask, is the Commission to make no record of the fact that the Commission has been unable to get an agreement?

Mr. JAVITS. The Commission runs the danger, it runs the risk that the whole proceeding may be upset after the cease and desist stage or the litigation stage. I doubt very much that any commission would omit so simple a step as to certify for the record that they were unable to work out a conciliation agreement.

Under this amendment I do not know what the court would decide or how a court could probe into the minds of members of the Commission, whether they did or did not, in good faith, decide that they would or would not work out a conciliation agreement which the respondent might have wished.

I cannot see how we could possibly encompass this kind of provision related to settlements. It certainly is completely outside the purview of the experience of every lawyer, not only myself, but I know of no lawyer who would for a moment think that we could submit this to the courts as to whether the parties should settle. If they settle, they do. If not, they do not and they go to court. This tries to introduce a totally different standard than anything encompassed by our laws of practice.

For all these reasons, Mr. President, I hope that the amendment will be rejected.

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

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

The PRESIDING OFFICER (Mr. BROCK). All time has been yielded back.

The question now recurs on agreeing to the amendment of the Senator from Alabama (Mr. ALLEN).

On this question the yeas and nays have been ordered.

Mr. WILLIAMS. 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. 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.

The question is on agreeing to the amendment of the Senator from Alabama (Mr. ALLEN).

On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. PASTORE (when his name was called). On this vote I have a pair with the Senator from Mississippi (Mr. EASTLAND). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Nevada (Mr. CANNON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from Alaska (Mr. GRAVEL), and the Senator from Washington (Mr. JACKSON) are necessarily absent.

I further announce that the Senator from Florida (Mr. CHILES), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. MANSFIELD), the Senator from Utah (Mr. MOSS), and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

I further announce that, if present and voting, the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Washington (Mr. MAGNUSON), and the Senator from South Dakota (Mr. MCGOVERN) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. BUCKLEY), the Senator from New Jersey (Mr. CASE), the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), the Senator from Hawaii (Mr. FONG), the Senator from Florida (Mr. GURNEY), the Senator from Wyoming (Mr. HANSEN), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Kentucky (Mr. COOK) is absent by leave of the Senate on official committee business.

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

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

On this vote, the Senator from New York (Mr. BUCKLEY) is paired with the Senator from Ohio (Mr. TAFT). If present and voting, the Senator from New York would vote "yea" and the Senator from Ohio would vote "nay."

On this vote, the Senator from Florida (Mr. GURNEY) is paired with the Senator from New Jersey (Mr. CASE). If present and voting the Senator from Florida would vote "yea" and the Senator from New Jersey would vote "nay."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from Texas would vote "yea" and the Senator from Oregon would vote "nay."

The result was announced—yeas 14, nays 49, as follows:

[No. 42 Leg.]

YEAS—14

Allen	Ellender	McClellan
Baker	Ervin	Sparkman
Brock	Fulbright	Stennis
Byrd, Va.	Hruska	Thurmond
Byrd, W. Va.	Jordan, N.C.	

NAYS—49

Aiken	Hart	Ribicoff
Allott	Inouye	Roth
Bayh	Javits	Saxbe
Beall	Jordan, Idaho	Schweiker
Bentsen	Mathias	Scott
Bible	McGee	Smith
Boggs	McIntyre	Spong
Brooke	Metcalf	Stafford
Burdick	Miller	Stevens
Church	Mondale	Stevenson
Cotton	Montoya	Symington
Cranston	Nelson	Tunney
Curtis	Pearson	Weicker
Dole	Pell	Williams
Dominick	Percy	Young
Eagleton	Proxmire	
Griffin	Randolph	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Pastore, against.

NOT VOTING—36

Anderson	Gambrell	Kennedy
Bellmon	Goldwater	Long
Bennett	Gravel	Magnuson
Buckley	Gurney	Mansfield
Cannon	Hansen	McGovern
Case	Harris	Moss
Chiles	Hartke	Mundt
Cook	Hatfield	Muskie
Cooper	Hollings	Packwood
Eastland	Hughes	Taft
Fannin	Humphrey	Talmadge
Fong	Jackson	Tower

So the Allen-Ervin amendment was rejected.

Mr. JAVITS. Mr. President, I move to

reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending question is on the amendment of the Senator from New Jersey and the Senator from New York, amendment No. 878.

Mr. JAVITS. Mr. President, the Senator from New Jersey and the Senator from New York have presented to the Senate their amendment with a view toward facing the realities of the situation and endeavoring to present for all who wish a bill a formula by which a bill could be obtained, we believe. It seems to me that this is the direction in which the Senate has been moving. We deplore the idea that those who have different views as to the remedy are thrown in indiscriminately with those who oppose the bill outright. We believe this tends to confuse rather than simplify the issue, notwithstanding my deep feeling about the way we are organized today with rule XXII. The Senate does not operate by a constitutional majority but by two-thirds of those present and voting. I think this is a very serious defect in our system of government. It has its classic result in frustrating what should be the controlling will after decent and honorable debate, to wit, the will of the majority. Nevertheless, this is the world in which we live.

In recognition of that fact, the Senator from New Jersey (Mr. WILLIAMS) and I have proposed a formula by which we think this difficulty can be surmounted by those who want a bill.

Mr. President, the main criticism that has been made against our plan is the fact that it represents no substantial difference from cease and desist. But, Mr. President, we respectfully submit that it does. I would like to suggest to the Senate, so that the matter may be studied overnight by individual Members, that they pay particular attention to the following two points:

The first point is that we provide for a review by a court of questions which arise in the course of the hearing before the EEOC, of any question of controlling law in the proceeding. That is not provided for by the cease-and-desist process, but would be provided by the special proceedings we suggest. Second, we provide that the Commission cannot issue a cease-and-desist order; that only the court can enter a decree. It is claimed that does not make a difference because the court is bound by the evidence to the extent the evidence is substantial. We feel it makes all the difference in the world because the argument of our opponents respecting cease-and-desist has been just the words. We have constantly pointed out they cannot be enforced at all except by court decree, even though it is called a cease-and-desist order.

They have argued that if it is called a cease-and-desist order this brands the violator as a violator of the law. If that is true, the converse is equally true. If we strike out cease and desist we cannot brand the violator as a violator of law. We are bringing it before the Commission as a special matter, to hear the evidence, make the report on the evidence, and recommendations to the court.

I respectfully submit in those respects there is a very real difference between cease and desist and the court-enforcement concept which we have advanced to the Senate. We hope very much it will have the interested attention of Members in light of the substitute which we understand is going to be offered by the Senator from Colorado (Mr. DOMINICK) to our amendment. So the Senate will have its choice of the remedies available, make that choice, and go and deal with the bill in chief.

In the effort to arrive at some time limitation on when we should vote, I have been most sympathetic, as has the Senator from New Jersey, provided we could get everything voted on at once. In other words, if there is going to be a resolution of the enforcement aspect of this law, it should be a total resolution. As the situation stands now, if we agree to vote on the Dominick amendment at a given time, and no time to vote on the amendment which the Senator from New Jersey and I have offered, the matter still would be up in the air. So we have tried in the intervening time, without much success, to bring about an agreement to vote on both measures in order to endeavor to bring this whole issue to resolution.

Mr. President, to give us an opportunity to consider that point a little further I now suggest the absence of a quorum.

Mr. DOMINICK. Mr. President, will the Senator withhold that request and yield the floor for me to offer my substitute?

Mr. JAVITS. I would like to suggest the absence of a quorum first. 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.

Mr. DOMINICK. Mr. President, am I recognized? Do I have the floor?

The PRESIDING OFFICER. The Senator from Colorado has the floor.

AMENDMENT NO. 884

Mr. DOMINICK. Mr. President, I send to the desk an amendment in the nature of a substitute for the Williams-Javits amendment, and ask that it be stated.

The PRESIDING OFFICER. The amendment of the Senator from Colorado, in the nature of a substitute for the Williams-Javits amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

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

(Mr. DOMINICK's substitute amendment to the Williams-Javits amendment is as follows:)

Strike out the matter to be proposed and insert the following:

On page 38, beginning with line 7, strike out all through line 18 on page 47 and insert in lieu thereof:

"'(f)(1) If within thirty days after a charge is filed with the Commission or within thirty days after expiration of any period of reference under subsection (c) or (d), the Commission has been unable to secure from the respondent a conciliation agreement acceptable to the Commission, the Commission shall so notify the General Counsel who may bring a civil action against any respondent not a government, governmental agency, or political subdivision named in the charge. In the case of a respondent which is a government, governmental agency, or political subdivision, the Commission shall take no further action and shall refer the case to the Attorney General who may bring a civil action against such respondent in the appropriate United States district court. If a charge filed with the Commission pursuant to subsection (b) is dismissed by the Commission, or if within one hundred and fifty days from the filing of such charge or the expiration of any period of reference under subsection (c) or (d), whichever is later, the General Counsel has not filed a civil action under this section or the Attorney General in a case involving a government, governmental agency, or political subdivision, or the Commission has not entered into a conciliation agreement to which the person aggrieved is a party, the Commission or the Attorney General in a case involving a government, governmental agency, or political subdivision shall so notify the person aggrieved and within ninety days after the giving of such notice a civil action may be brought against the respondent named in the charge (1) by the person named in the charge as claiming to be aggrieved or (2) if such charge was filed by an officer or employee of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such civil action if he certifies that the case is of general public importance. Upon request, the court may, in its discretion, stay further proceedings for not more than sixty days pending the termination of State or local proceedings described in subsection (c) of this section or further efforts of the Commission to obtain voluntary compliance.

"'(2) In any such proceeding the General Counsel or the Attorney General in a case involving a government, governmental agency, or political subdivision may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the General Counsel or the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall

be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

"'(3) In the event the General Counsel or the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

"'(4) It shall be the duty of the judge designated pursuant to this subsection to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

"'(5) Whenever a charge is filed with the Commission and the Commission concludes on the basis of a preliminary investigation that prompt judicial action is necessary to carry out the purposes of this Act, the Commission may bring an action for appropriate temporary or preliminary relief pending final disposition of such charge. It shall be the duty of a court having jurisdiction over proceedings under this section to assign cases for hearing at the earliest practicable date and to cause such cases to be in every way expedited.

"'(g)(1) Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this title. Such an action may be brought in any judicial district in the State in which the unlawful employment practice is alleged to have been committed, in the judicial district in which the employment records relevant to such practice are maintained and administered, or in the judicial district in which the plaintiff would have worked but for the alleged unlawful employment practice, but if the respondent is not found within any such district, such an action may be brought within the judicial district in which the respondent has his principal office. For purposes of sections 1404 and 1406 of title 28 of the United States Code, the judicial district in which the respondent has his principal office shall in all cases be considered a district in which the action might have been brought.

"'(2) If the court finds that the respondent has engaged in or is engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include, but is not limited to, reinstatement or hiring of employees, with or without backpay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), or any other equitable relief as the court deems appropriate. Backpay liability shall not exceed that which accrues from a date more than two years prior to the filing of a charge with the Commission. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the backpay otherwise allowable.'"

Mr. BYRD of West Virginia. Mr. President, will the distinguished Senator yield, with the understanding that he does not lose his right to the floor?

Mr. DOMINICK. Mr. President, with great deference to my friend from West Virginia, I would like to explain the amendment at the present time before we get into any colloquy, if he does not mind. I will be done shortly.

Mr. BYRD of West Virginia. Surely.

Mr. DOMINICK. Mr. President, there has been a great deal of discussion concerning what should or should not be done with the enforcement procedures of the EEOC. Some persons have interpreted the discussion as to whether or not those who are in favor of court procedure were in fact in favor of any enforcement procedure. Having participated in the debate before the committee, having written the individual views in the report, and having debated the issue on the floor extensively, I think it is only fair to say that, from my point of view, the EEOC deserves and needs enforcement procedure. That is why I insisted on reporting the bill and why I wrote my supplemental individual views, and that is why I have been carrying forward the discussion on the court enforcement method. It is an enforcement procedure and an enforcement procedure which myself and at least 45 other Senators happen to think is best.

The Senator from New York (Mr. JAVITS) has been very kind on this matter, and so has the Senator from New Jersey (Mr. WILLIAMS), but persons other than those in this body, in some of the more vocal "Now" groups, in the more militant women's groups, and other groups, have said I was against civil rights. Nothing could be further from the truth.

I have said before, and I think it worthwhile repeating, that I have voted for every piece of civil rights legislation since I have been a Member of this body. In fact, I thought that the fair housing bill which was before us did not go far enough toward protecting minority rights. It is my guess that if we had had a fair housing bill with enough strength in it, we would not have the busing problem we are faced with in the school situation today, and I have said this repeatedly.

The language of this particular amendment is concise and uncomplicated. It says that if within 30 days after a charge is filed with the Commission, or within 30 days after expiration of any period of reference under subsection (c) or (d), of this bill, the Commission has been unable to secure a conciliation agreement, the Commission shall notify the general counsel, who then can, if he so desires, bring a civil action against any respondent other than those within the category of a governmental entity.

In those cases, Senators will recall, we have already provided in the bill that with reference to disputes involving State or local governmental employees, the dispute would go to the Attorney General for the filing of a case in U.S. District Court. Federal employees would exhaust their respective agency remedies and then the employee would have a right either to go to the Civil Service Commission Board of Appeal and Review or to submit it to the Attorney General for action through the U.S. district courts.

So the bill provides governmental employees and the governmental agencies with rights to redress their grievances in court. The only ones who are not subject to such court relief are the private employers and private employees; this, in my own humble opinion, is discrimination in and of itself. I do not see why we should arbitrarily carve out one sector.

This particular amendment, which is offered as a substitute for the Williams-Javits amendment, says that the Commission shall take no further action after the general counsel files the complaint before the court. The general counsel goes before the U.S. district court judge, and if he certifies that it is in the general public interest, he can request an expedited three-judge panel, similar to the procedure we now have in connection with voting rights, public accommodations, and the "pattern or practice" cases.

The appeal from that three-judge panel then goes directly to the Supreme Court. In terms of timing this is what happens: The charge is filed before the Commission, and they review it. If they find reasonable cause and are unable to reach a conciliation agreement then the general counsel goes into court. If he thinks that it involves an issue of general public interest, he can ask for a three-judge court. If it involves individual rights, which is probably more likely, he would go into the regular district courts with the right to have the judge assign priorities and expedite the hearing of the case.

The case would be heard and it would then go, in the first instance, from a three-judge court to the Supreme Court, and in the expedited hearing would go through the regular appellate proceedings.

There is no doubt in my mind that this will be much more expeditious than the complex Javits-Williams procedure, which, if I may say so, has been tabbed by some of my knowledgeable friends in the legal profession as a turkey.

The problem is that it is not really a turkey; it is rather a camel, which is a horse created by a committee. It has all the defects of the original amendment, and very few redeeming features.

The procedure I have outlined would be far quicker than would the Javits-Williams amendment. Consider for a moment the delay involved with the interlocutory appeal that might occur on evidentiary issues under amendment No. 878. The respondent raises the issue with the hearing examiner hearing the case; any evidence which creates an argument concerning admissibility would have to be heard before a judge; and I can foresee a lot of cases in that category. It seems to me the impartial court system would be far better.

For the purpose of creating a record and after thinking about this issue more and more, all the while getting more concerned over the polarization of the sides, it seemed to me that we should get an

opinion on the relative merits of the two amendments from the people who have been intimately involved with the enforcement of job discrimination—the Civil Rights Division of the Department of Justice. I requested them to send up such an opinion, and I shall send a copy of that opinion to every Senator late this afternoon or early tomorrow morninig.

The letter from Assistant Attorney General, David L. Norman says very candidly that in his opinion the Javits-Williams amendment would be extremely difficult to administer, it would be time consuming, and it does not afford the protections available under the Dominick amendment. Mr. Norman indicates that he had aready so testified in summary on the points in favor of my procedures before the committee and that he held such testimony, urging that, as between these two amendments, the Dominick amendment should be adopted.

I hope my colleagues will read Mr. Norman's letter with some care, because his opinion also deals with the Hruska "pattern or practices" amendment, and then brings up a whole new issue which has not been considered at all concerning the exclusion from either court proceedings or enforcement proceedings those cases which are presently pending before the EEOC.

But just to give Senators some idea of what the Civil Rights Division says, I shall read into the RECORD at this point a portion of the reasoning applied by the Civil Rights Division of the Department of Justice.

Amendment 878 (the Williams-Javits Amendment) carries forward the main features of S. 515 as reported by the Senate Labor Committee. Under that Amendment, EEOC will have authority to issue orders, which may become enforceable in the courts after opportunity for judicial review. Although the words "cease and desist orders" in the original bill have been deleted and the term "recommendation" substituted therefor, this change does not appear to be a substantial one, since under either version the EEOC position becomes an enforceable order unless modified by the court upon review. Like the committee bill, the Williams-Javits Amendment calls for judicial review of the EEOC order on the Administrative record. Sec. 706(k)(1), p. 6 and 7 of the Amendment. Like the Committee bill, the William-Javits Amendment makes the findings of EEOC "conclusive" on the courts if supported by "substantial evidence on the record as a whole" (Sec. 706(k)(2), p. 7 of the Amendment).

Although the Williams-Javits Amendment provides for filing of the administrative complaint with the district court, we do not perceive any substantial change resulting from that novel procedure. Also, the Williams-Javits Amendment provides for an interlocutory appeal to the district court on any "controlling question of law" if it finds that such review "would materially advance the ultimate termination of the litigation." It is doubtful that this addition is a significant one, since controlling issues of law were judicially reviewable under S. 2515, and this Department's experience under the analogous provisions for interlocutory appeal from district court decisions (28 U.S.C. 1292 (b)) indicates that such appeals are only useful on rare occasions.

The one material change which the Williams-Javits Amendment would make in S. 2515 is to transfer judicial review from the courts of appeals to the district court. This change adds another layer of review to the already lengthy process of charge, investigation, cause finding, administrative complaint, hearing before hearing examiner, review before the Commission and review in the Court of Appeals.

Amendment 871 (the Dominick Amendment)—

The substitute incorporates those same provisions—

on the other hand, authorizes the EEOC to proceed in the appropriate United States District Court to secure relief from any employment practice it deems unlawful. In such proceedings, the evidence would be heard by the District Judge and the facts found by him. In addition, under the Dominick Amendment, those judicial proceedings would be expedited and the General Counsel could require the convening of a three-judge court with direct review in the Supreme Court upon a filing of a certificate of general public importance.

As you know, when I testified before the subcommittee on Labor of the Senate Committee on Labor and Public Welfare in October last year on behalf of the Department of Justice and the Administration, I again expressed our view that the granting of authority to the Equal Employment Opportunity Commission to bring judicial proceedings is a better means of enforcing Title VII than granting that Commission administrative enforcement powers. We still adhere to that view.

In my testimony before the Senate Labor Committee I set forth four grounds for our view that judicial enforcement is preferable to administrative proceedings. (Hearings pp. 150–151.) One of those was applicable only to governmental employers and was accepted by that Committee. The other three bases for our view may be summarized as follows: (1) Federal district judges hold court throughout the country and enjoy a confidence and respect in their communities which cannot be matched by administrative officers; and their authority to issue enforceable orders enables them to resolve cases speedily;

If I may interject, Mr. President, I think this is a most important point. Under the procedures of S. 2515, and the procedures under amendment No. 878, the Williams-Javits amendment, cease-and-desist orders or recommendations can only be issued in Washington.

Under court enforcement the district courts in every State of the Union are able to provide an impartial determination—an enormously simplified procedure insofar as both the complainant and the respondent are concerned.

Mr. BYRD of West Virginia. Mr. President, will the Senator from Colorado now consent to yield?

Mr. DOMINICK. I shall be through in just a few minutes, if I may continue.

Mr. BYRD of West Virginia. Very well, I thank the Senator.

Mr. DOMINICK. The letter continues:

(2) because of the sensitive nature of the issues to be resolved and the fact that the larger cases involve the rights and expectations of substantial numbers of people, it is inappropriate to leave the critical factual determinations and formulations of relief to hearing examiners and Commissioners sitting in Washington; and (3) the fact that Federal courts resolve the factual and legal issues in equal opportunity cases in the areas of voting, housing, and education make them a particularly appropriate forum for resolving the same kinds of issues in employment discrimination cases. In addition, I pointed out that there is a definite, although hard to measure, advantage in having the person who has heard the evidence be responsible for fashioning the relief which he must then enforce.

As I have said, Mr. President, we will supply a copy of this letter to each Senator, whether he be for us or against us, either this afternoon or tomorrow morning.

I think the letter is extremely important, because it indicates what I have been saying—namely, that we must retain a belief in this country that the Federal district courts provide a method of impartial review of highly emotional cases which involve not only basic human rights but also basic human emotions. Additionally, you can do far better in a court proceeding which is impartial, organized, and ruled by precedent and established rules of procedure than you can from an administrative proceeding composed of a group of people who are responsible to no one except the person who appointed them—largely in the executive department—or who may have been appointed as part of the staff of the agency itself.

I cannot conceive of anybody saying to me—as they have done over and over again—that what I am trying to do is in any way detrimental to providing fair employment opportunities for people throughout this country. The fact is, my position provides a far more fair and far more impartial and far more expeditious way to solve these disputes by creating lasting precedents which can apply as a rule of thumb for those situations which are similar to that in other areas of the country.

I yield to the Senator from West Virginia.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point editorials from the Chicago Sun-Times and the Chicago Tribune endorsing the court enforcement procedure.

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

THE SENATE AND JOB BIAS

The House-passed proposal to allow the Equal Employment Opportunity Commission to file suits in federal court on behalf of citizens who complain of hiring discrimination is a step in the right direction, aside from the fact that it probably is about all that could be expected out of Congress in an election year. Southerners in the Senate who filibustered against a more liberal proposal—one which would have allowed the EEOC to issue "cease and desist" orders of its own—did not want the government interfering with subtle methods of blocking blacks from jobs which required anything but heavy lifting and dirty hands. Nor did the backers of the filibuster, the Jim Crow leaders of Northern craft-union locals.

In the seven years since Congress ordered an end to discrimination, particularly racial, in employment, most responsible businessmen have taken the view that equal employment opportunity is not only good for individuals but good for business itself. But the enforcement procedures given the EEOC to bring suit against unions or employers have been restricted; only where a pattern exists can the EEOC move.

The House measure changes this to help individual plaintiffs, and it is a progressive move. After all, the federal courts have a good record in civil rights cases, and in administrative law, which the EEOC proposed powers would become, the word of a

government agency is taken as prima facie evidence; it is up to the alleged offenders to prove their innocence. Admittedly, the federal courts are now clogged with cases, and this would add to the load, but it seems a small price to pay for widened enforcement powers for existing legislation.

Senate Majority Leader Mike Mansfield (D-Mont.) has said that if the proposed legislation runs into too much more opposition, he'll lay the whole matter aside for this session of Congress. It would be a pity if this should come to pass, and we would urge all senators to support the House bill. Ending discrimination in employment is already several centuries overdue, and this compromise, while not perfect, would be more than welcome.

CEASE AND DESIST

Twice in three days, the Senate has defeated an attempt to cut off debate on a bill to give the Equal Employment Opportunity Commission power to issue "cease and desist" orders. A third attempt is expected later. If it fails, too, Senate leaders may shelve the question. If they do, passage of any new EEOC legislation in this session will be in doubt.

The subject has already consumed an inordinate amount of Senate time. Frustration of "liberal" senators on this question should cause little if any regret. Indeed, it is ironic that the same "liberals" who are trying to vest the EEOC with "cease and desist" powers are generally the same ones who complain that other federal agencies—in particular, the Atomic Energy Commission—are too powerful in that they adjudicate their own affairs.

A more moderate proposal, approved in the House and sponsored in the Senate by Sen. Peter Dominick of Colorado, would empower the EEOC to go directly to the courts to seek enforcement of its orders. At present, the EEOC is limited to persuasion and conciliation, and has no enforcement powers beyond recommending to the attorney general that he initiate civil action.

By persisting in the effort to give the EEOC an administrative baseball bat, Senate "liberals" may have doomed EEOC to no increase at all in its enforcement powers. Better that than enabling it to act as an arbitrary tribunal, with no necessity for placing controverted questions before an impartial court.

Mr. JAVITS. Before the Senator yields, I would appreciate it if he would yield to me, as I would like to have, at the same place and time, our reply to the position of the administration, which we know about and which everybody expected.

Will the Senator allow me to speak before he yields for a unanimous-consent request in which I hope to be able to concur?

Mr. DOMINICK. If it is all right with the Senator from West Virginia.

Mr. BYRD of West Virginia. Yes.

Mr. DOMINICK. I would like to keep the floor.

Mr. JAVITS. Mr. President, I ask unanimous consent that the Senator may yield to me without losing his right to the floor.

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

Mr. JAVITS. Mr. President, we have been expecting this. This is the position of the administration. They prefer court litigation to the cease-and-desist order practice which is contained in the bill reported by the committee.

I have read with great interest the letter which comes now, declaring officially this position, and I most respectfully disagree.

Inherent in the Department's view is the very basis for our disagreement. First, they say that Federal district judges hold court throughout the country and enjoy a confidence and respect in their communities which cannot be matched by administrative officers. I most respectfully submit that if that is true, we had better dismantle the whole administrative machinery in Washington, which includes tens of thousands of cases not only in this field but in many other fields as well, especially the National Labor Relations Board, which includes cases exactly in this field and which does issue cease-and-desist orders.

Second, the innuendo is made—and even was made this minute by the distinguished Senator from Colorado—that "these officers are responsible to no one." They are appointed by the President, they are confirmed by the Senate, and they are surely responsible to the courts, just as the judges are. How many lower court decisions are reversed?

As we have argued time and time again, before the cease-and-desist order can be enforced, it must be the subject of a court decree by a circuit court of appeals, and under amendment No. 878, by a district court, as well.

But the whole point comes in the next clause of the department's view:

And their authority to issue enforcible orders enables them to resolve cases speedily.

Let us take a poll of any street—Washington, Takoma, San Diego, Miami—and see who will tell you that the courts decide cases speedily. They do not, of course; especially in the major industrial centers, where the district courts are 30 and 40 months behind in their calendars, and that is where these cases are going to come up.

The second point which gives the whole thing away is "Because of the sensitive nature of the issues to be resolved." It is pretty sensitive to deal with questions involving trade unions in the National Labor Relations Board. It is pretty sensitive to deal with questions involving fraud and deceit, just what the Federal Trade Commission deals with, in terms of the issuance of cease and desist orders. And I am naming only two. Precisely because it is sensitive, we have given that jurisdiction to commissions, because we believe they develop an expertise; they develop a sensitivity to the issues. They are mandated to negotiate settlements and to try concilation before they engage in any summary action. We expressly created this idea of commissions in this country because of the sensitive nature and the degree of specialization and expertise which is required in these measures.

Further, the fact that the courts do resolve civil rights cases in other fields—voting, housing, and education—does not make them a particularly appropriate forum for resolving job discrimination issues, simply because it is job discrimination that gets away from you the fastest.

When a man is dicriminated against in employment, he loses money every day or goes on welfare, and that is where the difference comes in with respect to housing, education, and voting, where you have time to turn around and where it is not a matter of eat or starve or go on welfare.

Mr. President, I understand that we have been over this ground before, and what the Department of Justice has sent Senator DOMINICK is nothing new. But I do feel that the Senate has voted at least three times, rejecting the thesis which Senator DOMINICK is now putting forward again in his substitute amendment. That is a majority of the Senate, and efforts have been made to overturn it, and it has not been overturned. On the one occasion when the vote went the other way, it was obvious that it was because Senators had left, and it was just necessary to wait until they came back.

The whole situation is revealed nakedly. I have no complaints or criticisms of any opponent. As the Senator from Colorado knows, I have the highest respect and regard for his good faith and for his interest in civil rights legislation. I have never challenged that. But the fact is that if we are going to go this route, it will be notwithstanding the will of a majority of the Senate and only because the Senate is not run by a constitutional majority, and perhaps the biggest thing which will emerge from this debate and our effort to pass a bill will be that irrefutable fact. The fact is that if this is the route, it will be only because this is the only way to get a bill, to yield to the minority, not for the minority to yield to the majority, as one would expect in a democracy. That may be the only way to get legislation, and it may be the only thing that is left for us to do. I am not prepared to subscribe to that. But I do think that as legislation and life enfold and the history of our country enfolds, it is absolutely essential that that be made clear.

Again, I have no criticisms whatever. The Senator from Colorado believes as deeply in his thesis as I believe in mine; and just as it is my duty to do everything I humanly can get my thesis accepted, it is his duty to his conscience and those for whom he speaks to do the same thing. I am not complaining about that. But I am complaining strongly, as this is a lesson over and above the debate on a civil rights bill, in terms of the future of our country. This may not represent the shattering of the institutions of the Republic, but it could happen and could completely devastate the faith in our democratic system, by compelling the majority to do what the minority wants, notwithstanding free and fair and open extended time for debate. That is the way the system is now run. I deeply believe that is fair.

I repeat, I desire in no way to derogate from the good faith, the skill, and the capabilities of my colleagues engaged in this struggle on the other side, but it is essential for the future of this country clearly to delineate where we are and why. That is the reason I have taken these moments to speak.

I thank my colleague very much for his typical graciousness and fairness in yielding me this time.

Mr. DOMINICK. I thank the Senator from New York. I listened with great interest to his comments. I have no intention of getting into a debate on rule XXII. We have had so many of the

since I came to the Senate that it is hard to say anything new about them.

I must say, in all fairness, that on the first vote on this particular issue there was only one vote difference until one of our Members paired. On the second vote, there were only two votes difference. At no time was that a majority of Senators either opposing court enforcement or in favor of cease and desist. My amendment was only defeated by a plurality of those present.

I should also point out that the House, on a rollcall vote on the floor, adopted the Federal court procedure over the cease-and-desist procedure in a straight up or down vote. It is my guess that in order to get some resolution of the impasse we are in now, we will have enough Senators to objectively consider the changes which have been made in the competing amendments so that we can get my substitute adopted tomorrow. If we can do that, we will have a fair chance to get the bill out of this body. But, I must confess in all candor, that if we do not adopt an amendment substantially similar to the one I have here, we will not get a bill out at all. As a matter of fact, I have heard the majority leader say that he was not going to waste much more time on it and he would pull it down.

So if we are going to pass anything, we are going to have to pass my amendment, if we are going to get an enforcement procedure for the EEOC, which I would like. Therefore, I hope that we will adopt my amendment.

With all due respect to my good friend from New York, who has an extraordinary ability to organize his thoughts and speak brilliantly on this and many other subjects, I do not want to have the impression left on the record that by this amendment we are abolishing the EEOC. The Commission remains. It does all the work it is doing now. But all the work it is doing now and all the work that 34 other commissions in the various States are doing has resulted in a 20-month backlog. I do not think that this is an expeditious treatment of job discrimination cases.

I am happy now to yield to the distinguished Senator from West Virginia.

UNANIMOUS-CONSENT REQUEST

Mr. BYRD of West Virginia. I thank the distinguished Senator from Colorado.

May I inquire of him as to whether he would be willing to make an agreement which would limit time on his amendment tomorrow, following the vote on the motion to reconsider the vote by which the amendment of the Senator from Nebraska (Mr. HRUSKA) was rejected last Wednesday, and also agreeing to a specific time to vote on the Dominick amendment?

Mr. DOMINICK. I would have no objection to doing that at all. My recollection is that the motion to reconsider will probably involve, also, a motion to table, so that we may get two votes out of that. They are scheduled for 2 p.m. so we would not be through until a quarter to 3, perhaps; is that not correct?

Mr. BYRD of West Virginia. The motion to reconsider is scheduled for a vote on tomorrow at 2 p.m. A motion to table would be in order. I know of no intention to move to table the motion to reconsider, but if such motion to table is made, that would consume an additional 15 minutes. In any event, the motion to reconsider is scheduled for a vote at 2 p.m. If no motion to table is offered, then the vote would be completed on the motion to reconsider at about 2:15 p.m.

I was wondering whether I might propound the following unanimous-consent request in order to see if it would meet with general approval:

Mr. President, I ask unanimous consent that the vote on the pending amendment by the Senator from Colorado (Mr. DOMINICK) occur tomorrow at 4:30 p.m.; provided further that time on the pending amendment begin running tomorrow immediately upon disposition of the motion to reconsider the vote by which amendment No. 877 of the Senator from Nebraska (Mr. HRUSKA) was rejected; provided that the time be equally divided between the distinguished Senator from Colorado (Mr. DOMINICK) and the manager of the bill, the distinguished Senator from New Jersey (Mr. WILLIAMS); that time on any debatable motion, point of order, appeal, or perfecting amendment to the amendment in the first degree by the distinguished Senator from New York (Mr. JAVITS) be limited to 20 minutes, to be equally divided between the mover of such and the manager of the bill; with the further proviso that time on such will come out of the time allotted to the amendment of the Senator from Colorado (Mr. DOMINICK), with the exception, of course, of time on any motion to reconsider, which would naturally come after the vote on the Dominick amendment.

Mr. DOMINICK. Mr. President, reserving the right to object——

Mr. JAVITS. Mr. President, reserving the right to object——

Mr. DOMINICK. Mr. President, reserving the right to object—that is a terribly complicated unanimous-consent request which the distinguished Senator from West Virginia has just propounded.

It is my understanding that maybe we should get a parliamentary ruling on it first, before the Senator actually pushes it forward, on the fact that the proposal I put up is a substitute and would not be subject to any further amendments.

Mr. BYRD of West Virginia. The Senator is correct.

Mr. DOMINICK. Therefore, we are dealing with this one amendment and we do not have to worry about amendments to my amendment; is that not correct?

Mr. BYRD of West Virginia. The Senator is correct, but there is the possibility that a perfecting amendment to the amendment by the Senator from New York (Mr. JAVITS) could be offered and, in such case, that perfecting amendment would be voted on before the substitute would be voted on. So that, if that possibility should materialize, the proviso would take care of any such perfecting amendment.

Mr. DOMINICK. What is the time limited to on perfecting amendments?

Mr. BYRD of West Virginia. Twenty minutes, to be equally divided. Such time would come out of the time on the Dominick amendment.

Mr. DOMINICK. I could not agree, under those circumstances, because I have had considerable requests from Senators to speak on behalf of my amendment. I know that we will use at least 1 hour, if not more. I wonder whether the Senator could not put it this way; I do not know of any perfecting amendments that might be offered—there may be some, I suppose. But why should that come out of our time?

Mr. BYRD of West Virginia. I include that proviso just so that the Senate can be assured that a vote would occur, in any event, on the amendment of the Senator from Colorado (Mr. DOMINICK) no later than 4:30 p.m. tomorrow. I can revise the request if the Senator desires.

Mr. JAVITS. Mr. President, I do not think that would be satisfactory to us. The only reason we would have for agreeing—and I am not so sure that we would agree—is that we still want to have something to say about it and that would be the fact that we could count on the time that is critical to us because of our situation here. I would make this suggestion, if we could agree—if the Senator from Colorado (Mr. DOMINICK) would give me his attention—perhaps we could set a time on perfecting amendments with a gentleman's understanding on the part of the Senator from New Jersey (Mr. WILLIAMS) and the Senator from Colorado (Mr. DOMINICK) that if someone has a perfecting amendment, accommodation would be made within the time limitation. The result of that would be that it might be 20 minutes, or it might be 3 minutes, 8 minutes, or 6 minutes. But the perfecting amendment could be submitted to a vote when the time had expired and we were ready—at the end of the 4:30 p.m. period.

With that understanding, I think everyone would be protected. Conceivably, once the time has expired, a motion might be made or an amendment could be submitted to our amendment, which would be in order and would be voted on with the gentleman's understanding that there would be some accommodation to people who felt strongly about the matter.

Mr. DOMINICK. Mr. President, I say to the Senator from New York that the difficulty with that would be in the event the offerer of a perfecting amendment would not want to agree to a time limitation.

Mr. JAVITS. No, because the time limitation would expire. And at that time it would have to be voted up or down.

Mr. DOMINICK. I do not know of anyone who wants to offer any but, if someone does so, it might not be fair to him or her.

The difficulty, as I see it, is that we are trying to encompass everything under one blanket. I do not see how we can do it. We can say there will be 2 hours on the Dominick amendment and not set a time limitation at all.

Mr. JAVITS. That is our problem with respect to the matter. We then open it up to having a vote at 7, 8, 9, or 10 o'clock. Anyone could submit 20 perfecting amendments.

Mr. DOMINICK. If they do, what do

we do about it? The time for debate would have long since expired.

Mr. JAVITS. That would not be true the way I have suggested. The Senator from Colorado would have control of half the time and the Senator from New Jersey would have control over half of the time. If anyone had a serious perfecting amendment, the Senator from Colorado might allow him 1, 2, or 3 minutes. The same would be true with respect to the Senator from New Jersey. That would be stipulated. There would be no time, but they could get a vote. That is not unusual, because we do it all the time. All the votes would begin at 4:30. No one would be cut off.

I do not see where the Senator from Colorado would be in jeopardy on that, and neither would we. The voting might take a little longer, but we would be at the voting stage at 4:30.

Mr. DOMINICK. Does the Senator from New York know of anyone who will offer any perfecting amendments?

Mr. JAVITS. None whatever. I know of none. Like the Senator from Colorado, I know of none. Perhaps we might suspend for awhile so that the Senator from Colorado could think about the matter.

Mr. DOMINICK. I am just trying to get to a vote on my amendment.

Mr. JAVITS. Mr. President, I think the Senator from West Virginia is correct. We have to protect the rights of everyone. I have felt that we ought to get a time limitation on the whole ball of wax—that is, on the Dominick amendment, and if it succeeds, then on the Williams-Javits amendment. If the Dominick amendment fails, then we should have a vote on our amendment. I wish to note also that our amendment would be subject to amendment in that event.

Mr. President, when the Senator from West Virginia has finished making his unanimous-consent request, as he might work it out with the Senator from Colorado and with us, I would like to incorporate it, before we agree to it, in another unanimous-consent request that would be more inclusive and would set a time for voting on the whole issue, including the Dominick and our amendment as perfected.

I beg the Senator to give me that opportunity.

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. A unanimous-consent request is pending.

Mr. BYRD of West Virginia. Mr. President, I withhold my unanimous-consent request temporarily.

Mr. DOMINICK. Mr. President, assuming that a unanimous-consent request of some kind is finally agreed to here, is it not also true that if it does not encompass the Williams-Javits amendment, perfecting amendments could be offered to that after mine was disposed of in the event it got defeated. In the event it passed, it could not be. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMINICK. On the assumption that it is going to pass, I am happy to say that there would then really be no reason for perfecting amendments as far as I can see. If the Senator from West Virginia wants to propose his unanimous consent request, I see no problem.

In order to offset the possibility of having two votes at 2 o'clock, could we give ourselves another 15 minutes?

Mr. BYRD of West Virginia. Mr. President, if the Senator would yield, in the event there is no tabling motion, under the request which I have presented there would be a total of 2 hours and 15 minutes on the Dominick amendment.

Mr. DOMINICK. The time to be equally divided.

Mr. BYRD of West Virginia. The Senator is correct.

Mr. DOMINICK. That would be all right.

Mr. JAVITS. Mr. President, if the Senator would yield, I would like to make the following unanimous-consent request, incorporating the request of the Senator from West Virginia and adding to it the fact that after the vote has been taken on the Dominick amendment and any perfecting amendments which come before the Dominick amendment, or after the vote has been taken on the Dominick amendment, there be 2 hours, the time to be evenly divided on the Williams-Javits amendment, plus 20 minutes on each amendment or motion or appeal, the time to be also equally divided between the mover and the Senator from New Jersey, and the vote then occur on the Williams-Javits amendment as amended.

The PRESIDING OFFICER. Is there objection?

Mr. ERVIN. Mr. President, I object. I do not object to the request of the Senator from West Virginia, but I do object to the unanimous-consent request of the distinguished Senator from New York.

Mr. JAVITS. Mr. President, if the Senator will yield, we anticipated that objection. However, we thought it only fair to have the facts clearly appear in the RECORD in respect of the Senate's judgment as to when debate ought to close. If that is what we are brought to with respect to this measure, I am now prepared to agree to the unanimous-consent request of the Senator from West Virginia. However, the Senator from New Jersey can speak for himself, of course.

Mr. ERVIN. Mr. President, I am always anxious to put everything in the RECORD. That is the reason I supported the Allen amendment to make the rulings of the EEOC reviewable.

Mr. BYRD of West Virginia. Mr. President, I now renew my request. Would the Chair like me to restate it, or is that necessary?

Mr. JAVITS. Mr. President, would the Chair restate it so that we could all hear it?

The PRESIDING OFFICER. Following the disposition of the Hruska amendment, time will begin running on the Dominick amendment, to be equally divided and controlled by the Senator from Colorado (Mr. DOMINICK) and the Senator from New Jersey (Mr. WILLIAMS), with 20 minutes on any debatable motion or amendment, that time also to be equally divided and the time to come out of the time on the Dominick amendment, with the vote on the Dominick amendment to occur at 4:30.

Mr. JAVITS. Mr. President, the Chair did not mention a perfecting amendment to the Williams-Javits amendment which would be voted on at the appropriate time, after the time had expired. Is that correct?

The PRESIDING OFFICER. The unanimous-consent request as repeated by the Chair did mention debatable motions or amendments, which included perfecting amendments.

Mr. JAVITS. Mr. President, I would not wish to be cut off once the time has expired from making a motion to table.

The PRESIDING OFFICER. This agreement would preclude a motion to table.

Mr. JAVITS. Therefore, I wish to make that exception.

Mr. BYRD of West Virginia. Mr. President, let me state that if we enter into an agreement to vote on the Dominick amendment at a specific time then the Senate automatically is precluded from a motion to table.

Mr. JAVITS. I am aware of that. That is why I made the reservation. That is not debatable.

Mr. BYRD of West Virginia. Then, I have to revise my request to provide that a Senator could move to table at that time.

The PRESIDING OFFICER. Is there objection to the unanimous-consent agreement?

Mr. DOMINICK. This creates a reservation. What we are doing is trying to create an escape hatch. I do not think I will go along and that I will have to object.

Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD of West Virginia. Mr. President, 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. 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.

ESTABLISHMENT OF A SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION

Mr. WILLIAMS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2097.

The PRESIDING OFFICER (Mr. STEVENSON) laid before the Senate the amendment of the House of Representatives to the bill (S. 2097) to establish a Special Action Office for Drug Abuse Prevention and to concentrate the resources of the Nation against the problem of drug abuse, which was to strike out all of the enacting clause, and insert:

TITLE I—FINDINGS AND DECLARATION OF POLICY; DEFINITIONS
TITLE II—SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION
TITLE III—OTHER AGENCIES

TITLE I—FINDINGS AND DECLARATION OF POLICY; DEFINITIONS

Sec.
101. Congressional findings.
102. Declaration of national policy.
103. Definitions.

§ 101. Congressional findings.

The Congress makes the following findings:

(1) Drug abuse is rapidly increasing in the United States and now afflicts urban, suburban, and rural areas of the Nation.

(2) Drug abuse, especially heroin addiction, substantially contributes to crime.

(3) The adverse impact of drug abuse inflicts increasing pain and hardship on individuals, families, and communities and undermines our institutions.

(4) The success of Federal drug abuse programs and activities requires a recognition that education, treatment, rehabilitation, research, training, and law enforcement efforts are interrelated.

(5) The effectiveness of efforts by State and local governments and by the Federal Government to control and treat drug abuse in the United States has been hampered by a lack of coordination among the States, between States and localities, among the Federal Government, States, and localities, and throughout the Federal Establishment.

(6) Control of drug abuse requires the development of a comprehensive coordinated long-term Federal strategy that encompasses both effective law enforcement against illegal drug traffic and effective health programs to rehabilitate victims of drug abuse.

(7) The increasing rate of drug abuse constitutes a serious and continuing threat to national health and welfare, requiring an immediate and effective response on the part of the Federal Government.

§ 102. Declaration of national policy.

The Congress declares that it is the policy of the United States and the purpose of this Act to focus the resources of the Federal Government and bring them to bear on drug abuse to significantly reduce the incidence of drug addiction and drug abuse in the United States within the shortest practicable period of time, and to develop a comprehensive coordinated long term Federal strategy to combat drug abuse.

§ 103. Definitions.

(a) The definitions set forth in this section apply for the purposes of this Act.

(b) The term "drug abuse prevention function" means any program or activity relating to drug abuse education, training, treatment, rehabilitation, or research, and includes any such function even when performed by an organization whose primary mission is in the field of drug traffic prevention functions, or is unrelated to drugs. The term does not include any function defined in subsection (c) as a "drug traffic prevention function".

(c) The term "drug traffic prevention function" means—

(1) the conduct of formal or informal diplomatic or international negotiations at any level, whether with foreign governments, other foreign governmental or nongovernmental persons or organizations of any kind, or any international organization of any kind, relating to traffic (whether licit or illicit) in drugs subject to abuse, or any measures to control or curb such traffic; or

(2) any of the following law enforcement activities or proceedings:

(A) the investigation and prosecution of drug offenses;

(B) the impanelment of grand juries;

(C) programs or activities involving international narcotics control; and

(D) the detection and suppression of illicit drug supplies.

TITLE II—SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION

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Chapter 1.—GENERAL PROVISIONS

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§ 201. Citation as the Special Action Office for Drug Abuse Prevention Act.

This title may be cited as the "Special Action Office for Drug Abuse Prevention Act".

§ 202. Establishment of Office.

There is established in the Executive Office of the President an office to be known as the Special Action Office for Drug Abuse Prevention (hereinafter in this Act referred to as the "Office"). The establishment of the Office in the Executive Office of the President shall not be construed as affecting access by the Congress, or committees of either House (1) to information, documents, and studies in the possession of, or conducted by, the Office, or (2) to personnel of the Office.

§ 203. Appointment of Director.

There shall be at the head of the Office a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

§ 204. Appointment of Deputy Director.

There shall be in the Office a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director 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.

§ 205. Appointment of Assistant Directors.

There shall be in the Office not to exceed six Assistant Directors appointed by the Director.

§ 206. Delegation.

Unless specifically prohibited by law, the Director may, without being relieved of his responsibility, perform any of his functions or duties, or exercise any of his powers through, or with the aid of, such persons in, or organization of, the Office as he may designate.

§ 207. Officers and employees.

The Director may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to perform the functions vested in him. At the discretion of the Director, any officer or employee of the Office may be allowed and paid travel expenses, including per diem in lieu of subsistence, in the same manner as is authorized by section 5703 of title 5, United States Code, for individuals employed intermittently.

§ 208. Employment of experts and consultants.

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 in effect for GS–18 of the General Schedule, and without regard to any limitation on the number of days or the period of such service, except that, at any one time, not more than fifteen individuals may be employed without regard to such limitation.

§ 209. Acceptance of uncompensated services.

The Director is authorized to accept and employ in furtherance of the purpose of this Act or any Federal drug abuse prevention function, voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

§ 210. Grants and contracts.

(a) In carrying out any of his functions under this title, the Director is authorized to make grants to any public or nonprofit private agency, organization, or institution, and to enter into contracts with any agency, organization, or institution, or with any individual.

(b) To the extent he deems it appropriate, the Director may require the recipients of a grant or contract under this section to contribute money, facilities, or services for carrying out the program and activity for which such grant or contract was made.

(c) Payments under this section, 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.

(d) Any Federal department or agency may enter into grant or contractual arrangements with the Director and, pursuant to such a grant or contractual arrangement, may exercise any authority to use any personnel or facilities which would otherwise be available to such department or agency for the performance by it of its authorized functions.

§ 211. Acting Director and Deputy Director.

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 or Deputy Director until the position in question is for the first time filled pursuant to the provisions of this title or by recess appointment, as the case may be, and the President may authorize any such person to receive the compensation attached to the office in respect of which he 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.

§ 212. Compensation of Director, Deputy Director, and Assistant Directors.

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

"(21) Director of the Special Action Office for Drug Abuse Prevention."

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

"(95) Deputy Director of the Special Action Office for Drug Abuse Prevention."

(c) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"(131) Assistant Directors, Special Action Office for Drug Abuse Prevention (6)."

§ 213. Statutory requirements unaffected.

Except as authorized in section 226, nothing in this Act authorizes or permits the Director or any other Federal officer to waive or disregard any limitation or requirement, including standards, criteria, or cost-sharing formulas, prescribed by law with respect to any Federal program or activity. Except with respect to the conduct of drug abuse prevention functions, nothing in this Act shall be construed to limit the authority of the Secretary of Defense with respect to the operation

of the armed forces or the authority of the Administrator of Veterans' Affairs with respect to furnishing health care to veterans.

§ 214. Termination of authority.

The authority of the Director under chapter 2 and the authority of the Council under chapter 3 terminate on June 30, 1974.

§ 215. Appropriations authorized.

(a) For the purposes of carrying out the provisions of this title, except for the provisions of sections 223, 224, and 225, there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1972; $10,000,000 for the fiscal year ending June 30, 1973; and $10,000,000 for the fiscal year ending June 30, 1974.

(b) For the purpose of carrying out the provisions of section 223, there is authorized to be appropriated $40,000,000 for each of the fiscal years ending June 30, 1973, and June 30, 1974.

(c) For the purpose of making grants and contracts under section 224, there are authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973, and $25,000,000 for the fiscal year ending June 30, 1974.

(d) For the purpose of carrying out the provisions of section 225, there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1972, $3,000,000 for the fiscal year ending June 30, 1973, and $5,000,000 for the fiscal year ending June 30, 1974.

Chapter 2.—FUNCTIONS OF THE DIRECTOR

Sec.
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§ 221. Concentration of Federal effort.

(a) The Director shall provide overall planning and policy and establish objectives and priorities for all Federal drug abuse prevention functions. In carrying out his functions under this subsection, the Director shall consult with the National Advisory Council for Drug Abuse Prevention.

(b) For the purpose of assuring the effectuation of the planning and policy and the achievement of the objectives and priorities provided or established pursuant to subsection (a), the Director shall

(1) review the regulations, guidelines, requirements, criteria, and procedures of operating agencies in terms of their consistency with the policies, priorities, and objectives he establishes, and assist such agencies in making such additions thereto or changes therein as may be appropriate;

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

(3) review related Federal legislation in the areas of health, education, and welfare providing for medical treatment or assistance, vocational training, or other rehabilitative services and, consistent with the purposes of this Act, assure that the respective administering agencies construe drug abuse as a health problem;

(4) conduct or provide for the conduct of evaluations and studies of the performance and results achieved by Federal drug abuse prevention functions, 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) require departments and agencies engaged in Federal drug abuse prevention functions to submit such information and reports with respect thereto as the Director determines to be necessary to carry out the purposes of this Act, and such departments and agencies shall submit to the Director such information and reports as the Director may reasonably require; and

(6) develop improved methods for determining the extent of drug addiction and abuse in the United States.

§ 222. Funding authority.

In implementation of his authority under section 221, and to carry out the purposes of this Act, the Director is authorized.

(1) to review and as he deems necessary modify insofar as they pertain to Federal drug abuse prevention functions,

(A) implementation plans for any Federal program, and

(B) the budget requests of any Federal department or agency; and

(2) to the extent not inconsistent with the applicable appropriation Acts, to make funds available from appropriations to Federal departments and agencies to conduct drug abuse prevention functions.

§ 223. Special Fund.

(a) There is established a Special Fund (hereinafter in this section referred to as the "fund") in order to provide additional incentives to Federal departments and agencies to develop more effective drug abuse prevention functions and to give the Director the flexibility to encourage, and respond quickly and effectively to, the development of promising programs and approaches.

(b) Except as provided in subsection (c) of this section, sums appropriated to the fund may be utilized only after their transfer, upon the order of the Director and at his discretion, to any Federal department or agency (other than the Office) and only for the purpose of

(1) developing or demonstrating promising new concepts or methds in respect of drug abuse prevention functions; or

(2) supplementing or expanding existing drug abuse prevention functions which the Director finds to be exceptionally effective or for which he finds there exists exceptional need.

(c) Not more than 10 per centum of such sums as are appropriated to the Fund may be expended by the Director through the Office to develop and demonstrate promising new concepts or methods in respect of drug abuse prevention functions.

§ 224. Encouragement of certain research and development.

In carrying out his functions under section 221, the Director shall encourage and promote (by grants, contracts, or otherwise) expanded research programs to create, develop, and test

(1) nonaddictive synthetic analgesics to replace opium and its derivatives in medical use;

(2) long-lasting, nonaddictive blocking or antagonistic drugs or other pharmacological substances for treatment of heroin addiction; and

(3) detoxification agents which, when administered, will ease the physical effects of withdrawal from heroin addiction.

In carrying out this section the Director is authorized to establish, or provide for the establishment of, clinical research facilities.

§ 225. National Drug Abuse Training Center.

(a) The Director shall establish a National Drug Abuse Training Center (hereinafter in this section referred to as the "Center") to develop, conduct, and support a full range of training programs relating to drug abuse prevention functions. The Director shall consult with the National Advisory Council for Drug Abuse Prevention regarding the general policies of the Center. The director may operate the Center initially, but is authorized and directed to transfer the operation thereof to the National Institute of Mental Health not later than the date specified in section 214.

(b) The Center shall conduct or arrange for training programs, seminars, meetings, conferences, and other related activities, including the furnishing of training and educational materials for use by others.

(c) The services and facilities of the Center shall, in accordance with regulations prescribed by the Director, be available to (1) Federal, State, and local government officials, and their respective staffs, (2) medical and paramedical personnel, and educators, and (3) other persons including drug dependent persons, requiring training or education in drug abuse prevention.

§ 226. Single Federal share requirement.

Where funds are made available more than one Federal department or agency to be used by an agency, organization, or individual to carry out a drug abuse prevention function, 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 established in the regulations which is inconsistent with the similar requirement of the other Federal agency or which the other Federal agency does not impose.

§ 227. Recommendations regarding drug traffic prevention functions.

The Director may make recommendations to the President in connection with any Federal drug traffic prevention function, and shall consult with and be consulted by all responsible Federal departments and agencies regarding the policies, priorities, and objectives of such functions.

§ 228. Resolution of certain conflicts.

If the Director determines in writing that the manner in which any Federal department or agency is conducting any drug abuse prevention function or drug traffic prevention function substantially impairs the effective conduct of any other such function, he shall submit in writing his findings and determinations to the President, who may direct the Federal department or agency in question to conduct the function thereafter under such policy guidelines as the President may specify to eliminate the impairment.

§ 229. Liaison with respect to drug traffic prevention.

One of the Assistant Directors of the Office shall maintain communication and liaison with respect to all drug traffic prevention functions of the Federal Government.

§ 230. Technical assistance to State and local agencies.

(a) The Director shall

(1) coordinate or assure coordination of Federal drug abuse prevention functions with such functions of State and local governments; and

(2) provide for a central clearinghouse for Federal, State, and local governments, public and private agencies, and individuals seeking drug abuse information and assistance from the Federal Government.

(b) In carrying out his functions under this section, the Director may

(1) provide technical assistance—including advice and consultation relating to local programs, technical and professional assistance, and, where deemed necessary, use of task forces of public officials or other persons assigned to work with State and local governments—to analyze and identify State and local drug abuse problems and assist in the development of plans and programs to meet the problems so identified;

(2) convene conferences of State, local, and Federal officials, and such other persons as the Director shall designate, to promote the purposes of this Act, and the Director is authorized to pay reasonable expenses of individuals incurred in connection with their participation in such conferences;

(3) draft and make available to State and local governments model legislation with respect to State and local drug abuse programs and activities; and

(4) promote the promulgation of uniform criteria, procedures, and forms of grant or contract applications for drug abuse control and treatment proposals submitted by State and local governments and private organizations, institutions, and individuals.

(c) In implementation of his authority under subsection (b)(1), the Director may

(1) take such action as may be necessary to request the assignment, with or without reimbursement, of any individual employed by any Federal department or agency and engaged in any Federal drug abuse prevention function or drug traffic prevention function to serve as a member of any such task force; except that no such person shall be so assigned during any one fiscal year for more than an aggregate of ninety days without the express approval of the head of the Federal department or agency with respect to which he was so employed prior to such assignment;

(2) assign any person employed by the Office to serve as a member of any such task force or to coordinate management of such task forces; and

(3) enter into contracts or other agreements with any person or organization to serve on or work with such task forces.

§ 231. Reorganization authority.

If the President finds, after investigation by the Director, that a reorganization in connection with the performance of any Federal drug abuse prevention function is necessary to carry out the purposes of this Act, the President shall prepare a reorganization plan in accord with the provisions of sections 902 to 913 of title 5, United States Code, for submission to the Congress pursuant to this subsection.

§ 232. Management oversight review.

The Director may, for a period not to exceed thirty days in any one calendar year, provide for the exercise or performance of a management oversight review wtih respect to the conduct of any Federal drug abuse prevention function. Such review may be conducted by an officer of any Federal department or agency other than the department or agency conducting such function. The officer shall submit a written report to the Director concerning his findings.

§ 233. Federal drug council authorized.

To promote the purposes of this Act, the Director may convene, at his discretion, a council of officials representative of Federal departments and agencies, including intelligence agencies, responsible for Federal drug abuse prevention functions or Federal drug traffic prevention functions.

§ 234. Consultation with respect to personnel policies.

The Director shall advise the Civil Service Commission and other Federal agencies with respect to appropriate policies and services for the control and treatment of drug abuse among Federal civilian employees, assuring optimal use of existing resources. The Director shall promote similar drug abuse control and treatment services in State and local governments and shall actively encourage labor and management to develop such services in private industry.

§ 235. International negotiations.

The President may designate the Director to represent the Government of the United States in discussions and negotiations relating to drug abuse prevention, drug traffic prevention, or both.

§ 236. Annual report.

The Director shall submit to the President and the Congress, prior to March 1 of each year which begins after the enactment of this title, a written report on the activities of the Office. The report shall specify the objectives, activities, and accomplishments of the Office, and shall contain an accounting of funds expended pursuant to this title.

Chapter 3.—ADVISORY COUNCIL

Sec.

251. Establishment of Council.
252. Membership of the Council.
253. Chairman; meetings.
254. Compensation and expenses.
255. Functions of the Council.

§ 251. Establishment of Council.

There is established a National Advisory Council for Drug Abuse Prevention (hereinafter in this chapter referred to as the "Council") which shall consist of fifteen members.

§ 252. Membership of the Council.

(a) The Secretary of Health, Education, and Welfare, the Secretary of Defense, and the Administrator of Veterans' Affairs, or their respective designees, shall be members of the Council ex officio.

(b) The remaining members of the Council shall be appointed by the President and shall serve at his pleasure. Appointments shall be made from persons who by virtue of their education, training, or experience are qualified to carry out the functions of members of the Council. Of the members so appointed, four shall be officials of State or local governments or governmental agencies who are actively engaged in drug abuse prevention functions.

§ 253. Chairman; meetings.

The President shall designate the Chairman of the Council. The Council shall meet at the call of the Chairman, but not less often than four times a year.

§ 254. Compensation and expenses.

Members of the Council (other than members who are full-time officers or employees of the United States) shall, while serving on business of the Council, be entitled to receive a per diem allowance at rates not to exceed the daily equivalent of the rate authorized for grade GS–18 of the General Schedule. Each member of the Council, while so serving away from his home or regular place of business, may be allowed actual travel expenses and per diem in lieu of subsistence as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

§ 255. Functions of the Council.

(a) The Council shall, from time to time, make recommendations to the Director with respect to overall planning and policy and the objectives and priorities for all Federal drug abuse prevention functions.

(b) the Council may make recommendations to the Director with respect to the conduct of, or need for, any drug abuse prevention functions which are or in its judgment should be conducted by or with the support of the Federal Government.

TITLE III—OTHER AGENCIES

Sec.

301. Community mental health centers.
302. Public Health Service facilities.
303. State plan requirements.
304. Drug abuse prevention function appropriations.
305. Planning grants.
306. Authorization of appropriations for special projects.

§ 301. Community mental health centers.

Section 221 of the Community Mental Health Centers Act (42 U.S.C. 2688a) is amended by adding at the end thereof the following new subsection:

"(c) If an application for a grant under this part for a community mental health center is made for any fiscal year beginning after June 30, 1972, and—

"(1) the Secretary determines that it is feasible for such center to provide a treatment and rehabilitation program for drug addicts and other persons with drug abuse and other drug dependence problems residing in the area served by the center and that the need for such a program in that area is of such a magnitude as to warrant the provision of such a program by the center, such application may not be approved unless it contains or is supported by assurances satisfactory to the Secretary that the center will provide such program in such fiscal year; or

"(2) the Secretary determines that it is feasible for the center to assist the Federal Government in treatment and rehabilitation programs for drug addicts and other persons with drug abuse and other drug dependence problems who are in the area served by the center, such application may not be approved unless it contains or is supported by assurances satisfactory to the Secretary that the center will enter into agreements with departments or agencies of the Government under which agreements the center may be used (to the maximum extent practicable) in treatment and rehabilitation programs (if any) provided by such departments or agencies.

"For the purpose of making grants under this part to assist community mental health centers to meet the requirements of this subsection there are authorized to be appropriated $60,000,000 for fiscal year ending June 30, 1973, and $60,000,000 for the fiscal year ending June 30, 1974."

§ 302. Public Health Service facilities.

(a) Section 341(a) of the Public Health Service Act (42 U.S.C. 257(a)) (relating to care and treatment of narcotic addicts and other drug abusers) is amended by adding at the end thereof the following new sentence: "In carrying out this subsection, the Secretary shall establish in each hospital and other appropriate medical facility of the Service a treatment and rehabilitation program for drug addicts and other persons with drug abuse and drug dependence problems who are in the area served by such hospital or other facility; except that the requirement of this sentence shall not apply in the case of any such hospital or other facility with respect to which the Secretary determines that there is not sufficient need for such a program in such hospital or other facility."

(b) Section 341 of that Act is amended by adding at the end thereof the following new subsection:

"(c) The Secretary may enter into agreements with the Administrator of Veterans' Affairs, the Secretary of Defense, and the head of any other department or agency of the Government under which agreements hospitals and other appropriate medical facilities of the Service may be used in treatment and rehabilitation programs provided by such department or agency for drug addicts and other persons with drug abuse and other drug dependence problems who are in

areas served by such hospitals or other facilities."

§ 303. State plan requirements.

(a) Section 314(d)(2)(K) of the Public Health Service Act (42 U.S.C. 246(d)(2)(K)) is amended by inserting after "problem" the following: ", and include provisions for (i) licensing facilities in which treatment and rehabilitation programs are conducted for persons with drug abuse and other drug dependence problems, and (ii) expansion of State mental health programs in the field of drug abuse and drug dependence and of other prevention and treatment programs in such field".

(b) Section 204 of the Community Mental Health Centers Act (42 U.S.C. 2684) is amended by adding at the end thereof the following new subsection:

"(c) After June 30, 1973, the Secretary may not approve any State plan unless it provides for treatment and prevention programs in the field of drug abuse and drug dependence, commensurate with the extent of the problem, and it includes the provisions required by section 314(d)(2)(K) of the Public Health Service Act for State plans submitted under section 314(d) of such Act."

§ 304. Drug abuse prevention function appropriations.

Any request for appropriations by a department or agency of the Government submitted after the date of enactment of this Act shall specify, on a line item basis, that part of the appropriations which the department or agency is requesting to carry out its drug abuse prevention functions.

§ 305. Planning grants.

(a) There are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1972, $13,000,000 for fiscal year ending June 30, 1973, and $13,000,000 for the fiscal year ending June 30, 1974, for grants to States to assist them in (1) planning projects for the development of more effective drug abuse prevention functions, or (2) evaluating the conduct of drug abuse prevention functions within the States, for purposes of this section, the term "State" includes the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands, in addition to the fifty States.

(b) For each fiscal year the Secretary of Health, Education, and Welfare shall, in accordance with regulations, allot the sums appropriated pursuant to subsection (a) for such year among the States on the basis of the relative population, financial need, and the need for more effective conduct of drug abuse prevention functions.

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.

(d) As a condition to its receipt of any grant under subsection (b) for any planning project, a State shall, by provisions in the plan or otherwise,

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

(2) provide for the designation of a State advisory council which shall include representatives of nongovernmental organizations or groups, and of public agencies concerned with the prevention and treatment of drug abuse and drug dependence, from different geographical areas of the State, to consult with the State agency in preparing or revising the plan;

(3) set forth, in accordance with criteria established by the Secretary, a detailed survey of the local and State needs for the prevention and treatment of drug abuse and drug dependence, including a survey of the health facilities needed to provide services for drug abuse and drug dependence, and a plan for the development and distribution of such facilities and programs throughout the State;

(4) provide for coordination of existing and planned treatment and rehabilitation programs and activities, particularly in urban centers;

(5) provide that the Comptroller General of the United States or his duly authorized representatives shall have access for the purpose of audit and examination to records to substantiate the expenditures for which the grant is made;

(6) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Secretary an analysis and evaluation of the effectiveness of the prevention and treatment programs and activities carried out within the State, and any modifications in the plan which it considers necessary;

(7) provide reasonable assurance that Federal funds for preparation or revision of a State plan made available under this section 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 such purposes, and will in no event supplant such State, local, and other non-Federal funds; and

(8) furnish such additional information and assurance as the Secretary may find necessary to carry out the provisions and purposes of this section.

(e) As a condition to its receipt of any grant under subsection (b) for evaluation of drug abuse programs, a State shall

(1) provide that the Comptroller General of the United States or his duly authorized representatives shall have access for the purpose of audit and examination to records to substantiate the expenditures for which the grant is made;

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

(3) furnish such additional information and assurance as the Secretary may find necessary to carry out the provisions and purposes of this section.

§ 306. Authorization of appropriations for special projects.

Section 256(e) of the Community Mental Health Centers Act is amended (1) by striking out "and $35,000,000" and inserting in lieu thereof "$60,000,000", and (2) by striking out the period at the end and inserting in lieu thereof "; and $75,000,000 for the fiscal year ending June 30, 1974.".

Mr. WILLIAMS. Mr. President, I move that the Senate disagree to the amendment of the House and request a conference with the House thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. STEVENSON) appointed Mr. MCCLELLAN, Mr. RIBICOFF, Mr. METCALF, Mr. CHILES, Mr. PERCY, Mr. JAVITS, Mr. GURNEY, Mr. HUGHES, Mr. RANDOLPH, Mr. WILLIAMS, Mr. KENNEDY, Mr. MONDALE, Mr. CRANSTON, Mr. PACKWOOD, Mr. DOMINICK, and Mr. SCHWEIKER conferees on the part of the Senate.

CHAMBER OF COMMERCE REPORT ON MULTINATIONAL CORPORATIONS

Mr. JAVITS. Mr. President, the multinational corporation is under unprecedented attack both at home and abroad. Legislation—the Hartke-Burke bill—is presently pending before the Congress which would in effect dismantle the U.S. multinational corporations while letting foreign multinational corporations absorb their export markets—a disaster for U.S. employment.

The rationale for this unprecedented domestic attack is that the activities of these corporations, through their alleged "export" of technology or their manufacturing operations abroad, also export American jobs. But these corporations remain the major corporations in the United States and the major employers of our own growing work force; and the facts contradicted directly the superficial claims about job loss within the United States.

And, fortunately, the true facts are now being developed, and in recent weeks, two impressive studies have been made public. These studies were by the U.S. Department of Commerce and by the National Association of Manufacturers.

Today, the U.S. Chamber of Commerce released its study, which comes to similar conclusions about the multinational corporation. The principal findings of this study are:

In the decade 1960–70, U.S. multinational corporations increased domestic employment at a significantly higher rate (31.1 percent) than the national average of all employers (12.3 percent).

In the decade 1960–70, U.S. multinational corporations increased U.S. exports by 180 percent, while the national average of U.S. exports grew by only 53.5 percent.

In the decade 1960–70, U.S. multinational corporations locate plants in foreign countries to retain foreign markets and to overcome trade and tariff barriers, not for export to the United States as less than 10 percent of such production is imported into the United States.

In addition, I would like to point out that major U.S. multinational corporations' plants are located in Canada and Europe, which are by no means "low wage" escape hatches as is being charged in the attack on the multinational corporations.

As these facts are developed and become known, it is my hope that they will enlighten the people about the legislative drive which, by seeking seriously to cripple the American multinational corporation—will have a devastating adverse impact on the American economy and could bring on a world depression.

The U.S. Chamber of Commerce sample is a representative one, with some 121 firms responding to the employment questions in the survey, which in 1970 had 3,271,000 employees—17.3 percent of

the manufacturing employees in the United States at that time.

Mr. President, I ask unanimous consent to have printed in the RECORD the survey made by the Chamber of Commerce of the United States.

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

MULTINATIONAL ENTERPRISE SURVEY, CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA

INTRODUCTION

American public interest in the trading and investment experience of United States multinational enterprises has centered on the following unsubstantiated claims:

1. That foreign direct investments of these firms result in the "export" or loss of U.S. employment.

2. That American multinational enterprises locate plants abroad to increase imports into the U.S. while decreasing U.S. exports.

3. That the basic rationale for locating such plants is to take advantage of cheap labor and to provide increased imports into the U.S.-based parent.

To set the record straight, the following paragraphs relate to each point on the basis of a questionnaire survey just concluded by the Chamber of Commerce of the United States.

This survey was distributed to over 600 member firms included in the *Fortune* 1000 industrials. Two hundred ninety-five firms responded and 158 multinationals furnished the requisite information.[1] The comments that follow relate to those 158 responses, or to 61 general manufacturing firms (excludes auto/extractive industries) who provided detailed answers for every part of each question. Corporations in the Survey include the chemical, pharmaceutical, food products, electronics, rubber, agricultural machinery, paper, plastics, aircraft and consumer products industries.

CONCLUSIONS

1. The "Export of Jobs" fallacy; there is positive evidence from this survey showing that American multinational enterprises are increasing their domestic employment at a significantly higher rate than our national average.

Domestic employment for 121 firms that answered the employment question increased from 2,500,000 in 1960 to 3,271,000 in 1970. The 1970 figure represents 17.3% of the general manufacturing employees in the United States at that time. From 1960 to 1970, domestic employment of these firms increased by 31.1%, whereas the national average rate of increase for the same period was only 12.3%.[2]

The few exceptions to this general trend of favorable domestic employment performance reflect clear-cut domestic factors causing a decrease in domestic employment, or an increase less than the national average. For example, two corporations in the aircraft industry showed a loss of 17,370 domestic employees during the period 1965–70 because of shifts in military spending and a re-ordering of American technological emphasis not in any way related to overseas investment.

Listed below are the approximate domestic employment statistics from 1960 to 1970 for the 121 reporting firms along with corresponding SIC numbers:

SIC No.	1960	1970	Change in employment
3721	81,600	78,900	−2,700
2621	13,500	14,500	+1,000
2514	7,400	10,800	+3,400
3721	5,000	6,300	+1,300
6146	8,200	13,800	+5,600
3822	5,200	8,200	+3,000
2771	5,400	6,100	+1,700
3729	1,000	2,300	+1,300
3931	3,000	2,800	−200
3534	12,200	14,200	+2,000
3651	8,100	4,100	−4,000
3481	5,500	7,700	+2,200
2096	6,000	6,700	+700
3494	3,200	9,700	+6,500
3443	5,000	8,000	+3,000
3079	27,800	46,900	+19,000
3742	12,100	10,800	−1,300
3579	11,000	16,500	+5,500
3722	57,000	68,000	+11,000
2211	16,000	20,000	+4,000
3711	3,500	6,200	+2,700
2099	500	1,100	+600
3622	70,500	56,400	−14,100
2042	8,000	19,000	+11,000
2335	1,000	4,200	+3,200
3522	66,500	71,200	+4,700
3011	36,600	55,800	+19,200
3452	2,700	3,500	+800
2641	1,000	2,900	+1,900
2295	21,000	37,400	+16,400
2844	3,000	14,000	+11,000
2083	500	1,300	+800
2655	48,500	54,000	+5,500
2043	14,000	23,000	+9,000
3662	70,000	156,900	+86,900
3581	2,600	2,900	+300
3694	4,400	7,600	+3,200
3662	11,600	16,000	+4,400
3211	30,700	31,600	+900
3721	67,800	86,800	+19,000
2818	14,000	33,000	+19,000
3579	5,400	12,000	+6,600
3566	1,100	1,700	+600
3822	34,000	58,000	+24,000
2842	15,000	22,000	+7,000
2046	11,500	14,400	+2,900
2032	4,500	5,500	+1,000
3522	27,600	28,100	+500
3411	46,500	50,100	+3,600
2823	12,500	25,700	+13,200
3562	7,000	10,400	+3,400
3545	500	3,000	+2,500
2042	2,600	6,700	+4,100
3821	6,800	11,000	+4,200
3559	7,200	11,000	+3,800
3537	35,500	52,500	+17,000
6711	8,200	8,600	+400
2834	5,000	11,900	+6,900
3585	11,400	17,900	+6,500
3941	700	3,000	+2,300
3221	34,400	47,400	+13,000
5099	800	1,300	+500
3399	6,000	8,000	+2,000
3312	8,100	9,000	+900
3622	15,000	31,000	+16,000
3861	3,000	37,000	+34,000
3831	3,500	7,500	+4,000
3561	26,600	30,000	+4,000
3561	10,000	21,000	+11,000
3511	30,100	25,200	−4,900
1621	800	1,100	+300
3537	1,800	4,800	+3,000
3291	5,800	8,300	+2,500
2834	7,900	12,600	+4,700
2621	10,000	21,000	+11,000
2085	10,500	15,200	+4,700
3554	5,300	8,900	+3,600
3069	34,100	37,600	+3,500
2834	8,200	13,100	+4,900
3639	11,700	14,200	+2,500
3624	54,000	57,500	+2,500
2812	25,900	28,800	+2,900
2821	1,900	2,800	+900
2052	21,000	24,000	+3,000
3671	40,000	40,700	+700
3011	26,000	40,000	+14,000
2819	2,000	9,000	+7,000
3535	1,600	2,300	+700
2834	5,100	8,500	+3,400
3599	1,700	3,000	+1,300
2661	5,000	6,700	+1,700
3634	14,500	23,800	+9,300
2031	19,300	25,700	+6,400
2111	11,000	15,000	+4,000
3662	40,000	54,000	+14,000
3643	3,000	6,000	+3,000
2911	600	1,000	+400
2911	38,100	37,000	−1,100
6711	48,500	43,100	−5,400
1042	2,500	2,800	+300
2911	4,700	20,700	+16,000
3711	105,400	129,100	+23,700
3231	14,000	18,600	+2,600
1212	9,000	24,000	+15,000
2818	7,300	10,200	+2,900
3711	458,000	492,000	+34,000
3861	45,900	67,000	+21,100
2621	15,200	19,000	+3,800
ç275	11,200	14,100	+2,900
2631	5,500	43,600	+38,100
1021	20,200	28,100	+7,900
1459	2,000	2,900	+900
1311	17,800	15,900	−1,900
1311	25,600	27,400	+1,800
1311	6,300	7,000	+700
3333	22,700	27,600	+4,900
3949	13,700	18,500	+4,800
6711	40,900	42,700	+1,800
3611	1,400	4,400	+3,000
2631	25,900	37,900	+12,000
3461	36,300	41,000	+4,700

2. Outstanding international trade performance: Actual performances show that American multinational enterprises have been substantially increasing their exports since 1960, thereby creating U.S. employment gains in excess of national averages.

A basic contention of organized labor is that U.S. foreign direct investments deter export expansion. This claim is refuted by the experience of those firms covered in this Survey.

In 1960, total exports of 61 general manufacturing firms was $1,564,682,000. By 1970, this amount had increased to $4,383,950,000. In terms of percentages, these corporations increased exports by 180% as against a national increase in exports of only 53.5%.

The positive, direct, job creating effect of increased exports generated by foreign investment is clear. It is reliably estimated that $11,348 in exports equals one U.S. job. If the additional jobs created in those industries supplying goods and services to the direct exporting industry were included, this figure would be even higher.

What is the relative volume of imports and exports of these same firms? For the 61 general manufacturing firms, total imports for 1970 was $851,950,000 while the 1970 volume of U.S. exports for the same firms was $4,383,950,000—a positive difference of $3,532,000,000 exports over imports that can be translated into 311,245 U.S. jobs.[3] The job creating effect of imports is not included in this figure. Imports create jobs in the servicing and handling of the imported goods. Also without many imports essential to U.S. industrial capability, such capability would be in jeopardy and the job loss would be substantial.

Without imports, needless to say, other countries could not buy our exports, and the many jobs they create would accordingly be abolished.

3. Major reasons U.S. capital goes abroad: American multinational enterprises locate plants in foreign countries to retain foreign markets and to overcome trade and tariff barriers.

The experience of the firms surveyed refutes the claim that U.S. multinationals locate production facilities abroad to exploit "cheap labor" and to flood the U.S. with their products.

The vast majority of U.S. investments by these firms are in Europe and Canada, with Latin America, Asia and Africa hosting far fewer investments. This means a vast majority of these investments are in developed countries that have economies comparable to the United States. Following is a listing of the geographical preferences for the general manufacturing firms surveyed, calculated by giving 5 points for a first choice, 4 for a second, 3 for third, 2 for fourth, and 1 for fifth:

[1] The definition of a "multinational enterprise" in the Survey was: Any corporation with the parent company incorporated in the U.S. having operating unit(s), branch(es), or subsidiary(ies) in other countries.

[2] The National average rate calculated from figures provided by U.S. Department of Commerce, OBE, *Survey of Current Business.*

[3] *Monthly Labor Review,* June, 1969, p. 16. "In 1966, about 89,000 workers were required for each billion dollars of merchandise exports".

Western Europe, 706 points.
Canada, 423 points.
Latin America, 398 points.
Asia, 296 points.
Africa, 47 points.

These same firms were asked to describe the reasons for locating in these preferred locations. "Labor cost advantage" rated low as a reason and so did the possibility of obtaining foreign tax incentives, as illustrated in the following chart. The system used under the geographical location listing was used in this evaluation also.

REASON AND POINTS

Western Europe

1. Better servicing of existing market, 687.
2. Tariff & Trade Restrictions, 486.
3. Counter move to prevent competitor pre-empting market, 316.
4. Transport costs, 307.
5. U.S. product not acceptable to market, 245.
6. Labor cost advantage, 242.
7. Raw material availability/cost, 186.
8. Tax benefits (including host country incentives), 152.
9. 806.30 and 807 for re-entry to U.S., 53.

Canada

1. Better servicing of existing market, 419.
2. Tariff & Trade Restrictions, 303.
3. Counter move to prevent competitor pre-empting market, 178.
4. Transport costs, 170.
5. Raw material availability/cost, 153.
6. Labor cost advantage, 104.
7. U.S. product not acceptable to market, 103.
8. Tax benefits (including host country incentives), 91.
9. 806.30 and 807 for re-entry to U.S., 37.

Latin America

1. Better servicing of existing market, 491.
2. Tariff & Trade Restrictions, 368.
3. Counter move to prevent competitor pre-empting market, 255.
4. Transport costs, 183.
5. Labor cost advantage, 179.
6. Raw material availability/cost, 156.
7. Tax benefits (including host country incentives) 151.
8. Product not acceptable to market, 82.
9. 806.30 and 807 for re-entry to U.S. 48.

Asia

1. Better servicing of existing market, 414.
2. Tariff & Trade Restrictions, 319.
3. Labor cost advantage, 245.
4. Transport costs, 220.
5. Counter move to prevent competitor pre-empting market, 220.
6. Raw material availability/cost, 162.
7. U.S. product not acceptable to market, 120.
8. Tax benefits (including host country incentives), 117.
9. 806.30 and 807 for re-entry to U.S., 52.

Africa

1. Better servicing of existing market, 109.
2. Tariff & Trade Restrictions, 68.
3. Counter move to prevent competitor pre-empting market, 57.
4. Raw material availability/cost, 50.
5. Labor cost advantage, 47.
6. Transport costs, 45.
7. Tax benefits (including host country incentives), 34.
8. U.S. product not acceptable to market, 18.
9. 806.30 and 807 for re-entry to U.S., 5.

Government surveys have shown that U.S. plants located abroad send only a small percentage of their products back to the United States—generally far less than 10% of the foreign production. If certain industries and areas were excluded (automobiles and Canada) the percentage would be no more than 2%. The Chamber's survey bears out this fact and clearly refuses the claim that foreign production units are utilized to generate products for sale in the U.S. Most foreign production is marketed in the country where the plant is located, and gives strength to the contention that foreign production is required to compete with foreign producers in foreign markets. In many instances, the market would otherwise be lost to the U.S. company—not transferred to U.S. production and exports.

SUMMARY

This survey offers positive and constructive factual evidence of the substantial constructive contribution multinational enterprises are making to the United States economy. Practices of these corporations have, with a minimum number of exceptions, resulted in increased U.S. domestic employment, increases in U.S. exports, and positive contributions to the U.S. balance of payments. Consequently, artificial restrictions on these corporations would result in a serious reversal of these favorable factors and would materially decrease employment opportunities. The charges of organized labor are in this case unfounded.

THE PRESIDENT'S HISTORIC CHINA TRIP

Mr. JAVITS. Mr. President, a week from today President Nixon will be in Peking at the beginning of an historic visit which will hopefully mark the beginning of a new relationship between the United States and the People's Republic of China.

For the next 2 weeks the American people are going to be inundated by "things Chinese." They will witness the President's and the First Lady's every step on their television screens via satellite transmissions. They will read the views of commenators and editorialists in their morning papers. They will review "what it all means" in their weekly magazines.

I think the President placed the trip in proper perspective by the following words in his "State of the World" message delivered to us on February 9:

I go to Peking without illusions. But I go nevertheless committed to the improvement of relations between our two peoples and the people of the world. The course we and the Chinese have chosen has been produced by conviction, not by personalities or the prospect of tactical gains.

I would like to call my colleagues' attention to those sections of the "State of the World" message and the President's press conference last week that pertain to the trip and I ask unanimous consent to insert this section of the President's message and his press conference remarks on China in the RECORD.

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

U.S. FOREIGN POLICY FOR THE 1970's: THE EMERGING STRUCTURE OF PEACE

(A report by President Nixon to the Congress, February 1972)

CHINA

Few events can be called historic. The announcement which I read on July 15 merits that term:

"Premier Chou En-lai and Dr. Henry Kissinger, President Nixon's Assistant for National Security Affairs, held talks in Peking from July 9 to 11, 1971. Knowing of President Nixon's expressed desire to visit the Peoples Republic of China, Premier Chou En-lai on behalf of the Government of the Peoples Republic of China has extended an invitation to President Nixon to visit China at an appropriate date before May 1972.

"President Nixon has accepted the invitation with pleasure.

"The meeting between the leaders of China and the United States is to seek the normalization of relations between the two countries and also to exchange views on questions of concern to the two sides."

This announcement could have the most profound significance for future generations. The course leading up to it was carefully navigated; the opening we have made is still fragile; the immediate concrete achievements may be limited. But our purpose, and now our potential, is to establish contact between the world's most powerful nation and the world's most populous nation, and to confine our future confrontations to the conference table. Contact now might help avert a disastrous catastrophe later. It should serve to enrich the lives of our two peoples. And it could lead to cooperative ventures between our countries in the future.

THE HISTORICAL SETTING

My meetings with the leaders of the Peoples Republic of China will be unprecedented.

The earliest Sino-American contacts developed in the early 1800's. At that time the ancient Chinese empire, secure and preeminent, was just beginning the painful process of adapting itself to the outside world. With the world's longest history of self-government, and as the dominant political and cultural force in their region, the Chinese were self-confident and self-contained as the "Middle Kingdom" of the world. Nevertheless they were exploited by technologically superior foreign powers. The United States—isolationist and bending its energies to national development—favored the territorial integrity of China; but our "open door" doctrine of equal treatment for all foreigners carried ambiguity in Chinese eyes.

The Communist leaders thus inherited a tradition marked by both pride and humiliation; the Chinese experience had not been one of dealing with the outside world as equals but one of either Chinese superiority or foreign exploitation. In recent years China has passed through a period of domestic turmoil and shifts in external relationships. China's leaders have decided to break the isolation that was partly self-chosen, to explore more normal relations with other countries, and to take their place in the international dialogue.

While the Chinese Revolution ran its long and tortured course the United States ended a long history of isolationism and plunged with zeal and idealism into worldwide responsibilities. We alone among the major power emerged relatively unscathed from the Second World War. We provided the bulk of both the plans and resources for security and development around the globe. And we perceived the Communist countries, including China, as a monolithic bloc with central direction.

Today, two and a half decades after the war, new realities are reflected in a new American approach to foreign policy. The growing strength and self-confidence of others allow them to assume greater responsibilities and us to shift to a more restrained role. And with the time long past when one nation could speak for all communist countries, we deal with individual nations on the basis of their foreign, and not their domestic, policy.

Thus, in February of 1972, after many vicissitudes, many achievements and our separate evolution, the U.S. and China enter this dialogue on a fresh foundation of national equality and mutual respect. We are both turning a new page in our histories.

Despite this hopeful beginning, we remain separated by profound differences in principle and the suspicions of decades. Until 1971 we had had little meaningful contact for

most of a generation. The Peoples Republic's critical public statements and interpretations of history are well known to us. We have also made our position clear.

It serves no purpose to gloss over these sources of division. Neither side pretended during preparations for my journey, and neither will pretend afterwards, that we have solved our basic problems. We can expect our talks to be marked by the directness and candor which best serve leaders whose differences are deep but whose policies are rooted in realism.

A NEW APPROACH

My journey to the Peoples Republic of China marks both an end and a beginning. It is the culmination of three years of patient mutual effort to pierce the isolation of decades. And it represents the launching of a new process.

The July 15, 1971 statement on my trip was sudden and dramatic, but it was preceded and produced by a carefully developed series of steps. In fact, no other U.S. foreign policy move in the past three years has been approached more meticulously.

As far back as October 1967, I had written in the magazine Foreign Affairs that "any American policy toward Asia must come urgently to grips with the reality of China," while pointing out that bold new initiatives without preparation were inappropriate.

In January 1969 I entered office convinced that a new policy toward the Peoples Republic of China was an essential component of a new American foreign policy. I was, of course, fully aware of the profound ideological and political differences between our countries, and of the hostility and suspicion to be overcome. But I believed also that in this era we could not afford to be cut off from a quarter of the world's population. We had an obligation to try to establish contact, to define our positions, and perhaps move on to greater understanding.

Recalling our historical experience and contemplating tomorrow's world, I saw the present period as a unique moment. The shifting tides in international relations, our new foreign policy perspectives, the changing face of China—these were the factors, at work in Peking as well as Washington, that beckoned our two nations toward a dialogue.

The following considerations shaped this Administration's approach to the Peoples Republic of China.

Peace in Asia and peace in the world require that we exchange views, not so much despite our differences as because of them. A clearer grasp of each other's purposes is essential in an age of turmoil and nuclear weapons.

It is in America's interest, and the world's interest, that the Peoples Republic of China play its appropriate role in shaping international arrangements that affect its concerns. Only then will that great nation have a stake in such arrangements; only then will they endure.

No one nation should be the sole voice for a bloc of states. We will deal with all countries on the basis of specific issues and external behavior, not abstract theory.

Both Chinese and American policies could be much less rigid if we had no need to consider each other permanent enemies. Over the longer term there need be no clashes between our fundamental national concerns.

China and the United States share many parallel interests and can do much together to enrich the lives of our peoples. It is no accident that the Chinese and American peoples have such a long history of friendship.

On this basis we decided that a careful search for a new relationship should be undertaken. We believed that the Chinese could be engaged in such an effort.

The Unfolding of U.S. Policy

Both political and technical problems lay in the way of such a search. When this Administration assumed responsibility, there had been virtually no contact between mainland China and the American people for two decades. This was true for our governments as well, although sterile talks in Geneva and Warsaw had dragged on intermittently since 1955. A deep gulf of mistrust and noncommunication separated us.

We faced two major questions. First, how to convey our views privately to the authorities in Peking? Second, what public steps would demonstrate our willingness to set a new direction in our relations?

Within two weeks of my inauguration we moved on both of these fronts. I ordered that efforts be undertaken to communicate our new attitude through private channels, and to seek contact with the Peoples Republic of China.

This process turned out to be delicate and complex. It is extremely difficult to establish even rudimentary communications between two governments which have been completely isolated from one another for twenty years. Neither technical nor diplomatic means of direct contact existed. It was necessary to find an intermediary country which had the full trust of both nations, and could be relied upon to promote the dialogue with discretion, restraint, and diplomatic skill.

The two sides began clarifying their general intentions through mutually friendly countries. After a period of cautious exploration and gathering confidence, we settled upon a reliable means of communication between Washington and Peking.

In February 1969, I also directed that a comprehensive National Security Council study be made of our policy toward China, setting in motion a policy review process which has continued throughout these past three years. We addressed both the broader ramifications of a new approach and the specific steps to carry it out.

Drawing on this analysis, we began to implement a phased sequence of unilateral measures to indicate the direction in which this Administration was prepared to move. We believed that these practical steps, progressively relaxing trade and travel restrictions, would make clear to the Chinese leaders over time that we were prepared for a serious dialogue. We had no illusion that we could bargain for Chinese good will. Because of the difficulties in communication we deliberately chose initiatives that could be ignored or quietly accepted; since they required no Chinese actions, they were difficult to reject. We purposely avoided dramatic moves which could invoke dramatic rebukes and set back the whole carefully nurtured process.

Throughout 1969 and 1970 we underlined our willingness to have a more constructive relationship:

In July 1969, we permitted noncommercial purchases of Chinese goods without special authorization by American tourists, museums and others. We also broadened the categories of U.S. citizens whose passports would be validated automatically for travel to China.

In December 1969, we allowed subsidiaries of American firms abroad to engage in commerce between mainland China and third countries.

In January and February 1970, the two sides held Ambassadorial meetings in Warsaw, which in turn had been set through private exchanges. These sessions underlined the handicaps of this formal discourse. The two sides' representatives had minimum flexibility; they could do little more than read prepared statements and refer back to their capitals for instructions for the next meeting. This cumbersome exchange between wary adversaries reinforced the need for a new approach.

In March 1970, we announced that U.S. passports would be validated for travel to mainland China for any legitimate purpose.

In April 1970, we authorized selective licensing of non-strategic U.S. goods for export to mainland China.

In August 1970, we lifted certain restrictions on American oil companies operating abroad so that most foreign ships could use American-owned bunkering facilities on trips to and from mainland Chinese ports.

By the end of 1970, therefore, we had laid out a careful record of unilateral initiatives. Throughout these two years we had accompanied these steps with a series of public statements which delineated our general attitude.

Secretary Rogers in a speech in Canberra, Australia on August 8, 1969, noted the barriers between our countries but added, "We nonetheless look forward to a time when we can enter into a useful dialogue and to a reduction of tensions."

In my February 1970 Foreign Policy Report, I stated that ". . . it is certainly in our interest, and in the interest of peace and stability in Asia and the world, that we take what steps we can toward improved practical relations with Peking . . . we will seek to promote understandings which can establish a new pattern of mutually beneficial actions."

On October 26, 1970, in a toast to visiting President Ceausescu of Romania, I deliberately used Peking's official title, "the Peoples Republic of China". This was the first time an American President had ever done so.

By the time of my second Foreign Policy Report in February 1971, we had reason to believe that our moves were being noted and evaluated by the Chinese. In that Report, I cited the importance of China's participation in world affairs, reiterated that we were ready for a dialogue with Peking, and stated that we hoped to see the Peoples Republic of China assume a constructive role in the family of nations. I looked toward the immediate future:

"In the coming year, I will carefully examine what further steps we might take to create broader opportunities for contacts between the Chinese and American peoples, and how we might remove needless obstacles to the realization of these opportunities. We hope for, but will not be deterred by a lack of, reciprocity."

The breakthrough

By the fall of 1970, in private and reliable diplomatic channels, the Chinese began to respond. Both sides were now working to launch a process. The spring of 1971 saw a series of orchestrated public and private steps which culminated in Dr. Kissinger's July trip to Peking and the agreement for me to meet with the leaders of the Peoples Republic of China.

On March 15, 1971 we announced that U.S. passports no longer needed special validation for travel to mainland China.

On April 6, 1971, in Nagoya, Japan, the U.S. table tennis team competing in the world championships received an invitation from the Chinese team to visit mainland China. This was accepted the next day. The Chinese also granted visas to seven Western newsmen to cover the team's tour. The U.S. team traveled extensively in China, and was received on April 14 by Prime Minister Chou En-lai, who told them: "with your acceptance of our invitation, you have opened a new page in the relations of the Chinese and American people."

On that same day, we moved to further the momentum that had clearly developed. I decided on the following measures which had been under governmental study since December 1970:

We would expedite visas for visitors from the PRC;

U.S. currency controls would be relaxed to permit the PRC to use dollars;

Restrictions on U.S. oil companies providing fuel to ships or aircraft en route to or from China (except those bound to or from North Korea, North Vietnam or Cuba) were eliminated;

U.S. vessels or aircraft would be permitted

to carry Chinese cargoes between non-Chinese ports, and U.S.-owned foreign-flag carriers could call at Chinese ports; and

A list of items of a non-strategic nature would be compiled for direct export to the PRC.

In the April 30 issue of *Life* magazine, the author, Edgar Snow, reported a conversation he had had earlier with Chairman Mao Tse-tung which confirmed private signals we had already received of Chinese interest in my visiting China.

On May 7, 1971 we removed U.S. controls on dollar transactions with China (except those in previously blocked accounts) and certain controls on U.S. bunkering facilities and flagships.

On June 10, 1971 we announced the end of the twenty-one year embargo on trade with the PRC. We issued a general export license for a long list of nonstrategic items for China and designated other items to be considered on a case-by-case basis. Restrictions on the import of Chinese goods were simultaneously lifted.

The stage was thus set for Dr. Kissinger's secret visit to Peking. From July 9 to July 11, Dr. Kissinger held very extensive and important discussions with Premier Chou En-lai which produced the agreement that I would visit China before May 1972.

From October 20 to 26, Dr. Kissinger again visited Peking to reach agreement on the major arrangements for my trip. Further lengthy talks with Prime Minister Chou En-lai and other Chinese officials produced the basic framework for my meetings with the leaders of the Peoples Republic of China—including the February 21, 1972 date, the duration and itinerary, the broad agenda, and the approximate composition and facilities for the accompanying party and representatives of the media. The major elements were announced at the end of November.

On December 13, 1971 the Chinese released two Americans whom they had been holding prisoner, and commuted the life sentence of a third American to five more years. This welcome gesture came after Dr. Kissinger transmitted my personal concern during his two visits to Peking. It was both a concrete result of our efforts to establish a dialogue and a hopeful sign for future progress in our relations.

International impact

No major step in international relations is taken without some painful adjustments and potential costs. Indeed, the tendency is to focus on the risks that might flow from a departure from familiar patterns and to lose sight of its possible benefits. It is precisely this tendency that inhibits majorinitiatives and perpetuates established policies which sustain the tatu quo.

We undertook our initiatives toward the Peoples Republic of Chian aware of the problems as well as the opportunities. Such a dramatic move was bound to stir great changes in the world. The news of my forthcoming trip had an expectedly galvanic impact and set in motion new currents in international relations.

We were able to inform our friends only shortly before this announcement, and we understand the complications this caused for them. There were overriding reasons for keeping Dr. Kissinger's July visit secret. We could not risk advance public disclosure of these conversations whose outcome we could not predict. This would have risked disillusionment by inflating expectations which we could not be certain of meeting. And it would have created pressures on both the Chinese and American sides, forcing both of us to take public positions which could only have frozen discussions before they began. Moreover, we knew the July discussions would not settle anything directly concerninng third parties; neither we nor Peking would set or accept any preconditions.

Regardless of how it was achieved, the change in the U.S.-Chinese relationship after 20 years of animosity was bound to be unsettling. Indeed, once Peking had decided to improve relations with the U.S., it had the capability to shake our relations with our friends through its own unilateral moves; the mere invitation to an American table tennis team had major repercussions.

The price we paid for secrecy was therefore unavoidable. It should prove transitory. The important task was to move swiftly to explain our purposes to our friends and to begin meaningful exchanges about the prospects for the future.

This we have done. Since July we have consulted with interested nations, outlining our objectives and expectations, and making clear we would not negotiate to the detriment of their interests. Secretary Rogers was extremely active in explaining our China policy to Foreign Ministers and other leaders of foreign countries. Secretary Connally and Governor Reagan traveled through Asia as my personal representatives, and carried my views on our China initiative and Asian policies in general. I sent personal messages to many of our friends and allies. Our Ambassadors were instructed to explain our views and solicit those of their host governments. The prospects of my meetings in Peking and in Moscow were among the primary topics of my series of talks with allied leaders in December 1971 and January of this year.

We shall continue this process of consultation as we move forward in our relationship with the Peoples Republic of China. Our talks with our friends have focused on the longer term implications for U.S. policy. Questions have been raised which we have been careful to address publicly as well as privately.

How should our Asian friends interpret this initiative in terms of our commitments and their direct interests? There are, first of all, some general principles which apply to our relations with all concerned countries. Neither we nor the Peoples Republic asked, or would have accepted, any conditions for the opening of our dialogue. Neither country expects the other to barter away its principles or abandon its friends. Indeed, we have moved jointly in the conviction that more normal relations between us will serve the interests of all countries and reduce tensions in the Far East.

My conversations with the Chinese leaders will focus primarily on bilateral questions. Either side is free to raise any subject it wishes, and, of course, issues affecting the general peace are of bilateral concern. But we have made it clear to our Asian friends that we will maintain our commitments and that we will not negotiate on behalf of third parties. We cannot set out to build an honorable relationship of mutual respect with the PRC unless we also respect the interests of our long terms friends.

Should our moves be read as shifting our priorities from Tokyo to Peking? They should not. With the Chinese we are at the beginning of a long process. With the Japanese we have enjoyed over two decades of the closest political and economic cooperation. It would be shortsighted indeed to exchange strong ties with a crucial ally for some mitigation of the hostility of a dedicated opponent. But it would be equally shortsighted not to seek communication and better understanding with a quarter of the world's people. We see no conflict in these two aims.

The preservation of our close relationship with Japan during this effort to broaden communications with China will call for wisdom and restraint on all sides. Each of us will have to avoid temptations to exacerbate relations between the other two. Despite the uneasy legacies of history, there can be more room for progress through cooperative interchange than through destructive rivalry.

What are the implications for our longstanding ties to the Republic of China? In my address announcing my trip to Peking, and since then, I have emphasized that our new dialogue with the PRC would not be at the expense of friends. Nevertheless, we recognize that this process cannot help but be painful for our old friend on Taiwan, the Republic of China. Our position is clear. We exerted the maximum diplomatic efforts to retain its seat in the United Nations. We regret the decision of the General Assembly, to deprive the Republic of China of its representation although we welcomed the admission of the Peoples Republic of China. With the Republic of China, we shall maintain our friendship, our diplomatic ties, and our defense commitment. The ultimate relationship between Taiwan and the mainland is not a matter for the United States to decide. A peaceful resolution of this problem by the parties would do much to reduce tension in the Far East. We are not, however, urging either party to follow any particular course.

What does our China initiative mean for our relations with the Soviet Union? Our policy is not aimed against Moscow. The U.S. and the USSR have issues of paramount importance to resolve; it would be costly indeed to impair progress on these through new antagonisms. Nevertheless some observers have warned that progress toward normalization of relations with Peking would inevitably jeopardize our relations with its Communist rival. There is no reason for this to be the case. Our various negotiations with the Soviet Union, for example on Berlin and SALT, made major progress subsequent to the July 15 announcement; and the agreement to meet with the Soviet leadership in May 1972 was announced on October 12, 1971.

Others have suggested that we should use our opening to Peking to exploit Sino-Soviet tensions. We have consistently explained to all parties that we will not attempt to do so because it would be self-defeating and dangerous. We did not create the differences between the two Communist powers. They disagree over the proper interpretation of Communist philosophy, a subject in which we have no competence and little interest. And they dispute the lines of their common border, which can hardly be susceptible to our manipulation. In any event we will try to have better relations with both countries. In pursuing this objective we will conduct our diplomacy with both honesty and frankness.

THE JOURNEY TO PEKING

The record of the past three years illustrates that reality, not sentimentality, has led to my journey. And reality will shape the future of our relations.

I go to Peking without illusions. But I go nevertheless committed to the improvement of relations between our two countries, for the sake of our two peoples and the people of the world. The course we and the Chinese have chosen has been produced by conviction, not by personalities or the prospect of tactical gains. We shall deal with the Peoples Republic of China:

Confident that a peaceful and prospering China is in our own national interest;

Recognizing that the talents and achievements of its people must be given their appropriate reflection in world affairs;

Assured that peace in Asia and the fullest measure of progress and stability in Asia and in the world require China's positive contribution;

Knowing that, like the United States, the Peoples Republic of China will not sacrifice its principles;

Convinced that we can construct a permanent relationship with China only if we are reliable—in our relations with our friends as well as with China;

Assuming that the Peoples Republic of

China will shape its policy toward us with a reciprocal attitude.

These principles will guide my approach to my forthcoming conversations with Chairman Mao Tse-tung and Premier Chou En-lai. The tenor of these discussions and of our future relations, of course, does not depend on us alone. It will require a mutual understanding of perspectives and a mutual willingness to combine a principled approach with a respect for each other's interests.

At this point in history we need talks at the highest level. Eighteen years of desultory ambassadorial discussions in Geneva and Warsaw demonstrated that subsidiary problems could not be cleared away at lower levels. Authoritative exchanges between our leaders, however, now hold hope of genuine communication across the gulf and the setting of a new direction.

The trip to Peking is not an end in itself but the launching of a process. The historic significance of this journey lies beyond whatever formal understandings we might reach.

We are talking at last. We are meeting as equals. A prominent feature of the postwar landscape will be changed. At the highest level we will close one chapter and see whether we can begin writing a new one.

Both sides can be expected to state their principles and their views with complete frankness. We will each know clearly where the other stands on the issues that divide us. We will look for ways to begin reducing our differences. We will attempt to find some common ground on which to build a more constructive relationship.

If we can accomplish these objectives, we will have made a solid beginning.

Over the longer term, we will see whether two countries—whose histories and cultures are completely different, whose recent isolation has been total, whose ideologies clash, and whose visions of the future collide—can nevertheless move from antagonism to communication to understanding.

On January 20, 1969 in my Inaugural Address, I defined our approach towards all potential adversaries:

"After a period of confrontation, we are entering an era of negotiation.

"Let all nations know that during this Administration our lines of communications will be open.

"We seek an open world—open to ideas, open to the exchange of goods and people—a world in which no people, great or small, will live in angry isolation.

"We cannot expect to make everyone our friend, but we can try to make no one our enemy."

When I spoke those lines, I had the Peoples Republic of China very much in mind. It is this attitude that shaped our policy from the outset and led to the July 15, 1971 announcement. It is in this spirit that I go to Peking.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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 the consideration of the bill (S. 2515) a bill to further promote equal employment opportunities for American workers.

UNANIMOUS-CONSENT REQUEST

Mr. BYRD of West Virginia. Mr. President, I renew my previous request, and I shall restate it.

I ask unanimous consent that time on the pending substitute by Mr. DOMINICK, amendment No. 884, begin running tomorrow upon the disposition of the motion to reconsider the vote by which the Hruska amendment No. 877 to S. 2515 was rejected last Wednesday;

Provided further that a vote occur on amendment No. 884 by Mr. DOMINICK at 4:30 p.m. tomorrow;

Provided further, that time be equally divided between the distinguished mover of the amendment (Mr. DOMINICK) and the distinguished manager of the bill (Mr. WILLIAMS);

Ordered further, that time on any debatable motion, amendment—meaning perfecting amendment to the Williams-Javits amendment—point of order, or appeal be limited to 20 minutes, to be equally divided between the mover of such and the manager of the bill;

Provided, that the time on such perfecting amendment, debatable motion, appeal, or point of order, be taken out of the time allotted to amendment No. 884, with two exceptions: One being in the case of a perfecting amendment which is pending at 4:30 p.m., in which instance that perfecting amendment be allotted whatever remaining time would be necessary to round out the full 20 minutes; the second instance, of course, being on a motion to reconsider the vote on amendment No. 884; with the further understanding that in the event the manager of the bill is not opposed to any perfecting amendment, motion, appeal, or point of order, the time in opposition to such would then be under the control of the distinguished minority leader or his designee.

Mr. JAVITS. Mr. President, if the Senator will yield, reserving the right to object—and I do not expect to object—it seems to me we have not stated properly the proposal as to perfecting amendments to the basic amendment. As I understood, the votes on those would occur at 4:30 p.m., and a reliance would be placed on the Senator from New Jersey (Mr. WILLIAMS) and the Senator from Colorado (Mr. DOMINICK) to accommodate Senators who had any further proposals within the time allotted, with the substantive vote to start at 4:30 p.m.

Mr. BYRD of West Virginia. However, in a case where a Senator offered a perfecting amendment, let us say, at 4:30, he would then have 20 minutes. If he offered it before, say, at 10 minutes to 4, he would have 10 minutes——

Mr. JAVITS. That was not our understanding; our understanding was we would start voting at 4:30. If there were perfecting amendments, both sides would allow Senators to discuss them, but we would vote at 4:30.

Mr. BYRD of West Virginia. Very well. I will delete the proviso which would accord to a Senator with a perfecting amendment, pending at 4:30 p.m., 20 minutes.

Mr. DOMINICK. Mr. President, reserving the right to object, I can foresee a situation where we would have 2 hours of debate, 1 hour on each side, and with 20 minutes on perfecting amendments, we would not get to debate the basic amendment. In view of that fact, I do not see anything to do except object. I am sorry.

Mr. JAVITS. Let us not get hot——

Mr. DOMINICK. Well, we are getting that way——

Mr. JAVITS. Well, we are getting that way, then. I am trying to get votes at 4:30, not 8:30.

Mr. DOMINICK. I do not care whether we get them at 4:30 or 8:30.

Mr. JAVITS. I do. That is why I am agreeing to the unanimous-consent request.

Mr. DOMINICK. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

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. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, after several discussions with various Senators who are parties to the request which I am about to make, I propound the following unanimous-consent request:

I ask unanimous consent, Mr. President, that a vote occur on amendment No. 884 by the Senator from Colorado (Mr. DOMINICK) at 5 p.m. tomorrow; that time on that amendment begin running upon the disposition of the motion to reconsider the vote by which the Hruska amendment No. 877 was previously rejected; that the time be equally divided between the mover of the amendment, the Senator from Colorado (Mr. DOMINICK) and the manager of the bill, the Senator from New Jersey (Mr. WILLIAMS); provided further, that in the event the motion to reconsider amendment No. 877 by Mr. HRUSKA carries, the Hruska amendment No. 877 then be put over until the final disposition of amendment No. 884 by the Senator from Colorado (Mr. DOMINICK), at which time amendment No. 877 by Mr. HRUSKA then again be placed before the Senate for debate and disposition.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. BYRD of West Virginia. Mr. President, there is no question but that the vote on the amendment by Mr. DOMINICK will be a rollcall vote.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, I announce the program for tomorrow as follows:

The Senate will convene at 11 a.m.

After the two leaders have been recognized under the standing order, there will be a period for the transaction of routine morning business not to extend beyond 11:30 a.m., with statements therein limited to 3 minutes.

At 11:30 a.m., the Senate will go into executive session and time will begin running on Executive H. A rollcall vote will occur on that treaty at 12 noon.

At 1 p.m. tomorrow, time will begin running—and will be under control—on the motion to reconsider the vote by which the Hruska amendment (No. 877) was previously rejected. A rollcall vote on the motion to reconsider will occur at 2 p.m. A motion to table the motion to reconsider will be in order.

Upon disposition of the motion to reconsider, time will begin running on the amendment by the Senator from Colorado (Mr. DOMINICK), amendment No. 884, and will be concluded at 5 p.m., at which time a rollcall vote will occur on the amendment by Mr. DOMINICK.

However, in the event the motion to reconsider the Hruska amendment should carry, the amendment by Mr. HRUSKA would then be laid aside until immediately following the final disposition of the vote on amendment No. 884 by Mr. DOMINICK.

At least three rollcall votes can be expected tomorrow. There may be more.

ADJOURNMENT TO 11 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 11 a.m. tomorrow.

The motion was agreed to; and (at 6:09 p.m.) the Senate adjourned until tomorrow, Tuesday, February 15, 1972, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate February 14, 1972:

DEPARTMENT OF TRANSPORTATION

John L. Hazard, of Michigan, to be an Assistant Secretary of Transportation, vice Charles D. Baker, resigned.

U.S. DISTRICT COURT

Louis C. Bechtle, of Pennsylvania, to be a U.S. district judge for the eastern district of Pennsylvania vice John W. Lord, Jr., retired.

DEPARTMENT OF JUSTICE

John A. Field III, of West Virginia, to be U.S. attorney for the southern district of West Virginia for the term of 4 years vice Wade H. Ballard III, resigned.

U.S. AIR FORCE

The following named officers for appointment in the Regular Air Force to the grades indicated, under the provisions of chapter 835, title 10 of the United States Code:

To be major general

Maj. Gen. Felix M. Rogers, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. George H. McKee, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. John C. Giraudo, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. John B. Hudson, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Charles W. Carson, Jr., [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Sanford K. Moats, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. John W. Roberts, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Maurice R. Reilly, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Robert E. Hails, [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Jimmy J. Jumper, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Robert W. Maloy, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Robert E. Huyser, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

To be brigadier general

Brig. Gen. Lawrence J. Fleming, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Harold L. Price, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. John F. Gonge, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Howard M. Fish, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. George G. Loving, Jr., [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Oliver W. Lewis, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Ralph S. Saunders, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Louis O. Alder, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Ray B. Sitton [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. William A. Dietrich, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. James A. Knight, Jr., [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Jack B. Robbins, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Howard M. Lane, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Charles E. Williams, Jr., [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Colin C. Hamilton, Jr., [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Edward P. McNeff, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Henry L. Warren, XXXX FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Robert F. Trimble, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Edward Ratkovich, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Howard P. Smith, Jr., [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. James E. Paschall, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Harry M. Darmstandler, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Eugene L. Hudson, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Levi R. Chase, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Charles C. Pattillo, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Cuthbert A. Pattillo, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. James M. Breedlove, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Lee M. Paschall, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Donald G. Nunn, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Walter R. Tkach, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

I nominate the following named officers for temporary appointment in the United States Air Force under the provisions of Chapter 839, Title 10 of the United States Code:

To be major general

Brig. Gen. James E. Hill [redacted] FR, Regular Air Force.

Brig. Gen. Jonas L. Blank, [redacted] FR, Regular Air Force.

Brig. Gen. James A. Bailey, [redacted] FR, Regular Air Force.

Brig. Gen. Donald H. Ross, [redacted] FR, Regular Air Force.

Brig. Gen. William A. Jack, [redacted] FR, Regular Air Force.

Brig. Gen. Jessup D. Lowe, [redacted] FR, Regular Air Force.

Brig. Gen. Vernon R. Turner, [redacted] FR, Regular Air Force.

Brig. Gen. Warren D. Johnson, [redacted] FR, Regular Air Force.

Brig. Gen. Peter R. DeLonga, [redacted] FR, Regular Air Force.

Brig. Gen. Charles I. Bennett, Jr., [redacted] FR, Regular Air Force.

Brig. Gen. Harold E. Collins, [redacted] FR, Regular Air Force.

Brig. Gen. Benjamin N. Bellis, [redacted] FR, Regular Air Force.

Brig. Gen. Lew Allen, Jr., [redacted] FR, Regular Air Force.

Brig. Gen. Charles C. Pattillo, [redacted] FR, Regular Air Force.

Brig. Gen. James R. Allen, [redacted] FR, Regular Air Force.

Brig. Gen. Walter R. Tkach, [redacted] FR, Regular Air Force, Medical.

Brig. Gen. Bryan M. Shotts, [redacted] FR, Regular Air Force.

Brig. Gen. Leroy J. Manor, [redacted] FR, Regular Air Force.

Brig. Gen. Roger Hombs, [redacted] FR, Regular Air Force.

Brig. Gen. Lawrence W. Steinkraus, [redacted] FR, Regular Air Force.

Brig. Gen. Eugene L. Hudson, [redacted] FR, Regular Air Force.

Brig. Gen. Walter T. Galligan, [redacted] FR, Regular Air Force.

Brig. Gen. Edward Ratkovich, [redacted] FR, Regular Air Force.

Brig. Gen. Frank W. Elliott, Jr., [redacted] FR, Regular Air Force.

Brig. Gen. Daniel James (NMI), Jr., [redacted] FR, Regular Air Force.

Brig. Gen. John F. Gonge, [redacted] FR, Regular Air Force.

Brig. Gen. John W. Pauly, [redacted] FR, Regular Air Force.

Brig. Gen. John J. Burns [redacted] FR, Regular Air Force.

Brig. Gen. Kenneth R. Chapman, [redacted] FR, Regular Air Force.

Brig. Gen. Bryce Poe, II, [redacted] FR, Regular Air Force.

Brig. Gen. Cuthbert A. Pattillo, [redacted] FR, Regular Air Force.

Brig. Gen. George G. Loving, Jr., [redacted] FR, Regular Air Force.

Brig. Gen. Oliver W. Lewis, [redacted] FR, Regular Air Force.

Brigadier General Marion L. Boswell, [redacted] FR, Regular Air Force.

Brig. Gen. Kenneth L. Tallman, [redacted] FR, Regular Air Force.

Brig. Gen. Otis C. Moore, [redacted] FR, Regular Air Force.

Brig. Gen. Frederick C. Blesse, [redacted] FR, Regular Air Force.

Brig. Gen. James V. Hartinger, [redacted] FR, Regular Air Force.

U.S. ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Howard Wilson Penney, [redacted] U.S. Army.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 14, 1972:

DEPARTMENT OF STATE

Willis C. Armstrong, of New Jersey, to be an Assistant Secretary of State.

Kenneth Franzheim II, of Texas, now Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand and to Western Samoa, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Fiji.

John I. Getz, of Illinois, a Foreign Service officer of class 1, to be Ambasador Extraordinary and Plenipotentiary of the United States of America to Malta.

Albert W. Sherer, Jr., of Illinois, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czechoslovak Socialist Republic.

Matthew J. Looram, Jr., of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Somali Democratic Republic.

Robert Anderson, of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Dahomey.

Anthony D. Marshall, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Trinidad and Tobago.

Robert Strausz-Hupé, of Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belgium.

EXTENSIONS OF REMARKS

YOUTH WITH A PURPOSE

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 9, 1972

Mr. NATCHER. Mr. Speaker, during the week of February 19 through 26, the Future Farmers of America will celebrate their 44th birthday. It is not accidental that this fine organization has picked this particular time to celebrate its anniversary. The birthday of one of our Nation's greatest leaders, George Washington, falls on February 22 and it is in honor of him that this splendid group annually designates the Saturday before his birthday through the Saturday after his birthday as FFA Week. George Washington's love for America was matched by his love for farming and we can be thankful for his many significant contributions to agriculture. It is almost impossible to separate the man from the land he loves and George Washington was no exception.

Boys and girls, aged 14 through 21, residing in 49 States, the Virgin Islands, and Puerto Rico actively participate in the many worthwhile activities of the FFA. It has a membership of 430,000 students studying vocational agriculture in 8,200 public schools. The strength of the FFA lies in its local chapters. The members are taught agricultural skills by their chapter adviser in an effort to better prepare them for tomorrow when many people will rely on the skills they are learning today.

The mass exodus to the cities over the past few decades has left many rural areas weak and stagnant while the urban centers have become overpopulated, impoverished, and plagued with crime. These trends must be reversed in order to establish a better distribution of population and economic activity so vital to the future of America. The destiny of our great country lies in the hands of its youth and the FFA is successfully pointing its members in the right direction.

FFA's Building Our American Communities—BOAC—program, now in its third year, is designed to improve communities across the Nation. One aspect of this program deals with actual physical improvements such as building parks and ecological centers, renovating old storefronts, landscaping football fields, constructing outdoor recreational centers, and a general overall clean-up of the communities and their surrounding areas. Another facet of the program deals with social problems such as unemployment. Job placement services have been set up to assist students in finding summer and part-time employment. Career counseling is also available to those planning for future occupations. The FFA has been extremely successful in obtaining the cooperation of nonmembers who wish to improve their surroundings and better their communities.

The theme of FFA Week this year is "Youth With a Purpose." The plans of these fine young people do not begin and end with the environment. Agriculture exceeds the boundaries of the farm. In their vocational agriculture classes the students learn the technology of production, supply, processing, and distribution; they learn the science of farming and how to preserve the soil; they learn the practical application of farming techniques with a minimum of supervision and are thus prepared for the time when they will be on their own. They are given the opportunity to work together and develop leadership skills which will be so important to them in later life. As farmers, these industrious citizens are concerned with the future of agriculture and the role they will play in improving the industry and providing the people with enough materials to feed and clothe an overpopulated Nation.

Many people have felt the impact of FFA's valuable contributions to America and I am happy to note that its membership is soaring. The Second Congressional District has benefited from its activities and the program continues to be a success.

Mr. Speaker, I am proud to have this opportunity to congratulate the Future Farmers of America for its many outstanding achievements and I wish them every success in performing even greater accomplishments.

COUNTERBRIEFING ON U.S. POLICY IN INDOCHINA

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 9, 1972

Mr. FRASER. Mr. Speaker, on Friday, January 28, 1972, a group of House Members sponsored a "Counterbriefing on U.S. Policy and the Indochina War." This effort was cosponsored by the Indochina Education Council, an independently funded resource and research center on the Indochina war located here in Washington. Carl Kukkonen of the education council served as the coordinator.

Our counterbriefing was aimed primarily at the editors and broadcasters brought to Washington to attend a State Department briefing on U.S. foreign policy. We received some attention from Washington and New York newspapers and I include with my remarks newspaper accounts of the meeting.

The participants, in addition to myself, were:

Dr. Raphael Littauer, profesor of physics at Cornell University; coordinator of the Cornell research project that produced the report: "The Air War in Indochina," which was released in October of 1971.

Fred Branfman, director of Project Air War, a nonprofit educational organization aimed at raising public consciousness about the air war in Indochina.

Senator J. W. FULBRIGHT, Democrat, Arkansas, chairman of the Senate Foreign Relations Committee.

Senator GAYLORD NELSON, Democrat, Wisconsin, sponsor of S. 3084, a bill to provide for a study and investigation to assess the extent of damage done to the environment of South Vietnam, Laos, and Cambodia as the result of the operations of the Armed Forces of the United States.

Earl C. Ravenal, former director, Asian Division, Systems Analysis, Office of the Secretary of Defense; now associate fellow, Institute for Policy Studies.

Profs. Arthur H. Westing, Windham College, Putney, Vt., and Egbert W.