The present report should prove to the Government that the cause for concern is real, and that Conservative Heath Macquarrie was correct when he told the House "that we cannot be too concerned and should express our concern day in and day out".

The second question that is raised is why Canada does not itself have an act that requires environmental studies to be made and published before projects which could affect the environment are launched. U.S. citizens have been able to work through the courts to halt, perhaps forever, the very dangerous TAPS, and at least to force public exposure of all its dangers. Canadian citizens do not have the same powers and, in fact, our East Coast is now being explored for oil and gas, with the Government's blessing, under conditions just as dangerous as those exposed for the West Coast.

The third matter to be pondered is that any long delay over TAPS will force both U.S. Government and the oil industry to consider the alternative of delivering the oil by pipeline through Canada. How safe will that be for Canada? It is true that the Government has been involved with the oil companies in extensive research on the impact of oil and gas pipelines on Canada's north and that A. D. Hunt, assistant deputy minister for the Minister of Northern Development, said last week that "we expect that by the end of this current year we will have adequate information to deal with any application" for an oil or gas pipeline.

This "adequate information" must be made available to the public.

But even if pipelines can be safely constructed (and U.S. environmentalists give Canada far higher marks for research in this area than they do the United States) what would such pipelines do to Canada in the areas of economics and sovereignty? How would they affect our balance of payments? How far along the road to a continental energy policy would they take us?

If the U.S. Interior Department is being pushed to consider urgent questions it would rather evade, so is Canada.

THE 110TH ANNIVERSARY OF BIRTH OF JANE DELANO, FOUNDER OF AMERICAN RED CROSS SERVICES

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 14, 1972

Mrs. GRASSO. Mr. Speaker, March 12 was the 110th anniversary of the birth of Jane Delano, founder of the American Red Cross Services, and warm friend of those who suffer.

Jane Delano lived a life of selflessness and dedication. These virtues, coupled with her imaginative and innovative mind, raised nursing to higher levels of service.

From 1888 until her death in 1919, the fervent desire of Jane Delano to improve nursing and public health services was constant. Introduced to the needs and inadequacies of health facilities during a 3-year stay in a typhoid-ridden Arizona town, Jane Delano became committed to the goal of improving the lot of the sick. In retrospect, her contributions to the care of the sick during her early years foreshadowed her marvelous contributions to the needy during the First World War.

As head of the girl's department at the House of Refuge, Randalls Island, N.Y., Jane Delano exhibited great warmth as well as firm discipline—qualities she retained in her important post as superintendent of the Bellevue Hospital School of Nursing. As an educator she revised curriculum and broadened the perspective and dignity of the nursing profession.

It was therefore natural for Miss Delano to become the guiding light of the Red Cross, as chairman of the National Committee on Red Cross Nursing Services in 1905. In this position, Miss Delano implemented a plan which substantially increased the volume of available nursing services. In 1910 she stated:

> The committees, with nearly 1,300 enrolled nurses, are a guarantee to the Nation that neither the stress of calamity nor the turmoil of war will ever again find us totally unprepared.

Under Miss Delano's leadership, the Red Cross Nursing Services grew dramatically over the years. When Americans answered the call to arms during World War I, nearly 20,000 enrolled Red Cross nurses, under the direction of Jane Delano, responded and served.

Today, the Red Cross Nursing Services is a living memorial to this "first lady" of American nursing. Although she was often decorated, she sought neither ribbons nor medals but the love and respect of her fellow nurses. She deservedly earned the unending gratitude and admiration of an entire nation.

SENATE—*Wednesday, March 15, 1972*

The Senate met at 10 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

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

Eternal Father, strong to save, amid the changes of all that is temporal and visible, give us clear eyes and clean minds to discern the shining truth of the eternal and the invisible. May this place with its dome pointing skyward still symbolize to all mankind a people whose eyes of faith are ever turned toward Thee. Help us who labor within its walls to walk and work with hearts attuned to Thy presence. We pray, O Lord, that this Nation may become a spiritual bastion of those irresistible and eternal verities upon which our freedoms were reared and upon which they must rest if we are to remain a great and good and strong people. Help us to do our part according to Thy will.

In Thy holy name, we pray. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 15, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

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

THE JOURNAL

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

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

VACATING OF TIME FOR SENATOR BYRD OF WEST VIRGINIA TO SPEAK TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time allotted to the distinguished assistant majority leader, the Senator from West Virginia (Mr. BYRD), be vacated and that the 15 minutes allowed for the Senator from West Virginia be allocated to the distinguished Senator from Alabama who is now presiding.

The ACTING PRESIDENT pro tempore (Mr. ALLEN). Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

RADIO FREE EUROPE AND RADIO LIBERTY

Mr. SCOTT. Mr. President, I have received a letter from the President of the United States in which he notes the "essential role" of Radio Free Europe and Radio Liberty in the new phase of East-West relations now developing. I ask unanimous consent that the President's letter be printed in the RECORD and commend it to the close attention of my Senate colleagues.

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

THE WHITE HOUSE,
Washington.

Hon. HUGH SCOTT,
Minority Leader
U.S. Senate.

DEAR HUGH: I am deeply concerned by the present impasse in funding for Radio Free Europe and Radio Liberty. It is my considered judgment that these institutions can play an essential role in the reorienting of East-West relations which is now taking place. They must not be allowed to go under.

There are of course differing points of view concerning the way in which these radios

are funded and the role they should play in the future. But differences over these issues need not and must not result in the denial of all Federal funding. Yet this is a very real danger at the present time. If the deadlock is not broken by Monday, March 13, Radio Free Europe and Radio Liberty will have to take major steps toward terminating their operations.

It would appear that the House and Senate conferees are close to agreement on the basic funding question and that the gap between them can be easily bridged without prejudging the final resolution of the other issues. I hope that you will take a special interest in resolving the unhappy impasse so that these two radios will not have to terminate their important missions.

Sincerely,

RICHARD NIXON.

NEED FOR FEDERAL AID FOR MASS TRANSIT SYSTEMS

Mr. SCOTT. Mr. President, the March 11 issue of the New York Times published an editorial on the essential need for Federal aid to our Nation's mass transit systems. I ask unanimous consent that the editorial be printed in the RECORD.

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

FIRST AID FOR MASS TRANSIT

Compared with a Federal farm subsidy of $5.5 billion, a mere $400-million contribution to the operation of the country's mass transit lines may seem too modest to warrant enthusiasm. But that is what the Institute for Rapid Transit estimates to be the annual operating deficit of the nation's bus, subway and commuter lines. And it is what an emergency bill introduced by Representative Koch of New York would have the Federal Government put up in order to stabilize fare structures and save the lines from further deterioration.

The Senate last week voted the subsidy as part of the Housing and Urban Development Act of 1972. Its chances of getting House approval have been enhanced by the formula included in the Koch bill at the urging of the Institute's president, Dr. William J. Ronan, chairman of New York's Metropolitan Transportation Authority. To assure an equitable distribution, avoid the risk of sinking money into a bottomless pit and escape the political risks of choosing between conflicting claims, the funds would be allocated on the simple basis of the number of passengers served. A bus line in a rural area would be entitled to proportionally the same treatment as the New York subway.

The bind in which almost all mass transit lines find themselves is by now familiar. The more they deteriorate, the fewer passengers they attract, the greater their deficit becomes, the higher their fares rise, the more passengers they lose and the further, in turn, they run down—in an ever more depressing cycle.

The Mayor of Cincinnati testified, typically, that the transit line of his city carried 132 million passengers in the late nineteen-forties but only 21 million last year and the number is still dropping. Officials of a St. Louis bus company warned that unless they could count on outside help by the end of this summer, the whole bus system of that city would simply grind to a halt.

Anyone who has waited fifteen or twenty minutes on a dirty New York subway platform for a dirtier train, or ridden a decayed commuter coach into the city—annoyingly late and maddeningly overcharged—will sympathize with his Midwestern fellow-sufferers. Mr. Koch's bill deserves support.

THE CITY AND THE SUBURB—A MAIN ISSUE OF THE 1970'S

Mr. SCOTT. Mr. President, I am pleased to call to the attention of my colleagues the address by Robert Dickey III, president of Dravo Corp. of Pittsburgh, Pa. His talk attracted considerable attention and notice by the news media and others. The Pittsburgh Post-Gazette in an editorial characterized it:

Once in a long time a man comes along who courageously and to the point "tells it like it is" so that the speech becomes a milestone in itself.

Bob's talk is a very thoughtful expression of some of the real problems that face the urban-suburban complex. But he went further and suggested some possible resolutions.

I ask unanimous consent that the text of his address be printed in the RECORD.

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

THE CITY AND THE SUBURB . . . A MAIN ISSUE OF THE 1970'S

I'm very pleased to have this opportunity to address the joint meeting of the Economic Club of Pittsburgh and the Pittsburgh Chapter of the American Statistical Association. I thank you for your invitation. Because there may be differences of opinion regarding some of my thoughts and conclusions, I should point out that I am speaking as a private citizen, and that these views are strictly my own, although perhaps shared by others.

I propose to talk today, not about economics, but about an issue—a nationwide problem—one that is going to receive an extraordinary amount of attention over the next decade, in Pittsburgh and elsewhere. The issue is not exactly ignored today, but I am under the impression that many of us may not realize the extent to which it is about to come front-and-center on the national scene.

I refer to the battle that is shaping up between the city and the suburb, the first skirmishes of which are now being fought in the courts.

On one side of this struggle will be those in the city's outlying communities who want certain arrangements to stay as they are: the local taxes they pay; the education of their children; the physical composition of the neighborhood they live in, and the control they have over the kind of people who are allowed to live in their community.

On the other side will be those in the city who seek adjustments to those arrangements. Supporting the city will be federal and state agencies, with their lawyers and technicians carrying court orders and executive rulings in their hands. Some suburban groups, as of now, give every indication that they intend to battle the agencies, courts, lawyers and technicians every step of the way—in the streets if necessary.

You are all familiar with the problems of large American cities; but let me mention some of the major points to serve as background, and to lead us later into a discussion of these things in relation to our own city.

Since 1950, some twenty million people with little education and limited skills, many of them black, have moved from rural areas to the cities. The majority of them moved directly into the inner city slum areas. Federal aid to the cities, in providing welfare benefits and services to these people, has encouraged and subsidized that massive "in-migration" to the cities.

In the same period, some millions of middle-income families, virtually all of them white, have left the cities to take up residence in surrounding suburbs. The 1940 federal guarantee of mortgages, to some degree, contributed to this "out-migration."

For these and other causes, the cities have seen their tax base reduced; the cost and range of their social services substantially increased; their financial and social problems multiplied; racial imbalance developed; economic opportunities for individuals lessened; substandard housing creating new slums; all the elements of the familiar "urban crisis."

The suburbs, with their own goals and problems, accept virtually no responsibility for the viability of the central city, and they pay relatively little to it in the way of taxes, though they do depend on it for jobs and services.

Our own region is a good example. When the City of Pittsburgh enacted a wage tax back in 1954, it included non-residents working in the city. The effectiveness of the move was drastically reduced when the County's boroughs and townships imposed their own wage tax, based on residency and which took precedence over the city's.

As Leland Hazard put it rather vividly some time ago, "Pittsburgh's municipalities snuggle up to Pittsburgh for economic warmth, like little pigs to an old sow, suckling her milk, and they think they can keep on doing it if the sow dies."

While sharing the advantages and services of the city, including a place to work (as a matter of fact, one out of every four jobs in Allegheny County is in downtown Pittsburgh), the typical suburb not only fails to pay its share of the cost, but also denies suburban privileges to many outsiders.

Take the case of housing. Many American suburbs maintain zoning restrictions that effectively prevent low and moderate-income families from leaving the city to live in those suburbs. Restrictive devices, in fact, have excluded the poor, low-income and non-white groups from almost all communities developed in this country since World War II. We may have a full understanding of why and how that has happened, and we may even think it was inevitable; but I don't believe anyone can be proud of it. In any case, we are paying for it now.

The exclusionary devices are largely legal and economic, based on minimum size of lots and restrictions against the lower cost forms of housing: row houses, garden apartments, high-rise apartments and individual units on quarter-acre lots. In eight counties of New Jersey, for example, 82 per cent of the vacant developable land is zoned for lots of not less than one-half acre.

Anatole France once said of French law that, in its equal majesty, it forbids the rich and the poor alike from sleeping under bridges. The suburban zoning laws are equally impartial. They force both rich and poor to build single-family dwellings of at least a given size on lots no smaller than a specified area. The effect, however, is to keep out the poor, the low-income blue-collar worker, the young marrieds, the elderly on fixed incomes, and the black family seeking to better itself and escape the crime and violence of the ghetto. Interestingly enough, in Southwestern Pennsylvania most of those excluded are white; for they make up five-sixths of our poor population, as defined by government standards.

Economic and legal exclusion, of course, is deeply ingrained in custom and is all too often reinforced by discriminatory pricing and by the social pressures exerted on families that move into neighborhoods where they are not welcome. When an effort is made to relax these restrictions, for a special situation, the fear of setting a precedent is generally overriding.

The problem is worsened by the current trend of plants and offices to move to the outer periphery of the cities. Some 70 per

cent of new plant sites are now being located in suburban areas. That means that job opportunities are being decentralized, but the job market is not. If the blue-collar worker is unable for social or economic reasons to live in a suburb near his plant, he must spend additional time and money commuting. More often, the plant is simply not accessible by public transportation but must be reached by car. We too easily assume that every American family has at least one car. But in this part of our state, one-half of the "poor" households do not.

The story of Mahwah, New Jersey, which was reported in a New York Times article last November, is a classic case of workers denied residential access to the suburban community in which they work. The Ford plant there employs 4,200 workers, of whom only about 90 live in Mahwah. The others live in such places as Elizabeth and Newark. It would be hard to believe that the workers preferred to live in Newark, twenty-five miles from their jobs, rather than in Mahwah, where they work.

In any case, Mahwah zoning restrictions effectively exclude most of the Ford plant workers from residency. The plant there is important to, and draws on, a whole metropolitan area, but the local property taxes it pays benefit only residents of Mahwah. In effect, the residents expect taxpayers in other communities to pay for educating the children of those who work in their plant but may not live in their town. Under such advantages, the Mahwah tax rate on industrial property is only 1.55 per cent of value. Newark, which houses and educates the children of nearly 1,000 of the Ford workers, has a business property tax of 7.14 per cent.

As a matter of interest, the Suburban Action Institute, White Plains, New York, has filed complaints with three Federal regulatory agencies against several corporations that plan to move to "exclusionary" suburbs. The complaints charge that, by relocating in communities where their employees cannot enter the housing market, the companies are not only creating conditions of employment discrimination, but are affirmatively aiding it.

It is against this general refusal to admit middle and low-income families that the Federal government and a number of independent groups have begun a campaign that will make headlines in the 1970s. And I believe, the campaign will be pushed no matter who is in the White House.

One reason that it will be pushed is that so many other attempts to alleviate this aspect of the urban crisis have failed. Public housing in the inner city to a large degree is a failure, although Federal housing activity under Mr. Nixon and Mr. Romney has been greatly expanded. Education in the ghetto is as much custodial as it is instructive. Large investment of capital in the slums has produced little. Public welfare is a growing burden. Urban renewal is a failure as far as the ghettos are concerned. The slum areas are, for complex and varied reasons, worse places to live in today, to work in, to bring up children in, than they were a decade or two ago.

Recognizing these failures and shortcomings, those responsible for analyzing and implementing social remedies, in the Federal agencies, in the programs financed by the foundations, in the "think tanks," have come to this firm conclusion: The problems of the inner city will never be solved in the inner city, no matter what is done there. Poor people crowded together in a slum, unskilled and without hope of escape, simply create more problems. The crisis of the inner city can be solved, they believe, only by allowing workers to follow the flow of jobs, and by dispersal and blending into larger middle class areas in the surrounding suburbs. Access to reasonable-cost housing is the key both to jobs and to dispersal. It is the key to honest, workable school desegregation.

There is no question but that this is an extremely complex social problem, loaded with emotion and without simple, clear-cut answers. On the one hand are the strong feelings and frustrations of those who are denied and excluded. On the other, the deep concern of those who live in a pleasant, suburban community. They express the fear that the quality of life will deteriorate with an influx of families who are not able or willing to accept the standards of their neighborhood and who could become a burden to the community.

There is no "pat," easy answer. But the fact remains that thousands upon thousands of decent law-abiding people are denied the remedy others have taken of moving to homes in safe, liveable communities. As I mentioned earlier, I am convinced the campaign to correct this situation is going to be one of the principal thrusts of the 1970s. The government is already deeply involved and the involvement is increasing.

Each year, billions of dollars in grants and loans are made available to municipalities for renewal, open land acquisition, water and sewage systems, libraries and other programs. Today there is a growing tendency to attach strings to such money. Secretary Romney of Housing & Urban Development has declared that his department will henceforth favor with federal aid those suburbs that permit the construction of subsidized housing.

The federal government is also now taking punitive action against exclusionary zoning ordinances and other municipal restrictions that are held to violate the Bill of Rights and various Civil Rights and Employment acts.

A judge has ordered the public schools of Richmond (which are 70 per cent black) and those of two suburban counties (90 per cent white) to merge into one metropolitan unit. This is the first and most far-reaching consolidation order ever issued by a federal court seeking to end classroom segregation by breaking down political boundaries.

Attorney General John Mitchell recently filed suit against the community of Black Jack, Missouri, a suburb of St. Louis, that had incorporated and passed zoning legislation to exclude certain types of housing.

Equally important, in addition to the "get tough" attitude of the federal government, municipalities are facing an increasingly hard line attitude from their own states.

Massachusetts has enacted a state zoning law requiring that at least three per cent of every community's vacant land be made available for the construction of low and moderate income housing.

The Pennsylvania Supreme Court held unconstitutional a zoning plan that had the effect of excluding apartments in an entire township.

There is no question that a drive is under way to open the suburbs, and that every city and every suburb with exclusionary zoning ordinances should be getting ready to meet the future with prepared plans and policies. I believe these changes are inevitable and will come sooner rather than later. A municipality with a prescribed program of action will not only minimize any negative impact but may be in a position to captalize on these changes to the betterment of the entire area.

Now how about Pittsburgh and the metropolitan area surrounding it that makes up Allegheny County? Are these developing forces going to affect us? I don't think there is any question about it, the answer is yes.

We have most of the problems that are generally present in all large urban areas of our country, although in many ways they are of a more manageable nature and scale. Certainly, we don't share the size, scope and seriousness of the problems contended with in a New York City.

For one thing, there is no wrenching racial imbalance in Pittsburgh proper. There has been a relatively small exodus of white inhabitants to the suburbs, and there are many fine, sound residential neighborhoods in the city. The black population has remained fairly stable. To be specific, it has risen four per cent in the past ten years, to twenty per cent, and most of it is native to Pittsburgh. By accident of geography, there has been no tidal wave of dispossessed Southern farm workers such as have moved into Baltimore, Philadelphia, New York, Detroit and Chicago.

The city, the county and the whole region have benefitted, moreover, by one of the greatest renewal programs that any American city has ever seen. One that is not limited to the brick and mortar of construction but also includes broad consideration for urban life and for human resources.

It is to be regreted that, for whatever reason, the kind of cooperative relationship that existed between prior city administrations, and the organizations that created and stimulated the Pittsburgh redevelopment, does not exist today.

One major handicap we work under is typically prevalent in many of the country's metropolitan areas. Allegheny County is cut up into many separate, distinct and autonomous governmental units. Although this is essentially one community, with Pittsburgh at its heart, it is fragmentized into 129 cities, boroughs, and townships.

32 of those municipalities have fewer than 2,500 inhabitants each.

20 of them occupy less than one-half square mile of land each—about the size of downtown Pittsburgh.

Only a few of these various units have comprehensive plans for guiding the growth and development of their jurisdictions.

Our problems, of course, are county-wide, or wider. The highways, the rivers, the smoke and the criminals cross administrative lines as though they did not exist. It is difficult and expensive to attack large problems on a piecemeal basis with piecemeal administrative offices, each with limited jurisdiction. In my opinion, this area's problems cannot be attacked effectively on anything less than a county-wide basis. In today's world, each metropolitan area must be treated with the most modern administrative tools, a systems approach, relating all of the inter-acting parts. And that can best be done with some form of merger or consolidation of services between the city and the county.

Such a merger, a proposed Pittsburgh Metropolitan Plan, was submitted to the voters in 1929. I was surprised to learn that 68 per cent approved it then, and that it received a majority vote of 82 of the county's 123 local units. It failed to pass, however, because it did not obtain the required two-thirds vote in certain municipalities.

The metro plan was revived in 1955 with presentation of a four-year, high-level study of governmental services. The study recommended a highly modified form of federation, with stringent protection for municipal home rule; but it never got off the ground.

However, many things have happened in the past seventeen years and there have been a great number of changes. A new situation has developed that gives "consolidation" new significance. Let's look at the evidence.

To begin with, some progress has already been made toward the assumption of services on a county-wide basis. As early as 1940, the City of Pittsburgh gave up its separate assessment of property for taxation and accepted the County's valuation. Not long after, Pittsburgh turned over the institutional care of indigents to the County. Other transfers followed, and County government, which at one time had done little more than collect taxes and look after roads and parks, assumed more and more responsibilities, under what has been called "a metro plan in reverse."

The merger of these functions between the City and County demonstrates that there is a strong force at work—the pressure of economic logic. The steps that have been taken demonstrate that such consolidation can work and, that where applied, it saves money and improves efficiency and services.

There is now county-wide responsibility for public health and, within limits, for sanitary sewage disposal. For smoke control. For aviation facilities. For many welfare services. For traffic planning, crime laboratory, certain aspects of mass transit and others.

County-wide assumption of other functions has been proposed and is being studied through various agencies.

This is a good beginning, but the far greater opportunity for economy, efficiency and improved quality of life lies ahead of us. There are many needs in which there would be almost unanimous agreement that they are at least county-wide in nature and should be administered that way.

Consider, for example, the advantages of a centralized tax collection office at the county level. It would serve all municipalities in the collection of real estate, personal property, income and occupation taxes levied by the county, city, townships, boroughs and school districts. Pennsylvania is one of the few remaining states where taxes are collected by locally elected officers, in the manner of year 1870. A centralized system would eliminate the fees paid to scores of local collectors, fees running from one to five per cent.

Jacksonville, a recent city-county merger, saved $350,000 when it merged its separate tax offices.

Consider the advantages of a coordinated purchasing system administered in a county-wide department of purchasing. Few of the County's municipalities have sound purchasing systems. They can't afford to. Most of their buying is in small quantities and without adequate inspection of the material purchased. And, except in the city and county operations, there is little attempt to standardize and test. Again, referring to Jacksonville, it saved $500,000 by centralized purchasing of police cars alone.

Consider the benefits of county-wide consolidation of police operations. We especially need centralization of police and fire communication systems. Most of the various municipalities and townships communicate with their respective police cars by radio over wave lengths that differ between the various communities and Pittsburgh. With our problems of crime, dope and drug abuse, and rising costs, we simply cannot afford to support duplicate and fragmented police forces in these times.

A case can be made in the same way for county-wide refuse and garbage collection, water supply and distribution, minimum and standardized building codes and regulations and several other services.

You may have noticed that I have discussed these suggestions on the basis of consolidation as contrasted with a complete and total merger, including the elimination of 129 separate political entities. I'm afraid that, although I believe this move is desirable and ultimately inevitable to force the issue at this time would be the kiss of death. Regrettably, in some places, the word "Metropolitanism" just does not conjure up the image of something having "redeeming social value."

Those who have studied and favor county-wide consolidated government, hold strongly to the position that it is possible to have such a government, make major reductions in costs, improve the overall well-being of the area, and still permit the municipalities to retain a certain degree of autonomy.

While reduction in cost and improved efficiency are important benefits of city-county consolidation, government officials and civic leaders of other major cities that have moved in this direction speak of even more important results. They report better race relations, up-graded schools, stabilized taxes, expanded municipal services, better police protection, lower insurance rates, and an economic upsurge. A Business Week article reports that city-suburban clashes have died out, partly because the city no longer has to worry about losing its taxpaying enterprises to the surrounding area. The end of constant bickering between city and county, they say, has brought new business confidence to the central city. It seems to me, we could certainly stand a little less bickering here in Pittsburgh.

It must be clear to you that I have been talking about two different subjects today: the coming federal and state campaign to open the suburbs to low income housing; and the possible merits of city-county consolidation. Actually, the two are so interlaced that they cannot be treated independently or separately.

It is one of the chief functions of suburban governments today to protect its people against the mounting outward pressures of the central city. This situation has given new life to what everyone recognizes as an obsolete nineteenth century administration step. However, as the programs to create housing opportunities beyond the central city expand, the city and the suburbs will find themselves with common problems to which they must find common solutions. With the wall down between them on the basic issue, there will be less reason to continue the present duplication and fragmentation of services that now prevails.

I hold some strong personal convictions on the matters I have discussed today.

I agree with the sociologists and planners who say that the suburbs cannot in good conscience continue to take from the city only its desirable functions and people. The suburbs cannot continue to exclude potential residents on the grounds that they make too little money. They must assume their share of the social welfare task, now being left almost entirely to hard-pressed central cities.

I agree also that the real threat to the existing middle class is the crisis in poverty. None of us can rest in peace or safety until the causes of the festering problems of America's slums are dealt with. Crime and violence cannot be confined to a Hell's Kitchen area as they were fifty years ago. They spread, they affect us, and they must be eliminated.

I believe that we have the resources and the ability to solve these problems. They are essentially internal and they are manageable. This is particularly true in Pittsburgh.

Exactly twenty-five years ago—February, 1947—Fortune magazine wrote this about us:

"Pittsburgh is the test of industrialism everywhere to renew itself, to rebuild upon the gritty ruins of the past a society more equitable, more spacious, more in the human scale."

You know how we met that test. Twelve years later—November, 1959—the magazine of my profession—Engineering News-Record, wrote this:

"Pittsburgh progress is an accomplished fact. And it is more: it is the precedent all America needs to prove that any city worth its salt can find the way to rebuild, to fit itself to the future."

Some of the vision, some of the zing, has gone out of the great Pittsburgh Renaissance. To face new situations and to overcome new problems, we need a rebirth in spirit and a rededication to what we started a quarter of a century ago, but on an even broader scale. I refuse to believe that we cannot join our wills, talents and resources to do this. I feel that we must, that we can, and that we will.

FLORIDA PRIMARY RESULTS

Mr. SCOTT. Mr. President, now that all the palms of Florida—the outstretched palms of Florida, that is—have been crossed and some of the candidates have been double-crossed, and many of our senatorial colleagues from that higher atmosphere than we breathe have discovered that 18 percent can be a matter of rejoicing and 7 percent can lead to serious speculation as to the continuance of their efforts, one wonders whether all their absences from the Senate have really been worth it. I am curious as to whether they needed to go to Florida in the first place. It is a nice place for vacations, but so is Pennsylvania.

Really, it looks to me as though a great deal of effort was wasted. The fellow who made the most noise got the most votes and the fellow who made the most excuses got the least number of votes.

The winner said that he and SHIRLEY CHISHOLM were the only two who thought the same way all over the country. I suppose that is the penalty for ambivalence. The voters like to know what the candidates are for. Just running around, saying you are for quality education "ain't fooling nobody, nohow, nowhere" any more.

Thus, Mr. President, I would suggest to our errant brothers, our peripatetic patriots, that they plod wearily back to the place where the taxpayers labor under the false assumption they are paying them to serve their country. We will welcome them home with open arms. Some of our votes in the Senate are pretty close. None of their votes are close. This is the better place to come, because here is where the action is.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. BYRD of West Virginia). Under the previous order, the distinguished Senator from Alabama (Mr. ALLEN) will now be recognized for not to exceed 15 minutes.

GOVERNOR WALLACE'S VICTORY IN FLORIDA PRIMARY

Mr. ALLEN. Mr. President, I appreciate very much the action of the distinguished majority leader and the distinguished assistant majority leader now occupying the Chair in allowing me time out of the time that has been allotted to the distinguished Senator from West Virginia so that I, too, might comment on the results of the Florida primary.

Mr. President, Governor Wallace of Alabama promised to shake the eyeteeth of the liberals in both parties by his compaign in Florida and by the actions of the voters of Florida in the primary.

I have not had either the opportunity or the inclination to check up here in the Senate on whether Governor Wallace literally kept that promise, whether the eye teeth of the liberals here in the Senate, if they still retain their original eye teeth were in fact shaken up, but it would seem to the junior Senator from Alabama that the results might well have shaken up, at least figuratively speaking,

the eyeteeth of the ultraliberals throughout the entire Nation.

There has been a whole lot of talk about Governor Wallace not even being a Democrat. Well, it looks like the Democrats of Florida thought he was the best Democrat in the race. They had the opportunity to choose from a man who ran for President in 1968 on the Democratic ticket, a man who ran for Vice President on the Democratic ticket, and three distinguished Members of this body who are also said to be Democrats.

As Governor Wallace said, his winning was a great victory for the people of this country. I am very much pleased at Governor Wallace's great victory. I am proud, as I am sure all Alabamians are, that a fellow Alabamian is so highly regarded in our sister State of Florida. He received about 43 percent of the vote, getting more votes than MUSKIE, HUMPHREY, and JACKSON combined—all three great Democratic Members of this body.

Governor Wallace's vote is bound to have a definite impact on the future course of action of the National Democratic Party. Mr. President, in the judgment of the junior Senator from Alabama, it remains to be seen whether this influence is going to be in the direction of moving the Democratic Party toward the center and toward the right from its present left leaning direction or whether it is going to have the result of further polarizing the National Democratic Party as the party of the left. And I am rather afraid that it is going to have the result of helping to polarize the National Democratic Party as the party of the left. It is indeed tragic that the Democratic Party is in the public mind the party of the left.

I congratulate the Governor of Alabama and wish him well in the other primaries in which he is entered. If Governor Wallace does not win the Democratic nomination, he will certainly have considerable influence in deciding who does.

Mr. President, I noticed in the press just a couple of days ago that one of the senatorial candidates for the office of the Presidency—who, I assume, will be here at 12 o'clock to vote on the voter registration by postal card bill—in a large ad said that he had 67 delegates pledged to him and that as a result of those 67 delegates he was the front runner. This was not the man whom the press has from time to time labeled as the front runner.

If the news accounts are accurate, Governor Wallace won 75 delegate votes in yesterday's primary. So, if 67 delegates made the man in the ad the front runner, I assume that 75 votes today would make another man the front runner. So, we have the unusual situation where a man running as a third party candidate only 4 years ago has emerged today as the man who is representing a cause, the cause of returning the Democratic Party to the people. He has been able to become, by virtue of the statistics I have cited, the front runner for the Democratic nomination for the Presidency.

As the distinguished Senator from Pennsylvania pointed out a moment ago, there is probably something in this primary for everyone. Everyone took comfort, at least publicly, from the outcome.

Mayor Lindsay seemed to feel that he won the primary, because he beat the Senator from South Dakota (Mr. McGOVERN).

The Senator from South Dakota (Mr. McGOVERN), I assume, won the primary because he beat Representative SHIRLEY CHISHOLM.

The Senator from Washington (Mr. JACKSON) took comfort from the fact that he beat the Senator from Maine (Mr. MUSKIE).

The Senator from Minnesota (Mr. HUMPHREY) took comfort from the fact that he beat the Senator from Maine and the Senator from Washington.

Mrs. CHISHOLM can take comfort from the fact that she defeated Senator HARTKE, former Senator McCarthy, and Mayor Yorty combined.

The Senator from Maine (Mr. MUSKIE) took comfort from the fact that he beat the Senator from South Dakota (Mr. McGOVERN).

So, Mr. President, this has been a most interesting campaign. And it shows that party lines are disappearing and that people are voting more independently today than ever before.

I am glad to see Governor Wallace seeking the Democratic nomination for the Presidency. I believe that the result in Florida is going to be duplicated in a number of other States.

I want to commend the distinguished Senator from South Dakota (Mr. McGOVERN) for his leadership in reforming the delegate selection process for the National Democratic Party. He is responsible for the fact that the people have the opportunity to elect the delegates and that they are not controlled as much by political machines.

Mr. President, the chief beneficiary of that reform has been the Democratic Governor of the State of Alabama whom the Democrats of Florida said they would prefer to see heading the national ticket in the fall.

Mr. President, the delegate selection process reform has been a great effort. Now that they see that it will benefit a man whom the people want to support, I wonder if they will now reform the reform procedure and get back to the original machine selection of the nominee.

Mr. President, it is a most interesting race. And the straw vote, so to speak, on busing should be most enlightening to the Members of the Senate, because 75 percent of the people of Florida said they would like to see a constitutional amendment that would forbid busing for the purpose of creating a racial balance.

Mr. President, I believe that is the case throughout the country. I hope that the Members of the Senate when the time comes will, on the higher education bill, accede to the position of the House conferees who are directed to stand by their amendments with respect to busing and that the Senate conferees will not insist on the provisions of the Scott-Mansfield amendment which is, of course, a watered-down version of an antibusing proposal.

Mr. President, this election or primary was most enlightening to the country and, I believe, that the Members of the Senate would do well to study the results of this primary. All of us will profit by an analysis of the election returns.

Mr. President, I yield back the remainder of my time.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. BYRD of West Virginia). Under the previous order, there will now be a period for the transaction of routine morning business, with statements therein limited to 3 minutes.

The Senator from Montana is recognized.

THE FLORIDA PRIMARY

Mr. MANSFIELD. Mr. President, I listened with real interest to the remarks of the distinguished Senator from Alabama (Mr. ALLEN). He mentioned the straw vote, so-called, on the referendum which was held in Florida yesterday apart from the votes the various candidates received.

He emphasized the fact that by an overwhelming vote the citizens of Florida indicated their advocacy of a constitutional amendment for facing up to the question of busing.

I believe the percentage vote, if I recall, and I am speaking from memory now, was 74 percent for that suggestion. On the other hand, there was another proposal on the ballot and that had to do with quality education and against a return to the dual segregated school system. Again speaking from memory, if my recollection is correct, that question was approved by 78 percent. So, Mr. President, you have a strong vote for a busing amendment and a strong vote for no return to the dual segregated schools, but, in reality, for quality education.

I hope that everyone is aware of just how long a constitutional amendment might take to face up to this perplexing problem, which is not confined to one area of the country, but relates to all areas; and I hope that it will be kept in mind that a constitutional amendment requires a two-thirds vote in each body and ratification approval by three-fourths of the States, all within a certain period of years.

I think that a constitutional amendment, while it sounds good on the surface, could be looked at as a delaying action, a postponement, and a way to avoid facing up to a situation which must be faced up to now.

Therefore, now that the Florida primary is over and the President has met with his advisers and the group which he selected to study this question of busing, I would hope that the President would give us as expeditiously as possible the benefit of his considered judgment as to what should be done and notify Congress and the American people accordingly.

This is the time, I think, for the President to exercise leadership in this most perplexing and most confusing of all issues which faces this Nation today.

I would express the hope again for reiterative purposes that the President's message would be forthcoming shortly and that Congress and the American people would have the benefit of his

judgment based on what he considers to be the way to face up to the issue which confronts all of us in all parts of the country today.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 3 minutes.

Mr. ALLEN. Mr. President, I concur with the opinions and statements of the distinguished majority leader with respect to the desirability and the need for the President to come forward at once with his recommendation with regard to the limitation or the ending of the practice of busing for the purpose of obtaining a racial balance.

As a matter of fact, we would have welcomed his help and his recommendations back when the Griffin amendment was before the Senate, an amendment which lost by a one-vote margin.

Now, with respect to the matter of the constitutional amendment, I agree that if the matter can be handled by statute that is the preferable way to handle it; failing in that a constitutional amendment should be pushed and should be submitted to the States.

I expressed the hope that the Senate conferees would agree with the House on their statutory amendments on the higher education bill that would put some reasonable limitations on busing for the purpose of achieving racial balance.

Now, on the second matter on the Florida ballot that the distinguished majority leader referred to, and that is equal educational opportunity for all, of course, I endorse that position the same as I endorse the position of eliminating busing for achieving racial balance. There is no inconsistency. Apparently the people of Florida thought there was no inconsistency between the two.

Yes, have equal educational opportunity for all. Yes, have the opportunity for everyone to attend a well-equipped school, with a good faculty. Yes, give everyone the opportunity of having a quality education. But do not accomplish that by assignments for achieving a racial balance which, of course, then result in busing for achieving a racial balance. I do not feel there is any inconsistency whatsoever between the 78-percent vote in favor of quality education for all and the 74 percent vote which would have supported the constitutional amendment for the purpose of ending busing.

The matter of the constitutional amendment was not the important question in Florida. The important question was ending busing, by whatever method that can be achieved.

Mr. President, the Florida results are interesting. I believe the Senate will profit by analyzing those results.

I yield the floor.

QUORUM CALL

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs:

S. 3353. An original bill to provide for the striking of medals in commemoration of the First United States International Transportation Exposition (Rept. No. 92–692). Considered and passed.

By Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs, with an amendment:

S. 3166. A bill to amend the Small Business Act (Rept. No. 92–693).

By Mr. CHURCH, from the Committee on Foreign Relations, with an amendment:

S. Con. Res. 55. Concurrent resolution providing for the recognition of Bangladesh (Rept. No. 92–694).

GRANTS TO RADIO FREE EUROPE AND RADIO LIBERTY—CONFERENCE REPORT (S. REPT. NO. 92–691)

Mr. AIKEN, from the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 18) to amend the U.S. Information and Educational Exchange Act of 1948 to provide assistance to Radio Free Europe and Radio Liberty, submitted a report thereon, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs:

O. Louis Olsson, of Connecticut, to be a member of the National Credit Union Board.

By Mr. HANSEN, from the Committee on Interior and Insular Affairs:

Jack O. Horton, of Wyoming, to be a member of the Joint Federal-State Land Use Planning Commission for Alaska.

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. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs:

S. 3353. A bill to provide for the striking of medals in commemoration of the First United States International Transportation Exposition. Considered and passed.

By Mr. MILLER:

S. 3354. A bill to amend the Commodity Exchange Act, as amended. Referred to the Committee on Agriculture and Forestry.

By Mr. DOLE (for himself and Mr. BROCK):

S. 3355. A bill to authorize the payment of a death gratuity to the survivors of certain members of the Armed Forces who have been in a missing in action status and subsequently determined to have died during a period when no Government life insurance program was in effect for active duty personnel. Referred to the Committee on Armed Services.

By Mr. GRAVEL:

S. 3356. A bill for the relief of Beatriz Vizcarra. Referred to the Committee on the Judiciary.

By Mr. MONDALE (for himself and Mr. YOUNG):

S. 3357. A bill to provide price support for milk at not less than 85 percent of the parity price therefor. Referred to the Committee on Agriculture and Forestry.

By Mr. STEVENS:

S. 3358. A bill to prohibit the use of certain small vessels in U.S. fisheries. Referred to the Committee on Commerce.

By Mr. STEVENS (for himself and Mr. TOWER):

S. 3359. A bill to raise the present level of grades for U. S. Deputy Marshals. Referred to the Committee on the Judiciary.

By Mr. TOWER:

S. 3360. A bill to amend title 37 of the United States Code to provide an incentive plan for participation in the Ready Reserve. Referred to the Committee on Armed Services.

By Mr. PEARSON:

S. 3361. A bill to provide a group life insurance program for State and local government public safety officers and to provide benefits for survivors of officers who are killed in line of duty. Referred to the Committee on the Judiciary.

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

S. 3362. A bill to establish the Seal Beach National Wildlife Refuge. Referred to the Committee on Commerce.

By Mr. HUMPHREY:

S. 3363. A bill to make an assault on or murder of a State or local policeman, fireman, or prison guard a Federal offense. Referred to the Committee on the Judiciary.

S. 3364. A bill to amend the Older Americans Act of 1965 to promote and maintain the health of senior citizens through the authorization of a comprehensive program of home health services, and for other purposes. Referred to the Committee on Labor and Public Welfare.

S. 3365. A bill to provide employment opportunities in public service for unemployed persons, to assist States and local communities in providing urgently needed public services; and for other purposes. Referred to the Committee on Labor and Public Welfare.

S. 3366. A bill to allow States and localities more flexibility in funding ground transportation improvements in order to better meet the needs of interstate commerce, and for other purposes. Referred to the Committee on Finance.

By Mr. ALLEN (for himself and Mr. SPARKMAN):

S. 3367. A bill to amend the Wild and Scenic Rivers Act by designating a certain river in the State of Alabama for potential addition to the national wild and scenic rivers system. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MILLER:

S. 3354. A bill to amend the Commodity Exchange Act, as amended. Referred to the Committee on Agriculture and Forestry.

Mr. MILLER. Mr. President, it has been brought to my attention that there has been increasing futures trading in agricultural and forestry commodities which are not subject to Government regulation, and prices to consumers and

losses to investors have caused complaints. In an effort to prevent damage to these investors, I am today introducing legislation which will place futures trading in all agricultural and forestry commodities under the supervision of the Commodity Exchange Authority.

There is no Federal agency that supervises the futures markets in nonregulated commodities. As a result, no one really knows to what extent there are practices in these markets which would be violations of the law if the commodities were regulated under the Commodity Exchange Act. Investigations of nonregulated markets by the Congress or by agencies of the executive branch have been made as a result of high consumer prices.

In 1953 and 1954, there were sharp increases in coffee prices which brought about an investigation by the Federal Trade Commission. Reporting on this investigation, the Commission stated that:

Certain activities on the New York Coffee and Sugar Exchange, in combination with imperfections and restraints in the total coffee market, were important factors in the recent coffee-price spiral.

The need for Federal regulation of these markets to protect the consuming public was recognized by the chairman of the House Subcommittee on Consumer Affairs of the House Committee on Banking and Currency, whose committee studied the coffee and sugar market in depth. The chairman stated in testimony in 1967, that:

Frantic buying and selling of futures by amateurs not connected in any way with the trade—coupled with a tremendous amount of speculation, also, as well as hedging by regular traders—caused chaos in the marketing of these commodities (coffee and sugar)—resulting in wild swings in prices which were reflected in quick order in much higher consumer prices. Both of these episodes (the coffee market in 1953 and 1954 and the sugar market in 1963) could have been prevented, or at least sharply contained, by effective Federal regulation.

The chairman also concluded that:

There is a great deal of important information to show that trading in sugar on this exchange (the New York Coffee and Sugar Exchange) should be brought into regulation.

This view was supported by a Department of Agriculture study which concluded that:

Speculation in sugar futures on the New York Coffee and Sugar Exchange contributed materially to the sharp rise in sugar prices in the spring of 1963.

All of these investigations were conducted a number of years ago. There is no way to know whether the situation in the nonregulated markets has bettered or worsened in recent years.

Since the Commodity Exchange Authority—CEA—cannot investigate anything connected with nonregulated commodities, the only information on these markets comes from the press, persons who file complaints, and investigations of regulated commodity transactions which sometime reveal activity in the nonregulated markets. Information which has come to the attention of CEA convinces them that the need for regulation of these markets is real. This statement is made fully recognizing that the information now available is perhaps no more than the "tip of the iceberg."

The following are examples which illustrate the types of situations which lead to the conclusion that regulation of these markets is necessary in the public interest.

First. An individual in California, operating under a fictitious firm name, held meetings throughout the United States urging the public to invest in the commodity futures markets through his "firm." An investigation by the California authorities revealed that some of the victims who opened accounts with him were given commodities other than those they ordered, and their accounts were traded until all of their money was lost. In other cases, accounts were never opened, and the money deposited by the victims was merely pocketed by the swindler. As a result of these operations, over $1 million was embezzled from 400 individuals. The embezzler carefully avoided regulated commodities, dealing only in nonregulated commodities, principally sugar, cocoa, and silver.

Second. A Pennsylvania brokerage firm recently failed while owing customers $1,300,000 in connection with their trading in nonregulated commodities. The brokerage firm issued false statements to customers, used some customers' money to pay other customers who were clamoring for their profits on what were in most instances nonexistent trades, and converted customers' funds to the personal use of the brokerage firm and its owner.

Third. A New York brokerage firm used its nonregulated commodity customers' money to extend credit to two customers who had losses in excess of $600,000 in the sugar and cocoa markets. The firm subsequently became insolvent and was unable to pay nonregulated commodity customers the $200,000 due them.

Fourth. Another New York brokerage firm lost heavily in its own trading in the metals and cocoa markets and used funds of nonregulated commodity customers to cover these losses. The firm became insolvent and its nonregulated commodity customers lost $1,200,000.

The lack of information concerning trading on the nonregulated markets is also a major problem. Between July 1971 and January 1972, the price of sugar on the New York Coffee and Sugar Exchange almost doubled. Whether this is a situation comparable to the one investigated by the Congress in 1963, no one really knows. It may be that speculation in the futures market is again causing higher prices in the grocery stores. If sugar were a regulated commodity, there would be information from which it could be determined whether such a price rise is the result of changing supply and demand conditions or of excessive speculation or manipulation in the futures market.

A similar situation occurred last year in the lumber and plywood markets. There was great concern in the Government and elsewhere about the high cost of building materials and its effect upon housing. Speculation in the lumber and plywood futures markets was reportedly a contributing factor. Here, again, nobody really knows since there was no information on the trading in these markets from which one could make a judgment.

It is my understanding that many brokers who deal in both regulated and unregulated commodities are extremely interested in having all trading come under regulation. I hope the Congress will act swiftly on this bill.

By Mr. MONDALE (for himself and Mr. YOUNG):

S. 3357. A bill to provide price support for milk at not less than 85 per centum of the parity price therefor. Referred to the Committee on Agriculture and Forestry.

FAIR PRICES TO DAIRY FARMERS

Mr. MONDALE. Mr. President, today I am introducing, with Senator YOUNG, a bill to provide a price support of not less than 85 percent of parity for milk.

Throughout my career, I have felt that the price of milk should be at least 90 percent of parity. I still think that farm prices of at least 90 percent of parity should be the goal of all farm programs.

Dairy farmers want inflation halted. But, despite Government efforts to control inflation in the national economy, these farmers are facing increasing costs. The economic stabilization program is based on an expectation of general increase in U.S. prices amounting to 2.5 to 3 percent and possibly more. This is consistent with wage increases of at least 5.5 percent.

Although dairy farmers continually feel the pressures of a severe cost-price squeeze, they are willing to do their part in controlling inflation. They need fair prices and the very minimum should be 85 percent of parity. Continued price support at that level would only amount to a cost of living adjustment such as the rest of the economy has come to expect.

Mr. President, recently farmers have been under a flurry of criticism because of increasing prices in supermarkets. However, I am convinced that if the entire food production and distribution system of this Nation was analyzed, the family farmer would prove to be the consumer's most vigorous advocate and ally. Farmers are dedicated to production of a wholesome and economical supply of food for all Americans. They have done so admirably and will continue doing so.

Farmers are also consumers. They have to buy several capital inputs to stay in business. And like most of us, they have to pay taxes. All these costs of farming and of living are rising rapidly. A tractor equivalent to one which cost $2,500 in 1949 now costs the farmer $7,500. Since the 1940's, farm prices have not even kept up with increase in farm costs.

There is other evidence which clearly shows that the dairy farmer is the victim, not the villain in the inflationary spiral. Since the 1940's, food retail prices have risen much faster than farm prices. Department of Agriculture figures show that the average retail price for a half gallon of milk averaged 38.7 cents in 1947–49. At the same time, the farm price was 21.7 cents. In January 1972, the retail price of a half gallon of milk averaged 59.5 cents and the farm value

was 29.9 cents. Thus, the farm to retail price spread has risen from 17 cents in the 1947–49 period to 29.6 cents today. While the farm price of milk has risen only 8.2 cents, the retail price has increased by 20.8 cents.

Aside from the needs of dairy farmers for fair returns in payment for their remarkable productivity, there are several economic factors which build a strong case for a dairy price support at 85 percent of parity at this time.

On March 25, 1971, former Secretary Hardin announced a price level of $4.93 per hundredweight for milk of average butterfat content for the marketing year beginning April 1, 1971 and ending March 31, 1972. When the price was set at $4.93 last year, that was 85 percent of parity. But since then that figure has slipped to 79.4 percent of parity. To get the price support back to 85 percent of parity now would require a price of $5.25. Again I emphasize that to farmers this is not a big raise. It is only a cost of living adjustment.

During the course of the 1971–72 marketing year, dairy farmers' production and living costs increased substantially. The index of prices paid by farmers for goods and services, interest, taxes and wage rates—based on 1910–14=100—rose from 407 in April 1971 to 420 in January 1972.

Before the Secretary announced the 85-percent-support level last year, several strong economic arguments were voiced against an increase in price support. From a supply and demand standpoint, some people feared that an increase in price support would cause increased milk production and burdening inventories. That was a genuine and reasonable concern. But, in fact, milk production has increased only by 1 percent during the 1971–72 marketing year. Furthermore, on a per capita basis, production held very close to that of the 1970–71 marketing year.

Marketings by farmers showed a moderate increase in 1971–72, but commercial market sales also increased. During the 1971–72 marketing year, CCC purchases of butter and nonfat dry milk will be lower than for the previous marketing year. Cheese purchases thus far have been higher. Most cheese purchases, however, were made on a bid basis for the school lunch program.

U.S. milk production reached a peak in 1964 when it totaled 127 billion pounds. It has declined since then. In 1971, milk production was 118.6 billion pounds—up slightly from 1970 but representing no increase on a per capita basis.

For 25 years the number of dairy farms has been diminishing. In 1945, milk or cream was being marketed from about 2.3 million farms. Now, the number is less than 400,000 farms. Also, the number of milk cows has decreased to the lowest point recorded in this Nation. Therefore, there is not a serious threat of burdening inventories being built up.

Government inventories will be low when the marketing year closes March 31, 1972. On January 31, 1972, USDA had stocks of only 37 million pounds of butter, 2 million pounds of cheese and a million pounds of nonfat dry milk. These included supplies being packaged for specific program uses. CCC purchases during this marketing year have represented a needed source of dairy products for important Government food programs. Purchases of several commodities, such as cheese for the school lunch program, would have been needed even without the price support program.

The number of children in schools and the number of persons participating in Government programs is expected to be substantially higher during the coming marketing year. These factors will increase the requirement for dairy products, particularly cheese and nonfat dry milk.

The importance of dairy products in the diet has been repeatedly recognized by the Congress. The national school lunch program, the special milk program for children, supplemental feeding programs for the armed services and Veterans' Administration hospitals are among the many important and worthwhile food programs to which Congress has appropriated funds.

Milk production should be encouraged to meet these program needs and the requirements of the U.S. population which is growing at a rate of some 2.5 million persons per year.

I would like to call attention to the fact that the cost of the price support program for 1971–72 will be substantially less than for the 1970–71 marketing year. This is due to a reduction in the purchases of butter and nonfat dry milk. Also, it is largely due to sales of 140 million pounds of butter into export markets. These exports relieved the United States of excess butterfat which is necessarily produced in the process of providing the Nation a sufficient supply of milk solids—not fat. Such sales also will favorably affect the U.S. balance of payments.

Mr. President, it is unfortunate that farmers, a group whose incomes have been caught in the equivalent of a wage-price freeze for over 20 years, now face threats of ceilings that would hold their incomes from equalizing with the other segments of the economy. I believe that we must continue to work vigorously in Congress to increase farm prices to a fair level. I will continue to urge the Department of Agriculture to fully utilize its authority to achieve that goal. We must not allow any farm prices to drop to a lower percentage of parity while the rest of the economy continues to expand. The purpose of our efforts to adjust the milk price support back to 85 percent of parity is to hold dairy prices in line with the general economy.

I invite other Senators to join in cosponsorship of this vital measure.

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

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

S. 3357

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446), as amended, is further amended by adding the following new subsection:

"(d) Notwithstanding the foregoing provisions of this Section, effective for the periods beginning April 1, 1972, and on the first day of each calendar quarter thereafter, and ending on March 31, 1973, the price of milk shall be supported at not less than 85 per centum of the parity price therefor."

MILK PRODUCTION

	Billion pounds
Year:	
1964	127.0
1965	124.2
1966	119.9
1967	118.9
1968	117.2
1969	116.8
1970	117.4
1971	118.6

PRICE-SUPPORT LEVEL

Marketing year	Percent parity equivalent [1]	Support level per hundredweight	Increase (cents)
1967–68	87	$4.00	0
1968–69	89	4.28	+.28
1969–70	83	4.28	0
1970–71	85	4.66	+.38
1971–72	85	4.93	+.27

[1] Beginning of marketing year.

DAIRY PRODUCT PURCHASES

[In millions of pounds]

Marketing year	Butter	Cheese	Nonfat dry milk
1967–68	246.6	175.4	633.6
1968–69	186.4	69.0	555.9
1969–70	182.3	31.0	357.6
1970–71	305.4	56.8	452.3
1970–71 (April-December)	187.3	42.9	369.0
1971–72 (April-December)	175.7	76.8	372.9

GOVERNMENT PURCHASE PRICES FOR DAIRY PRODUCTS

[In cents per pound]

Marketing year	Butter	Cheese	Nonfat dry milk
1967–68	66.442	43.75	19.85
1968–69	66.394	47.0	23.35
1969–70	67.596	48.0	23.35
1970–71	69.784	52.0	27.2
1971–72	67.784	54.75	31.7

GOVERNMENT STOCKS OF DAIRY PRODUCTS

[In millions of pounds]

Marketing year	Butter	Cheese	Nonfat dry milk
1967–68	128.2	53.8	306.3
1968–69	72.9	27.7	201.9
1969–70	44.6	.....	91.7
1970–71	166.7	8.5	20.7
1970–71 (April–January 15)	48.0	1.3	21.8
1971–72 (April–January 15)	31.6	6.8	1.5

COST OF PRICE SUPPORT PURCHASES

	Net support purchases (millions)
Year beginning July 1:	
1967–68	$357.1
1968–69	268.8
1969–70	168.6
1970–71	315.4

PRICE PROJECTIONS

[USDA estimates that the parity equivalent price for manufacturing milk as of the beginning of the 1972-73 marketing year (Apr. 1, 1972) will be $6.23 per 100 pounds. Based on this, the following are their estimates of certain parity price percentages]

	Estimatee price
Percent of parity:	
80	$4.98
85	5.30
90	5.61

INDEX OF PRICES PAID BY FARMERS FOR COMMODITIES AND SERVICES, INTEREST, TAXES, AND WAGE RATES, APRIL 1971–JANUARY 1972

Month	Index (1910–14=100)
April 1971	407
May	410
June	412
July	410
August	412
September	413
October	414
November	415
December	416
January 1972	420

By Mr. STEVENS:

S. 3358. A bill to prohibit the use of certain small vessels in U.S. fisheries. Referred to the Committee on Commerce.

Mr. STEVENS. Mr. President, I am today introducing a bill to prohibit the use of certain small vessels in the fisheries of the United States. This bill will amend section 5 of Public Law 88–308, approved May 20, 1964—16 U.S.C. 1085. It will define "vessel of the United States" to exclude a vessel of less than 5 tons if such vessel was constructed outside the United States and cannot be used in the fisheries of the country in which it was constructed.

This legislation is necessary to correct a problem of great concern to many fishermen in southeast Alaska. As the enclosed letters from Alaska State Representative Mike Miller of Juneau and Messrs. Jim Beaton and Bruce Lewis—see exhibits 1 and 2—indicate, the Alaska fishing industry is faced with an overentry of Canadian vessels into our already crowded fishery. Canada has instituted a gear limitation program under which boats are being purchased by the Canadian Government and retired from the Canadian fishing industry. These vessels are then resold at auction to non-Canadians, particularly Alaskans. This year alone, 350 such vessels are to go on the auction block. One term of the sale is that the boats can never again be utilized in the Canadian fishing industry. Because the United States has no such stipulation, many Americans are presently buying these boats at a very small percentage—30 to 50 percent—of their actual worth and entering our own industry with them. This does not permit an orderly management program and is a great problem to the many career fishermen of our State.

As I shall indicate in some detail in a minute, the U.S. maritime laws presently prohibit the entry of such boats over 5 tons; however, a vast portion of these boats are smaller than 5 tons net. This then is the problem the bill is designed to correct.

Section 1 of Public Law 88–308, approved May 20, 1964—16 U.S.C. 1081—states that it is unlawful for any vessel, "except a vessel of the United States" to engage in the fisheries within the territorial waters of the United States. However, the Bureau of Customs, the agency which is in charge of the documenting of American vessels, has held in Treasury Decision 56382(6) contained in Bureau letter dated February 26, 1965—attached as exhibit 3—that the legislative history of Public Law 88–308 indicates no intention on the part of Congress to disturb the administrative practice, followed at least since 1940, permitting vessels of less than 5 net tons, whether built in the United States or in a foreign country, and whether owned by U.S. citizens or by alien residents in the United States, to engage in the American fisheries including such fishing operations within the U.S. territorial waters. Therefore, even though a strict interpretation of section 1 would seem to preclude all vessels not documented under the laws of the United States, including vessels of less than 5 net tons, which are ineligible for documentation because of their small size, from engaging in the American fisheries, the legislative history of that particular statute will not sustain such a literal interpretation of the statute.

Because this administrative interpretation is of such weight and of such precedent, I am informed legislation is necessary to correct the situation.

Mr. President, for this reason, I offer this bill. I request that it be printed in its entirety in the CONGRESSIONAL RECORD at this point and that exhibits 1, 2, and 3 be included as well.

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

S. 3358

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act entitled "An Act to prohibit fishing in the territorial waters of the United States and in certain other areas by vessels other than vessels of the United States and by persons in charge of such vessels", approved May 20, 1964 (16 U.S.C. 1085), is amended by inserting at the end thereof the following:

"(e) As used in this Act, the term 'vessel of the United States' does not include a vessel of less than five tons if such vessel was constructed outside the United States and cannot be used in the fisheries of the country in which it was constructed."

EXHIBIT 1

ALASKA HOUSE OF REPRESENTATIVES,
February 15, 1972.

Hon. TED STEVENS,
U.S. Senate,
Washington, D.C.
Hon. MIKE GRAVEL,
U.S. Senate,
Washington, D.C.
Hon. NICK BEGICH,
House of Representatives,
Washington, D.C.

DEAR TED, MIKE, AND NICK: In recent months a situation has developed which I believe bears scrutiny, both at the federal and state level. This is a new policy by the British Columbia government of removing gear from their fisheries by means of purchasing Canadian boats then "dumping" them on the market with the provision that such boats are not to be used again in the *Canadian* fishery.

These boats, I am told, are purchased from the fishermen for full market value and are being resold in a series of auctions at prices as low as 30 to 50 percent of value.

From the Canadian viewpoint, this is a pretty realistic program. Like us, they have too much gear in the water and they know it. They are taking this step to eliminate some excess gear.

The problem for us arises from the fact that while these boats cannot ever again be used to fish in Canada, they can and will be used to fish in Alaska. The feeling among a large number of our fishermen is that any arrangement which will result in more gear coming into Alaskan waters is an undesirable arrangement. They fear that the availability of a large number of commercial fishing boats at extremely cheap prices could very well have this effect.

I am not sure what the solution should be. Possibly, it should be along the lines of prohibiting the commercial use in American waters of boats that have been banned in foreign waters. The Department of Fish and Game, at my request, has requested copies of the Canadian regulations plus data on this program. I will forward this material to you as soon as it is available. In the meantime, I wanted you to be aware of the concern which exists over this situation.

Best personal regards.

Sincerely,

MIKE MILLER,
Representative, District 4 (Juneau).

P.S.—Ted, I believe—if I interpreted your remarks before the legislature correctly—that you are already aware of this situation and are working on it. We appreciate your interest and hope that something can be done about this problem before it gets to be one of major proportions.

SOUTHEAST GILLNET FEDERATION,
Juneau, Alaska.

Senator TED STEVENS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR STEVENS: It has been brought to our attention that a situation is developing that will be very detrimental to the fishery's resource of Alaska.

The primary problem of the Alaska salmon industry is the over entry of vessels into this already crowded fishery. The Canadians with a similar problem have taken positive action through legislation and are now instituting a gear limitation program whereby boats are being bought by the government and retired from their overcrowded fishery. In this way the fishery can be more orderly managed from a conservation standpoint and more important from the human standpoint those remaining in the fishery can make a decent living. This gives you a very brief background of the problem and what is happening, now comes the punch line.

The Canadians are stipulating that these boats can never be used in the Canadian fishery again as a term of the sale (auction). However, we have no such stipulation, therefore Americans are buying these boats at thirty cents on the dollar entering them in our already overcrowded fishery thereby in essence solving the Canadians initial problem, finding them a continuance of this program and compounding the management of our already huge salmon fleet. Of course the Jones Act stops boats over five tons but a vast segment of the combination gillnet troll fleet is under five tons net. Already numerous boats have been sold to Americans from Washington and Southeast Alaska and slated to enter our fishery. Even more traumatic is the fact that 800 more boats are slated to go on the block in the immediate future.

We support you in your endeavours to solve our various fisheries problems such as development of our off shore fleet, continental shelf and jurisdiction limits, but in all honesty this type of legislation while being needed is of little value if we cannot

figure out ways of orderly managing the fisheries we have always had.

For the sake of expediency the foregoing is a very brief summation of our problem. We will be willing to meet with you any time any place and expounding on this or any other problem related to our fisheries with you.

Thanking you in advance,

JIM BEATON,
President.
BRUCE LEWIS,
Secretary-Treasurer.

EXHIBIT 3

FEBRUARY 26, 1965.

Hon. ROY L. PETERSON,
Collector of Customs,
Seattle, Wash.

DEAR MR. PETERSON: Your letters of October 21, 1964, and January 8, 1965, inquire whether foreign-built vessels of less than five net tons may continue to engage in the American fisheries notwithstanding Public Law 88–308, approved May 20, 1964 (sections 1081–1085, title 16, United States Code).

Public Law 88–308 in part provides that it is unlawful for any vessel "except a vessel of the United States" to engage in fishing in United States territorial waters. A strict interpretation of the statute would seem to preclude all vessels not documented as vessels of the United States, including vessels of less than five net tons which are ineligible for documentation because of their size, from engaging in the American fisheries. We find nothing in the language of the statute or in its legislative history, however, which would sustain such an interpretation. The legislative history clearly indicates that it is the intent of the Congress to prohibit "foreign" vessels from engaging in fishing in the proscribed waters, and we believe that for purposes of the statute foreign vessels are vessels of foreign flag or registry, or vessels owned by aliens not resident in the United States.

The Bureau is of the opinion, therefore, that in enacting Public Law 88–308, there was no intent on the part of the Congress to disturb the administrative practice, followed at least since 1940, which permits vessels of less than five net tons, whether built in the United States or of foreign-build, owned by United States citizens or by aliens resident in the United States, to engage in the American fisheries, including such operations in United States territorial waters. Consequently, this practice may continue as heretofore.

The bill H.R. 559 (71st Congress, 1st Session), to which your letter of October 21, 1964, refers, was introduced on January 3, 1941, but failed of enactment.

We are returning the letter which [name withheld] addressed to you on October 19, 1964, for reply directly to him in accordance with the views we have expressed. As he is concerned with the use of a Canadian-built commercial salmon gillnetter of less than five net tons in the Alaska fisheries, we are forwarding a copy of this letter, together with a copy of [name withheld] letter, to the collector of customs at Juneau.

Sincerely yours,

LESTER D. JOHNSON,
Acting Commissioner of Customs.

U.S. BUREAU OF CUSTOMS,
February 16, 1965.

To: The file.

Subject: Vessels of less than 5 net tons in the American fisheries.

R.S. 4311 (46 U.S.C. 251) in part provides that vessels of 20 tons and upwards, enrolled and having a license in force, or vessels of less than 20 tons, which, although not enrolled have a license in force, and no others, shall be deemed vessels of the United States entitled to the privileges of vessels employed in the American fisheries.

It has been the practice of the Bureau of Customs and of the Bureau of Marine Inspection and Navigation, its predecessor agency in the administration of the navigation laws, at least since 1940, however, to permit vessels of less than five net tons, which are ineligible for documentation because of their size, when owned or purchased by residents of the United States, to engage in the American fisheries (Memorandum dated November 5, 1942, Chief Counsel to Commissioner of Customs; undated "memorandum of authorities"; Bureau letters December 6, 1945, 217.3, to collector of customs, Juneau, Alaska; March 12, 1953, to [name withheld]; June 19, 1957, 217.3, to [name withheld]; June 22, 1960, 211.12, to [name withheld]; October 30, 1961, 217.3, to [name withheld].

Public Law 88–308, approved May 20, 1964 (16 U.S.C. 1081–1085), in part provides that it is unlawful, under penalty of forfeiture, for any vessel "except a vessel of the United States" to engage in fishing in United States territorial waters. The collector of customs at Seattle, Washington, under dates of October 21, 1964, and January 8, 1965, has inquired whether this statute precludes a foreign-built vessel of less than 5 net tons from engaging in the American fisheries. Engaging in the American fisheries is deemed to include fishing in the territorial waters of the United States (Bureau letter October 30, 1961, 217.3, to [name withheld]).

A strict interpretation of the statute would seem to preclude all vessels not documented as vessels of the United States, including vessels of less than five net tons, from engaging in the American fisheries. Such an interpretation, contrary to long-established administrative practice, would result in vessels of less than five net tons, even if built in the United States and owned by citizens of the United States, being ineligible to engage in the American fisheries.

The legislative history of Public Law 88–308 (U.S. Code Congressional and Administrative News, 1964, pp. 1243–1258), however, clearly indicates an intent on the part of the Congress to prohibit "foreign" vessels from engaging in the fisheries in the proscribed waters. House Report (Merchant Marine and Fisheries Committee) No. 1356, April 28, 1964, states the purpose of the bill is to make it unlawful for a "foreign" vessel to engage in the fisheries. Under the heading, "What the Bill Does: Section-by-Section-Analysis," the Committee states:

"Section 1 of the bill makes it unlawful for any foreign vessel * * * to engage in the fisheries within the territorial waters of the United States * * *"

The House report and the Senate report (Commerce Committee) No. 500, September 13, 1963, as well, repeatedly refer to an intent to bar "foreign" vessels from the American fisheries. The comments of the Department of the Interior dated February 18, 1964, on the proposed legislation, appended to the House report, include repeated references to "foreign-flag" vessels as barred from the fisheries, and other departmental reports also refer to "foreign" vessels. Nowhere is there any indication that the legislation is designed to apply to vessels of less than five net tons owned or purchased by residents of the United States, the subject of the administrative practice referred to above.

A foreign vessel has been said to be a vessel owned by residents in or sailing under the flag of a foreign nation. This term (a foreign vessel) does not mean a vessel in which foreigners domiciled in the United States have an interest. *The Sally*, 1 Gall. 58, Case No. 12, 257, 21 F. Cases 242, C.C. D. Mass. (1812).

Vessels of less than five net tons owned by citizens of the United States, whether built in the United States or of foreign-build, are not foreign vessels. It is less clear, however, whether vessels of less than five net tons owned by aliens resident in the United States are foreign vessels. Footnote 9 to section 4.3, Customs Regulations, states that every undocumented vessel of five net tons or over owned by an alien, whether or not such alien is a resident of the United States, is a foreign vessel. Bureau letter July 27, 1960, 211.1, to the collector of customs, New York, N.Y., states: "There appears to be no reason for any other or different interpretation merely because the vessel involved may be of less than five net tons". The footnote and letter cited refer to the exemption of a vessel from entry and clearance requirements in certain circumstances.

The administrative practice referred to, which appears even to antedate the Chief Counsel's memorandum of November 5, 1942, does not recognize a distinction, however, in respect to vessels of less than five net tons engaging in the fisheries, between such vessels owned by citizens of the United States and those owned by aliens resident in the United States. The several Bureau decisions referred to do not make such a distinction. Neither, apparently section 4.96(b), Customs Regulations, in stating that * * * no vessel employed in fishing, other than a vessel of the United States or a vessel of less than five net tons "owned in the United States" shall come into a port or place in the United States. In the circumstances, therefore, it does not appear that a vessel of less than five net tons owned by an alien resident in the United States is a foreign vessel within the purview of Public Law 88–308.

It appears that for the purposes of the statute, foreign vessels are vessels of foreign flag or registry, or vessels owned by aliens not resident in the United States. No intent on the part of the Congress is found to disturb the long-continued administrative practice which permits vessels of less than five net tons, whether built in the United States or of foreign-build, owned by United States citizens or by aliens resident in the United States, to engage in the American fisheries. Accordingly, the collector at Seattle should be advised that this practice may continue as heretofore.

By Mr. STEVENS (for himself and Mr. TOWER):

S. 3359. A bill to raise the present level of grades for U.S. deputy marshals. Referred to the Committee on the Judiciary.

Mr. STEVENS. Mr. President, the distinguished Senator from Texas (Mr. TOWER) and I are today introducing a bill which has as its purpose the reclassification and upgrading of U.S. deputy marshals positions. It has been some time since these dedicated public servants within the Justice Department have been upgraded in their classification. We believe that such reclassification is presently necessary in order to meet the needs of the times and to keep pace with other law enforcement officers on all governmental levels, State, local, and national.

This bill provides only that the classification of deputy marshals be raised from the present levels, GS–5 through GS–9, to GS–7 through GS–11—GS–11 will become the journeyman level, which can be reached only after a 2-year period of satisfactory service as a GS–9.

The requirements to become a deputy marshal are stringent. A deputy marshal must enter the service with somewhat different qualifications and experience than candidates for other Federal law enforcement positions. He must have had at least 2 years of general experience. This includes positions requiring him to deal effectively with individuals

or groups in a courteous and tactful manner.

Additionally, the candidate must have had 2 years of specialized experience in such fields as responsible police or law-enforcement work. In such a capacity, he must have demonstrated competence as a law-enforcement officer generally and specifically an ability to make arrests and competence in the use of firearms. In addition, he must demonstrate the ability to exercise tact, courtesy, and effectiveness in dealing with associates, subordinates, and the public in general. A U.S. deputy marshal must also possess and maintain a high standard of physical fitness. He must undergo rigid preemployment examinations, testing both his mental and physical capacities.

Deputy marshals must face many hazards on the job, some even greater than other members of their profession. They must be prepared to make arrests without a warrant, if there is probable cause to believe that a felony has been committed. They are empowered to make arrests for any Federal crime or for any other crime committed in their presence. They serve warrants issued by Federal courts. They transport prisoners to Federal prisons. They seize and dispose of property upon the order of Federal courts. They maintain order in Federal courtrooms. They organize and manage security details for the protection of key figures involved in Federal court cases, even witnesses and dependents.

Deputy marshals serve under the direction of the President and the Attorney General of the United States. They must be prepared at any time to go anywhere they are ordered to enforce the laws of this country and to protect those persons whose lives may be threatened as a result of the enforcement of our Federal laws. In *United States* v. *Krapf*, 285 F.2d 647 (3d Cir. 1961), the Court discussed in detail the nature of the duties of U.S. deputy marshals. It went on to indicate that, in fact, these law enforcement officials could best be described by the term "peace officers."

Mr. President, I think that this statement of the Court best describes the nature of the duties and qualifications of the 2,200 to 2,500 U.S. deputy marshals in this county. We strongly believe that these brave men are deserving, not only of our consideration, but of our assistance in upgrading their positions to compensate them adequately for the risks and skills they must daily display in performing their duties according to Federal laws. In so doing, we do not believe we will be overcompensating them or giving them a break over other Federal peace officers. We will be merely treating them in the same manner that we have treated our Capitol Police and local police forces here in the District of Columbia. For these people, we have provided upgrading and additional benefits in many ways, such as Federal death benefits, hazardous duty pay, and retirement pay. We believe our U.S. deputy marshals deserve no less.

Mr. President, the Senator from Texas (Mr. TOWER) and I am not unmindful that earlier in this Congress we introduced a bill, S. 366, which would increase the minimum grades for U.S. deputy marshals to a lesser degree than this bill. Because in the meantime, it has come to our attention that the provisions of S. 366 may not, in fact, fully compensate these men, we are persuaded that it is necessary to introduce this additional legislation. We are introducing this as an additional bill and not in the nature of a substitute for our original bill because we understand that the Judiciary Committee which has jurisdiction over S. 366 and, we are sure, will also have jurisdiction over this bill we are today introducing, has already requested departmental reports on S. 366. Therefore, in order to expedite consideration of this matter, we are submitting this as an additional bill.

Mr. President, we request our colleagues to respond favorably to the needs of these Federal peace officers who most recently have been called upon to assist in protecting the airlines of our Nation under the sky marshals' laws. We request that the bill be printed in the CONGRESSIONAL RECORD in its entirety at this point.

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

S. 3359

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 552 of title 28 of the United States Code is amended by inserting at the end thereof the following new sentences: "All new appointments to the position of deputy marshal shall be made at the minimum rate of grade 7 of the General Schedule under section 5332 of title 5, United States Code. A deputy marshal so appointed shall be advanced to grade 9 after completion of one year of satisfactory service in grade 7; and to grade 11 after completion of two years of satisfactory service in grade 9."

SEC. 2. Any deputy marshal who was appointed prior to the effective date of this Act shall be converted on the effective date of this Act according to the following schedule:

Prior Grade 6:—immediate conversion to grade 7, step 5, and retention of all time in grade 6 as a credit, not to exceed one year of satisfactory service, toward promotion to grade 9, step 1.

Prior Grade 7:—immediate conversion to grade 9, step 3, and retention of all time served in grade 7 as a credit, not to exceed two years of satisfactory service, toward promotion to grade 11, step 1.

Prior Grade 8:—immediate conversion to grade 11, step 2.

Prior Grade 9:—immediate conversion to grade 12, step 4.

SEC. 3. This Act shall become effective on the first day of the first pay period which begins on or after the date of its enactment.

By Mr. TOWER:

S. 3360. A bill to amend title 37 of the United States Code to provide an incentive plan for participation in the Ready Reserve. Referred to the Committee on Armed Services.

Mr. TOWER. Mr. President, I am introducing today a bill to provide an incentive plan for participation in the Ready Reserve. This bill is an essential step in the achievement of an all-volunteer force, and the maintenance of national security. In the last few years, President Nixon has turned this country from the path of war to one of peace. In the course of that transition, Department of Defense personnel have been reduced by over 1 million men and women. This decrease of about one-third of our active duty forces has resulted in a new defense posture—a smaller, "harder" active duty force capable of dealing with most conflicts short of general, large-scale war. However, these forces are not designed to fight by themselves a major war. They rely heavily on speedy reinforcement by combat-ready units. They rely on the Reserves and the Guard.

Mr. President, today the Reserve components are not ready to meet that challenge; they are not as prepared for war as they should be. Part of the problem in the past has been a lack of modern equipment, and in some areas the proper equipment was not available at all. I am, however, pleased by the program of modernization of Reserve equipment instituted by the Secretary of Defense. For example, in 1971, $726 million worth of equipment was transferred to Reserve ground forces alone. An additional $1.9 billion worth is estimated to become available in fiscal year 1972 and fiscal year 1973. Over $2.5 billion of modern equipment in the course of 3 years is a clear demonstration of the earnestness of the Secretary of Defense in this vow to strengthen the Reserve components. I strongly support these efforts, but this modern weaponry will be of little value without enough well-trained, citizen-soldiers to man it.

At the present time, we face a very serious problem in even maintaining our Guard and Reserve strengths. For 3 months last year, we experienced a no-draft situation roughly comparable to that we can expect in 1973 when the current draft law expires. I say roughly because there did exist the distinct possibility of passage of the draft bill, as in fact happened. Therefore, there still existed some degree of draft pressure as an incentive to enlist in the Guard and Reserve. During that period, waiting lists for enlistment in units were exhausted, and since that period, despite the existence of the draft, Reserve components' strengths, particularly those for the Army, have continued to plummet. As of December 1971, these strengths were 45,000 below the congressionally mandated floor. The Army components alone account for about 30,000 of this shortfall.

Even more disturbing than this, however, is the fact that there is no end in sight. In order to get and retain the quantity and quality of volunteers for the Reserve components, changes will have to be made. Certainly one of them is the modernization of equipment to which I referred. Additionally, we should update the facilities at which our reservists and guardsmen train, expand our recruiting efforts, including those directed at non-prior-service personnel, and, most importantly, liberalize the pay, allowances, and benefits for the Reserves and Guard.

The bill that I introduce today is an important step in that liberalization. Basically, it establishes enlistment and

reenlistment bonuses for the Reserve components. The maximum amount of special pay available to an individual would be $3,300 for successive enlistments. Men enlisting or reenlisting for a 6-year period who possess a critical skill receive a $2,200 bonus. Men without a critical skill would enjoy a $1,100 bonus for a 6-year stay.

Men could also enlist or reenlist for periods of less than 6 years and receive a bonus. Payments would be limited to not more than 10 percent of the appropriate 6-year bonus for the first year, not more than an additional 12 percent for the second, 15 percent for the third, 17 percent for the fourth, and not more than an additional 21 percent for the fifth year. No member could enlist or reenlist for more than 6 years at a time.

This special pay would be payable in lump sum at one time, or in installments, and would be in addition to basic pay, and any other special pay, incentive pay, or allowance to which the man is entitled. The bonuses would be payable for periods of enlistment, reenlistment, or extension of enlistment in the Selected Reserve which, when added to the person's initial period of military service, does not exceed 12 years of military service. As I mentioned before, the maximum total amount payable under the provisions of this bill is $3,300 for successive enlistments.

To qualify for the bonus, each member must:

First, enlist or reenlist in the Selected Reserve in a drill pay status. Members of the Ready Reserve not in a drill pay status would be ineligible; and

Second, perform and progress satisfactorily during the period of service for which he receives special pay. Failing this, he may be ordered by the Secretary concerned to serve on active duty for not more than 24 months or he may refund an amount that corresponds proportionately to the period of unsatisfactory service; and

Third, enlist for a period of at least 3 years if he has never before been a member of the Armed Forces.

In addition, the bill would authorize special pay to enlisted members in the grade E–3 or above who have served on active duty for other than training for at least 2 years or on a combination of active duty for training and for other than training for a period which when added to his period of satisfactory service in the Selected Reserve would qualify him for discharge or transfer from the Selected Reserve. Such men must agree to remain members of the Selected Reserve for not less than 1 year.

I believe the incentive for Reserve service that this bill offers, would provide increased accessions of trained, experienced prior-service personnel in the Reserve components. Retention rates of these personnel have been extremely low in the recent past. This has resulted in high turnover rates, turbulence, shortages of trained NCO's, and high training costs. The Department of Defense has furnished the following data which shows the estimated costs for this bonus system and estimated offsetting savings in training costs:

ESTIMATED COSTS FOR RESERVE BONUS

[Dollars in millions]

	Fiscal year—				
	1973	1974	1975	1976	1977
Army	$66.4	$58.3	$80.1	$112.8	$71.7
Navy	17.6	17.5	18.6	19.2	19.2
Air Force	30.3	27.1	25.1	28.0	22.3
DOD total	114.3	102.9	123.8	160.0	113.2

ESTIMATED TRAINING COSTS SAVINGS

[Dollars in millions]

	Fiscal year—				
	1973	1974	1975	1976	1977
Army	$25.5	$24.6	$22.3	$25.8	$9.1
Navy	2.2	2.5	3.1	3.7	4.1
Air Force	7.1	6.1	5.2	6.1	3.7
DOD total	34.8	33.2	30.6	35.6	16.9
Net DOD costs	79.5	69.7	93.2	124.4	96.3

Mr. President, I urge most careful consideration of this measure I am introducing today, and request unanimous consent that my 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. 3360

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that Chapter 5 of title 37, United States Code, is amended as follows:

(1) by adding the following new section at the end thereof: "313. Special Pay: Participation in the Selected Reserve of the Ready Reserve."; and

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

"313. *Special Pay: Participation in the Selected Reserve of the Ready Reserve*

"(a) A person is entitled to special pay computed under subsection (b) of this section if—

"(1)(A) he has not previously been a member of an armed force, a reserve component thereof, or the National Guard; or

"(B) he has served in the armed forces—

"(i) on active duty (other than for training) for at least two years unless sooner released because of a reduction in force; or

"(ii) on active duty (for training and for other than training) for a period which, when added to his period of satisfactory participation in the Selected Reserve, would qualify him for discharge or transfer from the Selected Reserve;

"(2) he is accepted for enlistment, reenlistment, or extension of enlistment in a unit of the Selected Reserve, and if a prior member of the Armed Forces or a Reserve component thereof is in a pay grade above E–2; and

"(3) he agrees to remain a member of the Selected Reserve for a period of not less than—

"(A) three years if he has not previously been a member of an Armed Force, a Reserve component thereof, or the National Guard; or

"(B) one year if he has previously served in the Armed Forces under any of the conditions specified in clause (1)(B) of this subsection.

"(b) The amount of special pay to which a person covered by subsection (a) is entitled is—

"(1) for persons possessing critical military skills as determined by the service concerned, up to $2,200 for a six-year enlistment, reenlistment, or extension of enlistment with payments for lesser enlistment, reenlistment or extension of enlistment periods limited to 10 per centum of the total for one year; 22 per centum of the total for two years; 37 per centum of the total for three years; 54 per centum of the total for four years; or 75 per centum of the total for five years; or

"(2) for persons not covered by clause (1) of this subsection, up to $1,100 for a six-year enlistment, reenlistment or extension of enlistment with payments for lesser enlistment, reenlistment or extension of enlistment periods limited to the same proportionate values as contained in clause (1) of this subsection.

"(c) The enlistment or reenlistment of a person in the Selected Reserve for the purpose of receiving special pay under this section may not exceed a period of six years at one time.

"(d) Special pay authorized under this section—

"(1) may be paid in a lump sum or installments;

"(2) is in addition to basic pay and any other special pay, incentive pay, or allowance to which the person concerned is entitled;

"(3) is payable for any periods of enlistment, reenlistment, or extension of enlistment in a unit of the Selected Reserve which, when added to the person's initial period of military service as required in clause (i) or (ii) of subsection (a)(1)(B) of this section, does not exceed a total period of 12 years military service as computed under section 1332 of title 10; and

"(4) may not be more than the total amount of $3,300.

"(e) Notwithstanding any other provision of law, and regardless of the amount of any previous active duty served by him, a member who voluntarily, or because of his misconduct, does not complete, or does not perform or progress satisfactorily during a period of service for which he received special pay under subsection (b) of this section may be ordered to serve on active duty by the Secretary concerned for a period of not more than 24 months, or he shall refund that percentage of the amount prescribed by subsection (b)(1) of this section which corresponds to the period of unsatisfactory performance or unfulfilled service. If his enlistment or other period of military service would expire before he has served on the required period under this section, it may be extended until he has served the required period.

"(f) This section shall be administered under regulations prescribed by the Secretary of Defense for the Armed Forces under his jurisdiction, and by the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy."

By Mr. PEARSON:

S. 3361. A bill to provide a group life insurance program for State and local government public safety officers and to provide benefits for survivors of officers who are killed in line of duty. Referred to the Committee on the Judiciary.

PUBLIC SAFETY OFFICERS GROUP LIFE INSURANCE AND BENEFITS ACT OF 1972

Mr. PEARSON. Mr. President, all too frequently one may pick up a newspaper and find that someplace in this Nation a public safety officer has been killed or injured while serving our people. While in the past 30 years accidental deaths among workers in the United States have declined, deaths among public safety officers are increasing. The number of law enforcement officers killed has risen dramatically and tragically from 28 in 1960 to 100 in 1970. In the case of firemen, only 58 lost their lives in 1966, but 1970

witnessed 115 fatalities among these brave individuals. Correctional officers also are not immune from these death figures, for in the past 2 years, 18 have been killed.

As legislators, we can lament the rise of the number of casualties in the public safety profession. We can provide money for improved training, equipment, and facilities. But what can we do for the public safety officer and his dependents when that officer is killed or injured while protecting society?

My answer to this is embodied in the legislation I introduce today. The Public Safety Officers' Group Life Insurance and Benefits Act of 1972 will provide life and disability insurance plus a substantial death benefit if the officer is killed in the line of duty. Financial security is thus provided for the families of law enforcement and correctional officers, firemen, including volunteers, and those court officers who come into contact with dangerous individuals.

Title I of this bill provides for a program of federally subsidized group life and disability insurance. The policies purchased will entitle the eligible officer to both life and disability insurance each having a face value of from $10,000 to $32,000 depending upon the officer's annual salary.

Any full-time public safety officer of a State or unit of local government which is participating in the plan would be covered by the insurance unless he elects not to be. Any State or local government not now having such an insurance plan may join this Federal program. If the unit of government already has such a plan, it must take a referendum of its members, who must vote in favor of joining this Federal program before it may do so. However, if the employer wishes to continue its own plan, it may do so and apply for Federal financial assistance for that plan.

The participating employer would deduct from the officer's salary the amount of the premium or it could pay the premium itself. These funds would be conveyed to the Justice Department, along with the Federal Government's share, which would be up to one-third the cost of the program.

Under title II of this act, if any public safety officer employed on a full-time basis by a State or unit of local government dies as a result of his employment, his dependents will be paid a gratuity of $50,000 by the Law Enforcement Assistance Administration. This gratuity would be in addition to any benefits to which he may be entitled under any other law.

Mr. President, present death and disability benefits available to public safety officers are woefully inadequate. Fifteen States and the District of Columbia provide no specific benefits apart from general workmen's compensation laws or general pension plans. Three States provide benefits to firemen alone and six States provide benefits to policemen only. Twenty-six States provide benefits specifically to dependents of firemen or policemen killed in the line of duty or from death resulting from illness caused by their occupation. Most of these States, including my own State of Kansas, provide these benefits in the form of pensions. Kansas has two pension plans, both limited to policemen and firemen. The largest cities may establish their own pension programs or any unit of local government may join a State pension program. In either case, the employee himself provides most of the money for his pension benefits and must purchase his own life insurance.

Mr. President, the bill I introduce today will eliminate this inadequacy of benefits that exists not only in Kansas but in other areas as well. Insurance, as opposed to pension benefits, would be made available to public safety officers employed by the large cities down to the small rural towns. Significantly, this would include not only policemen and firemen, but also volunteer firemen, correctional officers, and certain court officers; groups which are now seldom included in State and local programs for public safety officers. The lump-sum payment for death in the line of duty is also a benefit almost never given by State and local governments.

Besides giving financial security to those persons already in the public safety profession, this bill may aid in the recruitment and retention of more qualified and dedicated personnel. This is especially important in rural areas where local governments are often not able to offer the benefits to their safety officers which can be found in more populous localities.

Mr. President, I maintain that one of the marks of a great society is found in the way it cares for those who protect it. We have the responsibility, indeed the moral obligation, to provide these dedicated people who risk their lives daily not only with modern training and equipment but with modern benefits as well. I therefore urge my colleagues to meet this obligation and join in the support of this bill.

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

S. 3362. A bill to establish the Seal Beach National Wildlife Refuge. Referred to the Committee on Commerce.

Mr. CRANSTON. Mr. President, I introduce for appropriate reference a bill to establish the Seal Beach National Wildlife Refuge within the U.S. Naval Weapons Station, Seal Beach, Calif. I am very pleased that my distinguished colleague from California (Mr. TUNNEY) has joined me as cosponsor of this bill.

The Seal Beach Naval Weapons Station, situated at the entrance of Anaheim Bay, contains one of the last pristine salt water marshes on the southern California coast between San Diego and Morro Bay. The area serves as the feeding and resting place of over 100 species of migratory shore and water birds in the Pacific Flyway. During the migratory season, over 10,500 birds have been spotted there in a single day. The salt marshes also are the natural habitat of three birds on the Department of the Interior's rare and endangered species list, the light-footed clapper rail, the California least tern, and the brown pelican. A fourth bird threatened with extinction, the Belding's savannah sparrow, also is found in the area. Grebes, ducks, herons, egrets, avocets, stilts, sandpipers, and hawks are among the other species know to frequent the salt marshes of the Seal Beach Naval Weapons Station.

Students and faculty from California State College, Long Beach, have identified 61 species of fish in Anaheim Bay and the estuary. These include the California halibut, sandbass, diamond turbot, shiner, perch, stingray, topsmelt, and midshipman.

My bill directs the Secretary of the Interior to determine with the advice and consent of the Secretary of the Navy the boundaries of the wildlife refuge to be established within the United States Naval Weapons Station at Seal Beach. It is the intention of the bill that the boundaries selected by the Secretaries be submitted to the Council on Environmental Quality for review to insure that the wildlife values indeed are fully protected.

Since the area involved already is owned by the Federal Government, there would be no Federal expenditure for land acquisition. The Navy has indicated its support of the establishment of the refuge and has confirmed that designation would not interfere with present Navy use of the property as an ammunition storage area.

While there are a number of producing oil wells within the area I am proposing for refuge designation, there has been no recent drilling activity at the Naval Weapons Station. The Bureau of Sports Fisheries and Wildlife of the Department of the Interior has concluded that there has been no adverse impact from this oil operation on the marsh vegetation and the wildlife. I believe the presence of the wells should not discourage designation or interfere with the administration of the wildlife refuge.

The establishment of the Seal Beach National Wildlife Refuge is vital for the protection of the salt marsh and the wildlife of the area. The refuge is equally important if we are to preserve the total environment of southern California and its coastal waters.

There is strong local support for the establishment of the Seal Beach National Wildlife Refuge. The Orange County Board of Supervisors, the Seal Beach City Council, and the Huntington Beach City Council have endorsed the proposal along with the California Fish and Game Commission.

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

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

S. 3362

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to establish the Seal Beach National Wildlife Refuge (hereafter referred to in this Act as the "refuge") as part of the National Wildlife Refuge System.

SEC. 2. (a) The refuge shall consist of certain lands, to be determined by the Secretary of the Interior with the advice and consent of the Secretary of the Navy, within the United States Naval Weapons Station, Seal Beach, California.

(b) Upon determination of the boundaries of the refuge by the Secretary of the Interior and the Secretary of the Navy the Secretary of the Interior shall immediately designate the area agreed upon as the refuge by publication of a description of such area in the Federal Register.

SEC. 3. The Secretary of the Interior shall administer the refuge in accordance with the provisions of the Act entitled "An Act to provide for the conservation, protection, and propagation of native species of fish and wildlife, including migratory birds, that are threatened with extinction; to consolidate the authorities relating to the administration by the Secretary of the Interior of the National Wildlife Refuge System; and for other purposes", approved October 15, 1966 (16 U.S.C. 668dd et seq.), to the extent that such Act is not inconsistent with the operation of the United States Naval Weapons Station, Seal Beach, California.

By Mr. HUMPHREY:

S. 3363. A bill to make an assault on or murder of a State or local policeman, fireman, or prison guard a Federal offense. Referred to the Committee on the Judiciary.

Mr. HUMPHREY. Mr. President, I am introducing legislation today which would make the crime of murder, or attempted murder, of a policeman, fireman, or penal institution guard a Federal offense. This action is sorely needed and long overdue, for the problem of crime in America, which affects the lives of all of us, has created a crisis situation with respect to the security of public safety officials. We are a nation founded on law. We can never have a lawful and just society when the men charged with safeguarding the public welfare live in constant danger of physical attack. These people put their lives on the line for all of us every day. It is up to this Congress to assure that all that can be done, is indeed done, to assure their safety.

The problem of public safety personnel being put in the position of targets of public and political violence is increasing so rapidly that we can no longer stand back and watch these brave men fall in ever increasing numbers to the agents of lawlessness in our society. In 1961, when John Kennedy was inaugurated President, 37 policemen were killed in the line of duty in the United States. One decade later this figure has tripled to 125, with the rate increasing each year. Specifically, there were 48 policemen killed in 1962, 55 in 1963, 57 in 1964, 53 in 1965, 57 in 1966, 76 in 1967, 64 in 1968, 86 in 1969, 100 in 1970, and 125 in 1971. And in the first month of 1972 alone, 12 police officers were killed in the line of duty. This is obviously an intolerable trend which must be reversed.

During the same period of time that over 700 police officers were slain in the line of duty, 44 firemen met the same fate. And now we find ourselves in the grips of a new problem—the alarming increase in killing of penal institution guards. The deaths of men in these three groups of public safety officials tarnishes our Nation.

The legislation which I am introducing today may be one method which can successfully decrease the number of attacks made on public safety officers in our Nation. Let us remember that before the crime of kidnaping was made a Federal offense, kidnaping had reached catastrophic proportions in the United States, with almost 300 kidnapings alone in 1931. After this heinous crime was made a Federal offense, kidnapings have averaged at 28 per year—a startling reversal. Hopefully, the same kind of reversal might be effected by the threat of FBI investigation of crimes involving attacks on policemen, firemen, and prison guards. The Constitution authorizes us to legislate the public welfare. Certainly the safety of these men whose duty is to safeguard the public welfare, is a constitutionally valid concern. Making these crimes a Federal offense will direct national attention to each of these attacks, and thus may serve to remind criminals or potential criminals of the seriousness of their actions. Thus, for the sake of our brave public safety official, as well as for the sake of law, order, and justice in our society, the legislation which I propose today must be acted upon quickly.

By Mr. HUMPHREY:

S. 3364. A bill to amend the Older Americans Act of 1965 to promote and maintain the health of senior citizens through the authorization of a comprehensive program of home health services, and for other purposes. Referred to the Committee on Labor and Public Welfare.

COMPREHENSIVE HOME HEALTH AND PREVENTIVE MEDICINE ACT

Mr. HUMPHREY. Mr. President, today I am introducing the Comprehensive Home Health and Preventive Medicine Act of 1972, to redress one of the major medical and social problems of the elderly of this Nation—the grievous lack of adequate home health services to aid in preventive medicine and provide the services that are so desperately needed to cope with the special problems that come with aging. I announced my intent to introduce this legislation in Tampa, Fla., on February 29.

In the past 3 years, there has been a net increase of over 1 million people in the United States 65 years of age, and the elderly now comprise approximately 10 percent of our population. The 95 percent of the elderly who live at home could be helped to maintain themselves in reasonably good health through provision of home health services which include assessment of health, health teaching and guidance, prevention of illness, services necessary to maintain or restore health, and when illness occurs, rehabilitation and care in the home.

There are many elderly people who could benefit from the guidance in diet and nutrition, safety precautions and personal health practices which community health agencies provide.

While it was expected that medicare would assure adequate care to individuals 65 and over, what has occurred is that increasingly the regulations have been interpreted to restrict coverage to periods of acute illness and for only limited types of care.

Unfortunately, medicare has perpetuated the problems created by voluntary health insurance programs that traditionally have given the highest priority to hospitalization as a covered cost—an emphasis which has increased both the utilization and costs of hospital care. Under medicare the financial incentive is for hospitalization even though care in the home or in the community would be more appropriate in the case of a great many people. Thus, the total reimbursements for home health services under medicare have decreased from $79 million in 1969 to $50 million in 1971 while hospitalization reimbursements increased from $4 billion to $4.5 billion in 1971.

Mr. President, I ask unanimous consent that the following table be printed into the RECORD.

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

MEDICARE REIMBURSEMENTS FOR HOME HEALTH SERVICES AND IN-PATIENT HOSPITALIZATION

Year	Reimbursements in millions of dollars: Home health	Hospitalization
1969	78.8	4,042.8
1970	67.5	4,433.1
1971 [1]	49.5	4,508.8

[1] Estimated on the basis of data through Nov. 4, 1971.

Source: Social Security Bulletin, February, 1972, vol. 35, No. 2. Department of Health, Education, and Welfare.

Mr. HUMPHREY. Mr. President, the focus has thus been on care of illness at a critical stage rather than the more universal need for services which will prevent illness and maintain people at their highest level of health in their homes and communities. In addition, the Social Security Administration regulations governing medicare have markedly reduced both the numbers of individuals considered eligible for home health care and the amount and types of home health services reimbursable.

There is a great and pressing need for redirection of the health care system from the narrow concept of medical care in institutions during periods of acute illness to one of health care which includes improvement and maintenance of health, prevention of diseases, curative, and rehabilitative services.

Present Federal program curbs on the provision of comprehensive health services for the elderly in their homes and communities should be modified and the focus changed from illness care to health care.

The Comprehensive Home Health and Preventive Medicine Act of 1972, which I am introducing today, would set up a system by which 75 percent of the program in the first year would be borne by the Federal Government, and 25 percent by the States. This balance would be reduced by 5 percent each year, so that at the end of the first 5 years of the program, the Federal and State Governments would be sharing the cost of the program equally.

Home health services, as defined in the bill, include out-of-hospital preventive and therapeutic health services for the purposes of promoting, maintaining or restoring health, and minimizing the effects of illness and disability. Included in the coverage would be prescription

medication, nursing care, dentistry, and nutritional counseling. Audiologists, speech therapists, ophthalmologists, psychiatrists, and psychiatric social workers would be available on a contractual arrangement to meet the special needs of certain elements in the elderly population.

The burden of the costs of medicine, hearing aids, and glasses, which falls especially hard on people with limited earning capacity and fixed incomes, would be covered by the services of this program. Fees would be scheduled on ability to pay.

Let us recall again the great contribution made to this Nation by the elderly. The people who are in their senior years now are the same people that have worked so hard throughout their lives in the building of a better America. They are the people who survived the incredible depression of the late 1920's and 1930's, they are the people who kept the homefront going strong, that kept productivity up to unheralded levels to sustain our Nation through the trial of World War II. These great people have given their lives, blood, and sweat to building a just and equitable America. I think it is now time that this Nation treat them justly and equitably, and allow them to enjoy their senior years, those years of rest and leisure which they have worked so hard to achieve, in dignity and good health.

Mr. President, for the record I would like to add that nothing is more ridiculous, costly, and tied down in bureaucratic redtape than placing an elderly person in the hospital for 3 days in order to get a prescription filled free of charge. This is neither logical nor efficient. It increases the cost of medicare and subjects the program to criticism by placing elderly people in the hospital who do not need to be there and who, therefore, take up additional hospital beds. In the first place, they do not like to be there. It has a psychological effect on the person who is hospitalized, which, in turn, affects their mental health. But above all, it is unnecessary.

The people I refer to in this bill, the older Americans, should be able to get a prescription from the doctor, the community health center, or the outpatient clinic, and be able to get it filled either at these locations or at the local pharmacy of his choice.

I have found in my visits around the country a tremendous interest in this proposed legislation, and I hope it will be looked upon by the Committee on Finance as an appropriate addition to their present medicare program for senior citizens.

The program I advanced also provides counseling, nutrition, and diet services. I have seen instances, in the last few weeks, of elderly victims of malnutrition and undernourishment that are pitiful. I wish all Members of the Senate could see some of these conditions; possibly they have. If more of us would see these conditions I am confident that the conditions would be remedied.

This legislation is of the utmost importance. I shall encourage the Committee on Finance to give it prompt consideration.

Mr. President, I send the bill to the desk and ask that it be appropriately referred; and, I ask that the bill be printed in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

S. 3364

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 "Comprehensive Home Health and Preventive Medicine Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds—

(1) that health care expenditure for the average person over age 65 is 4 times as great as the amount a person under age 65 would pay;

(2) that approximately 67 per centum of health care expenditures of persons over 65 years of age are for institutional care in hospitals and nursing homes;

(3) that federally supplemented health care programs provide only 67 per centum of such costs to persons over age 65;

(4) that the cost of meeting the health care needs of persons over age 65 could be reduced through a vigorous program of home health care services emphasizing early diagnosis and health education;

(5) that approximately 95 per centum of all persons over age 65 are living in households where a program of home health services, could be provided.

(b) It is the purpose of this Act to provide for the establishment and development of home health service agencies to provide home health care services.

DEFINITIONS

SEC. 3. Section 102 of the Older Americans Act of 1965 (79 Stat. 218) is amended by adding at the end thereof the following:

"(5) The term 'home health services' means services which include—

"(A) out-of-hospital preventive care and diagnosis,

"(B) all necessary prescription drugs,

"(C) hearing aids,

"(D) optical supplies,

"(E) speech pathology,

"(F) audiology services,

"(G) nutritional counseling, and

"(H) physical therapy.

"(6) The term 'home health center' means an entity which (A) provides, either directly or indirectly by contract, all necessary home health services for persons over age 65; (B) maintains a staff including, but not limited to, doctors of medicine and dentistry, psychologists and other mental health workers, registered nurses, physicians' assistants and which utilize to the greatest extent possible other allied health personnel; and (C) utilizes community health centers where such centers exist.

"(7) The term 'persons with low income' means those persons with an annual income of no more than $4,000.".

GRANTS FOR HOME HEALTH CARE AGENCIES

SEC. 4. Section 301 of the Older Americans Act of 1965 is amended by inserting the subsection designation "(a)" immediately after "301." and by adding at the end thereof the following new subsection:

"(b) For the purpose of making grants to States consistent with other provisions of this title, for the development of home health agencies, there are authorized to be appropriated $150,000,000 for the fiscal year ending June 30, 1973; $175,000,000 for the fiscal year ending June 30, 1974; $200,000,000 for the fiscal year ending June 30, 1975; $250,000,000 for the fiscal year ending June 30, 1976; and $300,000,000 for the fiscal year ending June 3, 1977.

ALLOTMENTS

SEC. 5. Section 302(c) of the Older Americans Act of 1965 is amended by striking out the second sentence and inserting in lieu thereof the following new sentence: "To the extent permitted by the State's allotment under this section such payments with respect to any project shall equal such percentage of the cost of any project as the State agency may provide but not in excess of 75 per centum of the cost of such project for the first year of such project, 70 per centum of such cost for the second year of such project, 65 per centum of such cost for the third year of such project, 60 per centum of such cost for the fourth year of such project, and 50 per centum of such cost for the fifth year of such project."

LOW INCOME PREFERENCE

SEC. 6. (a) Section 303(a)(7) of the Older Americans Act of 1965 is amended by inserting before the semicolon the following: "except that in the case of projects under section 301(b) a preference shall be granted to a project primarily serving persons with low income".

STANDARDS FOR HOME HEALTH CARE AGENCIES

SEC. 7. Section 701 of the Older Americans Act of 1965 is amended by adding at the end thereof the following new subsection:

"(e) The Committee shall conduct a study and issue a report no later than June 30, 1973, recommending for home health care agencies to be used by State planning agencies for grants under section 301(b)."

EXTENSION OF GRANTS FOR COMMUNITY PLANNING, SERVICES, AND TRAINING

SEC. 8. (a) Section 301 of the Older Americans Act of 1965 is amended by striking out that part of such section preceding paragraph (1) and inserting in lieu thereof the following:

"SEC. 301. The Secretary shall carry out a program of grants to States in accordance with this title. There are authorized to be appropriated to carry out the provisions of this title, such sums as may be necessary.".

(b) Section 703 of such Act is amended to read as follows:

"There are authorized to be appropriated for the purposes of carrying out titles IV and V such sums as are necessary.".

By Mr. HUMPHREY:

S. 3365. A bill to provide employment opportunities in public service for unemployed persons, to assist States and local communities in providing urgently needed public services; and for other purposes. Referred to the Committee on Labor and Public Welfare.

EMPLOYMENT OPPORTUNITIES ACT OF 1972

Mr. HUMPHREY. Mr. President, I introduce for appropriate reference legislation that can enable this Nation to at last launch a decisive advance toward the objective of the Employment Act of 1946, "to promote maximum employment, production, and purchasing power."

It is now clear that the present administration is failing to carry out this national policy. Over 5 million Americans out of work confront the added burden of a continuing rise in consumer prices. America's industrial plant still operates at less than three-fourths of capacity. An estimated 774,000 discouraged Americans have simply dropped out of the labor market altogether—they have given up trying to find a job even though they

want to work. Unemployment among the poor in our cities is well over 10 percent, still higher for blacks, and over three times higher for poor black teenagers in our major cities. For all the rhetoric about administration efforts to create job opportunities for veterans, the harsh reality for over 300,000 Vietnam-era veterans in February was continued joblessness in the Nation they had served. And in January, 37,000 Americans exhausted their unemployment compensation benefits each week. Meanwhile, for the first time since World War II, the United States had suffered a deficit in its balance of trade, amounting to $2.9 billion.

These are the stark facts that point to an overall failure in national economic policies, despite the promises of economic expansion hopefully pointed to by the administration. What Americans see is a post-freeze economic stabilization program that is clouded by confusion, contradiction, and uncertainty. What they need is a comprehensive program to launch a major expansion of the economy.

But what this administration must recognize is that the immediate need across America is for jobs—jobs to restore hope and confidence; jobs to stimulate consumer purchasing power; jobs to enable thousands upon thousands of families to obtain food and clothing, health care, and to rebuild the savings wiped out over 3 years of recession. No longer should we hear administration pronouncements about achieving an acceptable level of unemployment, when the despair and anxiety of unemployment afflicts hundreds of thousands of American families, and when the number of people living in poverty has risen for the first time in a decade, to a level of over 25 million. It is the reality of continuing, extensive joblessness, as well as the constant threat of lay-offs—as in the hard-hit defense and aerospace industries, affecting the professional and the blue-collar worker alike—that have produced a major crisis of confidence among the American people in economic recovery.

The time has now come for the Federal Government to become the employer of first opportunity, to restore the confidence of the people and their hope in America's future.

This is the fundamental, direct purpose of the Employment Opportunities Act of 1972, which I am introducing today. Under this bill, 800,000 new public service jobs can be provided, with an authorization of $3 billion for the remaining months of fiscal 1972, and of $6 billion for each of fiscal years 1973 and 1974. It is intended that this program will supplement the jobs being established under the Emergency Employment Act and the employment opportunities to be generated under welfare program reforms, presently being considered in the Senate—meaning that over 1.2 million Americans will be able to find meaningful work at decent wages in the coming months.

The Employment Opportunities Act is designed to meet great unfilled public needs in such fields as environmental quality, health care, housing and neighborhood improvements, education, public safety, crime prevention and control, correctional and rehabilitation programs, recreation, maintenance of streets, parks, and other public facilities, rural development, transportation, and conservation—in short, jobs with a purpose, and to meet urgent requirements of our communities and States. The number of teachers, nurses, technicians, repairmen, park and recreation workers, policemen, firemen, and jobs in many other occupational fields could be greatly expanded if local communities only had the funds.

The Employment Opportunities Act is direct and to the point. It would firmly establish a national policy to promote maximum employment. And it directs that this policy shall operate on a continuing and sustained basis, on the premise that no level of unemployment can be regarded as acceptable and, therefore, not in need of correction through Federal assistance. And to assure that a maximum effort is made across the Nation to combat joblessness, the bill designates broad categories of eligible public service employers, not distinguishing between communities on the basis of population size, or between public and private nonprofit agencies.

This bill establishes job creation levels that are achievable, assuring adequate supervision, supportive services, and safe working conditions. And it sets a level of authorizations that meets the test of fiscal responsibility. Funds are to be fairly allocated among and within the States on the basis of unemployment levels, but no State shall receive less than $1.5 million in any fiscal year. Every sector of a State's population is to receive equitable consideration in the apportionment of job creation assistance, and the misapplication or discriminatory use of Federal assistance for new public service jobs is prohibited.

The Employment Opportunities Act requires that special consideration will be given to the employment needs of Vietnam-era veterans—a priority that I believe is essential today. And the emphasis throughout this legislation is that, wherever possible, job creation shall lead to advancement or suitable continued employment in either the public or private sector. But the immediate and central goal of this program is the provision of badly needed jobs that are also of critical importance to our communities in their efforts to maintain and improve public services.

As a joint sponsor of other public service manpower legislation before the Senate, I am offering this bill in the belief that this further initiative is required to provide a wider range of national policy options to address the critical employment needs of our Nation. I urge that full consideration be given to the direct approach that I am proposing to confront the major issues of extensive joblessness and totally inadequate economic growth in America.

Mr. President, I ask unanimous consent that the full text of the Employment Opportunities Act of 1972 be printed in the RECORD.

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

S. 3365

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 "Employment Opportunities Act of 1972".

STATEMENT OF FINDINGS AND PURPOSES

SEC. 2. The Congress finds and declares that—

(1) to attain the objective of the Employment Act of 1946 to promote maximum employment, production, and purchasing power, we must assure an opportunity for a gainful, productive job to every American who is seeking work;

(2) there are great unfilled public needs in such fields as environmental quality, health care, housing and neighborhood improvements, education, public safety, crime prevention and control, correctional and rehabilitation programs, recreation, maintenance of streets, parks, and other public facilities, rural development, transportation, beautification, conservation, and other fields of human betterment and public improvement;

(3) to meet the urgent need for greater public services and the equally urgent need for public service employment which will provide meaningful jobs for unemployed persons, it is appropriate public policy to devote substantial resources to providing public service employment opportunities;

(4) expanded work opportunities must keep pace with the increased number of persons in the labor force, including the many young persons who are entering the labor force, persons who have recently been separated from military service, and older persons who desire to remain in, enter or, reenter the labor force;

(5) many of the persons who have been become unemployed as a result of technological changes and shifts in the pattern of Federal expenditures, as in the defense, aerospace, and construction industries, could usefully be employed in providing needed public services;

(6) unemployment severely affects the families of disadvantaged groups in our society, especially the poor and migrants, persons of limited English-speaking ability, and others from socioeconomic backgrounds which have generally experienced high unemployment; and

(7) providing resources for public service employment for unemployed persons can help as an economic stabilizer both to ease the impact of unemployment for the affected individuals and to reduce the pressures which tend to generate further unemployment.

AUTHORIZED APPROPRIATIONS

SEC. 3. For the purpose of carrying out this Act, there are authorized to be appropriated $3,000,000,000 for the fiscal year ending June 30, 1972, and $6,000,000,000 each for the fiscal year ending June 30, 1973, and for the fiscal year ending June 30, 1974.

FINANCIAL ASSISTANCE

SEC. 4. (a) The Secretary of Labor shall enter into arrangements with public service employers in accordance with the provisions of this Act in order to make financial assistance available for the purpose of providing employment opportunities for unemployed persons in jobs providing needed public services.

(b) Financial assistance shall be provided under this Act pursuant to applications sub-

mitted by eligible public service employers, which shall be—

(1) States;

(2) cities, counties, and other units of general local government;

(3) local educational agencies and community colleges;

(4) other public or private nonprofit agencies and institutions, and institutions of the Federal Government, which operate facilities and programs providing public services.

APPLICATIONS

SEC. 5. (a) An application for financial assistance for the purpose of carrying out a public service employment program under this Act shall set forth a public service employment program, and related training and manpower services, designed to provide jobs for unemployed persons in providing needed public services in such fields as environmental quality, health care, housing and neighborhood improvements, education, public safety, crime prevention and control, correctional and rehabilitation programs, recreation, maintenance of streets, parks, and other public facilities, rural development, transportation, beautification, conservation, and other fields of human betterment and public improvement.

(b) An application for financial assistance for a public service employment program under this Act shall include provisions setting forth—

(1) assurances that the activities and services for which assistance is sought under this Act will be administered by or under the supervision of the applicant, identifying any agency or institution designated to carry out such activities or services under such supervision;

(2) a description of the area to be served by such programs, and a plan for effectively serving on an equitable basis the significant segments of the population to be served, including data indicating the number of potential eligible participants and their income and employment status;

(3) assurances that special consideration will be given to the filling of jobs which provide sufficient prospects for advancement or suitable continued employment by providing complementary training and manpower services designed to (A) promote the advancement of participants to employment or training opportunities suitable to the individuals involved, whether in the public or private sector of the economy, (B) provide participants with skills for which there is an anticipated high demand, or (C) provide participants with self-development skills, but nothing contained in this paragraph shall be construed to preclude persons or programs for whom the foregoing goals are not feasible or appropriate;

(4) assurances that special consideration in filling public service jobs will be given to unemployed persons who served in the Armed Forces in Indochina or Korea on or after August 5, 1964, in accordance with criteria established by the Secretary (and who have received other than dishonorable discharges); and that the applicant shall (A) make a special effort to acquaint such individuals with the program, and (B) coordinate efforts on behalf of such persons with those authorized by chapter 41 of title 38, United States Code (relating to Job Counseling and Employment Services for Veterans) or carried out by other public or private organizations or agencies;

(5) assurances that, to the extent feasible, public service jobs shall be provided in occupational fields which are most likely to expand within the public or private sector;

(6) assurances that due consideration be given to persons who have participated in manpower training programs for whom employment oportunities would not be otherwise immediately available;

(7) a description of the methods to be used to recruit, select, and orient participants, including specific eligibility criteria, and programs to prepare the participants for their job responsibilities;

(8) a description of unmet public service needs and a statement of priorities among such needs;

(9) a description of jobs to be filled, a listing of the major kinds of work to be performed and skills to be acquired, and the approximate duration for which participants would be assigned to such jobs;

(10) the wages or salaries to be paid persons employed in public service job under this Act and a comparison with the wages paid for similar public occupations by the same employer;

(11) where appropriate, the education, training, and supportive services (including counseling and health care services) which complement the work performed;

(12) the planning for and training of supervisory personnel in working with participants;

(13) a description of career opportunities and job advancement potentialities for participants;

(14) assurances that agencies and institutions to whom financial assistance will be made available under this Act will undertake analysis of job descriptions and a reevaluation of skill requirements at all levels of employment, including civil service requirements and practices relating thereto, in accordance with regulations promulgated by the Secretary.

(15) assurances that the applicant will, where appropriate, maintain or provide linkages with upgrading and other manpower programs for the purpose of (A) providing those persons employed in public service jobs under this Act who want to pursue work with the employer, in the same or similar work, with opportunities to do so and to find permanent, upwardly mobile careers in that field, and (B) providing those persons so employed, who do not wish to pursue permanent careers in such field, with opportunities to seek, prepare for, and obtain work in other fields;

(16) assurances that all persons employed under any such program, other than necessary technical, supervisory, and administrative personnel, will be selected from among unemployed persons;

(17) assurances that the program will, to the maximum extent feasible, contribute to the elimination of artificial barriers to employment and occupational advancement, including civil service requirements which restrict employment opportunities for the disadvantaged;

(18) such other assurances, arrangements, and conditions, consistent with the provisions of this Act, as the Secretary deems necessary, in accordance with such regulations as he shall prescribe.

APPROVAL OF APPLICATIONS

SEC. 6. An application, or modification or amendment thereof, for financial assistance under this Act shall be approved if the Secretary determines that—

(1) the application meets the requirements set forth in this Act;

(2) the approvable request for funds does not exceed 90 per centum of the cost of carrying out the program proposed in such application, unless the Secretary determines that special circumstances or other provisions of law warrant the waiver of this requirement;

(3) an opportunity has been provided to officials of the appropriate units of general local government to submit comments with respect to the application to the applicant and to the Secretary; and

(4) an opportunity has been provided to the Governor of the State to submit comments with respect to the application to the applicant and to the Secretary.

Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, or services.

ALLOCATION OF FUNDS

SEC. 7. (a) The amounts appropriated under section 3 of this Act for any fiscal year shall be allocated by the Secretary in such a manner that of such amounts—

(1) not less than 80 per centum shall be apportioned among the States in that proportion which the total number of unemployed persons in each such State bears to such total number of such persons, respectively, in the United States, but not less than $1,500,000 shall be apportioned to any State, except that not less than $1,500,000 shall be apportioned among the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands and

(2) the remainder shall be available as the Secretary deems appropriate to carry out the purposes of this Act.

(b) The amount apportioned to each State under clause (1) of subsection (a) shall be apportioned among areas within each such State in that proportion which the total number of unemployed persons in each such area bears to such total number of such persons, respectively, in that State.

(c) As soon as practicable after funds are appropriated to carry out this Act for any fiscal year, the Secretary shall publish in the Federal Register the apportionments required by subsections (a)(1) and (b) of this section.

SPECIAL PROVISIONS

SEC. 8. (a) The Secretary shall not provide financial assistance for any program or activity under this Act unless he determines, in accordance with such regulations as he shall prescribe, that—

(1) the program (A) will result in an increase in employment opportunities over those which would otherwise be available, (B) will not result in the displacement of currently employed workers (including partial displacement such as a reduction in the hours of nonovertime work or wages or employment benefits), (C) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed and (D) will not substitute public service jobs for existing federally assisted jobs;

(2) persons employed in public service jobs under this Act shall be paid wages which shall not be lower than whichever is the highest of (A) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the participant and if he were not exempt under section 13 thereof, (B) the State or local minimum wage for the most nearly comparable covered employment, or (C) the prevailing rates of pay for persons employed in similar public occupations by the same employer;

(3) all persons employed in public service jobs under this Act will be assured of workmen's compensation, health insurance, unemployment insurance, and other benefits at the same levels and to the same extent as other employees of the employer and to working conditions and promotional opportunities neither more nor less favorable than such other employees enjoy;

(4) the provisions of section 2(a)(3) of Public Law 89-286 (relating to health and safety conditions) shall apply to such program or activity;

(5) the program will, to the maximum extent feasible, contribute to the occupational development or upward mobility of individual participants;

(6) every participant shall be advised, prior to entering upon employment, of his rights and benefits in connection with such employment.

(b) Consistent with the provisions of this Act, the Sceretary shall make financial assistance under this Act available in such a manner that, to the extent practicable, public service employment opportunities will be available on an equitable basis in accordance with the purposes of this Act among significant segments of the population of unemployed persons, giving consideration to the relative numbers of unemployed persons in each such segment.

(c) Where a labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under any program for which an application is being developed for submission under this Act, such organization shall be notified and afforded a reasonable period of time in which to make comments to the applicant and to the Secretary.

(d) For programs which provide work and training related to physical improvements, special consideration shall be given to those improvements which will be substantially used by low-income persons and families or which will contribute substantially to amenities or facilities in urban or rural areas having high concentrations or proportions of low-income persons and families.

(e) The Secretary shall prescribe regulations to assure that programs under this Act have adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, and other policies as may be necessary to promote the effective use of funds.

(f) The Secretary may make such grants, contracts, or agreements, establish such procedures, policies, rules, and regulations, and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this Act, as he may deem necessary to carry out the provisions of this Act, including necessary adjustments in payments on account of overpayments or underpayments.

(g) The Secretary shall not provide financial assistance for any program under this Act unless the grant, contract, or agreement with respect thereto specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program participant or any applicant for participation in such program because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(h) The Secretary shall not proivde financial assistance for any program under this Act which involves political activities; and neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be, in any way or to any extent, engaged in the conduct of political activities in contravention of chapter 15 of title 5, United States Code.

DEFINITIONS

SEC. 9. (a) As used in this Act, the term—

(1) "Secretary" means the Secretary of Labor.

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

(3) "public service" includes, but is not limited to, work in such fields as environmental quality, health care, housing and neighborhood improvements, education, public safety, crime prevention and control, correctional and rehabilitation programs, transportation, recreation, maintenance of parks, streets, and other public facilities, rural development, conservation, beautification, and other fields of human betterment and community improvement.

(4) "unemployed persons" means—

(A) persons who are without jobs and who want and are available for work; and

(B) adults who or whose families receive money payments pursuant to a State plan approved under title I, IV, X, or XVI of the Social Security Act (1) who are determined by the Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, to be available for work, and (2) who are either (i) persons without jobs, or (ii) persons working in jobs providing insufficient income to enable such persons and their families to be self-supporting without welfare assistance;

and the determination of whether persons are without jobs shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining persons as unemployed.

By Mr. HUMPHREY:

S. 3366. A bill to allow States and localities more flexibility in funding ground transportation improvements in order to better meet the needs of interstate commerce, and for other purposes. Referred to the Committee on Finance.

HIGHWAY TRUST FUND

Mr. HUMPHREY. Mr. President, I am introducing today the Transportation Systems Improvement Act of 1972, legislation that will utilize moneys from the highway trust fund for the construction of mass transit facilities, the preparation of locally approved comprehensive transportation plans, the operation and maintenance of community streets, and subsidies for presently existing transportation systems.

The Transportation Systems Improvement Act will provide nearly $750 million in additional transportation funds every year. When combined with the regular appropriations for the existing urban system and topics programs, the act will mean over $1 billion for improving, restructuring, and revitalizing our national transportation systems.

At the same time, this legislation provides for the phased completion of the Interstate Highway System to fulfill the promises made in 1956.

Mr. President, the transportation network in the United States suffers three main problems: lack of balance, lack of modal integration, and lack of financing.

Transportation in the United States lacks balance. It is highly skewed in favor of the single family car. Almost all Americans own a car. And Americans possess over one-half of all the cars in the world. The problem, to put it graphically, occurs when one-half of all the cars in the world are concentrated on only 2 percent of the U.S. land surface.

Along with the emphasis on the automobile, there has been a decided government bias in favor of highway construction. Highways have served this Nation well. We have enjoyed a sustained increase in our standards of living partly because we have had the kind of highway system that has been able to move commerce. Yet, we must continually question whether or not this over emphasis on highway construction should remain the predominant thrust of national transportation policy.

We need and must have a balanced transportation system—of vehicular traffic, rapid transit, rail, and water, and air transportation. A balanced transit system will reduce traveltime, increase worker productivity, reduce traffic congestion, reduce total transportation costs, increase property values, and contribute to the improvement of man's living environment.

Transportation in America lacks modular integration. The bus station is separate from the rail station; coordinated between rail arrival and airlines departures is seldom achieved. Waiting time means inconvenience. And a lack of integrating all our modes of transit means a further decline in operating efficiency.

American transportation lacks the financial commitment to have balanced and integrated systems. The needs are great. Estimates are that overall public needs for highway operations, transit facilities, and maintenance alone will run to $35 million for all governments by 1975. Added to this figure is the fact that almost one-half of all buses in the United States need replacement within the next 2 years.

TRANSPORTATION AND OUR PEOPLE

Mr. President, the manner in which this Nation moves its people has a continuing effect on how we are related to our neighbors, where we work, what we do for recreation, and where we live.

America's transportation system is vast. Our air corridors are filled with large and sophisticated planes; our waterways are used to move large quantities of freight; steel rails criss-cross the Nation, and belts of concrete carry people and commerce throughout every State.

Americans travel a great deal. Preliminary estimate of travel for 1971 is over 1.170 billions vehicle miles or a 4.4 percent increase over the 1.121 billions reported for 1970. Ten States—California, New York, Texas, Pennsylvania, Ohio, Illinois, Michigan, Florida, New Jersey, and Indiana reported travel in the excess of 30 billion annual vehicle miles. These ten States accounted for almost 53 percent of all the travel in the Nation. Main rural roads served 36.8 percent of the 1970 travel while the interstate system accounted for about 18.7 percent. In total, the annual miles driven per car rose from 9,969 in 1969 to over 10,000 in 1970. And each car consumed approximately 830 gallons of gasoline in 1970.

Americans bought over 101 billion gallons of motor fuel in 1971—an estimated 5-percent increase over 1970. California, as in the past, has led the States in highway motor fuel consumption with over 9.9 billion gallons.

All of this travel was over 3.73 million

miles of roads and streets under the jurisdiction of the governments in the United States. This figure includes 560,670 miles of municipal roads and streets and over 3,169,422 miles in roads in rural areas. Thus, municipal mileage comprises 15 percent and rural mileage 85 percent of the U.S. total. Table I outlines the total road mileage in the United States in 1970.

I ask unanimous consent that table I be printed in the RECORD.

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

TABLE I.—TOTAL ROAD AND STREET MILEAGE IN THE UNITED STATES—1970, CLASSIFIED BY FEDERAL-AID AND NON-FEDERAL-AID SYSTEMS

State or local road system	Federal-aid highway systems											
	Traveled way Interstate Highway System			Traveled way Federal-aid primary highway system[1]			Traveled way Federal-aid secondary highway system			Total Federal-aid systems	Not on Federal-aid systems	Total
	Rural	Urban	Total	Rural	Urban	Total	Rural	Urban	Total			
State primary highway system:												
Rural	31,421	1,758	33,179	203,990	7,265	211,255	171,655	2,436	174,091	385,346	22,916	408,262
Municipal 5,000 and over	383	5,295	5,678	1,876	22,367	24,243	649	6,263	6,912	31,155	3,749	34,904
Municipal under 5,000	1,088	371	1,459	12,142	718	12,860	8,119	196	8,315	21,175	1,183	22,358
Subtotal	32,892	7,424	40,316	218,008	30,350	248,358	180,423	8,895	189,318	437,676	27,848	465,524
State secondary highway system:												
Rural	52	16	68	2,388	145	2,533	75,519	1,119	76,638	79,171	41,753	120,924
Municipal 5,000 and over	6	70	76	108	678	786	480	1,822	2,302	3,088	4,533	7,621
Municipal under 5,000				157	4	161	1,995	37	2,032	2,193	2,896	5,089
Subtotal	58	86	144	2,653	827	3,480	77,994	2,978	80,972	84,542	49,182	133,634
County roads under State control:												
Rural	49		49	158	5	163	50,011	222	50,233	50,396	101,380	151,776
Municipal 5,000 and over		16	16		85	85		526	526	611	1,359	1,970
Municipal under 5,000				7	1	8	711	4	715	723	1,438	2,161
Subtotal	49	16	65	165	91	256	50,722	752	51,474	51,730	104,177	155,907
Total State highways	32,999	7,526	40,525	220,826	31,268	252,094	309,139	12,625	321,764	573,858	181,207	755,065
County roads	1	6	7	296	40	336	282,740	4,659	287,399	287,735	1,445,246	1,732,981
Town, township and other local	1	4	5	196	9	205	6,228	129	6,357	6,562	535,171	541,733
City streets[2]	1	92	93	428	1,315	1,743	10,706	9,994	20,700	22,443	464,124	486,567
Roads not overlapping State, county, or other local systems:												
State park, forest, and reservation roads	173	17	190	216	257	473	15	14	29	502	22,557	23,059
National park, forest, and reservation roads				250		250	134	2	136	386	187,310	187,696
Toll facilities	1,559	520	2,079	1,585	535	2,120	5		5	2,125	856	2,981
Total existing mileage[3]	34,734	8,165	42,899	223,797	33,424	257,221	608,967	27,423	636,390	893,611	2,836,471	3,730,082

[1] Mileage of Interstate System included.
[2] Municipal extensions of county, town, and township roads included.
[3] Does not include mileage in Puerto Rico.

Note: Mileage as of Dec. 31, 1970 compiled from reports of State authorities.

Source: Department of Transportation.

Mr. HUMPHREY. Mr. President, what has been the impact of this travel and transportation system on American life? First, the shortening of distance has influenced our life style. Families live great distances apart nowdays, knowing full well that they can be reunited in the space of less than a day. Roads have opened corridors of commerce for many of the rural areas; and vast recreation sites have developed for the enjoyment of our people. There has been another trend also—the increasing metropolitization of American life. Today, over 70 percent of our people live on 2 percent of the land. Great cities spread like the arms of an octopus—blending never ceasing ribbons of concrete and homes for miles and miles. Suburban life has been made possible by transportation and the development of highways.

But, our implicit, highway-oriented transportation policy has had serious, unintended social consequences. Our growth has been sporadic and concentrated. New jobs are near the arteries of great thruways, away from the people who desperately need work. And, the slabs of concrete too often have been placed through our cities and neighborhoods with merciless concern—destroying neighborhood communities, and the peace and security of people.

Our efforts at transportation development have given us an increased concern over noise pollution—and this has led the Federal Government to begin programs of noise abatement. Families cannot live in the city without growing extremely dissatisfied about the din of traffic, the honking of horns, the continuous repair of streets—all detract from the quality of life by stifling our senses. In short, the congestion that has enveloped our highways—the traffic, the commuter crisis, the backups, the overcrowded roadways have also become a congestion of mind and of senses.

We have found that it is exceptionally difficult to treat just the transportation problem alone—without thinking of the systematic consequences of our policies. For example, whenever highway right-of-way is obtained, that simple act has ramifications far beyond the mere acquisition of property. For the neighborhood, it means a cutting, a disturbance, a disruption to the lives of people. It means that relocation assistance and payments must be provided to displaced homeowners and renters.

Another example: What kind of impact does a transportation system have on the poor, the elderly, those without automobiles? How often is transportation planning done with an eye toward increasing the employment opportunities for the poor? There is little question that inadequate transportation is numbered among the disadvantages of the poor, and that increased accessibility to jobs could increase the self-sufficiency of the poor. The McCone Commission, investigating the Watts riot, noted:

> Our investigation has brought into clear focus the fact that inadequate and costly public transportation systems currently existing throughout the Los Angeles area seriously restricts the residents of the disadvantaged areas such as South Central Los Angeles. This lack of adequate transportation handicaps them in seeking and holding jobs, attending schools, shopping and fulfilling other needs.

Few of the poor own automobiles. In fact, estimates are that between those whose incomes are less than $3,000, only 53 percent own automobiles. Owning an automobile is expensive; the high initial capital outlay, the upkeep, the insurance—all place a strain on a low-income budget. And when poor people do own cars, they are generally poor cars.

The urban poor are, in short, dependent on public transit. The jobs just are not where the inner city people are. The jobs are dispersed, transit systems are nonexistent, or have declined; and there is a special bias against blacks. If a job of a low-income white worker shifts to the suburbs, he is usually able to follow it by moving to a new residence or relocating near a transit line. The low-income black may not be so fortunate. If his job moves to the suburbs, he may find it difficult to move; or, he may not want to move. People should have the ability to make their choices.

Our transportation problem is clearly more than cars, trucks, buses, and rapid transit. The problem is one of resources and the effective, efficient, planned utilization of those resources. Our transportation systems have suffered a lack of people-centered planning. Our objective now must be to make that planning operational, to link it directly with what the people want, rather than what the system wants. Unfortunately, too often this has not been the history of transportation policy in the United States.

FEDERAL TRANSPORTATION PROGRAMS—HIGHWAYS AND THE CITY

The first venture in road building by the Federal Government was the construction of the National Road to con-

nect Baltimore with Wheeling, W. Va. Initial construction began in 1806 and was complete in 1818. It took almost 100 years for the Federal Government to again become actively involved in roadbuilding. The Federal Air Road Act of 1916 provided for over $75 million to be spent on rural roads with a 50–50 matching. Funds were specifically excluded for roads in any urban center of more than 2,500 population. Legislation in 1921 required the States to designate a system of principal interstate and inter-country roads on which funds would be concentrated; again though, finances were focused on nonurban areas. During the years from 1921 to 1933, matching formulas and regulations were changed to allow funds to be used for the extension of main highways into and through municipalities and cities. The 1940's saw the advent of limited access highways.

In 1956 the Federal Aid Highway Act which included the Highway Revenue Act was enacted. These acts provided for a continuation of the old Federal aid program plus a new program—the Interstate Highway System.

The Interstate Highway System was originally conceived as a 42,000-mile roadway, financed by user taxes on a 90-10 sharing basis with the States. The highway trust fund was created to act as a reservoir of finances; the fund drew revenues from new and accelerated taxes on gasoline, oil, tires, and other related sources.

The Federal Aid Highway Act of 1970 provided for a change in the longstanding 50–50 matching ratio for the regular Federal aid programs. After July 1, 1973, the Federal Government will pay 70 percent of those highway costs. This highway act also established an economic development highways program as a means of promoting economic growth; the Federal Government pays 95 percent of this cost. Also, the act established a new urban highway program with emphasis on bus rightways, authorized a demonstration program for the elimination of rail grade crossings, and established a new replacement program for bridges. The year 1970 also saw the expansion of Federal investment in urban mass transit.

In the 1972 fiscal year, total Federal outlays for transportation will amount to $8.8 billion. Federal highway outlays for the same fiscal year will be nearly $6 billion. Three and a third billion dollars of this money will go toward the Interstate Highway System, approximately $0.7 billion will go for State primary and secondary roads. Altogether, there is less than $400 million budgeted for urban mass transit.

The decade of the 1970's has brought this Nation to a new juncture in American transportation policy.

In the desire for a balanced integrated transportation system, the present emphasis in highway—more specifically the demands of the Interstate System and its earmarked highway trust fund—has come under attack.

What is the status of the system and the fund?

Over 32,392 miles of the 42,500 mile national system of interstate and defense highways are now open to traffic. Construction is underway on another 4,115 miles. Thus, traffic is not moving on some 76 percent of the system; and less than 4 percent has not advanced beyond the preliminary work-up status. Totally, some $45.39 billion has been allocated and paid on the Federal Interstate System since 1956. As of September 30, 1971, work estimated to cost $12.05 billion was underway or authorized.

Currently, expenditures from the fund are averaging approximately $4.7 billion a year, including some $3.4 billion for the interstate highways, and some $1.147 billion for primary, secondary, urban, rural TOPICS, and urban system. Other expenditures from the fund included approximately $100 million for bridge and dam design, transfers to the revolving fund for right-of-way acquisition rail crossing demonstration projects, and highway safety programs. Expenditures from the fund at least for interstate highways are expected to remain between $3.4 and $3.9 billion.

Revenues on the other hand, are accruing at the rate of some $5.7 billion a year, and are estimated by the Treasury Department to reach an estimated $7.3 billion by 1977. The majority of these receipts come directly from the gross excise taxes. It is estimated that at least half of all revenues accruing for the fund will not be needed for completing the Interstate System.

Government figures indicate that in 1970, there was a balance in the fund of $2.612 billion. Of this amount, $2.601 was in holdings of Treasury certificates. Table II indicates these figures. I ask unanimous consent that table II be printed at this point in the RECORD.

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

TABLE II.—STATUS OF HIGHWAY TRUST FUND, ACTUAL FISCAL YEARS 1957–70, AND ESTIMATES 1971–78, UNDER EXISTING LEGISLATION, 15TH REPORT OF THE SECRETARY OF THE TREASURY ON THE HIGHWAY TRUST FUND

[In millions of dollars]

	Receipts								Expenditures					
Fiscal year	Gross excise taxes	Deductions: Transfers [1]	Deductions: Refunds	Net excise taxes	Interest (net)	General fund advances	Repayment of advances (deduct)	Reimbursements from general fund [2]	Total	Interstate highways	Primary, secondary, urban, rural, TOPICS, and urban system [3]	Other [4]	Total	Balance in the fund
Actual:														
1957	1,479			1,479	3				1,482	208	743	15	966	516
1958	2,116		90	2,026	18				2,044	675	809	27	1,511	1,049
1959	2,171		97	2,074	[5] 13				2,087	1,501	839	273	2,613	523
1960	2,642		103	2,539	−3	359	359		2,536	1,861	879	200	2,940	119
1961	2,924		126	2,798	[5] 1	60	60		2,799	1,719	877	23	2,619	299
1962	3,080		131	2,949	7				2,956	1,914	860	10	2,784	471
1963	3,405		126	3,279	14				3,293	2,109	906	2	3,017	747
1964	3,646		127	3,519	20				3,539	2,635	1,004	6	3,645	641
1965	3,786	4	123	3,659	11				3,670	3,016	990	20	4,026	285
1966	4,065	28	120	3,917	[5] 7	70	70		3,924	2,978	937	50	3,965	244
1967	4,684	31	212	4,441	14				4,455	2,976	954	44	3,974	725
1968	4,523	30	114	4,379	34			15	4,428	3,207	947	17	4,171	982
1969	4,889	28	224	4,637	53				9,690	3,149	984	18	4,151	1,521
1970	5,414	28	32	5,354	115				5,469	3,289	1,043	46	4,378	2,612
Estimate:														
1971	5,717	28	119	5,570	180				5,750	3,481	1,147	86	4,714	3,648
1972	5,803	28	116	5,659	245				5,904	3,304	1,301	163	4,768	4,784
1973	6,070	30	116	5,924	285			61	6,270	3,478	1,318	429	5,225	5,829
1974	6,302	31	116	6,155	330			27	6,512	3,802	1,364	582	5,748	6,593
1975	6,520	32	115	6,373	380			24	6,777	3,921	1,383	467	5,771	7,599
1976	6,722	33	114	6,575	440			23	7,038	3,941	1,398	469	5,808	8,829
1977	6,926	34	114	6,778	525			21	7,324	3,535	1,410	491	5,436	10,717
1978 [6]	[7] 2,114	11	84	2,019				103	2,122	3,815	3,713	1,219	[8] 8,747	[9] 4,092
Total	94,998	376	2,519	92,103	2,692	489	489	274	95,069	60,514	25,806	4,657	90,977	4,092

[1] Transfers to the land and water conservation fund in accordance with Public Law 88–578, approved Sept. 3, 1964 (78 Stat. 897).

[2] Reimbursements to the fund for emergency fund expenditures authorized by the 1964 amendments to the Alaska Omnibus Act, the Pacific Northwest Disaster Relief Act of 1965, and the Federal-aid Highway Act of 1966. Expenditures related to these reimbursements are included in "Other" expenditures (see footnote 4).

[3] Assuming authorizations will be extended for fiscal years 1974–78 at the annual rate of $1,100,000,000 for the primary, secondary and urban program; $125,000,000 for the rural program; $100,000,000 for the TOPICS program and $100,000,000 for the urban system program.

[4] Includes emergency relief funds; bridge and dam design and construction funds; advances to States; special $400,000,000 of primary, secondary and urban funds; and $300,000,000 transfer to the right-of-way revolving fund authorized by the Federal-aid Highway Act of 1968. Also includes programs designated for Trust Fund financing by the Federal-aid Highway Act of 1970—forest highways; public lands highways; economic growth center development highways; bridge replacement; Alaskan assistance; rail crossing demonstration projects; Baltimore-Washington Parkway; highway safety programs (23 U.S.C. 402) and highway safety research and development.

[5] Receipts of interest on investments netted by payments of interest on general fund advances of $5,000,000 in 1960, $1,000,000 in 1961, and $1,000,000,000 in 1966.

[6] Through Sept. 30, 1977.

[7] Includes receipts on tax liabilities accrued prior to Oct. 1, 1977, but collected thereafter.

[8] Provides for complete disbursement of all funds authorized for fiscal year 1978 and prior fiscal years including expenditures estimated to occur after Sept. 30, 1977.

[9] Available for additional authorizations including $1,986,000,000 Interstate system cost identified by 1970 Interstate cost estimate for which authorizations have not yet been provided.

Mr. HUMPHREY. Mr. President, at the same time that funds are accumulating in the trust fund. State and local governments are faced with ever pressing transportation needs.

Right now, cities spend $2.28 billion or 9.3 percent of all revenues on transportation—highways, transit facilities, and so forth. This amounts to $19.51 per capita. The needs of our cities are massive; and, these needs continue to increase. In the final analysis, however, the needs are just not of the cities, but they are needs of the people.

The question remains: How will we meet the transportation needs of our people?

One answer is of course, additional and fully funded programs of the Urban Mass Transit Administration. The Nixon administration is impounding millions of transportation funds. Our immediate priority must be to free these funds. And, it is time that the Nixon administration recognized its responsibility and did so.

However, releasing these funds will hardly provide the basis for sound development and growth of a balanced transportation system. What is needed is a source of money, distributed on a direct formula basis with comprehensive people planning incorporated as a legislative directive.

It is to this objective that I have drafted the Transportation Systems Improvement Act of 1971.

As its starting premise, this legislation finds that our existing modes of ground transportation have been funded inadequately and that planning for transportation systems has not adequately considered the environmental, societal, and economic costs of how we move people.

What this legislation does is take stock of past activity, and begin to correct the mistakes. Two mechanisms are established. First, a ground transportation improvement program that provides a system of grants to State and local governments to aid them in maintaining, operating, and making capital improvement to highways and related public transportation services.

Second, it distributes this money according to formula that allocates 90 percent of the money in the highway trust fund not used for the Interstate Highway System among the States as follows: 50 percent to urban places in the State, 25 percent to States on basis of population, and 25 percent on the area of the States.

Those funds that are allocated to urban areas are apportioned directly to them. And, up to 3 percent of an initial allotment may be reimbursed for planning expenses at both the State and local level.

A hold harmless for urban areas is included that will decrease a State's share of Federal funds if that State decreases its support for transportation funding to urban areas.

The main source of funds for this program comes from the changes made in the highway trust fund. Three changes are paramount. First, since current expenditures on the Interstate Highway System average just a little over $3 billion a year, future allocations to the Interstate System are set by law not to exceed $3 billion a year. Second, the matching ratio is changed from 90:10 to 70:30, Federal-State sharing beginning in fiscal year 1973. This change will not necessarily cause any additional expenses for the State. It will likely cause the States to stretch out the development and construction of the system.

In addition, this change in the reimbursement ratio of the Interstate System will match the changes of the 1970 law which increased matching for secondary and primary roads from 50:50 to 70:30. Finally, in the year 1979—fiscal year 1980—the highway trust fund is collapsed into the National Ground Transportation Development Trust Fund, able to receive both allocations formerly part of the highway trust fund and direct appropriations from the Congress.

This legislation also provides that comprehensive State transportation plans must be developed and no money may be expended unless it is spent in accord with the plan. Included in the plan must be transportation systems that are responsive to the needs of the State and its communities as those needs are defined by the State and communities. The plan must assure adequate citizens involvement and participation in the planning process; and local citizen groups must have access to technical assistance in the preparation of planning testimony on alternative modes of transportation or alternative uses for a locality's funds.

The plan must be approved at the local level and by the Governor and not be rejected by the State legislatives. And it must be coordinated with local community development programs and consider the social, economic, and environmental impacts of various alternatives available to solve the transportation problems facing the community.

Mr. President, I believe that this legislation accomplishes three key purposes. First, it puts money into urban areas—areas that need assistance in their transportation systems. It provides money from the highway trust fund for operating subsidies, for construction, for maintenance of streets—in short, for the priorities that the community determines.

Second, this money is returned via a set formula, a formula that allows planning ahead. This formula assures cities and States of money for planning budgets, for letting contracts, and securing building commitments.

Third, the legislation requires that meaningful people-directed comprehensive planning be a part of every transportation decision.

Fourth, the legislation simplifies and streamlines the process for getting funds into areas where they are needed.

Mr. President, I ask that a section-by-section analysis of the bill be printed in the RECORD at this point.

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

SECTION-BY-SECTION ANALYSIS OF S. 3366, TRANSPORTATION SYSTEMS IMPROVEMENT ACT OF 1971

Section 1. *Short name.*—This section provides that the Act may be cited as the "Transportation Systems Improvement Act of 1971."

Section 2. *Findings and declaration of policy.*—Subsection a declares it to be findings of Congress that allocation to various modes of ground transportation has been inequitable; that this inequity has caused decline of certain modes and inappropriate emphasis of other modes; that planning for transportation has not reflected completely environmental, social, and economic costs of facility location and governmental, financial, and developmental resource decisions; that it has adversely affected large segments of the population, and has caused disruption to many communities; that the remedy lies in giving the States more flexibility in making use of Federal assistance; and that providing adequate transportation for travelers, and shippers require that States and communities be able to plan, construct, and maintain ground transportation systems without priorities brought on by Federal funding levels and methods of assistance.

Subsection b declares that the purpose of this Act is to assist in correcting these inequities through the establishment of a ground transportation improvement program in which grants will be made to States and communities to that end; and secondly, to establish a National Ground Transportation Developmental Trust Fund.

Section 3. *Definitions.*—This section defines terms used in the Act.

Section 4. *Trust Fund.*—Subsection a of this section provides for the establishment of the National Ground Transportation Development Trust Fund in the Treasury, to become effective in fiscal year 1980. The trust fund shall consist of money to be either appropriated or credited to the fund as provided by this Act. The amount to be considered available for expenditure is to be the amount in the trust fund on the first day of the fiscal year, and such expenditures shall be made in accordance with the provisions of this Act.

Subsection b provides for the transfer into the trust fund, as of July 1, 1979, of all unspent money designated for Federal aid under any transportation law. Money so transferred shall continue to be subject to the provisions of the law under which it was made available in the first place.

Subsection c provides that after June 30, 1979, receipts from taxes on the following items are to be transferred into the trust fund at least monthly:

Diesel fuel and special motor fuel.
Automobiles, trucks, buses, etc.
Tires, tubes, etc.
Gasoline.
Use of certain vehicles.

Subsection d authorizes appropriations from the Treasury, after June 30, 1979, of any additional amounts needed beyond those received from sources such as the Highway Trust Fund to make expenditures as provided in this Act.

Subsection e directs the Secretary of the Treasury to report to Congress each year by March 1 on the financial condition of the trust fund.

Subsection f directs the Secretary of the Treasury to invest unneeded money in the trust fund in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States. Interest earned through such investment is to be returned to the trust fund. No part of the trust fund is to be used for administrative expenses of the Government agency.

Section 5. *Allocation formula.*—Subsection a provides that for each fiscal year beginning after June 30, 1973, the Secretary of Transportation shall estimate the amount of money available in the Highway Trust Fund and allot 90 percent of it among the States on a formula as follows:

50 percent in the ratio which the population in urban places in each State bears to

the total population of urban places in all States;

25 percent in the ratio which the total population of each State bears to the total population of all States; and

25 percent in the ratio which the area of each State bears to the total area of all States.

No State, however, shall receive less than one-half percent of the total for a given year. Guam and the Virgin Islands shall receive $1 million and $2 million, respectively, for fiscal years 1974 and 1975.

Subsection b provides that the remaining 10 percent shall be available for allotment by the Secretary of Transportation at his discretion, with priority given to assistance in transportation planning, financing research, development, and demonstration projects in ground transportation, and emergency relief repairs needed because of natural disasters.

Subsection c provides that the funds allocated to urban places shall be apportioned directly to local units of government in the ratio of population of the local unit to all such units in the State. In arriving at population data, the populations of smaller units of government contained within the boundaries of larger units shall be subtracted from the population of the larger units. Where a local unit makes no highway or public transportation expenditures, its apportionment shall be reallocated to the unit of State or local government spending the most for transportation services in that community. Up to 3 percent of a State's initial allotment may be for reimbursement for planning expenses.

Subsection d requires the Secretary of Transportation to publish in the Federal Register the amounts apportioned to each State, beginning with fiscal year 1974.

Subsection e provides that when a State reduces its expenditures for ground transportation facilities below the level for the fiscal year immediately preceding the effective date of this Act, the State shall have its allocation reduced by a like amount, unless it can demonstrate that special circumstances warrant.

Subsection f provides that if a State is unable to spend its allotment it shall be returned and redeposited in the Highway Trust Fund.

Section g provides that allocations for Federal aid to ground transportation under this Act shall replace allocations authorized under any other Federal-aid law except the Urban Mass Transportation Act of 1964.

Subsection h provides that after June 30, 1979, allocations shall be made in a manner to be determined by Congress.

Section 6. *Allocations for the Interstate System.*—This section makes available for each year beginning with fiscal year 1973 through 1978 the amount of $3 billion per year, for completion of the Interstate System of Highways. Amounts not allocated under this section by April 1 of the year following the year in which the funds became available shall become subject to allocation under another section (Section 5) of this Act.

After June 30, 1974, the Federal share of projects in the Interstate System will be reduced from 90 percent, as the law now provides, to 70 percent. However, where a State contains public lands and non-taxable Indian lands in excess of 5 percent of its total land, in a ratio of such lands to its total land, the resulting ratio as a percent is to be added to the 70 percent, but not to exceed an aggregate of 95 percent.

Section 7. *Comprehensive State Transportation Plans.* This section provides for the funding of state comprehensive plans. No money for any assistance for any other sections of the legislation may be expended except in accord with the plan.

Section c sets the conditions for the Secretary's approval of the plan. The plan must provide for the development of transportation facilities that are responsive to the needs of the State and its communities, must assure citizens involvement and participation in the planning process, allow citizens groups to secure technical assistance, formulate planning concepts, requires public hearings, must be coordinated with local community development, take into consideration the social, economic, and environmental impact of various alternative modes of transportation, and be approved at the local level, by the Governor, and not be rejected by the State legislature. The Plan must be administered by a single State agency, that monies from the planning fund will be allocated to the communities, that the review process for transportation plans must be continuous, and that Secretary will give reasonable notice and opportunity for hearing before disapproving any state plan.

Section 8. *Records, audits, and reports.*—This section requires the use of adequate fiscal and accounting procedures by the recipients, with access to such records provided to the Secretary of Transportation. Reports must be made to the Secretary as he requires.

Section 9. *Recovery of funds.*—This section provides for procedure to be followed when a State has failed to comply substantially with the provisions of this Act through reference of the matter to the Attorney General of the United States, or notification of the State that is allocation for the same or succeeding year will be reduced by the amount of funds involved.

Section 10. *Rules and regulations.*—This section authorizes the Secretary of Transportation to prescribe necessary rules and regulations to carry out this Act.

Section 11. *Annual report.*—This section directs the Secretary of Transportation to report annually to the President and Congress on this program.

Section 12. *Civil rights.*—Funds allocated under this Act shall be considered to be assistance within the meaning of Title VI of the Civil Rights Act of 1964.

Section 13. *Agreements between the States.*—This section confers Congressional consent to cooperation or agreements between States required to maximize the benefits to be achieved under this Act.

Section 14. *Labor standards.*—This section provides that wages paid for labor shall be at rates not less than prevailing rates for similar work in the locality, in accordance with the Davis-Bacon Act provisions.

Section 15. *Relocation assistance.*—This section provides that no Federal money in addition to funds allocated under this Act shall be provided for relocation purposes for those dispatched by transportation activities assisted by this Act.

Section 16. *Highway safety programs.*—This section makes clear that the highway safety program provided by section 402(a) of title 23, United States Code is not repealed and remains in force.

Section 17. *Effective date.*—This section makes July 1, 1973 the effective date of this Act, but allows the Secretary of Transportation or any State to take necessary action prior to that date.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 738

At the request of Mr. CRANSTON, the Senator from California (Mr. TUNNEY) and the Senator from New York (Mr. JAVITS) were added as cosponsors of S. 738, a bill to amend the Immigration and Nationality Act with respect to the waiver of certain grounds for exclusion and deportation.

S. 2504

At the request of Mr. HUMPHREY, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S. 2504, a bill to amend title XVIII of the Social Security Act to include, among the home health services covered under the insurance program established by part B of such title, nutrition services provided by or under the supervision of a registered dietician.

S. 2729

At the request of Mr. HUMPHREY, the Senator from Washington (Mr. JACKSON) was added as a cosponsor of S. 2729, a bill to provide the establishment and maintenance of reserve supplies of soybeans, corn, grain sorghum, barley, oats, wheat, and dairy and poultry products for national security and to protect domestic consumers against an inadequate supply of such commodities.

S. 2813

At the request of Mr. TOWER, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 2813, a bill to amend the Vocational Rehabilitation Act to provide improved vocational rehabilitation services to individuals.

S. 3044

At the request of Mr. HUMPHREY, the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), the Senator from California (Mr. TUNNEY), the Senator from Illinois (Mr. STEVENSON), the Senator from Kentucky (Mr. COOK), and the Senator from Kansas (Mr. PEARSON) were added as cosponsors of S. 3044, a bill to amend the Civil Rights Act of 1964 in order to prohibit discrimination on the basis of physical or mental handicap in federally assisted programs.

S. 3047

At the request of Mr. MONDALE, the Senator from Alaska (Mr. GRAVEL) and the Senator from Michigan (Mr. GRIFFIN) were added as cosponsors of S. 3047, a bill to amend section 451 of the Tariff Act of 1930 so as to exempt certain private aircraft entering or departing from the United States and Canada at night or on Sunday or a holiday from provisions requiring payment to the United States for overtime services of customs officers and employees and to treat snowmobiles as highway vehicles for the purposes of such section.

S. 3105

At the request of Mr. STENNIS, the Senator from Mississippi (Mr. EASTLAND) was added as a cosponsor of S. 3105, a bill to authorize the Secretary of Agriculture to develop and carry out a forestry incentive program to encourage a higher level of forest resource protection, development, and management by small nonindustrial private and non-Federal public forest landowners, and for other purposes.

S. 3121

At the request of Mr. SCOTT, the Senator from California (Mr. CRANSTON) was

added as a cosponsor of S. 3121, a bill to extend the Commission on Civil Rights for 5 years, to expand the jurisdiction of the Commission to include discrimination because of sex, to authorize appropriations for the Commission, and for other purposes.

S. 3148

At the request of Mr. BAYH, the Senator from Missouri (Mr. EAGLETON), the Senator From Michigan (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Nevada (Mr. BIBLE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Utah (Mr. Moss), the Senator from New Mexico (Mr. MONTOYA), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from Hawaii (Mr. INOUYE), and the Senator from Connecticut (Mr. RIBICOFF), were added as cosponsors of S. 3148, a bill to improve the quality of juvenile justice in the United States and to provide a comprehensive, coordinated approach to the problems of juvenile delinquency, and for other purposes.

S. 3302

At the request of Mr. PEARSON, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 3302, a bill to amend the Airport and Airway Development Act of 1970, in order to make certain airports where the landing area is owned by the United States or an agency thereof eligible for assistance under such acts.

SENATE JOINT RESOLUTION 170

At the request of Mr. BAYH, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of Senate Joint Resolution 170, proposing an amendment to the Constitution of the United States lowering the age requirements for membership in the Houses of Congress.

SENATE JOINT RESOLUTION 208

At the request of Mr. BYRD of West Virginia, the Senator from Maryland (Mr. BEALL) was added as a cosponsor of Senate Joint Resolution 208, authorizing the President to proclaim the first Sunday in June of each year as "National Shut-in Day."

SENATE JOINT RESOLUTION 212

At the request of Mr. CHURCH, the Senator from New Jersey (Mr. WILLIAMS) and the Senator from Illinois (Mr. PERCY) were added as cosponsors of Senate Joint Resolution 212, authorizing the President to call a series of four White House Issue-Oriented Subconferences on Aging.

SENATE RESOLUTION 278—SUBMISSION OF A RESOLUTION AUTHORIZING THE PRINTING AS A SENATE DOCUMENT OF THE REPORT ENTITLED "PROGRESS IN THE PREVENTION AND CONTROL OF AIR POLLUTION"

(Referred to the Committee on Rules and Administration.)

Mr. RANDOLPH submitted the following resolution:

S. RES. 278

Resolved, That the annual report of the Administrator of the Environmental Protection Agency to the Congress of the United States (in compliance with Sec. 313, Public Law 91-604, The Clean Air Act Amendments of 1970) entitled "Progress in the Prevention and Control of Air Pollution" be printed as a Senate document.

SEC. 2. There shall be printed two thousand five hundred additional copies of such document for the use of the Committee on Public Works.

SENATE RESOLUTION 279—SUBMISSION OF A RESOLUTION AUTHORIZING THE PRINTING AS A SENATE DOCUMENT OF THE REPORT ENTITLED "THE ECONOMICS OF CLEAN AIR"

(Referred to the Committee on Rules and Administration.)

Mr. RANDOLPH submitted the following resolution:

S. RES. 279

Resolved, That the annual report of the Administrator of the Environmental Protection Agency, to the Congress of the United States (in compliance with Sec. 312(a), Public Law 91-604, The Clean Air Amendments of 1970), entitled "The Economics of Clean Air", be printed with illustrations as a Senate document.

SEC. 2. There shall be printed two thousand five hundred additional copies of such document for the use of the Committee on Public Works.

MARINE MAMMAL PROTECTION ACT—AMENDMENT

AMENDMENT NO. 1048

(Ordered to be printed and referred to the Committee on Commerce.)

Mr. STEVENS. Mr. President, the Senate Subcommittee on Oceans and Atmosphere is presently holding hearings on ocean mammal legislation.

Many bills are being considered by the subcommittee as they attempt to find various solutions to the problem. Several of the bills, however, such as those introduced by the distinguished Senator from Oklahoma (Mr. HARRIS), take the approach that an outright ban on all ocean mammal harvesting is absolutely necessary.

This approach has caused me considerable concern. These bills will protect the ocean mammals, but in doing so will exterminate the culture and economy of the Alaskan Eskimos.

Many Alaska Natives, particularly Eskimos along the coast, depend upon ocean mammals for their existence. What little cash they are able to obtain in order to have even a marginal existence they are able to earn only through the sale of native crafts, clothing, and art works. These activities are vital for the social and economic welfare of the Alaska Native people.

Mr. President, the way of life of the Alaskan Native is threatened by the proposed legislation. If Congress enacts provisions outlawing all but subsistence hunting by Alaskan Natives, not only will this proud group of Americans have their economic livelihood stripped from them, but they will face the certain fate of cultural extinction.

The Alaska Native people of the coastal regions are the Eskimos. These people have achieved a unique pact with nature. They alone, of all mankind, have been able to survive in the harshest possible climatic conditions. Snow and ice cover the ground much of the year. Thus, travel across the ice is a necessity. Wood is scarce. Boats must be light and built with the materials at hand.

Even with such limitations, the Eskimos have been able to invent the kayak and the umiak. These unique vessels utilize skin and bone rather than bark and wood. The single-seat kayak and the multi-seat umiak are sturdy enough to travel hundreds of miles across open water. Kayaks will right themselves if overturned in storms, while keeping the lower half of the occupant completely dry in the meantime. Single Eskimo hunters, riding kayaks and armed only with harpoons have, for centuries, successfully harvested whales, the mightest creatures on earth.

This is but a single example of the high level of culture reached by the Eskimos in the cruelest environment on the face of the earth. Anthropologists and scholars agree that there is much in the Eskimo culture that will greatly benefit white civilization. For example, the clothing worn by Eskimos out-of-doors and fashioned from ocean mammals is both cold-resistant and waterproof. It effectively seals the wearer from the elements, yet permits him freedom of movement. It is far superior to anything the white man has invented. Our copies are but poor imitations.

It is a well-known fact that the major market for such genuine Eskimo clothing—parkas, pants, and mukluks—native fur boots—is not the tourist, nor the exporter, but other Alaskans. We, white people, in Alaska appreciate these Eskimo improvements and depend upon them, especially in the far northern part of the State. We know that when we must travel to his part of the State, we cannot improve upon the artifacts it has taken the Eskimo centuries to perfect.

To deny the Eskimo the right to manufacture and sell these items will not only create a hardship upon him, but also upon the white people who must live and work in an equally cruel and hostile environment.

Because the land in the far north is frozen much of the year, agriculture is very limited. For this reason, the coastal Natives are very dependent upon sea mammals for much of their food. In fact, many of those Eskimos who now live in the cities have retained their taste for many of these foods. Thus, there is a small but thriving business of canning and preserving sea mammal meat for transshipment to natives throughout Alaska and the "lower 48."

But most Eskimos have not moved to the cities. They still live on the North Pacific and Arctic coastlines. They continue to live basically the same way they have lived for centuries. They have maintained a cherished tradition, a link with the past—a way of life, proud and unbent in the face of modern civilization.

Mr. President, the Alaskan Eskimos for many years prior to the coming of the airplane remained largely isolated from civilization as we know it. Only in the 20th century, particularly in the

last several decades, have these people come into contact with modern civilization. To many of them English is still a second language.

But they are rapidly moving into the 20th century. Snowmobiles have largely replaced dog sleds. Air travel is used for long trips. Short-wave radios are now the primary communication link between villages. Canned goods, manufactured household items, and clothing are readily available. Education is available, as is better health care. Even housing is improving.

But to take advantage of all these modern conveniences, the Alaska Native needs cash. If he is to have the choice to live where his people have dwelt for centuries, he must be permitted to make a living there. He must have the right, not only to hunt for his native food, but to buy a balanced diet including milk and vegetables; clothing; medicine; and building materials for his house. It is, of course, true that eventually the benefits from the Alaska Native Claims Settlement Act (Public Law 92–203) will yield to each Native a certain amount of cash plus some land. However, the land and cash will not be enough to compensate him for the loss of his occupation; nor are they intended to do so. Neither will they give most Natives jobs; nor return to them their lost sense of dignity. Most importantly, any direct payments to individuals will be over 2 years in coming, due to the time it will take to complete the enrollment procedures.

The only industry that the Alaska Native can count on to support himself and his family is one based upon full utilization of the ocean mammals—the same animals which have been the basis of existence for his people for centuries. This is an industry of Native manufacture, handicrafts and carving—wonderfully intricate hand-carved bones and tusks, decorated parkas and boots, completely waterproof and ideally suited for the rugged outdoor life lived in that far part of the world.

Mr. President, if the Native people of my State are denied the right to carve, sew, and utilize fully the entire animal carcass, the result will be truly disasterous. Even marginal cash flow will cease. Their only means of earning a living will be foreclosed to them. They will be forced to remain idle, go on welfare, or relocate. Their priceless cultural heritage will become extinct.

Therefore, even today, the dependence of the Alaska native people upon ocean mammals is a real and continuing one. They are indeed learning the ways of the rest of the world quickly and coming into their own. But during this period of adjustment, it is doubtly important that they be able to continue as they wish and make their own determination of the kind of life they wish to lead.

Mr. President, the Alaskan Eskimo asks for himself no more than any other group in this country. He asks only the right to determine for himself his own destiny.

For this reason, I urge the Senate to reach a reasonable solution to the problem and to take into account not only the biological aspect, but also the sociological and anthropological effects of this legislation. We must not destroy a civilization in the process.

Mr. President, for this reason, I am today introducing an amendment to S. 3161. The purpose of this amendment is to preserve the priceless cultural heritage of the native Alaskans by permitting them to continue to produce handmade native arts and crafts as well as clothing manufactured from sea mammals. I intend that the effect of this amendment will be to permit the total utilization of the mammals and the wise management of these wonderful and irreplaceable ocean creatures.

I request that my amendment be printed in its entirety in the CONGRESSIONAL RECORD at this point.

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

AMENDMENT No. 1048

On page 23, line 2, strike out the period and add the following: ", *Provided*, That such taking may be for handmade native arts and crafts and clothing."

APPOINTMENT OF U.S. MARSHALS—AMENDMENT

AMENDMENT NO. 1049

(Ordered to be printed and referred to the Committee on the Judiciary.)

Mr. STEVENS. Mr. President, I am today submitting an amendment to S. 367, my bill providing for the appointment by the Attorney General of the United States of U.S. marshals. This amendment is being offered in order to direct the Director of the U.S. Marshals Service to fill a marshal's vacancy from among those qualified individuals residing within the district. Only if there are no such qualified individuals within the district, may he fill the position from outside the district.

I am introducing this amendment to strengthen the original bill by requiring that marshals be appointed from those qualified applicants most intimately familiar with their judicial district and the people in it. Such applicants will most often be those residing within the district. Since I originally introduced S. 367 last year, several marshals have suggested the desirability of such a provision. It is at their urging that I introduce this amendment today.

Mr. President, I request that this amendment be printed in its entirety in the RECORD at this point.

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

AMENDMENT No. 1049

On page 1, line 6 strike quotation mark and insert the following:

"The Attorney General shall make the appointment from among the qualified applicants residing within the judicial district, unless there are no such qualified applicants therein, in which case he may make the appointment from anywhere in the United States."

SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENTS

AMENDMENTS NOS. 1050 AND 1051

(Ordered to be printed and referred to the Committee on Finance.)

COVERAGE OF PSYCHOLOGISTS SERVICES UNDER MEDICARE

Mr. HARTKE. Mr. President, medicare contains several built-in limitations which restrict the patterns of care and availability of services for individuals suffering from mental, psychoneurotic or personality disorders. While there are provisions for the diagnosis and treatment of mental, psychoneurotic and personality disorders under part B, they must either be provided by a doctor of medicine or a doctor of osteopathy or incident to his services. The result of these provisions on the delivery of mental health services has been to restrict the delivery to the point that less than 1 percent of the patients served by psychologists are 65 years of age or over. In effect, this has excluded the diagnostic and treatment service of psychology to recipients of medicare benefits. This is contrary to the intent of H.R. 1 which is to make fullest use of health personnel.

Psychology has established itself as an independent health profession through its training, public acceptance of its services and through statutory regulations. Our training leading to the Ph. D. degree and experience at hospitals, clinics, and other service facilities has qualified psychologists to provide direct services to the public. Psychologists practice without medical certification, direction or supervision according to professional practice statutes in 44 States and the District of Columbia. In the remaining six States, psychologists practice without medical direction or supervision using voluntary controls.

State legislatures have recognized the inequities in private insurance contracts which have denied the claims of policyholders for the diagnosis and treatment of mental, psychoneurotic and personality disorders when the policyholder was attended by a psychologist. Ten States have now enacted laws which require insurance carriers to reimburse their policyholders for the diagnosis and treatment of nervous and mental disorders whether the services are rendered by a psychologist or a psychiatrist. This has not resulted in any additional premiums to the policyholders or exceptional increases in utilization. These laws have been well received by the public. Several insurance carriers, recognizing this inequity, have voluntarily included psychology as a qualified provider of service as a physician for the purposes of mental disorders. Therefore, I believe that continuing the practice of requiring that mental health services for the recipients of medicare be provided only by psychiatrists causes an unnecessary hardship on the beneficiaries of medicare and creates an unnecessary artificial shortage of qualified providers of service for nervous and mental conditions. Failure to include psychological services without medical referral, produces a condition of "featherbedding" physician's fees. The cost of certification and recertification by doctors of medicine or osteopathy only can require an extra visit to the doctor and produce another fee chargeable to the medicare program.

I believe that utilization control must occur through peer review mechanisms

rather than through the source of referral. The profession of psychology has established its own peer review mechanism which is accepted by the health insurance industry.

Therefore, Mr. President, I am today introducing an amendment to H.R. 1 which provides that psychologists will be listed as physicians for the providing of diagnostic and treatment services for mental, psychoneurotic and personality disorders as well as for diagnosis and treatment of mental retardation, vocational rehabilitative services, and child care services.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 853

At the request of Mr. HUMPHREY, the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of amendment No. 853, intended to be proposed to the bill (S. 2729), a bill to provide the establishment and maintenance of reserve supplies of soybeans, corn, grain, sorghum, barley, oats, wheat, and dairy and poultry products for national security and to protect domestic consumers against an inadequate supply of such commodities.

AMENDMENTS NOS. 998 AND 999

At the request of Mr. CHURCH, the Senator from Michigan (Mr. HART) was added as a cosponsor of amendments Nos. 998 and 999, intended to be proposed to the bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

ADDITIONAL STATEMENTS

THE GIRL SCOUTS OF AMERICA

Mr. BROOKE. Mr. President, on February 21 the Senate passed Senate Resolution 259, lauding the Girl Scouts of America on that organization's 60th anniversary. On March 6 the House of Representatives passed an identical resolution, also praising the outstanding work of this institution.

There are 106,400 Girl Scouts in Massachusetts alone. These girls, between the ages of 7 and 17, serve their communities in a variety of ways. In recent years, primary attention has been given to preserving the environment, and meeting the needs of inner-city youth. Massachusetts Girl Scouts have engaged in the creation of a heritage marked trail in Central Massachusetts, of a wildlife sanctuary on Stiles Reservoir, and in antilitter and "Keep America Beautiful" projects throughout the State. Girl Scouts in the Bay State have also set up day camp and resident camp facilities for disadvantaged children.

But the Girl Scouts is more than community service: it is training in citizenship as well. It is as members of a patrol that young Girl Scouts first learn they are expected to be decisionmakers. The members of the patrol cooperate to decide the courses of action the patrol will follow, and choose one of their number to convey these decisions to scouting's next larger representational body—the Girl Scout troop. By learning to live with the decisions they make, these young girls learn the value of careful forethought and the need to consider all the available options before making a decision.

This valuable training in representational Government should be of special interest to this body. It is today's young people who will inherit our governing responsibilities as the citizen-leaders of tomorrow. The fact that many senior Girl Scouts have become responsible, active members of such larger governing bodies as the National Board of Directors of Girl Scouts of the U.S.A. and of the various Girl Scout council boards across the country, is not only very encouraging proof of the capacity of these young people, but it underscores the value of scouting's emphasis on the democratic process. The accent on international friendship and international exchange programs is another very important part of the Girl Scout experience. Every Girl Scout becomes part of a unique international sisterhood through the national Girl Scout organization's membership in the World Association of Girl Guides and Girl Scouts. This link with 6½ million girls from 87 nations, is reinforced by exchange visits to member nations, and by meetings and conferences at the association's four international centers, in England, India, Switzerland, and Mexico.

This early exposure to other viewpoints, and other customs and cultures, is duplicated within the Girl Scout organization in this country. From the closed society of the family, and the frequently limited range of backgrounds found among her schoolmates, the youngster who enters Girl Scouting automatically becomes a sister to nearly 4 million other girls from every section of the country, and from a tremendous variety of social, economic, and ethnic backgrounds. The only requirement for Girl Scout membership is a commitment to the values that are enunciated in the Girl Scout promise and laws, and the payment of a nominal registration fee.

The opportunities for individual growth that scouting provides, the broader horizons it opens to all its young members, were part of the vision of Girl Scouting's founder when she decided to form that first troop of Girl Scouts in Savannah, Ga., 60 years ago this week. A southern gentlewoman, but something of a maverick, too, Juliette Gordon Low conceived of the Girl Scout movement as a means of expanding girls' interests and opportunities.

The growth of the organization during these past 6 decades is a tribute to her prescience. She recognized a need that was soon to become a demand. Full citizenship for women, with the responsibilities and privileges it entailed, came just 5 years later with the passage of the 19th amendment. In Girl Scouting, America's newly enfranchised women-to-be found a congenial sisterhood that emphasized each member's identity as a full and equal citizen and encouraged her to welcome the challenges and new life roles that were becoming available to the women of America.

I think Juliette Low's successors can be proud that scouting has remained a pioneering movement and that its leaders today still demonstrate the kind of initiative and long-range vision that made Girl Scouting's founder such a remarkable woman. I join with the sponsors of this resolution in commending the Girl Scout organization for its contribution to the Nation, and in conveying to its fine young members and leaders congratulations on their observance of Girl Scouting's 60th anniversary.

VOTER REGISTRATION

Mr. McGEE. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Senate Vote Set on Mail Registration" and an editorial entitled "A Vote on Voting," both published in the Washington Post of March 15, 1972.

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

SENATE VOTE SET ON MAIL REGISTRATION

(By Spencer Rich)

The senate battled through seven procedural roll calls last night on the controversial postcard voter registration bill before finally agreeing to vote today on whether to kill the measure.

In a surprise move, Southern Democrats led by James B. Allen (D-Ala.) teamed up with Republicans in an attempt to force a vote yesterday, when 20 of its Democratic supporters were absent while virtually all its opponents were present.

However, Majority Leader Mike Mansfield (D-Mont.) managed to postpone a vote on Allen's tabling motion until today, when most of the Democratic absentees are expected to be back. Even so, the bill's future looks gloomy because Republicans and Southern Democrats have hinted at a filibuster should they fail to kill the bill outright.

Under the bill, a new agency within the Census Bureau would mail out postcard registration forms to all known addresses across the nation. Anyone could register for all federal elections simply by filling out the postcard form and mailing it back to his local election office.

Southerners say this invites fraud, while Republicans are convinced it is simply a gimmick to register large blocks of low-income voters and blacks who would vote predominantly Democratic.

Mansfield blocked a vote on Allen's motion to kill the bill by demanding the floor and simply offering one motion after another to

adjourn or recess the Senate. Although it is customary for members of a party to vote with their leader on such motions, about a dozen Southern Democrats united with Republicans to beat down every one.

However, the procedural votes, on which Mansfield got by tallies such as 45 to 30, 47 to 29 and 46 to 32, consumed so much time that Allen finally agreed to put off the vote on his tabling motion until today.

Mansfield won only one vote—51 to 26—but that was crucial: It upheld his right under the rules to keep offering adjournment motions indefinitely.

A Vote on Voting

Senator Gale McGee's bill to permit voter registration by mail is simply a plan to make voting relatively easy. Registration in its current form—requiring people to come, often from far away and at great inconvenience, to some central registration place—operates as a high hurdle which many never surmount—to their consequent disenfranchisement. In 1968, for example, 47 million voting-age Americans didn't vote. There is little doubt that registration difficulties were largely responsible. Only six out of ten Americans eligible to vote actually do so; but of those who manage to get themselves registered, nine out of ten cast ballots.

The McGee bill would make registration easy by mailing to every household in the country a postcard registration form which, when filled out and returned and checked by voter registration authorities, would qualify an eligible voter for voting on Election Day. It does not seem to us any more subject to fraud than the current much more complicated system. However, a number of Republicans are opposed to the McGee bill because they believe it to be in essence a Democratic plan to register low-income and black voters likely to vote Democratic in the 1972 elections; and because a number of Democratic candidates were absent campaigning Thursday when a crucial Senate vote on the bill took place, an effort to keep it from being referred back to the Judiciary Committee was defeated 44 to 37. Today there will be another (and final) chance to stop that process of referral back to committee which is designed to bury the measure until the 1972 election is a thing of the past.

The vote is reported likely to be a close one and it will probably depend not just on the return of the Democratic candidates from Florida, but also on the good faith and good will of those Republicans who profess to be concerned with opening up the electoral process so as to make it more responsive to the popular will and who also are under considerable party pressure to sidetrack a bill that might work to the shortrun advantage of the Democratic Party. We think that the longrun interest in passing this bill is a national interest, and that those senators from both parties who have committed themselves to the reform and rehabilitation of our democratic system have an obligation to vote against its burial in committee.

JUDGE ROBERT E. JONES, PORTLAND, OREG.

Mr. PACKWOOD. Mr. President the sixth amendment to the U.S. Constitution provides that in all criminal prosecutions the accused shall enjoy the right to a speedy trial. Despite this declaration, however, prisoners must wait up to 6 months for trial in many of our metropolitan areas.

We have reached the point where more than half of the inmates in city and county jails across the country are imprisoned without having been convicted of a crime. In our Nation's Capital, the delay is often so long that suspects released on bail are sometimes arrested a second or third time while waiting for their first trial.

In an attempt to correct this problem, I have cosponsored a bill, S. 895, which would breathe life into the intent of the sixth amendment. It has become increasingly apparent that the enactment of this legislation is essential if we are to insure that the accused will be granted their constitutional right to a speedy trial.

Mr. President, if justice delayed is justice denied, then we have seen the denial of justice throughout our court system. It is with particular pride that I note that the Multnomah County Criminal Court in Portland provides a welcome exception to this general trend.

Under the leadership of Chief Criminal Judge Robert E. Jones, criminal court procedures have been streamlined. Judge Jones' outstanding efforts have been described in an excellent article written by Tom Stimmel for the Oregon Journal, and also by an editorial published in the same newspaper.

Mr. President, I ask unanimous consent that the article and editorial be printed in the RECORD.

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

Judge Enforces Rigid Deadlines To Speed Criminal Court Docket

(By Tom Stimmel)

By the end of this year there will, most likely, be about 30 prisoners in Rocky Butte Jail waiting criminal trials in Multnomah County Circuit Court.

That number, in an aging and overburdened facility, compares with 219 prisoners who were being held for trial as recently as Labor Day.

None of the prisoners now awaiting trial has been in jail more than a week or two. Each of them is assured of trial within 30 days of his first court appearance. In practice, this usually means trial within a month of arrest.

The progress in moving the criminal court docket, which in this field is recognized as truly astounding, is not the result of a wholesale cleansing of the jail in the spirit of Christmas. It is, instead, the product of a determined streamlining of criminal court procedures administered uncompromisingly by Chief Criminal Judge Robert E. Jones.

Its uniqueness can best be understood by comparing arrest-to-trial times in other court systems. In New York and Chicago, prisoners must wait five or six months for trial; in Washington, D.C., delays are so long that suspects released on bail or recognizance sometimes are arrested a second and third time while awaiting their first trial.

Its benefits, or potential benefits, include an end to dilatory, trial-delaying tactics, a reduced jail population, a head start on probationary or corrective rehabilitation, and best of all a decision instead of an uncertain period of languishing in jail on dead time.

The Sixth Amendment to the Constitution specifically provides that "the accused shall enjoy the right to a speedy and public trial." Too often, as has been seen, that is not the case. Laws passed by the 1971 Legislature now require that a criminal suspect must be indicted within 30 days of arrest and tried within 60 days of his first court appearance. Judge Jones made it his business to improve upon those times.

He requires defense attorneys to file any pre-trial motions within 15 days after arraignment. Even before that, defense and prosecuting attorneys must confront each other to reveal their respective cases in a pre-trial conference, an idea Jones borrowed from federal courts. The conference abets plea bargaining and eliminates expensive, but frequent, last-minute guilty pleas.

Having thus been organized, Judge Jones set about to clean up a criminal court backlog of 600 cases. Three judges were assigned to hear nothing but criminal matters and Dist. Atty. Des Connall assigned prosecuting teams to each court. The average case load for the three judges shot from 12 to 27 a day. In one month, Judge Alan F. Davis heard 22 jury trials and 8 non-jury trials—a year's work in some jurisdictions. Judge Charles Crookham heard 20 trials in 22 days, including 6 trials with a potential sentence of life. He once had three juries out in the same day.

By the end of his four-month tenure as presiding judge in January, Jones estimates his court will have cleared more than 1,500 cases. During that time an estimated 800 new cases were originated. Of those, 131 remain to be tried (the defendants in jail or out on bail) and all are scheduled within the 30-day limit.

Some defense attorneys are critical of the pressure Jones' court administration has placed upon them, and of the judge's insistence on his deadlines. "He sits up, there like he's God," one snapped. But Jones says most attorneys find they have ample time to prepare their cases, and benefit because witnesses are more available and their memories are fresher. "There's no depreciation in justice that results," he said.

The trial is not the end. The judge has innovated post-trial procedures to speed and improve sentencing and to provide better guidance to those placed on probation. These procedures will be discussed on this page in the future.

The Mark of a Judge

The chief criminal judge in Multnomah County is the judge whom defendants face in their first appearance in court. For some, who plead guilty, he is the last judge they see. For others, he is the one who hears motions and writs and excuses, takes pleas, and sets trial dates.

The late Judge Charles W. Redding was the first such judge, and he had the job for nine years. But after his tenure, the job was rotated among the dozen judges in the trial departments because nobody wanted the burden for long.

But if the job is a burden, it also offers challenges. This has been proved beyond reasonable doubt by Judge Robert E. Jones, a young man who is about to complete a four-month service in the chief criminal court.

Judge Jones, purposefully and without compromise, drew a plan to cut down the waiting time for trials in the criminal courts, and enforced his plan rigorously. His methods, described elsewhere on this page, exasperated some lawyers but won the grateful respect of most.

Moreover, time was not his only goal. He initiated ideas to facilitate trials and to improve prospects of rehabilitation, and these bear promise of great usefulness in the future.

It has all happened in a very short time, for Judge Jones is about to end his service on the chief's bench. He has assaulted one of the most obstinate areas of court reform, and he has left his mark. Hopefully, that mark will become permanent.

COMPLETION OF TELLICO DAM, LITTLE TENNESSEE RIVER

Mr. BROCK. Mr. President, I recently made public the text of a letter that I wrote to William Ruckelshaus, Administrator of the Environmental Protection Agency. This concerns a matter of great interest to the people of Tennessee—the completion of the Tellico Dam which would impound the flow of the Little Tennessee River.

I ask unanimous consent that this letter, along with a selection of letters received by TVA commenting on their initial draft, "Environmental Impact Statement," and the TVA discussion be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., March 13, 1972.

Hon. WILLIAM RUCKELSHAUS,
Administrator, Environmental Protection Agency, Washington, D.C.

DEAR BILL: For many years the completion of the Tellico Dam project has been a subject of much controversy in Tennessee and neighboring states. Good people on both sides have demonstrated enormous concern over the various ramifications of this proposal. Recently, the issue has taken on national proportions, as public interest in protection of the environment has burgeoned.

In view of this, I should like to summarize my own position and request your assistance in resolution of the matter.

I have questioned the premises on which this project is justified since its inception. However, as it received Congressional approval through the relatively easy appropriation process available to TVA, I have seen little more that could be done to change the pattern. To date, few of my questions have been resolved, yet the work has continued because I was prepared to give the benefit of the doubt to a group whose efforts have meant so much to my state.

I had hoped that the final Environmental Impact Statement on the project would help to resolve my dilemma. I have reviewed this document and find that it does not adequately answer my questions, or does so in a way that a layman cannot evaluate fully.

Obviously, the TVA has expended much effort to answer criticism leveled at their project. The original draft statement of 38 pages has now grown to an incredible three volumes. Because of its complexity, however, I believe it is in the best interest of my state that a definitive and comprehensive evaluation be made immediately.

For this reason, I am requesting that the Environmental Protection Agency conduct a thorough and objective evaluation of the Impact Statement in concert with other interested state and federal agencies. I would hope that this review could take place as expeditiously as possible, as the effects of a long delay would prove detrimental—regardless of the ultimate course chosen.

With all good wishes.

Very truly yours,

BILL BROCK.

REASONS FOR PRESERVING THE LITTLE TENNESSEE RIVER AS A RECREATIONAL WATERWAY

(1) Because of the unique combination of factors creating nearly ideal habitat conditions for trout, the Little Tennessee River is possibly the most unique fisheries resource in the state.

(2) The artificiality normally associated with hatchery releases is minimized since fingerling rainbow mature under natural conditions and grow at nearly the same rate as hatchery produced trout. The TVA fisheries evaluation report makes reference to this.

(3) The productive capacity of the river for raising small trout to adult size is comparable to all the natural trout stream mileage of the Tennessee Appalachian range combined.

(4) The recreational claims for Tellico Dam are particularly insignificant because of the 18 major existing reservoirs within a 50-mile radius of the proposed lake Planning studies show that most of the visitors to a new lake are attracted away from other lakes nearby, to the detriment of established businesses there. As for adding new warmwater fishing opportunity to the region, fish tagging studies have proved that 80% of our game fishes are not now being harvested.

(5) The system of governmental impoundments in Tennessee no longer provide the same attraction for non-resident visitors because of the proliferation of reservoir construction throughout the southeast and more recently in the midwestern states. This trend is confirmed in the steady decline of non-resident fishing licenses sold in recent years.

(6) Trout stream mileage is decreasing at an alarming rate in the east which puts a premium on the few remaining quality streams. Tennessee is a long narrow state soon to be traversed by two north-south interstate highways. The uniqueness and appeal of good trout fishing can provide an important attraction for diverting a larger portion of the tourist flow from the interstate highways and help the state to remain competitive in the tourist travel business.

(7) The Little Tennessee in conjunction with nearby Chilhowee and Calderwood Lakes can provide a trout fishing complex comparable to the White River in Arkansas which contributes over $5,000,000 to the economy of the north-central Ozark Mountain region.

(8) The Tennessee Valley Authority has always been alert to possibilities for further development of fringe benefits and opportunities resulting from their primary responsibility of power production, navigation, and flood control. Examples are their pioneering efforts in fishery research on large impoundments and forest restoration in the Tennessee Valley. However, the recreational potential for coldwater fisheries development in tailwater rivers has been completely ignored.

(9) With the new Department of Interior emphasis on the preservation of unique and scenic free-flowing rivers, and the impetus given recreational development by the Bureau of Outdoor Recreation and the Appalachian Regional Commission this would seem to be an opportune time for a review of the potential of our remaining natural rivers.

Submitted by:

TENNESSEE GAME AND FISH COMMISSION,
FRED W. STANBERRY,
Director.

THE LITTLE TENNESSEE RIVER AS A UNIQUE AND VALUABLE RESOURCE

The Little Tennessee River is potentially the most unique and productive ecosystem for trout and aquatic invertebrates existing in the eastern United States. Fontana Dam, several miles upstream, gathers the flow of small coldwater streams on national park and national forest lands and meters this cold, clear flowage into the river below. The abundance and variety of fish food organisms plus ideal water temperatures produce excellent growth and survival of introduced trout. The lack of natural spawning is not a limiting factor and the artificiality normally associated with hatchery releases is minimized since liberated subadult trout mature under natural conditions.

Approximately 650 miles of manageable coldwater stream habitat remain in the Tennessee Appalachian and Smoky Mountain ranges. This represents a water surface area less than the acreage of prime trout habitat existing in the Little Tennessee River.

Further, our natural coldwater stream resource is declining in quality because of watershed damage and increasing fishing pressure.

Several factors combine to produce a river environment superior to natural stream habitag e.g. (1) a predominantly rubble bottom which provides the ideal substrate for invertebrate animals, (2) a water quality and mineral content giving efficient protosynthetic activity, (3) absence of the normal flood and drouth cycle and (4) a favorable water temperature range allowing year-round trout growth.

Opportunity for water oriented recreation is provided for on 19 major reservoirs with a surface area of 231,300 acres, all within a 50 mile radius of the Tellico Project. Any need for additional warmwater fishing demand can be met by exerting more pressure on existing gamefish population since documented tagging studies show that 80 to 90 percent of these fish are not being utilized.

The Little Tennessee River lies in an area of strategic zoogeographical interest for rare and undescribed fishes and aquatic invertebrates. At least three endangered fish species (a logperch, chub and darter) probably occur in lower Citice Creek, lower Tellico River or in the Little Tennessee. Impoundment would effectively eliminate these and other species already decimated by changes in the flowing water environment.

Only the upper third of the river (11 miles) is under management at present, but favorable habitat for trout extends to the river mouth. Competition for space is intense in the lower river because of the influx of rough fishes from Watts Bar Lake, but developing technology in rough fish control is expected to allow expanding sport fish populations in this area.

A sufficient growth of Eurasian water milfoil exists in the Little Tennessee River so effectively colonize the new reservoir. All requirements for extensive infestation of rooted acquatic plants e.g. water clarity, shallow margin and moderate fluctuation will exist. Chemical herbicides for control of such noxious water plants are under scrutiny as pollutants.

POTENTIAL FOR RECREATIONAL DEVELOPMENT ALONG THE LITTLE TENNESSEE RIVER

The Little Tennessee River is strategically located in relation to Tennessee's best known vacation area. It lies between the Great Smoky Mountain National Park, which has the highest visitation rate of any national park, and the southern half of the Cherokee National Forest. Highway 129, which parallels the Little Tennessee, provides the western access for the Fontana, Santeetlah Lakes resort area and the Nantahala and Joyce Kilmer National Forests.

The national park expansion of visitor facilities is moving toward the Little Tennessee River along the new Foothills Parkway which terminates on the west bank. Across the river, the Cherokee Crest Scenic Highway, included in the President's Appalachia Program, begins to provide a new entry to the Tellico wildlife area and southern national forest just as the Foothills Parkway gives new access to the national park.

With this recreational complex magnet already attracting over seven million visitors to this general area, the economic potential of a visitor service development along the Little Tennessee is exceptionally good. This is consistent with recent national park planning philosophy which would preserve the wilderness character of the Great Smokies by confining visitor facilities and commercial development to peripheral lands along the approaches to the park. (See map attached).

The Knoxville Tourist Bureau travel survey shows that 14 percent of our non-resident visitors go fishing and spend an average of $6.30 while here. If even one of every ten visitors already coming to the national forest-national park area could be attracted to a float fishery for trout and associated historical restorations on the Little Tennessee River for one day, a local expenditure of 4.4 million dollars for accommodations and services would be created. The maximum value assigned to recreational benefits on the 14,400 acres of Tellico Reservoir is $750,000 in seven years.

The tourist and travel business is Tennessee's largest and finest source of revenue. Here is an industry that doesn't pollute the streams and air; doesn't leave ugly scars on the land and doesn't increase the tax burden to provide extra community facilities. The travel industry stimulates expansion of many supporting enterprises and creates jobs in the unskilled categories where they are most needed. The primary requirement of transient visitors is something to see and to participate in that they do not have at home. This touches another very important point since most of these people do have bluegill, crappie and bass fishing near home. The one fishery with the appeal and reputation to bring fishermen great distances is the trout fishery. The facilities and planning for this type of development are already underway with a large national trout hatchery under construction in Tennessee and a new state hatchery in the design stage.

The TVA feasibility report for Tellico Dam assigns a value of $25,000 to the existing sport fishery of the river. This estimate has already been proved erroneous and very conservative by a joint Game and Fish Commission-U.S. Fish and Wildlife Service economic survey still in progress. A better idea of the economic and recreational potential of an intensively managed float fishery for trout on the Little Tennessee can be had by comparison with the White River in Arkansas where 1.5 million is spent annually with boat dock operators alone. The total impact on the economy of the area is many times this figure.

The Little Tennessee River drainage is characterized by a high degree of watershed protection afforded by the Great Smokies and national forest lands. The natural trout stream drainage from this terrain is stored and released through the Fontana Dam generators and travels the full length of the Little Tennessee with only a few degrees rise in water temperature. Ideal water temperature, oxygen and food supply conditions result in a growth rate of introduced rainbow and brown trout nearly equal to hatchery growth.

Existing trout stream mileage is declining at an alarming rate because of impoundment, pollution, uncontrolled timbering, road construction and gravel dredging. This puts a premium on the few remaining quality streams. The Little Tennessee is recommended for preservation as a recreation riverway in the Tennessee Department of Conservation, *Plan for Development of Public Outdoor Recreation Resources in Tennessee*. With the new Department of Interior emphasis on preservation of unique and scenic free-flowing rivers, this would seem to be an opportune time for re-evaluation of the Little Tennessee River as a trout fishery and scenic area worth retaining.

Submitted by:

FRED W. STANBERRY, *Director.*

TENNESSEE GAME AND FISH COMMISSION.

DISCUSSION

1–3. See volume I, parts 1 and 3, volume II, part 1, and volume III, part 3.

4. The pollution of the upper end of Fort Loudoun Reservoir is largely the result of discharges over which TVA has no control. It will exercise control at Tellico through the use of restrictions in land rights conveyances.

5. See volume III, part 3.

6. Statistics for 1971 agricultural sales are not yet available.

7–8. See volume I, part 1, and volume II, parts 2–6, 11, and 12.

9. See volume III, part 3.

10. The impoundment will neither significantly add to nor reduce the oxygen supply in the project area.

11. See volume III, part 3.

12. The effects of the project on rare and endangered species are described in volume I, part 1.

TVA's discussion of the points raised in the Wilkins attachment is as follows:

1. See volume III, part 3. TVA notes that only a small proportion of fishermen on the Little Tennessee River are float fishermen.

2. See volume I, part 1, and volume III, part 3.

3. See volume I, part 1.

4. The 29,115 figure is for visitor-day units. According to officials of the U.S. Forest Service, this is equivalent to about 180,000 trips. The 63,000 trip figure used in the draft statement was in error.

5. See volume I, part 1. TVA expects a good warmwater fishery to develop at Tellico Reservoir. Tellico Reservoir will be connected to a main stream reservoir (Fort Loudoun Reservoir) by a canal, unlike Chilhowee and Melton Hill Reservoirs. Undoubtedly, Tellico Reservoir will cause some use transfer; however, it is not expected to significantly affect commercial operations at nearby lakes.

6. See volume I, part 1.

7. See volume I, part 11.

In evaluating the alternative of developing the Little Tennessee River in the project reach for scenic purposes, TVA considered the points raised in the Stanberry attachments. See volume I, part 1, in which most of the points are discussed.

The basic points raised in the attachment "The Little Tennessee River as a Unique and Valuable Resource" are also dealt with in volume I, part 1.

TENNESSEE GAME
AND FISH COMMISSION,
Nashville, Tenn., August 31, 1971.

Mr. AUBREY J. WAGNER,
Tennessee Valley Authority, New Sprankle Building, Knoxville, Tenn.

DEAR MR. WAGNER: At their meeting on August 19, 1971, members of the Tennessee Game and Fish Commission adopted a resolution concerning the Little Tennessee River. They requested that a copy of this resolution be forwarded to you.

Yours sincerely,

TENNESSEE GAME
AND FISH COMMISSION,
DAVID M. GOODRICH, *Director.*

The Tennessee Game and Fish Commission is on record this August 19, 1971, in opposition to the destruction of the remaining 33 miles of free-flowing Little Tennessee River. This action is in recognition of the concern of local, state, and national conservationists for the preservation of this unique and irreplaceable natural resource. The combination of watershed protection, metered flow, supply of fish food organisms and stable habitat conditions makes this river the most unique and productive ecosystem for trout and aquatic invertebrates existing in the eastern United States. Further, this Commission stands ready to cooperate with all state and federal resource agencies in developing acceptable alternatives to a high dam on the Little Tennessee River.

/s/ WILLIAM H. BLACKBURN, *Chairman.*

DISCUSSION

The points raised in this comment are discussed in volume I, part 1, and in volume II, parts 11 and 12.

THE UNIVERSITY OF TENNESSEE,
Knoxville, Tenn., June 14, 1971.

Subject: TVA's Tellico Project.

Hon. RUSSELL TRAIN,
President's Council on Environmental Quality, Executive Office, Washington, D.C.

DEAR MR. TRAIN: The Tennessee Valley Authority has long been authorized to construct a dam and reservoir on the last remaining stretch of the Little Tennessee River in Monroe and Loudon Counties, Tennessee. The construction has proceeded slowly, in part because of increasing budgetary restrictions. Several important issues are involved in the project. I apologize if I bring up issues that are already overly familiar to you.

The presently projected total cost of the project (without allowances for inflation) come to $69 million dollars. The TVA States publicly with repetition that some $24 million have been expended on the project, and they say in practically the same breath that the project is half completed and therefore should go to full completion. I find their arithmetic peculiar.

Of the $24 million already expended on the project, an amount in the neighborhood of $4 million has been used for actual construction of the dam itself. The rest of the monies have been expended for new bridges, highway relocations, and land acquisition.

A large percentage of the benefits ascribed to the project will be derived from the development of industrial sites along the shortline of the reservoir. The TVA expects to recover several millions of dollars in land sales to industries. I personally find it revolting that a government agency uses its right of imminent domain to acquire land, and then sell it at an unbelievably high profit to itself. This practice seems to be contradictory to a number of constitutional premises.

In response to our repeated requests for an environmental impact statement, provided for in the section 102(A) of the Environmental Quality Act of 1970, the TVA has rightly pointed out that the project was authorized long before the EQA was passed. They also argue that it is pointless to file an environmental impact statement when the project is half completed.

I would point out to you that the two environmentally significant phases of the project, namely, the impoundment of the river and the development of the model town, Timberlake, are either far from completion or not even begun. It seems to me that TVA ought to be required an environmental impact statement concerning the impoundment alone.

The model town, Timberlake, is another case of the acquisition of private lands by the Federal Government, including the use of the right of imminent domain, for essentially the purposes of private enterprise.

The residents of the region are particularly embittered about this last point. The environmental impact of the development of a city by the Federal Government seems obvious. Why should not the TVA be required to file an environmental impact statement?

Some 40% of the benefits ascribed to the project are to come from recreation. The claims are made that additional recreation on impounded waters is severely needed. That argument is difficult to substantiate with the very high number of artificial lakes available within an extremely short distance of the proposed project.

One of the unusual aspects of this project is that a canal connecting Ft. Loudon Reservoir with the impounded waters of the Little Tennessee River will be constructed for shipping by barge. The environmental consequences of this portion of the project are manifold and unevaluated. I daresay, even though TVA denies it, that there will be periods when the polluted waters of Ft. Loudon Reservoir are able to flow into the Tellico Reservoir. What the consequences of

such mixing will be, no one knows and no one plans to find out.

Your consideration of these issues and the opinion of the Council will be greatly appreciated. I should like to have your thoughts on the matter.

Sincerely yours,

EDWARD E. C. CLEBSCH,
Associate Professor, Chairman, Conservation, Association of Southeastern Biologists.

DISCUSSION

The environmental and economic points raised in this letter have been discussed in part 1 of this volume and in volume III, part 3.

COMMENTS ON THE TELLICO ENVIRONMENTAL IMPACT STATEMENT, JUNE 18, 1971

1. No alternative action (with both long and short range implications) that will minimize the adverse impact on the environment are explored.

2. No "study, develop, and describe" has been done on the alternatives. No ecological study of the Little Tennessee River has been conducted by the responsible agency. (Does the agency have ecologists employed?)

3. No primary and secondary consequences for the environment have been properly analyzed.

4. This statement prematurely forecloses options which might have less detrimental effects on the present ecology of the Little Tennessee River Valley.

5. The range of beneficial uses of the environment has not been properly identified with regards to the irreversible loss of resources.

6. The environmental statement does not afford proper control with respect to water quality. (Ex. P. 17) Water quality is insured by land use restrictions in leases—TVA has never taken action even when lease violations were obvious—Bowaters situation, February 12, 1971. TVA apparently lacks authority and thus cannot assure water quality.

7. No reassessments of environmental consequences not fully evaluated at the outset of the project are included in the statement. (Has reassessment taken place? If so, on the basis of what studies?)

8. The results of the latest study on the Hiawassee River (TVA Test Team—March, 1970) should be the basis for reassessment of the long range benefits of a possible alternative such as a scenic river designation.

9. No point of diminishing return is apparent in this statement with regards to the 20+ large reservoirs within fifty miles of this project. We presently have fewer large, cold water flowing streams than reservoirs. Thus, the remaining streams have an increased value and additional reservoirs a decreasing value.

10. The ideal that the environment will be improved by this project violates a basic ecological concept. This project will simplify the ecosystem and cause it to become less diverse and thus more unstable. This amounts to degrading, not improving the ecosystem. Only by causing the system to become more diversified and more stable could the environment be improved. Never by simplification would improvement result.

11. A cyclic problem of invasion of the flood plain results from the increased flood protection supposedly accruing from added flood storage capacity. Only by restricting or controlling development on the flood plain can flood damage be controlled in the long run.

12. What is the validity of the argument for more storage capacity allowed by this project in view of the recent rise in the reservoir levels which probably eliminates more storage capacity than this project will add to the system?

13. What studies have been conducted on the rare and depleted fishes which may be eliminated by this project?

14. In view of past performance the method of economic analysis of the project should be reviewed. (Melton Hill Project navigation benefits were estimated at $730,000 annually and have averaged about $1,200 annually in eight years of operation.) Can we expect the same for the Tellico navigation benefits? If so, the cost benefit ratio does not even seem valid.

15. The population changes indicated may be out of perspective since there is a trend toward urbanization which may be demonstrated as a national rather than a regional problem. Can we even produce jobs as fast as we reproduce?

JOHN E. WOODS, Ph. D.

DISCUSSION

1–5. See part 1 of this volume.

6. See part 1 of this volume and parts 2–6 of volume II. TVA will exercise its land-use restriction rights, if necessary, to prevent pollution of Tellico Reservoir.

7. See part 1 of this volume.

8. TVA considers the Hiwassee River to be far better suited for this type of use than the Little Tennessee River.

9. See part 1 of this volume and volume III, part 3. Tellico presents a special opportunity for recreation unlike the opportunities available at many of the other reservoirs in the area.

10. The human environment will be dramatically improved by the project. While the natural environment will be less diverse in the impoundment area, TVA does not consider this a significant adverse effect of the project.

11. See volume III, part 3.

12. The storage capacity is needed in the area between the upstream tributary reservoirs and Chattanooga.

13. See volume I, part 1.

14. See volume III, part 3.

15. See the discussion of migration from the area in volume III, part 3.

STATE OF TENNESSEE,
December 7, 1971.

Mr. AUBREY J. WAGNER,
Chairman, Board of Directors, Tennessee Valley Authority, Knoxville, Tenn.

DEAR MR. WAGNER: For some months now, my staff has been working with personnel of the Tennessee Valley Authority in reviewing the implications of the Tellico Dam project in East Tennessee. From this inquiry I have concluded that the interests of the State would be best served if TVA were to discontinue plans to impound the Little Tennessee River.

The area around this river enjoys a strategic location. Its proximity to the Great Smoky Mountains National Park and to the Cherokee National Forest confers upon it a truly exceptional tourism potential. The Little Tennessee itself is know as one of the Eastern United States' finest stocked trout streams; as such it is a rare and valuable recreational resource. The entire river environment displays unusually fine scenic qualities, an attraction which is becoming ever more difficult to find as more of the nation's rivers are impounded. The lands which would be inundated by the Tellfco Lake contain numerous sites of historical and archeological interest, and the proposed reservoir would bury a great acreage of attractive and productive cropland, pasturage, and woodland.

Considering the bounty of reservoirs in the immediate area and the diverse recreational opportunity which they provide, I feel that the impoundment of the Little Tennessee would reduce, rather than expand, recreational opportunities in Tennessee.

For all these reasons, it is my opinion that the Little Tennessee could best serve Tennesseans as the focal point for a scenic river recreational gateway to the national wilderness lands beyond. As a first step toward that end, I will propose both to our General Assembly and to our Congressional delegation that the Little Tennessee be given protective designation under The Tennessee Scenic Rivers Act and the Federal Wild and Scenic Rivers Act.

I urge that you bring these considerations before the Board of Directors of the Tennessee Valley Authority at your earliest opportunity. I am well aware of the time, effort, and public monies already invested in the project; it is my hope that much of that can be reclaimed or turned to other productive uses. There is much to be done in the way of assisting the river area in reaching its full recreational potential—as a floating, canoeing and trout fishing river; and as a camping, hiking, and nature study area. After reconsidering the possibilities that I have outlined, I hope that you will join this Administration in the conclusion that the Little Tennessee as it now exists is a waterway too valuable for the State of Tennessee to sacrifice.

Yours truly,

WINFIELD DUNN.

DISCUSSION

Aubrey J. Wagner, Chairman of the TVA Board of Directors, replied to Governor Dunn's letter in the letter that follows:

TENNESSEE VALLEY AUTHORITY,
Knoxville, Tenn., December 17, 1971.

Hon. WINFIELD DUNN,
Governor of Tennessee,
Nashville, Tenn.

DEAR GOVERNOR DUNN: This is in response to your letter of December 7, 1971, concerning the Tellico project.

Your letter does not appear to raise any new or different factors from those which were fully considered by both TVA and the Congress before the construction of the Tellico project was commenced in 1967. TVA considered all of the factors mentioned in your letter, together with many other factors which are discussed in the following paragraphs, before arriving at its decision, reflected in the President's budget for fiscal year 1966, to request Congressional approval and funding of this project. The same arguments against the project which are contained in your letter were made to Congress by opponents of the project during the course of hearings held by Congress on appropriation requests for fiscal years 1966 and 1967. Congress rejected these arguments, approved the construction of the Tellico project, and has appropriated funds for this project each year for the past six years. The total estimated cost of the project is $69 million; and to date Congress has appropriated $35 million, of which about $30 million has already been spent. Each year these appropriations were made with the concurrence of the Congressional delegation from Tennessee.

This does not mean that TVA has a closed mind on the subject of the Tellico project; and in connection with the preparation of the final environmental statement for this project, we will again consider all the many factors which are involved. This will include, of course, consideration of your letter, together with all the other comments we have received.

Practically all of your letter is concerned with only one aspect of the Tellico project—its effect upon recreation. Under the TVA Act the TVA Board has the responsibility to consider all the effects of a project, both good and bad, and to make its decision based upon a careful weighing of all these con-

siderations. Some of the extremely important factors which are involved here, but which are not mentioned in your letter, are:

1. The economic development of the region through the provision of 9,000 industrial and 16,000 service jobs over a period of 25 years which we estimate would occur as a result of the Tellico project.

2. The effect that economic development resulting from the Tellico project would have upon the income levels of the people of the area.

3. The effect that economic development resulting from the Tellico project would have on stopping the out-migration of young people because enough desirable jobs are not now available in the area.

4. The value of the new town, Timberlake, which would incorporate the most advanced planning and environmental protection to insure that the highest quality of living would be maintained for its inhabitants, which it is estimated will reach 50,000 people over the 25-year period.

5. The value of an additional 200 million kilowatt-hours of electrical energy which would be generated each year as a result of the Tellico project. This is about the amount of energy required annually by the City of Alcoa; and, as you know, hydroelectric generation is the cleanest method we now have for generating power.

6. The value of the additional flood control capacity which would be created by the Tellico project. This additional capacity would be larger than the flood control capacity now provided by Ft. Loudoun Lake and would primarily benefit the city of Chattanooga, which still has a flood problem.

The above factors are discussed in more detail in the following material.

ECONOMIC DEVELOPMENT, JOBS, AND INCOME

In 1933, when TVA was established, the per capita income of the State was 54 percent of the national average. Today it is 79 percent, which is better but still not good, when a quarter of the State's citizens have incomes below the poverty level. I think we both recognize this. In announcing the formation of the Economic Development Committee last August, you termed current economic growth figures "unacceptable" and stated that "we can do better."

Unfortunately, even the prosperity which has been achieved is not shared evenly. Monroe County, in which about half of the Tellico project is located, has a median family income only 48 percent of the national median and more than half of its families have incomes below the poverty level. The three Tellico counties have an average income about two-thirds of the national average, well under even the state average; and it should be observed that the three-county average is elevated by the Alcoa industrial development in Blount County. Those who will gain the most from Tellico are the people who need it the most, but it should not be forgotten that the prosperous also benefit from economic gains by the underemployed and the unemployed. The Tellico project, in our view, presents a unique opportunity for east Tennessee, both in terms of its economic development opportunities and in terms of the favorable impact it will have on opportunities for higher quality living.

The Tellico project and its employment opportunities would also help stem outmigration from the project area. The tragedy of a low income area lies only partly in the condition of the people who reside there. Others, many of them young people, often must leave the region in hope of improving their condition only to wind up in urban ghettos. The children of the affluent leave too for better opportunities available to the educated in economically developed areas. As you recognized this week in your speech at Gatlinburg, the out-migration from the area like Monroe County, from which over 2,200 people—10 percent of its population—have left in the last decade, represents a depletion of its most valuable resource, its young people. As the Monroe County Industrial Development Association so succinctly expressed in a recent letter to TVA:

Monroe County has 35.9% of its families in the $0–$2,000 income bracket. Fishing and scenic rivers are not solutions to our low income, low standard of living problems.

It seems clear that the best answer to the problems of low income levels and lack of job opportunity is in industrial development. TVA has found through experience that there are a few unique locations in the Tennessee Valley which are unusually favorable for attracting heavy industry. These locations are areas where commercial barge transportation, rail service, highway connections, and large acreages of land with favorable terrain all come together at the same place. The Tellico project area near Vonore now has all of these advantages except a navigable waterway, and that missing link would be supplied by the Tellico project. TVA's estimates that 9,000 industrial jobs and 16,000 service jobs would be created over 25 years by the industrial development resulting from the Tellico project are not guesswork. They are based upon what has already happened wherever these unique locations have occurred in the Tennessee Valley. For example, the following waterfront industrial employment has already occurred at the locations listed below:

City:	*Waterfront industry employment*
Calvert City, Kentucky	2,915
New Jacksonville, Tennessee	2,589
Muscle Shoals, Alabama	7,645
Decatur, Alabama	7,002
Scottsboro, Alabama	1,050
Chattanooga, Tennessee	11,804
Hiwassee River, Tennessee	1,587

Although it may seem odd with Watts Bar and Fort Loudoun Reservoirs both situated in east Tennessee, there presently are only about 900 acres of waterfront industrial land available in the eastern end of the state. This point was emphasized by your Staff Division for Industrial Development in a recent letter to TVA about the project which stated:

"From our own knowledge in showing prospects sites in East Tennessee, we are aware of the shortage of the type of industrial land that will be created by this project. As of now there are only three waterfront sites on the Tennessee River in East Tennessee that are firmly available for industry and within practical distance of other forms of transportation and services.

The Tellico project will create a highly desirable transport complex and will add some 5,000 acres to the meager waterfront industrial land inventory in the area. On the other hand, development of the river as a scenic stream would have very limited economic impact. Gatlinburg is certainly one of the State's major tourist attractions, yet Sevier County has a median family income only 51 percent of the national median. Tourism alone can be economically shallow. A resource development project like Tellico which provides a full range of complementary opportunities—industrial, residential, commercial, and recreational—would not be.

TIMBERLAKE NEW TOWN

The attractiveness of the Tellico project for industry will be enhanced by both the recreational opportunities it will afford and by TVA's plans for the development of the Timberlake new community. Timberlake would be a town expected to grow to some 50,000 people, designed and built to the highest standards. Aside from offering quality residential environment, TVA's plans include the development of the best available environmental protection technology.

FLOOD CONTROL AND POWER

The project will also provide flood control benefits downstream from Fort Loudoun Dam, and will add to the flood protection available for Chattanooga, where it is especially needed. Because of its size and its link to Fort Loudoun Reservoir by a canal, Tellico reservoir will double the flood control capacity of Fort Loudoun. The canal also will allow TVA to add 200 million kilowatt-hours of electric power generation to its system without installing additional generating equipment. When Fort Loudoun Dam was designed, the possibility of the development of Tellico was taken into account; and its generators are adequate to utilize the waters of both reservoirs. While 200 million kilowatt-hours represents only a small portion of TVA's total output, it nonetheless is sufficient to meet the entire needs of a city about the size of Alcoa.

RECREATION

Even if one looks solely at the question of recreation, the relative merits of the river in its present state as compared with the benefits from the Tellico impoundment are far from one-sided.

The diversity of water recreation which you suggest as being desirable will be diminished in only a small degree. For example, by far the greater amount of trout fishing which occurs in Little Tennessee waters takes place on the upper reaches of two of its tributaries, Tellico River and Citico Creek which will not be affected by the project. They experience over 180,000 fishing trips annually, four times that on the Little Tennessee itself. Present trout fishing on the main stream occurs primarily on the upper eight to ten miles; this will be reduced to the upper three or four miles where trout fishing will still be possible on a put-and-take basis as at present.

As a canoe stream, the Little Tennessee has a number of counterparts nearby which are its equal or superior. The Hiwassee, for example, is fare superior; and the Holston below Cherokee Lake, the French Broad above and below Douglas Lake, the Clinch below Norris, and the Nolichucky, all are at least its equal. The Little Tennessee in this reach does not have the rate of fall necessary to provide sufficient current for good canoeing.

Parenthetically, those who claim that rivers are a fast disappearing resource are not acquainted with the facts. In the Tennessee Valley, there are more than 9,500 miles of unimpounded streams, counting only those which have a drainage area of more than 25 square miles. Impoundments on tributary streams occupy less than 15 percent of the original river mileage.

The Little Tennessee, while certainly an attractive stream, has little that would qualify it as a unique scenic attraction. In the stretch we are concerned with, it flows between farmlands long in cultivation and for the most part possesses only a narrow band of trees along its banks. In our judgment, the Obed, Hiwassee, and Buffalo Rivers have the superior qualities necessary for designation as a scenic river. As you know, TVA and the State have proposed a scenic river project for the Buffalo and are working together on a similiar proposal for the Hiswassee.

On the other hand, the Little Tennessee is much better suited for major development than the others mentioned above. Tellico lake will have a spectacular beauty and recreation appeal which we estimate will attract as many as 2 million visitors annually, far more than the river could possibly support in its present state or if developed only as a scenic river. More than 90 percent of the fishermen in east Tennessee fish in reservoirs, and we expect that fishing in Tellico

reservoir will quickly reach a level at least five times greater than the present fishing use of the river.

In addition to these advantages there are others. For example, the Great Smoky Mountains National Park is severely crowded, having this year already experienced more than 7 million visits. Tellico reservoir and developments on its shoreline, in a sense, would expand the national park and provide a wider range of recreation opportunity to those who visit the park area.

ARCHEOLOGY

During the long period after the Cherokees left the area, no effort was made by the Federal government, the State of Tennessee, the Cherokee Nation, or any private group, to acquire or otherwise protect the sites with Indian historical and archaeological interest.

For nearly two hundred years plowing, grazing, sheet erosion, and, before upstream impoundments were constructed, flooding destroyed and damaged these sites. Most of the obvious artifacts were gradually removed each year by souvenir hunters and amateur diggers.

When TVA received the initial appropriation to construct Tellico Dam, it used part of the money to finance scientific exploration of the sites. Thus, the Tellico project itself has made possible the rescue of artifacts still remaining and prevented these artifacts from being completely destroyed and dissipated by unplanned and unmanaged scavenging.

In summary, while as indicated above we will again consider all relevant factors in connection with the final environmental statement, it now appears to us that the course of action you have proposed would sacrifice the much broader benefits which can be realized through comprehensive development as provided by the Tellico project.

We expect to continue to work with the State of Tennessee and Loudon, Monroe, and Blount Counties in the continuing effort to develop the resources of the lower Little Tennessee in a manner which will assure realization of its full potential.

Sincerely,

AUBREY J. WAGNER, *Chairman.*

ENVIRONMENTAL PROTECTION AGENCY,
Atlanta, Ga., January 10, 1972.

Dr. F. E. GARTRELL,
Director, Environmental Research and Development, Tennessee Valley Authority, Chattanooga, Tenn.

DEAR DR. GARTRELL: In our letter of November 12, 1971, we attached a list of questions concerning TVA's draft environmental impact statement for the Tellico project. Subsequently, the staffs of our two agencies met and determined that most of these questions can be answered by the examination of existing TVA data. We recommend that you respond to these questions in your final statement.

We would like to emphasize our particular concern with the three following items.

1. Our Agency has received much public inquiry in regard to the Tellico project and there is no indication of public hearings after the release of the draft environmental impact statement. We feel, therefore, greater public input to the statement is necessary and recommend that consideration be given to holding public hearings prior to the release of the final environmental impact statement. To facilitate this public input, a full and detailed description of the project should be developed for public use and distributed at the time notice of the hearing is advertised. Indexed maps or some other method of illustrating the present state of the project, the location of the dam and other salient factors should be part of this description.

2. We recognize that the planning for the Timberlake Development is not complete, but some discussion of this development is necessary to put into perspective the environmental effects of these closely interrelated projects. Since both projects affect the same small geographic area, they should be analyzed together so that significant and interacting components can be identified and further development can proceed in a manner that will provide maximum protection to the environment. Perhaps a general overview statement would be in order. This would be in addition to the impact statements on the two projects, Tellico Dam and Timberlake. This overview would provide the necessary perspective against which the environmental effects and alternatives for this system of developments and each specific project could be assessed.

3. The Environmental Protection Agency feels that a broad and more comprehensive discussion of the special factors which make the Tellico area unique relative to the other nearby reservoirs insofar as industrial, commercial, and recreational developments are concerned is necessary.

Sincerely,

JACK E. RAVAN,
Regional Administrator.

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., Novemter 12, 1971.

Dr. F. E. GARTRELL,
Director, Environmental Research and Development, Tennessee Valley Authority, Knoxville, Tenn.

DEAR DR. GARTRELL: Thank you for the opportunity to review the draft environmental impact statement for the Tellico Project. We have studied this statement and have enclosed our detailed comments. We apologize for the delay in forwarding the comments.

The statement is lacking in sufficient information to enable an accurate environmental appraisal of the total project. In general, proper consideration has not been given to problems of water quality, project alternatives, secondary environmental impacts, environmental degradation during construction, or to the development of contingency plans to take care of problems frequently encountered in the operation of large reservoirs.

The total project includes the proposed Timberlake Development as an integral component. The impact of this community on the environment should be explored in detail. In particular, information should be given on the anticipated economic base of the community, and the potential adverse environmental effects that the economic activity may produce. It is not clear if the cost of development of Timberlake is included in the project costs.

Please contact us if you have any questions concerning our comments.

Sincerely,

GEORGE MARIENTHAL,
Acting Director, Office of Federal Activities.

ENVIRONMENTAL PROTECTION AGENCY—DETAILED COMMENTS: TELLICO PROJECT (TVA)

The information given in the draft environmental statement on the Tellico Project is insufficient to support the contention that the project is environmentally sound and constitutes the best choice of alternative solutions to the water resource problems in the region. In particular, the statement does not contain sufficient information, data, and other appropriate evidence to permit a conclusive environmental assessment of the project. We hope the following comments will be useful to you in revising your draft version.

WATER QUALITY

The statement should describe the state of water quality in the Little Tennessee River and its tributaries, providing information such as:

A. The types, nature, source, and concentrations of suspended and dissolved pollutants, including organic, inorganic, and bacterial pollutants presently in the river and its tributaries.

B. Variations of pollution concentrations with respect to time and location, including for each component:

1. Maximum and minimum values.
2. Duration of extremes.
3. Mean values.

C. The probable qualitative and quantitative effect of the construction, operation, recreational use, and maintenance of the project on water quality (both above and below the dam sites).

D. Specific requirements of state or Federal water quality standards applicable to the Little Tennessee River, and how present and probable future water quality compares to these standards.

E. Procedures and/or techniques to be to lower excessive pollution levels, where they exist, to within that allowed by applicable standards such as:

(1) Rigid control of the types and quantities of pollutants entering the Little Tennessee River from domestic animal sources.

(2) Extensive soil conservation and land management programs including:

(a) Crop rotation and land drainage control.

(b) Barrier strips to retain top soil.

(c) Water retention procedures (e.g., ponding of runoff.)

(d) Contour planting and terracing.

(e) Strictly controlled application of chemicals (i.e., pesticides, herbicides, fertilizers, etc.).

F. The pertinent details of any comprehensive scientific studies or technical surveys done on the Little Tennessee River and its tributaries. This should include information on the specific types of pollutants monitored, sampling techniques used, equipment employed and its sensitivity, the sampling frequency, location of sampling equipment along river course, reliability of data, when the studies were done and their applicability to the current situation, and the general conclusions of the studies.

PHYSICAL CHARACTERISTICS

The statement should contain a complete description of the physical characteristics of the Little Tennessee River and its tributaries including information on:

A. The course.

B. Widths along course.

C. Normal depths and flow rates, as well as their temporal variations.

D. Frequency, size, and duration of floods in relation to location along river course.

E. Location of outfalls, agricultural drainage routes, and other potential sources of pollution.

In addition, appropriate geographical and topographical maps of the region should be supplied showing:

A. Location of towns, cities, and other human population centers.

B. Land use in region indicating:

1. Agricultural areas.
2. Industries and industrial parks.
3. Power plants and other utilities.
4. Airports.
5. National and state parks.
6. Recreational areas.
7. National and state forests.
8. Commercial forests.
9. Wildlife refuges.

C. Location of roads, highways, and any oil or gas transmission lines.

D. Existing dams, reservoirs, impoundments and levies.

E. Location of all significant bodies of water in the area in addition to the Little Tennessee River and its tributaries.

F. Location of historic sites and regions of archaelogical importance.

G. Geologic structure of region in river basin showing:

1. Type of material and general geological characteristics of the river valley.

2. Elevations of land features in region.

3. Location of aquifers and other potential or exploited water supplies.

4. Water table levels and any natural springs in region.

5. Location of any areas of significant geologic activity. In particular, seismic activity which has the potential of damaging the reservoirs and project structures or affecting the course of the Little Tennessee River. Some of the figures referenced in the text of the draft statement were not included in the copy received by EPA.

BIOLOGICAL CHARACTERISTICS

The statement should survey in reasonable detail the biological system in and about the river and its tributaries presenting information on:

A. Principal aquatic and terrestrial species of plants and animals indigenous to the region.

B. Populations and distributions of species considered.

C. Environmental necessities for each important species, for example:

1. Food or nutrient requirements.

2. Requisite air and water quality.

D. Sensitivity or susceptibility of important species to environmental changes induced by the project.

E. Economic, aesthetic, recreational and biological importance of those species likely to exhibit drastic changes in population levels.

The overall effect of the project on wildlife in the river basin needs to be fully discussed insofar as this is possible.

PROJECT STRUCTURES AND/OR FACILITIES

Appropriate vertical and horizontal cross sectional diagrams of the reservoirs, dams, subsidiary impoundments, and supportive structures should be supplied with the draft statement. They should show:

A. Locations and dimensions of all project and project related structures.

B. Areas to be graded, filled, cleared of foliage, or otherwise modified.

C. Water depths and reservoir dimensions as well as seasonal variations of depths and dimensions (including flood easements) above and below the dam sites.

In addition, information should be provided on the following:

A. The types, quantities, and source of building materials to be used. Source of fill materials should be noted on the maps provided in the draft statement.

B. The design, nature, and power requirements of any mechanical or electrical equipment employed in the operation of the dams which could result in degradation of the environment.

OPERATIONAL PROCEDURES

The draft statement should include a discussion of the specific procedures to be employed to handle various "problem" situations that may arise due to the existence, operation, or maintenance of the project facilities such as:

A. Extreme flow rates.

B. Excessive silt loads.

C. Algae blooms or extensive growth of other nuisance aquatic plants.

D. Mosquito infestations.

E. Spills of hazardous materials in navigation areas.

CONSTRUCTION PRACTICES

The draft impact statement should describe the control procedures to be used to prevent excessive and air quality degradation during construction activities.

Degradation of water quality from increased siltation and turbidity can be reduced by:

A. Minimizing or eliminating dredging.

B. Reseeding graded or excavated areas promptly.

C. Excavating fill material so as to minimize total surface area exposed to rainfall and runoff.

D. Providing settling pools to collect runoff.

E. Constructing control devices to divert runoff from flowing over graded or excavated regions.

Air quality will suffer temporarily during construction from the disposal of cleared trees and brush by open fire burning and/or the raising of dust by construction equipment operating over graded or excavated areas. Methods to be employed to control such air pollution sources should be described in detail in the revised impact statement.

SECONDARY EFFECTS

The National Environmental Policy Act places the responsibility for consideration of the total effect on the environment of any given project directly on the Federal agency which is sponsoring the action. Thus, the secondary effects of the project, such as the following, must be explored:

A. Stimulated industrial and commercial development in the region considering the possible adverse environmental effects of such development.

B. Expansion of urban areas, especially the Timberlake community, and their populations with accompanying demands on water resources, waste disposal system, transportation, and other necessities of modern life. Particularly as to how the satisfaction of these demands affects the quality of the environment in the region.

ALTERNATIVES TO PROJECT

The consideration of alternatives to the project which could achieve the proposed benefits of flood control (or flood damage prevention), navigation, water supply, electric power, recreation, shoreline development, and fish and wildlife has not been sufficiently explored in the draft statement. Possible alternatives include:

A. Flood control or avoidance of flood damage through proper flood plain zoning restrictions, flood proofing of vulnerable structures and facilities, and/or emergency evacuation procedures.

B. The construction of shoreline development projects adjacent to existing TVA projects.

C. Supplying water by expanded use of existing ground water, greater utilization of the free-flowing river, or employing several smaller reservoirs.

D. Expanded hydroelectric power generation facilities at existing sites.

Each alternative or combination of alternatives should be explored in detail in the draft statement. Adequate information, data, or other evidence on all alternatives, in addition to reasons for the elimination of each alternative considered, should be included.

BENEFITS

The revised statement should reconsider the overall environmental benefits to be derived from this project.

A. The discussion of the recreational and aesthetic aspects should carefully compare the benefits of a free-flowing stream to those of a man-made lake. The creation of a new lake, offering virtually the same recreational benefits as the existing lakes in the region; and the sacrifice of a free-flowing river, are two effects of the project which should be justified in the environmental impact statement.

Any discussion of recreational benefits, such as boating, hunting, and fishing, should describe present opportunities along the free-flowing stream and estimate how these will change, to the public's and environment's "benefit", as a result of the project. Such estimates should be quantified where possible.

B. The extent to which increased productivity on agricultural land below the dams will offset the complete loss of productivity on land inundated by the reservoirs, should be discussed in detail in the draft statement. In addition, the benefit to be derived from protecting downstream land from floods of various degrees and frequency should be discussed.

C. Several of the benefits attributed to the Tellico project such as: Downstream water quality control and the creation of an additional water supply for municipal and industrial use can be realized only if reservoir water is of sufficiently high quality. The draft statement should include, in addition to the general aspects of project water quality outlined in the water quality section of these comments, a discussion of:

1. The interrelation of water quality in the reservoir and that obtainable downstream. For instance, is it possible to regulate water quality downstream using some control procedure without adversely affecting the overall water quality within the reservoirs? There should be detailed evaluation of the project over a broad range of river conditions of flow rate, pollution levels, and silt loads; indicating the water quality outlined above and below the dam sites under each condition and discussing the control procedures to be used to mitigate various adverse water quality situations.

2. The effect of a given control procedure, designed to regulate one water quality parameter, on other parameters. As an example: The regulation of DO content downstream through the selective release of water from a certain level in the reservoir, may not be compatible with maintaining low phosphate concentrations downstream, that is, the water at that level may be too high in phosphate content. Any discussion of benefits to water quality should consider such unavoidable interactions.

D. The draft statement should include a reasonable estimate of the overall life of the project. Such factors as the buildup of sediment in the reservoirs and changes in the physical nature and course of the river, will affect the operation and utility of the dams.

All environmental "benefits" need to be quantified (where possible), compared and weighed to arrive at a judgment as to the net overall effect of the project on the environment.

GENERAL COMMENTS

The following are important to the quality and effectiveness of any environmental impact statement:

A. A discussion of the accommodations that will be made for the relocation or protection of families, commercial business, public utilities, and industries which will be displaced or otherwise affected by the project should be added. Particularly, reference should be made as to how these accommodations affect the environment and the quality of life in the region.

B. Scientific and engineering support for all conclusions reached on the environmental consequences of the project should be provided. In addition, where scientific research studies are cited as supportive evidence they should be referenced either in footnotes or in an appropriately indexed bibliography.

DISCUSSION

In its January 10, 1972, letter the Environmental Protection Agency indicated that most of the questions listed in its November 12, 1971, letter can be answered by an examination of TVA data. Data of the type referred to are contained in volume II. While there may be a few questions in the November 12 letter that remain unanswered, TVA does not believe any significant information has been omitted.

The January letter emphasizes three points. The first is an EPA recommendation that a public hearing be held on the project. TVA does not believe a public hearing would

be desirable now since the project is nearly half completed. The views of project proponents and opponents have been presented to Congressional committees and have received wide and continuing publicity.

The second point in the January letter is that TVA should prepare a general overview statement covering both Tellico Reservoir and Timberlake in addition to statements on each. TVA has attempted to provide an overview of both developments in this statement, and the separate statement or statements dealing with shoreline development should further provide the type of perspective described in the comment.

The third point deals with the special factors that make the Tellico area unique for industrial, commercial, and recreational development. These have been described in the statement.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
Atlanta, Ga., July 26, 1971.

Dr. F. E. GARTRELL,
Director, Environmental Research and Development, Tennessee Valley Authority, New Sprankle Building, Knoxville, Tenn.

DEAR DR. GARTTELL: Subject: Draft Environmental Statement Tellico Project—Blount, Loudoun, and Monroe Counties, Tennessee.

I am pleased to acknowledge reecipt of your June 18, 1971, letter requesting HUD review of the above project under the requirements of the national Environmental Policy Act of 1969.

We have reviewed the information submitted along with your referral and have investigated the environmental aspects falling withing the Council on Environmental Quality designated area of special HUD interest or expertise. From the information available to us, we offer the following comments:

This Office approves the Tellico Project providing TVA will assume the responsibility for financially underwriting the area's residential, recreational, and industrial development essential to fulfill the concept of "an ideal living, working and recreation environment," (Page 1, Draft Environmental Statement). This involves providing the area schols, utilities, and total urban services required. Otherwise, this Office opposes the Tellico project for the following reasons:

1. It is stated that the project will bring commercial navigation to 5,700 acres of industrial development along the reservoir shorelands. It is also stated that 9,000 new industrial jobs and 16,000 new recreation, commercial, service, and other jobs will be created. The proposed Timberlake project is treated as a single vast urban complex from Knoxville to Chattanooga. However, there is no assurance as to the source of financing such a complex of industry and employment. The proposed commercial navigation benefits are irrelevant unless the proposed industrialization occurs.

It is essential that TVA aid local governments in providing the required urban services to the impacted area, or perhaps completely underwrite such services itself.

It is noted that Sevier and Grainger Counties border on TVA projects and are still essentially poor, rural counties. Has consideration been given to developing these areas? It is also noted that all the proposed industry be situated in Monroe County and all the housing in Loudon County. Perhaps there should be a mixture of development in these counties.

2. It appears that a 1,000-acre State park near Fort Loudon has been included as one of the benefits of the Tellico Project. This Office cannot see the relationship between the park and the dam.

3. No consideration has been given to the irreversible loss of zinc deposits and related employment opportunities to be inundated with 16,500 acres of water. The loss of productivity from 112 commercial farms has not been reconciled. These seem to be high costs for another dam in an area that is already "one of the most highly developed hydroelectric regions in the Nation," (Page 6, Draft Environmental Statement).

4. Adequate housing resources available to relocate 274 families, 5 churches, and 4 schools must be assured.

5. The hydroelectric power and flood control benefits appear to be negligible.

6. There is no assurance that TVA ownership of adjoining land will insure the development of a balanced environment. What is to assure the environment oriented staff controlling the development?

7. There is no discussion of the alternative of constructing no dam whatsoever on the Little Tennessee River.

8. Local opposition has become so intense that State legislation has been proposed to halt any State assistance to the project.

We also call your attention to Attachment "A" of this letter and request you initiate action to satisfy the several noted items.

Sincerely yours,

THOMAS J. ARMSTRONG,
Assistant Regional Administrator.

DISCUSSION

During planning of the Tellico project, TVA met with the Assistant Secretary for Metropolitan Planning and Development and other officials of the Department of Housing and Urban Development (HUD) to assure that Tellico proposals accorded with the plans of that agency. These discussions included meetings with the HUD officials responsible for development of new communities. HUD expressed a complete willingness to cooperate with TVA, and discussions since the receipt of this comment have confirmed the Department's willingness to cooperate with TVA in the development of the new community. TVA, along with other state and Federal agencies and private developers will finance the residential, recreational, and industrial development at the project. A discussion of schools, utilities, and urban services appears in response to the September 3 comment of the Tennessee Office of Urban and Federal Affairs.

1. Timberlake is not a single vast urban complex from Knoxville to Chattanooga but rather a development along the shoreline of Tellico Reservoir.

While it is true that Sevier and Grainger Counties border on TVA projects, they do not border on navigable portions of the Tennessee River. There are no railroads in Sevier County, and the one branch line in Grainger County is at the opposite side of the county from TVA's Cherokee Reservoir. TVA has numerous programs designed to aid counties such as these, including an education program involving Grainger County and a local project for flood control at Sevierville in Sevier County.

The proposed industrial areas at the project are about equally divided between Monroe and Loudon Counties. While the residential portions of Timberlake will be situated in Loudon County, it is expected that more than half of the residential development that will occur as a result of the project will be outside of Timberlake, much of it in Monroe County. TVA's local consultation and coordination activities are designed to help both counties provide, in cooperation with each other, the services that the area will need.

2. TVA apparently failed to make clear in the draft statement that the 1,000-acre state park is near old British Fort Loudoun at mile 20 on the Little Tennessee River and not near Fort Loudoun Dam. About half of the park will occupy an island in the lake.

3. The primary zinc deposits do not underlie the entire reservoir area. Rather they occur in the Bat Creek Knobs area at about mile 13. Only a small zinc reserve will be affected by the shoreline development and none by the impoundment. None of this zinc is being mined. The deposit is an insignificant portion of the zinc reserves in east Tennessee.

TVA has taken the agricultural losses from the project into account. In part 1 of this volume, it is indicated that the total annual value of agricultural products in the project area was about $1.9 million in 1964. TVA recognizes these losses but believes that they will be offset many times over by the developmental benefits of the project. The counties affected by the project are suffering from a lack of employment opportunity, not a lack of agriculture. In rural Monroe County, for example, 35.9 percent of the families have incomes of less than $2,000 annually. While the watershed is one of the most highly developed hydroelectric regions in the Nation, this hydroelectric development does not provide commercial navigation nor does it exist in an area having a shoreline suitable for the types of development that will occur at the Tellico project.

4. TVA has determined that adequate housing resources are available, and it assists the families in finding suitable replacement housing.

5. While electric power benefits from the project are not as great as from many of TVA's hydroelectric projects, they are sizeable enough to be important and valuable. See the Federal Power Commission's comments. The estimated production of 200 millian kilowatt hours of energy each year is especially attractive because the construction of additional generating units will not be required. Hydropower generation also has environmental advantages over fossil-fueled generation. The value of the benefits for power and flood control is discussed in volume III, part 3. The combined benefits for electric power and flood control are estimated at about one-fourth of the total project benefits for electric power and flood control are estimated at about one-fourth of the total project benefits (excluding economic development benefits).

6. TVA is committed to maintaining very high environmental quality in the project area. In part this will be achieved through restrictions on land use to assure protection of the environment. TVA has used and plans to continue to use both staff experts and consultants in the natural and social sciences to guide development plans.

7. See part 1 of this volume.

8. Legislation to incorporate the Little Tennessee River in the State Scenic Rivers System, which was introduced by legislators outside the three-county project area, was defeated. Most elected officials from Loudoun and Monroe Counties strongly support the Tellico project, and the county judges from the three counties testified in support of the project at recent appropriation hearings. In the spring of 1971 a local legislator conducted a poll of his constituents and determined that most of them support the project. On May 24, the Tellico Area Planning Council held a public meeting on the project and found very little local opposition.

The President's budget for fiscal year 1973 includes $15 million for the project. In fiscal year 1972, $8 million was appropriated.

Those matters raised in Attachment A to the HUD comment that require a response have been discussed elsewhere in this part.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., September 22, 1971.

DEAR MR. GARTRELL: Reference is made to your letter of June 18, 1971, submitting for our review and comment the Draft Environmental Statement on Tellico Project, Blount, Loudon, and Monroe Counties, Tennessee.

We have reviewed the Draft Environmental Statement and believe it does not adequately disclose the effects of the proposed project

on the environment. We therefore recommend that appropriate sections be modified to accommodate the following comments.

Project Description and Environmental Setting Without the Project—In order to fully and objectively portray the environmental consequences of the proposed action, it is essential that a complete inventory be provided in both quantitative and qualitative terms that identifies the relevant cultural and natural resources. For example, the project area to be inundated should be described in a manner that will factually portray the kind, quantity, and quality of recreation lands, cropland, pasture, timber cover, and wildlife that will be involved in the tradeoff with the reservoir impoundment. The draft statement makes general reference to these resource values, but fails to identify the specific land uses and types, amount and quality of timber and other cover in the project area and the kinds and approximate numbers of wildlife and waterfowl resources that will be displaced by the project. The discussion of esthetics should be expanded to include an impartial analysis of the esthetic values of the free flowing Little Tennessee River in order to provide a basis for a meaningful treatment of the tradeoffs involved with the reservoir project. The statement does not establish the degree of uniqueness of this river within the context of the total TVA system nor within the context of the remaining unregulated streams in the State.

Environmental Impact of the Project—There is an apparent tendency to utilize the draft environmental statement as a form of justification document to support the water resource development proposal. The discussion should include both the beneficial and detrimental aspects of the environmental changes from the varying viewpoints of different environmental interest groups. An objective analysis should give co-equal consideration to the adverse and beneficial impacts and thereby clearly delineate the environmental tradeoffs involved.

The statements would be improved if it included a discussion of the effects of introducing waters from Fort Loudoun Reservoir into the Little Tennessee River.

We recommend that the environmental statement be expanded in the final form to more fully reveal the effects of the project on fish and wildlife as well as the esthetic aspects of the area to be impounded. Such expansion should include the following:

Impact on Fish and Wildlife—This section should describe the Little Tennessee River, below Chilhowee Dam, as supporting a significant trophy trout population of statewide, regional, and national importance. This reach of the river receives extremely heavy angling use which is increasing at a rate well above the national average. The loss of this special trout fishery will be keenly felt for it is considered one of the top trout tailwaters in the eastern United States. The river is irreplaceable since it is the last free-flowing section of the Little Tennessee River in the State. The expected warmwater reservoir fishery will only make available more of the same mediocre fishing already present in abundance.

The description of the impacts of the project on fish and wildlife should include more detail on the impacts on these resources from the urban and industrial developments connected with the project. These developments will replace wildlife habitat as surely as the reservoir. The ultimate projected acreage of the planned community should be stated. In the description of the waterfowl use of the area, the reservoir should be described as being of minor importance. Migrating waterfowl will only use the reservoir for resting during short periods at the times of migration through the area. Waterfowl hunting will be of poor quality and hunting pressure will be light within the project area.

Deer, dove, quail, and squirrel hunting has occurred in the bottoms along the river. This hunting should be described and the project impacts should be detailed. In the portion of the area which will be incorporated into the State park system, hunting probably will not be allowed. Thus, this loss also will be an impact of the project and should be described. A greater loss of hunting will occur than is indicated in the statement.

Adverse Environmental Effects—This section should contain a description of the adverse impacts described in the impacts section. This statement is in error when it states: "This" (referring to the portion of trout fishery of the Little Tennessee River to be adversely affected) "will amount to a very minor reduction in the total trout water of the area." This trout water is a very important part of the State's total trout resource for the reasons stated previously. This section also should describe the means and measures which will be used, or are proposed, to eliminate or minimize the described adverse effects. In this way, these means and measures can be properly evaluated. The loss of the last free-flowing section of the river and its unique river bottom habitat should be documented as an adverse effect on the natural environment.

It would be helpful also if the statement elaborated more on the kind and amount of loss anticipated from agricultural and timber use foregone and wildlife and recreation values lost to the reservoir development.

Alternatives to the Project—The discussion of alternatives would be strengthened by specifically considering the general environmental consequences of no action. This would require a projection of the future environmental setting expected to occur if the project is not accomplished.

Relationship Between Short-Term Uses and Maintenance and Enhancement of Long-Term Productivity—The intent of this section is to compare the short-term use, the project, with the long-term productivity of the area. Thus, the effects of the project on the production of living resources, including fish and wildlife, should be detailed. The annual production of trophy sized trout in the State will be significantly reduced and the production of wildlife in the inundated area will be eliminated by the project. In addition, the wildlife production in the planned urban area and the industrial areas will be slowly replaced as these areas are developed. All relationships such as these should be described.

Irreversible and Irretrievable Commitment of Resources—This section should describe the above mentioned losses of fish and wildlife production due to project construction and operation; such losses are irretrievable. Thus the project will adversely affect the environment in terms of these living resources.

With the exception of the impact of the project on groundwater levels, it appears that the statement takes cognizance of the various hydrologic factors which might be expected to change as a consequence of constructing a water development project of this scope and magnitude. It is suggested that a statement regarding the effects of the proposed storage on the geohydrologic environment be incorporated in the environmental statement.

Consideration of the project impact upon archeological and historic values is reflected along with actions to safeguard archeological data and historic sites. However, we would suggest that the statement include specific mention of consultation with both the National Register of Historic Places and the State Liaison Officer for Historic Preservation (Executive Secretary, Tennessee Historical Commission) regarding the presence of significant archeological and historic sites in the project area.

We suggest that the statement be substantially expanded in its consideration of natural values. Much of the statement's text is devoted to descriptions of the project in terms of physical developments and predicted economic and social benefits. The recognition of project impacts upon natural values needs to go beyond the discussion of fish and small game. Identity of the scope and significance of ecological factors which would be subject to project influences would be helpful in evaluating the full range of the project's impact upon the natural environment.

This environmental statement should provide a discussion which deals with those lands in the study area that have historic value to the Cherokee Nation. Appropriate sections of the environmental statement should be revised to reflect the project impact on these lands. Further, the statement should discuss the scope of the archeological studies now under way in the study area and identify what, if any, recommendations are available dealing with salvage or preservation which would minimize the loss of lands or artifacts having historical significance to the Cherokee people.

We appreciate the opportunity to review and comment on this Draft Environmental Statement.

Sincerely yours,

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

DISCUSSION

PROJECT DESCRIPTION AND ENVIRONMENTAL SETTING WITHOUT THE PROJECT

Additional information of the type requested has been supplied in volume II. It should be noted that the Little Tennessee River is a regulated stream, not an unregulated stream as described in the comment.

ENVIRONMENTAL IMPACT OF THE PROJECT

The viewpoints of other interested persons and agencies are contained in this statement. Both beneficial and detrimental aspects in the environmental changes resulting from the project have been described as has the interchange of water from Fort Loudoun Reservoir with Tellico Reservoir. See volume I, part 1, and volume II, part 2.

IMPACT ON FISH AND WILDLIFE

The brown trout in the Little Tennessee River have been described as have the other matters relating to the trout fishery. The portion of this comment dealing with urban and industrial development will be treated in the subsequent statement issued by TVA on that subject. TVA recognizes that the reservoir will not be used for much more than a resting area by waterfowl, and no substantial waterfowl benefits have been claimed. Hunting losses have been described.

ADVERSE ENVIRONMENTAL EFFECTS

TVA does not believe it necessary to repeat in the Adverse Environmental Effects section the material contained elsewhere. The material in this comment has been discussed in part I of this volume, elsewhere in this part, and in volume II.

ALTERNATIVES TO THE PROJECT

The alternative of no action has been considered as has the development of the river as a scenic river. Were no action of any sort taken, unplanned development would in all probability occur generally throughout the area along the river.

RELATIONSHIP BETWEEN SHORT-TERM USES AND MAINTENANCE AND ENHANCEMENT OF LONG-TERM PRODUCTIVITY; IRREVERSIBLE AND IRRETRIEVABLE COMMITMENTS OF RESOURCES

The information and relationships requested in these two comments are described in this statement along with related con-

siderations. See particularly volume I, part 1, and volume II, parts 11 and 12. TVA agrees that the annual production of trout of trophy size will be reduced unless a substitute fishery for brown trout is established. TVA also recognizes that wildlife production will be reduced as urban and industrial areas are developed. TVA does not consider it necessary to repeat under specific headings of the statement discussions that appear in other sections.

OTHER POINTS RAISED IN THE COMMENT

The reservoir is not expected to have any significant adverse impact on the geohydrologic environment.

The draft statement was sent to the Advisory Council on Historic Preservation. No response was received. The State of Tennessee did not include in its comment any comments by the Tennessee Historical Commission.

The statement has been substantially expanded in its consideration of natural values, particularly those of fish and small game. The statement also contains an expanded discussion of archaeology. See especially volume I, part 1, and volume II, parts 8, 11, and 12.

A QUESTION OF NUCLEAR SABOTAGE

Mr. GRAVEL. Mr. President, the successful planting of two live bombs on commercial airliners last week necessarily raises unpleasant questions about the vulnerability of nuclear powerplants to extortion or sabotage. So does the successful planting of bombs in bank safe-deposit boxes in January.

The New York Times pointed out the connection quite explicitly in its lead editorial on Sunday, called The Vulnerability of Systems.

Mr. President, I ask unanimous consent to have the editorial printed at the end of my remarks.

It is remarkable that AEC regulations Nos. 50.13 and 115.9 explicitly state that nuclear license applicants "are not required to provide for design features or other measures for the specific purpose of protection against the effects of attacks and destructive acts, including sabotage, directed against the facility."

ALREADY A DEMONSTRATED PROBLEM

The first case of successful sabotage at a nuclear powerplant has already occurred in New York, at an unloaded Consolidated Edison plant just prior to its completion.

On November 4, 1971, arson caused $5 to $10 million worth of damage at the Indian Point No. 2 nuclear powerplant; in February, a maintenance employee was accused of the crime.

Mr. President, I ask unanimous consent to have the following four stories also printed at the end of these remarks:

"Con Ed Employee Charged on Arson."

"Cops Eye Suspect in Con Ed Fire."

"Con Ed Surveying Fire Damage at a Nuclear Plant."

"Damage Is Put at Millions in Blaze at Con Ed Plant."

NATIONAL SECURITY IMPLICATIONS

Dr. Edward Teller, who developed the hydrogen bomb, considers the nuclear bomb to be "a relatively safe instrument" compared with nuclear powerplants. In an article in the Journal of Petroleum Technology, May 1965, he pointed out that radioactivity from a bomb ascends to the stratosphere, where it is diluted before descending, whereas radioactivity released from a nuclear powerplant will be concentrated near the ground "in a truly deadly fashion." A large nuclear powerplant produces about as much radioactivity every year as would the fissioning of 1,000 Hiroshima A bombs.

The national security implications of the whole civilian nuclear power program are profound, and represent still another major nuclear hazard left unexamined by Congress as a whole.

I urge my colleagues to think hard about this question and several others before going along with bills like H.R. 13731 and H.R. 13732, which would rush more nuclear powerplants into operation this year. Instead, a temporary halt to nuclear construction and operation might be considerably more appropriate, and that is what I have proposed in my bill S. 3223.

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

[From the New York Times, Mar. 12, 1972]

THE VULNERABILITY OF SYSTEMS

A bomb explodes in an airplane parked at Las Vegas and the entire American air transport industry is thrown into turmoil. A mechanical device malfunctions and almost the entire northeastern United States is deprived of electricity. A computer program has a single error and as a result a space mission involving a multimillion-dollar rocket ends in failure. Wage disputes between workers and employers produce strikes that tie up the entire shipping industry of the United States on both the Pacific and the Atlantic Coast and impose billions of dollars in losses to the nation's economy.

The common thread tying together these and other catastrophes of recent years is the fact that each incident exposed the extreme vulnerability of one or another complex system upon which American society is now so heavily dependent. Inevitably, therefore, increasing proliferation of these systems is called into question. Each such system is open to disruption or failure from causes which range from operational malfunction or weather damage all the way to sabotage by criminals, madmen, or individuals with real or imagined grievances.

Looking to the future, it is now widely predicted that the nation will become dependent for much of its electric power upon breeder atomic power stations. Yet these will require large numbers of vehicles transporting plutonium—a raw material for atomic bombs—which could be hijacked, while any nuclear power station might be sabotaged by a madman who wanted for some perverted reason to see radioactive substances spread broadcast through the environment. Such examples could be multiplied many times.

Designers of complex systems are well aware of their vulnerability and, where possible, they try to create fail-safe situations by building alternative means of accomplishing the same job into the system. Thus no Apollo astronaut has been lost in flight because of the extensive redundancy built into the spacecraft to guard against any individual component's failure. But in less exotic systems, such redundancy and fail-safe devices are often omitted because of cost or for other reasons. Thus, civil aircraft might be less vulnerable to bomb damage if their passengers wore parachutes and could escape from damaged planes. But the cost would be enormous; the need to wear parachutes would frighten many potential passengers away; and in the event of need it is doubtful that many passengers could successfully parachute to safety anyway.

There are no simple or blanket answers to such problems, but certainly the vulnerability factor needs to be given more importance in the future than it has received in the past. The need for fail-safe devices—for example, independent electricity generators standing by in hospitals and other large buildings against the possibility of electricity failure—requires higher priority in both governmental and private thinking and planning.

More fundamentally, what is needed is a new skepticism toward complex systems, and a new appreciation of the small and the simple. Bigger and more complicated does not necessarily mean better, but it certainly means more vulnerable. It is time for the gigantomania and systems-infatuation of the past to be replaced by a more realistic appreciation of the dangers presented by our dependence on the systems around us.

[From a Westchester, N.Y., newspaper, February 1972]

CON ED EMPLOYEE CHARGED ON ARSON

(By Milton Hoffman)

A maintenance employee who turned in the alarm and was among the first to fight the blaze has been charged with arson in the multimillion dollar fire last Nov. 4 in an auxiliary building at Con Edison's Indian Point Nuclear Plant 2.

The arrest of Arthur Rickey Jr., 27, of 5 Hickory Lane, Wappingers Falls, came on Saturday night, the day he admitted himself as a patient to the Veterans Administration Hospital in nearby Montrose. Following a preliminary hearing, he was permitted to return there as a patient until the next hearing Feb. 14.

A motive, if any, for the alleged blaze has not been revealed by arresting authorities.

The arrest was made by the men of Sheriff Daniel F. McMahon, whose office had been probing the blaze since the night it occurred. The fire, although in a building removed from the main nuclear plant, caused severe damage to delicate wiring and pumping equipment and delayed the opening of the plant by several months.

The blaze has been estimated to have cost between $5 million and $10 million, the latter figure placed by fire underwriters who said it was the costliest blaze in the United States in 1971.

Rickey, a seven-year employee of Con Edison, worked at the plant as an operating mechanic. According to Sheriff McMahon, Rickey was at the plant the night of the blaze.

Rickey, a former resident of the Peekskill area, is married and the father of three. His wife is expecting their fourth child soon.

McMahon credited chief Criminal Investigator Charles Jackson, and Senior Investigators Thomas McInerney and Dominic De Marco with cracking the case, but did not state what led them to suspect Rickey. Shortly after the blaze, however, the sheriff did label the fire arson and said that there was a prime suspect.

McMahon credited Con Edison officials with assisting in the investigation.

Rickey was charged with second degree arson. At the request of his attorney, Martin Trainor, Rickey was returned to the VA Hospital by the hearing judge, Buchanan Associate Judge Daniel McCarthy. McCarthy said Rickey had volunteered for psychiatric treatment at the hospital before his arrest.

McMahon said that the fire was started by lighted matches being tossed into the wooden tool shed in the auxiliary building.

While the fire did not damage the main nuclear plant building itself, about 50 feet from the fire its effect was to delay the start up until this summer, if not later. Con Edi-

son officials said they were prepared at the time to immediately start up the plant, which will produce 873,000 kilowatts, awaiting only permission from the Atomic Energy Commission.

Nuclear Plant No. 1, also nearby, was operational the night of the fire and was not affected.

The National Fire Protection Association said that the blaze, based on an estimated loss of $10 million, was the costliest last year in the United States. Con Edison, however, said the repair work "will not exceed $5 million."

[From the New York Daily News, Nov. 17, 1971]

CONS EYE SUSPECT IN CON ED FIRE

(By Dominick Unsino and Robert Carroll)

A multimillion-dollar fire that wrecked an auxiliary building at Consolidated Edison's nuclear generating complex on the Hudson River south of Peekskill Nov. 4 was determined yesterday to have been deliberately set.

Westchester County Sheriff Daniel F. McMahon would not go into detail, but it was learned that a "prime suspect" has been identified and an arrest is expected shortly.

SUSPICIOUS MATERIAL FOUND

The arson determination apparently was made on the basis of unspecified material found at the scene, which was turned over to the Federal Bureau of Investigation for study. McMahon said neither a bomb nor a "timing device" was used to start the fire.

The fire began in or near a plywood shack on the ground floor of an auxiliary building situated 150 feet from the Indian Point No. 2 nuclear reactor building and an equal distance from the facility's generator building, according to Con Ed. The building is connected by power lines with the reactor building to control various systems associated with the reactor.

Despite the severity of the fire, Con Ed insists that there will be no appreciable delay in the testing under way at the million-kilowatt facility. The utility also said it still expects to have the $150 million unit in operation for next summer, if long-delayed approval by the federal Atomic Energy Commission is given early in 1972.

Many environmentally concerned individuals and groups are challenging Con Ed's application for an AEC operating license for the plant at hearings which are still in progress.

FENCED AND PATROLLED

The Indian Point No. 2 facility, which is fenced in and patrolled by security forces, adjoins the smaller Indian Point No. 1 plant, which has been operating since 1962, and a second million-kilowatt plant, Indian Point No. 3, which is under construction. No. 3 will be completed in 1974.

Con Ed said it won't know "for quite some time" the extent or money value of the damage caused by the fire.

[From the New York Times, Nov. 16, 1971]

CON ED SURVEYING FIRE DAMAGE AT A NUCLEAR PLANT

(By Boyce Rensberger)

Eleven days after a mysterious fire destroyed part of the electrical control system at The Consolidated Edison Company's new nuclear power plant at Indian Point, near Peekskill, workmen and inspectors yesterday were still scrubbing soot from the blackened walls and picking among the charred wires and dismantled components, trying to determine the extent of the damage.

The fire broke out on Nov. 3 around 7:30 P.M. It was confined to one corner of a steel and concrete "Primary auxiliary building" near the 135-foot-diameter dome containing an atomic reactor that is fueled but not scheduled to begin operation until next summer.

Beyond the fact that Westchester County police and fire officials say they are investigating the possibility of arson, the cause of the fire remains unknown.

DAMAGED SHACK REMOVED

Although Con Edison officials maintain that the fire will not delay the start-up of the plant, designated as Indian Point No. 2 (an older plant at the same site, No. 1, has been in operation since 1962; No. 3 is under construction), the full extent of damage has not yet been established.

The fire began in or near a 20-foot-by-20-foot plywood shack on the ground floor of the auxiliary building where metal parts—valves, flanges, and other hardware—were stored for use in construction.

The remains of the shack have been cleared away and scaffolding erected to help workmen inspect damage to the thousands of electrical cables held overhead in open racks. Some of the racks became hot enough during the fire to sag and twist out of shape.

The wires, now clipped and dangling, once connected panels of circuit breakers with dozens of subsystems throughout the power plant, such as the pumps and valves that regulate the flow of cooling water through the reactor.

Warren R. Cobean Jr., Con Edison's manager of nuclear power generation, said each of the thousands of wires and circuit breakers would have to be tested to determine whether it was salvageable. Some of the equipment, he said, will have to be replaced. Some will be cleaned up and reused.

SOOT IS SCRUBBED OFF

Dozens of soot-covered electrical components lay dismantled on the floor of the building next to tangles of charred cables as inspectors rooted among the smudged and scarred components.

Workmen with red hardhats scrubbed soot off the white-painted walls with bristle brushes. Others blasted jets of steam into mazes of pipes and valves to wash away the black powder.

Although one unofficial estimate is that the damage amounts to $10-million, Con Edison officials maintain it will be some time before they can complete a damage survey.

"One thing is for certain, though," Mr. Cobean said. "If this plant were in operation, that plywood shack wouldn't have been there to start a fire. Virtually everything in this building would be either concrete or steel, virtually fireproof."

Mr. Cobean said that if a fire had caused the same damage while the power station was operating, the only effect outside the building would have been to shut down the generator. He said there would have been no danger that the reactor or the high-pressure steam generators would go out of control.

[From the New York Times, Nov. 14, 1971]

DAMAGE IS PUT AT MILLIONS IN BLAZE AT CON ED PLANT

(By Robert D. McFadden)

A fire listed as "possible arson" by the Westchester County and New York State Police caused millions of dollars of damage to electrical equipment at Consolidated Edison's new 873,000-kilowatt nuclear power plant at Indian Point, 40 miles north of New York City.

The extent of damage to cables and control panels caused by the fire 10 days ago is still being assessed and may not be known for another week or two. The day after the fire, Con Edison spokesman said it had occurred in a "tool shed," and did not characterize the damage.

But the chairman of the state's Public Service Commission, who reported the incident to Governor Rockefeller, yesterday called it a "multimillion dollar" fire, and the chief of one of five volunteer fire departments that fought the blaze put the damage at $10-million as an unofficial figure "in the ball park."

A spokesman for the Consolidated Edison Company yesterday conceded that it was "not a small fire by any means," but he added that the company would have to await a full damage report before commenting in more detail on the extent of damage.

The spokesman, who offered assurances that there was no danger of radioactive release, said it may take several months to repair the fire damage at the $150-million plant known as Indian Point No. 2.

Indian Point No. 1 is an adjacent 260,000-kilowatt nuclear plant already in operation, and No. 3—projected as a 965,000-kilowatt nuclear generator—is in the early stages of construction.

The No. 2 plant, which had been nearing completion after five years of construction by a subsidiary of the Westinghouse Electric Corporation, has been described by company, state and city officials as a "crucial" link in Con Edison's production to meet next summer's peak demand for power.

Despite the anticipated delay caused by the fire, the Consolidated Edison spokesman said the company still expected to have the plant in operation by next summer. He contended that obtaining an operating license from the Atomic Energy Commission—a company effort that has been complicated by recent court decisions on environmental protection—would be a more important consideration than the fire damage in determining when the plant would become operable.

Westchester County Sheriff Daniel McMahon and the New York State Police at Peekskill have listed the fire as "suspicious" and "possible arson."

While investigators declined to give details of the suspicious nature of the fire, Joseph C. Swidler, chairman of the Public Service Commission, said it was under investigation because the "amount of heat generated—and duration [of the fire]—did not seem to be consistent with the normal amount of combustible material" at the scene.

BLAZE LASTED TWO HOURS

Five volunteer fire companies, nearly 200 men from the nearby communities of Verplanck, Buchanan, Montrose, Peekskill and Mohegan, fought the blaze for nearly two hours in an auxiliary control building at the plant on the night of Nov. 4.

The flames, which reportedly did not endanger the nuclear reactor building 150 feet away or the generator building 300 feet away, began in a 20-foot-square plywood workmen's shed on the concrete first floor of the three-level auxiliary building, which is a steel frame structure housing a variety of control panels, cables and pumps.

C. D. Lohrfink, division manager of public affairs in Westchester for Consolidated Edison, said that flames leaping up from the shed damaged cables in racks overhead and a variety of electrical equipment and pumps.

A maintenance foreman who works at the scene and asked not to be identified said the fire had "melted electrical control panels right down to the floor."

Robert Gilbert, chief of the Buchanan fire volunteers, said that heat and smoke in the building had been intense during the fire-fighting, which lasted from 7 P.M. to about 9 P.M. Despite the use of oxygen masks, he said, two firemen were overcome by smoke, one of them requiring hospitalization overnight.

"It was far from a minor fire," he said, adding: "I never saw so many Con Edison officials in my life."

Thomas Carey, chief of the Verplanck fire volunteers, said he had been told by an insurance investigator on the scene that a

damage figure of $10-million would be "in the ball park."

A spokesman for the Atomic Energy Commission in Washington said that a company report to the A.E.C. had listed "damage to electrical equipment and heat and water damage to piping, components, structural supports and concrete," but did not put a dollar-figure on it.

Experts of Wedco, the wholly owned subsidiary of Westinghouse that is building the plant, are currently assessing damage and should have a report by the end of this week, a Consolidated Edison spokesman said.

Mr. Swidler said yesterday that it was still "uncertain who bears the cost" of the fire. Consolidated Edison's contract with Wedco is a "turnkey" contract, meaning that "they build the plant, make it work and turn it over to Con Ed," according to a Consolidated Edison spokesman.

A state police spokesman said there were "no hot leads" in the investigation of possible arson, and a spokesman for the Westchester County police said that reports on laboratory tests had not yet been completed.

Both spokesmen and the Buchanan Village police described security at the nuclear power complex as tight. The complex is surrounded by an eight-foot cyclone fence topped with barbed wire. Security guards are posted at all gates around the clock and others are posted on "fire watch."

Company employes said that the security force had been strengthened since the fire. These sources also said that police investigators had questioned numerous employes on duty at the complex on the night of the fire.

A state police investigator said yesterday that it was his understanding that there had been no one in the auxiliary building when the fire broke out and that it had been discovered by a member of the fire-watch patrol.

VAST MAJORITY OF TEACHERS FAVOR EQUAL RIGHTS AMENDMENT

Mr. BAYH. Mr. President, the National Education Association has done a very significant study of the views of teachers, both male and female, toward the equal rights amendment. The association found that the vast majority of the Nation's public school teachers—83 percent—favor the amendment, while only 9.5 percent oppose it. Among the male teachers alone, it is interesting to note, more than three-quarters—79.8 percent—favor the amendment.

Mr. President, there is overwhelming support for the equal rights amendment—support among the public, as this and other polls show; support among organized men's and women's groups, and among scholars, as the hearings show; and support in the Congress, as the approval by the House and the fact that over half the Senate cosponsors the amendment, amply show. Shortly, I hope, the Senate will approve the amendment and send it to the States for ratification.

I ask unanimous consent that the teacher opinion poll which appeared in the November 1971 issue of the National Education Association's publication, Today's Education be printed in the RECORD.

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

TEACHER OPINION POLL: EQUAL RIGHTS FOR WOMEN

The vast majority of the nation's public school teachers favor a Constitutional amendment that would guarantee equal rights for women. Over half strongly favor such an amendment, and an additional 3 to 10 tend to favor it. Fewer than 10 percent are opposed.

These are findings of a Teacher Opinion Poll which in spring 1971 asked a nationwide sample of classroom teachers the following question:

"Do you favor or oppose an amendment to the federal Constitution providing that equality of rights under law shall not be denied or abridged by the United States or by any state on account of sex?"

Responses show a higher percentage of women than of men (85 compared with 80 percent) in favor and also a noticeably larger proportion of women than of men (56 percent compared with 46 percent) who strongly favor a Constitutional amendment to this effect.

[In percent]

	Total	Men	Women
Strongly favor	52.5	46.0	56.4
Tend to favor	30.5	33.8	28.5
Tend to oppose	6.2	7.6	5.4
Strongly oppose	3.3	5.5	2.0
No opinion	7.5	7.1	7.7

Regional analysis of responses reveals that more teachers in the Northeast (87 percent) and the Middle section of the country (85 percent) than in the Southeast or West (80 percent each) favor an equal rights amendment. The Northeast stands out from other regions of the country in having a particularly large percentage (61 percent) who *strongly* favor such an amendment.

[In percent]

	Northeast	Southeast	Middle	West
Strongly favor	61.4	46.3	52.9	49.1
Tend to favor	25.1	33.7	31.8	30.9
Tend to oppose	5.7	5.6	5.9	7.7
Strongly oppose	3.0	4.1	2.8	3.7
No opinion	4.9	10.3	6.7	8.6

Proportions of urban, suburban, and rural teachers in favor of an equal rights amendment are generally similar. However, larger percentages of urban and suburban teachers strongly favor such an amendment, while more rural schoolteachers say they tend to favor it.

THREAT OF FOREIGN FISHING OFF U.S. SHORES

Mr. STEVENS. Mr. President, in weeks past, I have reminded the Senate of the threat of foreign fishing that continues off our shores.

The economic consequences are greatest to my home State of Alaska, where many depend entirely on the sea for income and whole families look to the Alaska fishery for a large part of their diet. For many years fishing was Alaska's most valuable industry. More than 30,000 persons are employed in the industry in Alaska, including 21,000 licensed fishermen and 9,000 people in plant operations. The total investment in vessels and facilities now approaches $1 billion. And 172 companies operate 200 to 240 processing plants.

Yet, today, 142 Russian and 126 Japanese ships are just off Alaska's shores, sweeping the sea of the valuable protein source of this important industry, using techniques denied our fishermen by law.

Seventy-four Russians and 85 Japanese are fishing groundfish between St. George Island, in the Pribilofs, and Unimak Island.

Thirty-two Russians and 16 Japanese are between Nunivak and the Pribilofs.

Seventeen Russian trawlers are working the shrimp beds near Chirikof.

Two Japanese and three Russians are after black cod and perch near Kodiak.

Six Japanese, between Middleton Island and Cape Spencer, and 11 between Cape Spencer and Dixon Entrance, are fishing for black cod.

Mr. President, this danger must be met with action that will force these foreign fleets to meet the same standards of conservation, at least, that we impose on our own commercial fishermen.

NUCLEAR POWERPLANT CHALLENGED BY BETHLEHEM STEEL CORP.

Mr. GRAVEL. Mr. President, I believe Members of Congress are quite sensitive to the sentiments of big business and, therefore, they may be interested to learn that the Bethlehem Steel Corp. recently asked permission to intervene in an AEC licensing hearing.

Nuclear promoters, who seem to expect legislative relief whenever citizens win court decisions against nuclear power, may find themselves tangling with opponents who are more politically powerful some day soon.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "AEC Petitioned on A-Plant Near Gary," published in the Chicago Sun-Times on January 31, 1972.

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

[From the Chicago Sun-Times, Jan. 31, 1972]

AEC PETITIONED ON A-PLANT NEAR GARY

(By Bruce Ingersoll)

Bethlehem Steel Corp., three environmental groups and the State of Kansas have asked the Atomic Energy Commission for permission to intervene in hearings on the proposed nuclear plant east of Gary, it was learned Sunday.

Northern Indiana Public Service Co. plans to build a $161.5-million nuclear unit at its Bailly Station, on Lake Michigan directly between Bethlehem's mammoth Burns Harbor plant and Dune Acres, an exclusive residential enclave inside the Indiana Dunes National Lakeshore.

BETHLEHEM'S WORRY

Because of the possibility of a nuclear accident and radiation fallout, the environmentalists maintain that a 680-megawatt reactor does not belong on the lakeshore. They favor an inland site, away from population centers and the Dunes national park.

Bethlehem has not yet declared its preference on a nuclear plant site. But sources inside the company and out said Bethlehem executives are concerned about safeguards at the Bailly plant and about safety requirements that would be imposed on the Burns Harbor facility.

In the event of a nuclear accident, sources said, Bethlehem's 5,000 workers would have to be evacuated and operations at the billion-dollar steel complex would have to be curtailed drastically.

In the event of a nuclear accident, sources at Bethlehem, Pa., said in a telephone interview: "We want to be kept informed on the safety and environmental requirements which may affect the operations of the Burns Harbor plant and the safety of its employees."

NEAR FIRST FOR AEC

It is only the second time that a corporation ever has sought to intervene in an AEC construction-permit proceeding, according to David D. Comey, environmental research director of Businessmen for the Public Interest, 109 N. Dearborn, one of the groups opposing the lake front site.

The Porter County Chapter of the Indiana Izaak Walton League, BPI, and a group known as Concerned Citizens Against the Bailly Nuclear Site point out that the power company already has said it would build a cooling tower to prevent thermal (heat) pollution of Lake Michigan.

"They only need 10,000 gallons per minute to make up for cooling water that evaporates from the cooling tower," Comey said.

The company could obtain more than enough water from the Kankakee, Tippecanoe or some other inland river, he maintained

In 1962, the Southern Railway Co. was the first to challenge a nuclear facility—a since dismantled reactor at Parr, S.C.

The environmentalists also have doubts about the power company's competence in nuclear engineering. The Bailly boiling-water reactor would be its first and would emit more radiation than the pressurized-water reactors now mushrooming across the country, Comey noted.

Vern Miller, Kansas attorney general, filed a petition to intervene to protect the safety and health of Kansans living in the vicinity of the AEC's proposed nuclear-waste "repository"—a salt mine at Lyons, Kan.

It is Miller's contention that no wastes from the Bailly reactor or any other nuclear plant should be buried at Lyons until the AEC has assessed fully the environmental impact.

A NEW POLICY TOWARD SOUTH ASIA

Mr. HUMPHREY. Mr. President, last week the Committee on Foreign Relations held hearings on Bangladesh. One of three resolutions before the committee was Senate Concurrent Resolution 58 which I introduced on February 8. This resolution outlines the major steps which must be taken to restore a positive role for the United States in South Asia and to assist in the building and strengthening of the new nation of Bangladesh.

In the testimony I prepared for the committee I discussed these steps in greater detail and brought to the committee's attention some discrepancies involving our food assistance programs to East Pakistan. The President claims that we have given $158 million worth of assistance to East Pakistan. And yet the programs administered by AID have not been completely identified, nor is our future level of assistance yet determined. There has not been a clear accounting of just how that $158 million was spent, nor has there been any earmarking of funds appropriated by Congress for East Pakistani refugee relief assistance.

Mr. President, I ask unanimous consent that my testimony submitted before the Committee on Foreign Relations and the letter I wrote to Dr. Hannah concerning the use of our Public Law 480 programs in Bangladesh be printed in the RECORD.

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

STATEMENT OF SENATOR HUBERT H. HUMPHREY SUBMITTED TO THE COMMITTEE ON FOREIGN RELATIONS, U.S. SENATE, MARCH 7, 1972

Mr. Chairman, on February 4, I introduced S. Con. Res. 58 urging the President to take concrete steps to redress our policy in South Asia. This resolution brought together several proposals I made following the crisis on the Subcontinent, particularly those made in my Senate speech of December 15 when I first urged our government to extend diplomatic recognition to Bangladesh.

The four steps outlined in my resolution are:

(1) Diplomatic recognition of Bangladesh and the government of Sheik Mujibur Rahman;

(2) Provision of humanitarian and economic assistance to Bangladesh from funds already authorized by Congress for that purpose;

(3) Resumption of economic assistance programs to India;

(4) Extension of diplomatic initiative in improving our relations with India.

There is no longer any logical reason for our delaying the establishment of formal relations with the government of Bangladesh. Appropriate criteria of international law have been met. The government is in control of its territory, administers the country with the consent and acquiescence of its people, and has indicated its willingness to fulfill obligations under international law.

Yesterday before this Committee Deputy Assistant Secretary Van Hollen acknowledged in his testimony that the legal prerequisites for diplomatic recognition had already been met. Reports are filtering out that our government in fact intends to extend recognition within the next six weeks. We in the Congress, the American people, and the world at large are forced to wait in suspense for a decision. This delay does little to encourage those who can afford to wait the least: the people of Bangladesh.

Beyond the formal question of establishing relations with Bangladesh lies a deeper question of whether or not the United States will be able to perform a role as leader in the urgent international relief program now getting under way. The needs of Bangladesh are so tremendous that United Nations Secretary-General Waldheim labeled the task the "largest" in the history of the UN.

On February 16th, the Secretary General issued an appeal to all nations of the world to provide 565 million dollars worth of commodities and cash to the United Nations Relief Operation in Dacca (UNROD).

Congress has already appropriated 200 million dollars for relief of refugees from East Pakistan, but the Administration has not yet decided specifically how these funds will be used. In last month's Foreign Policy Report, President Nixon noted that 158 million dollars worth of assistance had already been committed to East Pakistan prior to the outbreak of hostilities in December. But as of this date only a small fraction of that aid has actually arrived.

In comparison to the glacial pace of providing assistance for Bangladesh, I note that the Administration removed with dispatch the Congressional ban on aid for Pakistan and announced on March 3 that a food agreement would be signed with Pakistan totalling some 30 million dollars worth of wheat, vegetable oil, cotton and tobacco.

Our zeal to assist Pakistan comes at a time when reports indicate that only a small amount of the assistance actually assigned to Bangladesh has reached its destination. Thousands of tons of PL480 commodities intended for East Pakistan before the December war apparently have been diverted to other parts and close to a hundred thousand tons of PL480 commodities committed for use in the East have been channelled instead to Pakistan where they remain today.

A total of the 127.9 million dollars worth of PL480 items was listed by AID as scheduled shipment during the post March 25, 1971 period. This agreement like many others represents a conglomerate of agreements on dates of shipment for particular produce. One particular agreement between our government and the government of Islamabad, signed on August 6, 1971, authorized 100,000 metric tons of wheat for shipment. Allegedly, only 18,053 of the 100,000 tons were actually off-loaded, the remaining 84,575 metric tons reportedly were diverted to Karachi, West Pakistan.

The August 6 agreement also called for a shipment of 50,000 tons of rice. In actuality 58,300 tons were purchased and shipped. But it is alleged that of that amount, only 6,180 tons actually arrived in East Pakistan. Approximately 26,250 tons are said to have been diverted to West Pakistan (4,800 of that amount was sunk off the coast of Karachi), 3,578 tons diverted to Indonesia and 21,450 tons diverted to Saigon.

These allegations are made in a report issued by the Bangladesh Information Center, an independent non-governmental organization.

I urge the Administration and the Agency to explain whether these allegations are correct. The Administration should inform the Congress immediately of the exact status of all aid promised to Bangladesh.

Mr. Chairman, I regret the Administration's failure to face squarely the potential for widespread disease and starvation that hangs over Bangladesh. From what may be seen, our government is trying to largely ignore what has been one of the most awful human tragedies of the century.

In a March 1 dispatch from Dacca, Lee Lescase of the *Washington Post* writes, "The problems of Bangladesh go beyond the normal disaster. This is a country almost flat on its back with a desperate need to rebuild wrecked communications and find jobs and food for its people on a long-term basis."

If outside help doesn't reach Bangladesh by the monsoon season beginning in June, a second unnecessary wave of disaster may strike.

The United States cannot be expected to shoulder the burden for Bangladesh. Now that the alien occupation force has been removed, that responsibility lies with the elected leaders of the Bangladesh government. But neither can we ignore the humanitarian responsibility of all nations to assist the victims of this disaster and to help restore East Bengal to its pre-war footing.

The United States also should support the United Nations and other international agencies in assuring the protection of Biharis in Bangladesh and helping to secure population exchanges between Pakistan and Bangladesh wherever necessary.

Looking beyond the present difficulties, the only hope for Bangladesh lies in a rapid and skillfully engineered program of long range development.

The United States, I believe should encourage the formation of a confederation similar to Europe's Common Market—whose aim would be the cooperative peaceful development of all countries in the area. To that end it is of the utmost importance that normal relations be renewed with the government and people of India.

It is not enough to call for diplomatic recognition. The United States must take the lead in encouraging regional cooperation. There is no more perfect example of economic, social and historic interdependency than on the Subcontinent. Out of the last crises, world leaders should have enough foresight to recognize the communality of interests which link Bangladesh, India, and West Pakistan together.

Since the outbreak of the present crisis almost one year ago, India has accepted the major financial burden in caring for the

refugees. Approximately 500 million dollars were expended in housing and feeding the 6.8 million refugees in the camps. Additional sums were incurred through losses linked to the presence of the three million other refugees who lived in homes and outside camps.

Only 260 million dollars worth of assistance has been committed from outside sources to offset this cost to India, and only half of that amount has actually arrived.

Surely, the nations of the world cannot expect India alone to pay such a large share of the cost for a problem which she had no responsibility in creating.

The President has maintained a freeze on all development funds for India while India strains from a continuing economic drain.

It is long since time that we restore to India the $87.6 million of economic aid approved by the Congress which was arbitrarily cut off on December 6, 1971.

It also would be appropriate for the President to consider announcing an indefinite extension of the present arms embargo to all countries in South Asia.

Our business in South Asia should truly be one of peace.

I believe the steps I have endorsed in S. Con. Res. 58 will advance this purpose, and I urge favorable action by the Congress on those proposals.

MARCH 7, 1972.

Dr. JOHN A. HANNAH,
Administrator, Agency for International Development, Washington, D.C.

DEAR DR. HANNAH: A report alleging the diversion of PL 480 shipments from East Pakistan to Indonesia and Japan has been brought to my attention. I am bringing to your attention some of the items raised in the report which I referred to in the enclosed testimony, submitted today to the Senate Foreign Relations Committee.

I would appreciate any clarification which you could provide concerning these allegations. Aside from our alleged "loss" of over 100,000 metric tons of wheat, I am concerned by the apparently ambiguous accounting process which has left so many questions unanswered as to the effectiveness of the assistance we intend for Bangladesh.

I realize that, during the hostilities in Bangladesh, circumstances were not ideal for the shipping of PL 480 commodities to their original destination. It would be helpful, however, to know what the facts are. Does our government now intend to replace with new deliveries the commodities originally destined for East Pakistan? If so, will these deliveries be considered as a replacement item or will their value be subtracted from the assistance for relief of the East Pakistan refugees authorized and appropriated by Congress?

As one of those deeply concerned about these policies, I would appreciate your assistance in this regard.

Sincerely,

HUBERT H. HUMPHREY.

Mr. HUMPHREY. Mr. President, the administration is urging that Congress simply "sit tight" is far from satisfactory. Bangladesh is in need of international assistance, and it is in American interest to join in a cooperative aid effort. To do that, the first step which must be taken is to recognize Bangladesh.

The second step is to clearly identify the level of our assistance thus far, and to conform with the law by allocating those funds appropriated by Congress for relief of the refugees who have now returned to Bangladesh.

The third step is to restore the aid which we have already committed to India and take other diplomatic action which would indicate our concern for moving on to an era of goodwill between our countries. Mrs. Gandhi has just rung up a tremendous electoral victory for her party in India. She is a sensible woman, interested in keeping strong ties with the United States.

Where are the initiatives in diplomacy that the President has laid claim to? Where is the human concern in our present American foreign policy. Where is our policy toward South Asia?

ALASKAN FISHING VESSEL CASUALTY ANALYSIS

Mr. STEVENS. Mr. President, today I shall place in the RECORD an Alaskan Fishing Vessel Casualty Analysis prepared for me from insurance figures on the subject. Please note the large number of deaths and grievous injuries that have occurred off the Alaska coast in the last several years. The casualty figures are similarly high. But, by the same token, the number of lives saved as a result of the work of the Coast Guard has been much higher.

The people of my State, indeed, owe a great debt to the Coast Guard. Their dependence upon the Coast Guard is much greater than the figures would indicate. Almost daily, we receive numerous cards and letters from people throughout the coastal areas of Alaska praising the Coast Guard, and in many cases, asking for additional assistance.

For this reason, I have consistently urged Congress to increase the allocation of Coast Guard men and materials to Alaska. The figures on the enclosed table speak for themselves.

For this reason, I ask unanimous consent that the table be printed in the RECORD.

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

ALASKAN FISHING VESSEL CASUALTY ANALYSIS

Lives lost or grievous injuries

	Monetary loss
1967—16	$525,000
1968—10	527,000
1969—21	1,236,000
1970—10	1,617,500
*1971—7	1,458,500

*1971 figures are incomplete.

Coast Guard assistance in Alaska

Lives saved	Property assisted
July 1, 1969 to June 30, 1970—	
250	$34,246,000
July 1, 1970 to June 30, 1971—	
160	36,876,750
*July 1, 1971 to Jan. 1, 1972—	
203	12,749,600

*Figure covers only first half of fiscal year 1972.

UNITED CHURCH OF CHRIST SUPPORTS EQUAL RIGHTS AMENDMENT

Mr. BAYH. Mr. President, the Council for Christian Social Action of the United Church of Christ, representing some 2 million members of the church, has undertaken an extensive study of the equal rights amendment, and has voted, with but one dissent, its full support of the amendment "as approved by the House of Representatives" and its determined opposition to any crippling, or loophole amendment that might be proposed.

The council in a statement by Tilford E. Dudley, director of the Washington office, makes a number of important points—legal, practical, and theological—about the necessity for the equal rights amendment. I commend the statement to all Senators and ask unanimous consent that it be printed in the RECORD.

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

STATEMENT OF TILFORD E. DUDLEY, COUNCIL FOR CHRISTIAN SOCIAL ACTION, UNITED CHURCH OF CHRIST, FOR THE SENATE JUDICIARY COMMITTEE

EQUAL RIGHTS AMENDMENT TO THE CONSTITUTION

I am Tilford E. Dudley, Director of the Washington Office for the Council for Christian Social Action of the United Church of Christ. Our office is at 110 Maryland Ave., N.E. Washington, D.C. 20002. The Council has 27 members, selected by the Synod and other units of the United Church and is an official instrumentality of that denomination. The United Church has about two million members in about 7,000 churches. Its highest delegate body is its General Synod which meets biennially.

In June 1971 the Eighth General Synod adopted a pronouncement on *The Status of Women in Church and Society*. The statement is as follows:

THE STATUS OF WOMEN IN CHURCH AND SOCIETY

An integral part of our Christian faith is that God's love for all his children makes no distinction of worth between male and female. They are equal in value in God's sight; therefore, distinctions made by society which assume an inferior-superior relationship are contrary to the will of God. The right of each person to achieve his or her maximum potential as a child of God is basic to any understanding of the gospel of Jesus Christ.

We affirm the vital importance of the woman's role in the parent-child relationship; however, our society has locked most women into stereotyped roles as housekeepers and child-raisers without regard to their desires or abilities to perform other kinds of work. This has resulted in widespread discrimination in employment, job training, education, and compensation for work performed. Many a woman sheltered by her husband's earnings and presence, never learns that discrimination exists until widowed or divorced. In great part women are excluded from better paying jobs, and in many instances they receive less pay for performing substantially the same work. Furthermore they are under-represented on church boards, in church pulpits, and on the staffs of the denomination's national and judicatory structures.

The health of the church, the family, and all institutions of our society depends on the contributions all can make; thus, to deny any group the right to fulfill its maximum potential is to deprive society of the most effective means for solving its increasingly complex problems.

Moreover, women have been the victims of injustice resulting from cultural patterns which have greatly restricted their freedom in the performance of their sexual roles. These act as restrictions upon men also, since our culture makes assumptions about what are properly "male" interests and traits and what are properly "female."

In the light of these considerations, the General Synod calls on the members, local churches, Conferences, Instrumentalities, and other national agencies of the United Church of Christ to:

1. Insist on increasing opportunities for women in theological education, ordination, voluntary roles, and employment at all levels of the church's life—as pastors, as national and judicatory staff, with equal pay for equal work, and as members and officers of the policy-making boards and agencies of the denomination.

2. Introduce into church and public school materials more information concerning the significant contributions women have made to our history and culture.

3. Offer the church as inspiration and forum to develop a social action program concerning women's rights and expectations.

4. Work toward elimination of discrimination in employment and compensation on the basis of sex wherever it exists in our society.

5. Call on the United States Senate to ratify the United Nations Convention on Political Rights of Women which is now pending before the Senate Foreign Relations Committee.

6. Work for easier access to contraceptive information and materials, and for legislation of physician-performed abortions during the early months of pregnancy.

7. Commend (without necessarily endorsing every claim, style, and proposal) the movements for women's rights for their contributions toward better understanding of the economic, cultural, and social injustices which have been inflicted upon the women in our society.

8. Affirm new life styles for our children which allow boys and girls to express their essential humanity and free their vocational prospects.

9. Recognize that there are other areas not covered in this document and deserving further study, especially those pertaining to the legal implications of the Equal Rights Amendment, such as military service, divorce, legal age, and property rights.

You will notice that the last paragraph of the statement mentions other areas "deserving further study, especially those pertaining to the legal implications of the Equal Rights Amendment." During the winter of 1971–2, the Council undertook that "further study" and in January 1972 the Council received a report on the legal implications and considered the merits of the Equal Rights Amendment.

As a result the council voted in January, with only one dissent, to support the equal rights amendment as approved in 1971 by the House of Representatives and to oppose any crippling or loop-hole amendment that might be proposed. The council authorized its representatives to testify before the Senate Judiciary Committee and take other reasonable steps to inform Members of the U.S. Senate as to its position.

BASIC CONSIDERATIONS

The Council members' position was based in part on teachings in the New Testament about the dignity of all people, with no distinction made as to their sex and also on reported instances in which Jesus indicated that it was just as important for women to concern themselves with his teachings and witness of society as to do the housework and matters commonly considered by some to be the role of women. Jesus did not accept that latter concept.

The Council also noted that the proposed Equal Rights Amendment is in line with, and to some extent is even duplicated by, current laws of the United States, namely the 5th and 14th Amendments to the Constitution, the Equal Employment provisions of the Civil Rights Act, U.S. Code, Title 42, Sec. 200 e–2, and the Equal Pay Regardless of Sex provisions in Title 29, Sec. 206. Members noted that the chaos and deprivation feared by its opponents nor the drastic social changes, respect and job openings desired by its proponents. But the Council believed that adoption of the new amendment would be helpful in that it would clearly state a principle, dispel much confusion and dissension and bring quickly a change that otherwise would come slowly and painfully.

The Council also considered the legal implications of the proposed Amendment, as requested by the General Synod.

IMPLICATIONS—MILITARY SERVICE

Since women are already allowed to volunteer for military service, the only question here is whether they would be subject to the draft, especially under the House-Cook-Bayh proposal. A strict constructionist might claim that "equality of rights" does not necessarily mean "equality of duties" such as the draft implies. But this does not get us anywhere, since males could claim that any "right" of exemption for females must be equalized by the same "right" for men.

All witnesses seemed to agree that the Courts would undoubtedly interpret the Amendment to apply the draft to women as well as men. Furthermore, the women activists pushing the Amendment want it this way; even insist upon it. The legislative history is thus rather clear. However, this does not mean that women would be drafted to perform duties for which they are not qualified. At present men are sorted out, each to do what he is best suited to do. It is well known that for each fighter, there are many more people working behind the scenes. And even the fighters today often push buttons rather than engage in physical combat. There are undoubtedly many jobs women could perform.

There does not seem to be any compelling reason for women to be exempt from the draft merely because they are women. Like men they should be taken or rejected on the basis of need, physical and mental abilities, conscientious objections, conditions at their homes, etc.

IMPLICATIONS—LEGAL AGE

In Illinois, and perhaps other states, women reach their legal majority at 18 years of age and men at 21 years. There is thus a difference as to when women and men are adults, can contract and do business for themselves. This may be an advantage or disadvantage for women. For example the statute of limitations begins to run on maturity. Thus if a woman is injured in an automobile accident at 19 years of age, she must start her lawsuit in one year. But if a man is so injured, he has a year from his majority, or 3 years from the accident.

Under the Amendment, the age should be the same. Presumably the state legislature would decide within the 2 years after ratification; if not then the courts. With the 18 year eligibility for voting, and general emphasis on youth, one might expect the move for equality to be in that direction. Of course, there is no guarantee.

IMPLICATIONS—PROPERTY RIGHTS

If there are any states which prohibit or limit women's rights to buy, sell or hold property, they would surely be changed by the state legislatures or invalidated by the courts under the Amendment. Such carryovers from the ancient common law are surely rare and have no place today.

But there may be differences. Thus, in Michigan, under its married women's act, a married female can conduct business in her own name, make contracts, hold title to real estate and sell her real property without any identification of her married status or the signature of her husband. However, the husband cannot sell his property without his wife's signature. The common law dower right of a woman in her husband's real estate continues unless she releases it by deed.

This inequality could be corrected by the legislature. It might hold that modern woman no longer needs the dower right and abolish it. Or it might retain it, but set up a special category of property held in the course of business, for which dower rights would not apply either way.

Idaho recently had a probate statute stating that as between persons equally entitled to administer an estate, the male must be preferred. The U.S. Supreme Court ruled that preference invalid on Nov. 22, 1971, under the 14th Amendment. The Equal Rights Amendment would have produced the same result.

DIVORCE, FAMILY AND CHILD SUPPORT

Generally, a husband is liable for the support of his wife and children, and the wife has not been liable for her husband's support, nor for the children if the husband is able financially. This is based, of course, on the historic conditions of the son inheriting his father's money, being trained to work and becoming the breadwinner, with the little woman inheriting little, getting no training for earning money and being able only to care for the children and the house. Obviously times have changed.

All impacts of the Equal Rights Amendment are not clear, but surely the wife would come to share the financial responsibility for the family or at least the children. For example, if she should leave the household, she should be willing to pay half the abandoned family's expenses. If she goes outside to work, she should share in family needs, depending on her income and her husband's. She would have difficulty in suing her husband to make him pay all expenses, and vendors of family goods might be able to collect from her as well as the husband.

The wife would not be able to collect alimony automatically; it would depend more on the needs and financial ability of herself and her husband. She might have to pay alimony. Courts are moving in this direction already; the pace would be accelerated. Likewise the children would not be awarded automatically to the mother and the father would not be automatically liable for the whole bill. Theoretically the courts have considered the needs of the children predominate in this area but it would be even more so with the Amendment, with the parents equally responsible according to their abilities. This would not prevent, however, the Court believing the mother better suited to care for young children and the father thus required to pay for her and their support, according to need and ability.

Divorces would not be granted automatically on the ground of nonsupport by the husband. It would depend on his ability, family needs and the wife's ability and willingness to share costs.

LAWS PROTECTING WOMEN AT WORK

Here lies the major ground for opponents to the Equal Rights Amendment. Michigan, for example, has a law setting 54 hours as the maximum a woman can work in a week. Some states go down to 40 hours. Some states provide minimum wages for women and not for men. Some require a day of rest, or a rest period or a meal at work, provision of chairs, maternity benefits, etc. Some bar women from working at some jobs such as in mining, bartending or requiring night work or lifting heavy weights. Some people say this is to protect the women; some say it is to protect the men by saving the jobs for them. The female work force does tend to cluster in the low-paying, low prestige jobs, often in intrastate commerce and unprotected by federal laws or labor unions. The median wage levels in 1966 was $6,848 for men and $3,973 for women.

Consequently labor officials and women advocates who have fought for protective

laws in the past are inclined to oppose the Amendment. The Kennedy Commission, opposed the Amendment. But Pres. Nixon's Council on the Status of Women, said to have only women with professional and business backgrounds, supports it. The United Auto Workers, with a very active Women's Department, also supports it.

Seven states have minimum wage laws for only women; 14 prescribe days of rest for only women; 20 require a meal period; 12 a rest period; 44 require chairs only for women. Two require maternity benefits. Seventeen states prohibit women from working in or about mines, 10 from bartending, 1 from liquor stores and 11 from various occupations including wrestling. Ten set weight lifting limits ranging from 15 to 50 pounds; 38 set maximum hours for working even at premium rates; 18 prohibit nightwork and 6 prohibit work before and after childbirth. (Data as of Jan. 1969)

In addition to the argument as to whether these limitations benefit or retain women is the question as to what happens to them when the Amendment is ratified. Legislatures must act; probably the courts also. Will they abolish the stringent requirements, or move the men's standards up to them, to achieve equality? Will the Michigan legislature, for example, limit men's hours to 54 hours? That will depend on political pressures on the legislature—the automobile industry, etc. Courts have already acted on some cases, like women bartenders, to extend the benefits.

It is important to remember that courts, legislatures and employers can still set up requirements, classifications, etc. that are based on the strengths and weaknesses of people rather than on their sex. All men don't have to be able to do all kinds of work, lift all manners of weights, stand all kinds of fumes, be available for all hours. These differences in treatment should apply to everyone, including women.

CHANGE IS INEVITABLE

Through 1226 pages of Senate testimony in 1970 and 723 pages of House testimony in 1971 both opponents and proponents of the Amendment agree that discriminations against women must be removed, that the change is inevitable and that it is coming through new social structures and laws already on the books. Thus law Prof. Freund said it is coming already through the 14th Amendment; he said to leave it that way. Law Profs. Emerson and Kanowitz said it is coming already through the 14th but to adopt also the new Amendment to hasten the process.

Under the 14th Amendment and the Equal Employment laws, the change will come on a case by case basis—fought in the federal and state courts and in the federal and state legislatures. A sweeping new Amendment would state the new principle unequivocally, be faster, cleaner and less likely to leave holes of discrimination beyond the public notice or without advocates ready to battle.

SUPPORT SWELLS FOR RADIO FREE EUROPE AND RADIO LIBERTY

Mr. HUMPHREY. Mr. President, a compromise has been reached which would keep Radio Free Europe and Radio Liberty alive, at least for the meantime. While any compromise never fully satisfies those who strongly support or oppose a given cause, it can provide a viable way out of what otherwise would remain a total impasse.

We have faced precisely this situation with regard to the authorization for continued funding of Radio Free Europe and Radio Liberty since December 1971, when the House and Senate versions were sent to conference. Because the sides for and against the support of the stations became clear early in the game, it was essential that the administration make known its position.

Regrettably, the administration failed to lobby actively for any bill in support of the radio stations until it was too late. Only a few days ago, just at a time when the radios were on the brink of financial bankruptcy, did the President speak out in an effort to break a deadlock among the conferees for the authorization bill. What we now have is an authorization for the rest of fiscal year 1972; that is until the end of this June, with only an understanding to consider further legislation before the end of fiscal year 1972. It is better than nothing, but it is the best we could expect. Could Presidential leadership have resulted in a stronger, more viable compromise?

In my opinion, the continued funding of the radio stations is important. Based on this evaluation on March 2, I submitted along with Senator PERCY a resolution, Senate Resolution 272, in support of the stations. At this time, the resoution has 65 cosponsors, expressing very clearly the majority will of the Senate.

Outside groups have organized in support of the radio station. One most noteworthy group is the Citizen's Committee on Radio Free Europe and Radio Liberty. The 57 organizing members, all prominent professionals, have issued a policy statement which I would like to call to the attention of my colleagues.

Mr. President, I ask that the statement in support of Radio Free Europe and Radio Liberty be printed in the RECORD.

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

POLICY STATEMENT OF CITIZENS' COMMITTEE ON RADIO FREE EUROPE AND RADIO LIBERTY

The undersigned "Citizens' Committee on Radio Free Europe and Radio Liberty" strongly urges that the Congress authorize a full and careful examination of these valuable instruments of communication with the peoples of Eastern Europe and the Soviet Union, and that it provide adequate support for their continued operation until such a study is completed.

These radios have large and important audiences numbering in the millions of listeners who rely on them daily for uncensored information on developments in their own countries and internationally.

To close down these radio stations within the next few months without careful consideration would be an irresponsible action contrary to the best interests of the American people.

ORGANIZING MEMBERS OF THE CITIZENS' COMMITTEE ON RADIO FREE EUROPE AND RADIO LIBERTY

(Affiliations are Listed for Identification Purposes Only)

Altschul, Frank, Investment Banker, New York City.

Armstrong, John A., Professor of Political Science, University of Wisconsin.

Ball, George W., Partner, Lehman Brothers; Former Under Secretary of State.

Ballantine, Mr. & Mrs. Arthur, Publishers, Durango Colorado Herald and News.

Baron, Murray, International Management Consultant.

Barr, Joseph W., Former Under Secretary of the Treasury.

Barrett, Edward W., Former Assistant Secretary of State; Former Dean, Columbia Graduate School of Journalism; Director of Communications Institute, Academy for Educational Development.

Benton, William, Former Assistant Secretary of State and U.S. Senator (Conn.); Chairman of the Board, Encyclopaedia Britannica Educational Corp.

Blumberg, David, World President, B'Nai B'Rith.

Bohlen, Charles E., Former Ambassador to the USSR.

Brzezinski, Zbigniew K., Director, Research Institute on Communist Affairs; Professor of Comparative Government, Columbia University.

Byrnes, Robert F., Professor of History; Former Director, Russian and East European Institute, Indiana University.

Canham, Erwin D., Editor-in-Chief, Christian Science Monitor.

Dallin, Alexander, Professor of History and Political Science, Stanford University.

Davenport, John, Former Editor, Fortune Magazine.

Dillon, C. Douglas, Former Secretary of the Treasury and Under Secretary of State.

Disalle, Michael V., Former Governor of Ohio.

Eisenhower, Milton S., President Emeritus, Johns Hopkins University.

Fischer, John, Editor, Harper's Magazine.

Fowler, Henry H., Former Secretary of the Treasury.

Friedberg, Maurice, Professor of Slavic Literature, Indiana University.

Griffith, William E., Professor of Political Science, Center for International Studies, MIT.

Gronouski, John A., Former Ambassador to Poland; Dean, Lyndon B. Johnson School of Public Affairs, University of Texas.

Gruenther, Alfred M., General, U.S. Army (Ret.); Former President, American Red Cross.

Gullion, Edmund A., Dean Fletcher School of Law and Diplomacy, Tufts University; Former Ambassador to the Republic of the Congo.

Harlow, Bryce N., Executive, Procter & Gamble Mfg. Co.

Harriman, W. Averell, Former Ambassador to the USSR and Under Secretary of State for Political Affairs.

Hayes, John S., Former Ambassador to Switzerland.

Jessup, John K., Former Editorial Chairman, Life Magazine.

Kohler, Foy D., Former Ambassador to the USSR.

Linen, James A., Chairman, Executive Committee, Time, Inc.

Lipson, Leon S., Professor of Law, Yale Law School.

Lord, Mrs. Oswald B., Former U.S. Representative, U.N. Human Rights Commission.

Lucy, The Most Rev. Robt. E., Former Archbishop of San Antonio, Texas.

McCloy, John J., Former U.S. Military Governor and High Commissioner for Germany; Former President of World Bank and Coordinator, U.S. Disarmament Activities.

Marks, Leonard H., Former Director, U.S. Information Agency.

Meany, George, President, AFL–CIO.

Merchant, Livingston T., Former Under Secretary of State for Political Affairs.

Mickelson, Sig, Vice Pres., Encyclopaedia Britannica Educational Corp.; Former Chairman, International Broadcast Institute.

Moyers, Bill D., Host of Public Television Presentation; Former Publisher of Newsday; Former Presidential Spec. Asst. and Press Secretary.

Petersmeyer, Charles Wrede, President, Corinthian Broadcasting Corp.

Pipes, Richard E., Director, Russian Research Center, Harvard University.

Pool, Ithiel de Sola, Professor of Political Science, Center for International Studies, MIT.

Porter, Paul A., Former Chairman, Federal Communications Commission.

Quaal, Ward, President, WGN Continental Broadcasting Co.

Reedy, George, Dean Designate, School of Journalism, Marquette University; Former Presidential Press Secretary.

Repplier, Theodore S., Former President, Advertising Council.

Roche, John P., Professor of Politics, Brandeis University.

Rockefeller, Nelson A., Governor of New York.

Rostow, Eugene V., Professor and Former Dean, Yale University Law School; Former Under Secretary of State for Political Affairs.

Scranton, William W., Former Governor of Pennsylvania.

Stein, Jacob, Chairman, Conference of Presidents of Major Jewish Organizations.

Stern, Henry Root, Jr., Partner, Mudge, Rose, Guthrie & Alexander.

Wadsworth, James J., Former U.S. Representative to the U.N.

Wilcox, Francis O., Dean, Johns Hopkins School of Advanced International Studies; Former Assistant Secretary of State.

Winter, Ralph K., Professor, Yale University Law School.

PROPOSAL OF THE WATER RESOURCES COUNCIL, INSTITUTING NEW CRITERIA FOR THE EVALUATION OF WATER RESOURCE PROGRAMS, CAUSES CONGRESSIONAL CONCERN

Mr. RANDOLPH. Mr. President, the Water Resources Council recently announced that it was proposing new procedures to be used in the economic evaluation of water resources programs. With certain exceptions, the guidelines proposed to be promulgated by the Council will be helpful in formulating a sound and meaningful water resources program.

In 1965, Congress passed the Water Resources Planning Act, Public Law 89–80, which created the Water Resources Council. One of the Council's objectives is to prescribe principles and standards for planning water and related land development. In 1968, the Council changed the method for determining the interest rate to be used in discounting project benefits to present-day worth. This resulted in a higher rate and also in a need for complete reevaluation of present guidelines. Such a review was soon undertaken by the Council and completed in 1970. After a long review by the Office of Management and Budget, the proposed principles and standards were published in the Federal Register of December 21, 1971.

I regret that the Council chose to ignore the mandate of the Congress set forth in section 209 of the River and Harbor Act of 1970, Public Law 91–611, which provides for a four-account system in water resource project evaluation. The expressed intent of Congress is that projects shall be evaluated in terms of their effect on first, national income; second, regional development; third, environmental quality; and fourth, social well-being of the people. The Council's proposal gives full consideration to items 1 and 3, but has deleted item 4. Item 2 has been substantially weakened.

I regret, also, that the Water Resources Council's proposed new evaluation standards include a discount rate based on a theoretical private money market concept. This purely economic approach treats water resources as just another commodity in the marketplace. Simply stated, it would deny funds for any water resource project if those funds would earn more money invested in race horses or resort hotels. This theory fails to come to grips with the fact there is no alternative to a national program for the development of water resources. It totally ignores the growing water needs for the Nation.

It is obvious that the Office of Management and Budget, long critical of water resources programs, has had a heavy hand in dictating this portion of the proposed evaluation standards. The concept of basing the discount rate on the "opportunity cost of capital" is shortsighted. While it would save money now, it will jeopardize America's future healthy development. If implemented, we find ourselves moving from a period of measured progressive, multiple-purpose water project programs to an era of failure to meet vital national needs.

In considering the proposed standards and criteria, the Senate Committee on Public Works will look very closely at the proposed discount rate. I note that the present "opportunity cost" is said to be about 10 percent, although only a 7-percent discount rate is proposed for the time being. Thus, it would appear that a 10-percent rate is definitely in prospect. This means that the Federal Government would be undertaking only those projects which would, in fact, be tempting to private industry. Perhaps projects promising such a high return, such as small water supply reservoirs, should indeed be undertaken by the private sector, leaving comprehensive, large-scale river planning, development, and conservation to the National Government. A substantial reduction in the programs of the Nation which build up entire regions and create a better life for millions, plays havoc with the public interest.

I will not permit the scuttling of the Nation's water resources program by the use of an unrealistic interest-discount rate. I have previously introduced S. 2612, a bill to establish policy and principles for planning the use of the water and related land resources of the United States. It is more commonly referred to as the National Water and Related Land Resources Policy Act, and is presently pending before the Committee on Interior and Insular Affairs. The chairman of that committee, the distinguished Senator from Washington (Mr. JACKSON), has joined me in the introduction of this important legislation.

S. 2612 would institute principles and standards for the evaluation of water resource projects similar to those proposed by the Water Resources Council. However, this measure would set standards that would give full consideration to a multiple-objective approach as required by the River and Harbor Act of 1970.

In addition, the discount rate would be based on the average rate of interest payable by the Treasury on interest-bearing marketable securities of the United States outstanding at the end of the fiscal year preceding such computation which, upon original issue, had terms to maturity of 15 years or more. In other words, the discount rate would depend upon the "coupon rate" of long-term Government securities. The use of this formula would be in keeping with a water resources program that provides benefits over a long period of time; benefits not only for ourselves, but for future generations as well.

Mr. President, concern for the changes in water resource criteria and the impact they would have is widespread. Members of Congress are aware of this situation and of the potential effect that such sweeping changes would have on water resource development throughout the United States. I have received a letter signed by four of our colleagues, Senator METCALF, Senator BURDICK, Senator MCGOVERN, and Senator BELLMON, in which they express dissatisfaction with the turn of events and urge that we give close attention to the public hearings scheduled by the Water Resources Council for March 20 and 21, 1972.

Since the proposed action by the Water Resources Council, underwritten by the Office of Management and Budget, has such far-reaching implications, it is imperative that Congress take appropriate measures to insure the continuance of a strong water resources program which is so vital to the economy and well-being of our Nation. I will, therefore, seek enactment of the National Water and Related Land Resources Policy Act. I will also pursue the matter in hearings before the Committee on Public Works, and in addition, will take such further steps as may be required to preserve and enhance this important program.

PROPOSED STANDARDS AND PROCEDURES FOR WATER RESOURCE PROJECTS

Mr. ELLENDER. Mr. President, the senior Senator from West Virginia (Mr. RANDOLPH) has performed a real service by alerting the Senate and the Nation to the effect the proposed standards and procedures for evaluating water resources projects will have on the future development of these resources.

The Water Resource Council's Task Force developed the standards, and they were realistic until the Office of Management and Budget directed certain changes in the proposed standards.

The original standards provided for four accounts: National economic development; environmental quality; social well being—of man—and regional development.

Last fall, the Senate and the Congress approved my amendment which became section 209 of the River and Harbor Act of 1971. That amendment expressed the sense of Congress that the four objectives are to be considered in project formulation and in the economic analysis.

Subsequently, the Office of Management and Budget, in spite of section 209, deleted the social well-being account, and directed that the regional account could be used only when approved in advance. It is not clear who will make the approval.

There will be expert testimony presented at the hearings to be held by the Water Resources Council showing that the opportunity cost of money as the basis for the discount rate is wrong. The senior Senator from West Virginia has presented facts to show the practical effect of using an unrealistically high discount rate.

The other point I would like to make is that most medium to large projects require 4 to 5 years of preconstruction planning after authorization. The Office of Management and Budget has insisted that if construction has not started within 5 years of authorization the authorized project must be re-analyzed under the new standards and procedures.

The Subcommittee on Public Works of the Committee on Appropriations receives requests from most Members of the Senate urging funds for local projects. Unless Members of Congress express their opposition to the new standards to the Water Resources Council, the work of the subcommittee will be greatly reduced.

LOS ANGELES TIMES SUPPORTS EQUAL RIGHTS AMENDMENT

Mr. BAYH. Mr. President, I wish to call the attention of the Senate to a perceptive editorial which appeared in the Los Angeles Times on January 17, 1972. The editorial calls for approval of the Equal Rights Amendment. It eloquently reminds us that sex discrimination—

Is not a problem for women alone but for all Americans. Sex discrimination is rampant. It is flagrantly unjust. It is a prodigal abuse of human resources that no nation can afford.

I fully agree, Mr. President, and I think that the hearings that have been held on the Equal Rights Amendment show this to be true. I fully agree too, with the editorial's conclusion that the answer to legal sex discrimination will come only "from an amendment of the ultimate law of the land."

I ask unanimous consent that the Los Angeles Times editorial be printed in the RECORD.

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

EQUAL RIGHTS FOR WOMEN

Hundreds of the women of Southern California will gather Friday at El Pueblo de Los Angeles State Park. Each will have with her a man, among them judges, business leaders and political chieftains. They will not be there to admire the Pico House. They will be there to discuss an evident defect in American society:

Unequal treatment of women.

And to promote a remedy: The "equal rights" amendment proposed for the U.S. Constitution.

The women are right in what they are about, and there is logic in bringing along the men to join the cause. For this is not a problem for women alone but for all Americans. Sex discrimination is rampant. It is flagrantly unjust. It is a prodigal abuse of human resources that no nation can afford.

It is embarrassing that the courts of the nation have failed for 103 years to extend to women the equal rights that appear so clearly asserted in the 14th Amendment of the Constitution. It says: "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Equal protection? Even in California, which is progressive in comparison to many states, community personal property is controlled by the husband, not the wife. In some states a woman doesn't even control her personal earnings. And that is just the beginning.

A woman won her first 14th Amendment case in the U.S. Supreme Court only last November. It was a unanimous decision, but it was not the broad assertion of equal rights that opponents of sex discrimination had hoped for.

There now seems no practical alternative to a constitutional amendment to end expeditiously the contradictions and equivocations which have been used to reduce women to second-class citizens in many states and to exploit them on the labor market in every state.

Members of the House of Representatives agree. They voted 354 to 23 last Oct. 12 to approve the constitutional amendment. It asserts simply that: "Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex."

Members of the House struck down amendments to the amendment which the sponsors felt were "crippling." But the amendment issue has been raised now in the Senate by Sen. Sam J. Ervin Jr. (D-N.C.), who insists that the change in the Constitution include specific provision for discrimination between the sexes if "such distinction is based on physiological or functional differences."

It is not evident whether paramount in the proposal is the senator's considerable knowledge of the Constitution or his reputation as an old-fashioned Southern gentleman. Whichever, we are not persuaded. It seems to us that legislation and common sense should be able to cover any special problems without constitutional exemption. The last employment barrier may have collapsed anyway last Thursday when New York's highest court cleared the way for Mrs. Bernice Gera to become a professional baseball umpire.

There will always be an excuse or a quibble to try to perpetuate the exploitation and discrimination. The record of the courts themselves shows the need for reform and clarification that can best come from an amendment of the ultimate law of the land.

GENOCIDE: THE STRUGGLE IN BANGLADESH

Mr. PROXMIRE. Mr. President, the civil war in Pakistan was a short but bloody affair. The media flashed pictures of violence and atrocities into homes throughout the world. Only with the arrival of Indian troops in Dacca was East Pakistan freed from the oppressions of the West and a new, independent state of Bangladesh declared.

But the infant state of Bangladesh has yet to overcome profound internal problems. The bloodshed that marked the days of civil war continue after independence. Pakistani sympathizers have been searched out, tortured, and publicly executed as an example for others. But one of the worst fates meted out has been to the tribal group of the Biharis. This ethnic group continues to bear the brunt of violent persecution and ostracization. Using the excuse of punishing Pakistani collaborators, the Bangladesh guerrillas have cut off the food and medical supply to Bihari villages and have effectively curtailed Red Cross emergency assistance and international exposure through the news media. Whether the Bihari villages will be allowed to survive only the people of Bangladesh can determine. As yet the outside world has brought very little pressure to bear.

Although the persecution of the Bihari tribe comes dangerously close to an act of genocide, the state of Bangladesh can be held accountable to no international agreement. It is too young to have signed the Genocide Convention of 1948. However, the situation in Bangladesh dramatically indicates the overwhelming need for universal acceptance of such an international agreement to protect the dignity, human rights, and very lives of minority groups.

The possible mass slaughter of the Bihari people should be prevented at all costs. The reason and pressure of the civilized world must be exerted to save these lives. But what pressure can the United States exert? What position of moral leadership can we assume having never ratified the Genocide Convention?

Mr. President, no longer can we neglect our responsibility to oppose the atrocity of genocide. I call upon my colleagues to move immediately toward ratification of the Genocide Convention.

OPPOSITION TO PROPOSED CUTS IN IMPACTED AID

Mr. MOSS. Mr. President, my State of Utah has been hard hit by the announcement that funds for the impact aid program might be cut significantly in the fiscal 1973 budget. Early accounts at the time of the introduction of the President's budget indicated that substantial cuts were to be made, but it was not until Wednesday, March 8, that we received full documentation from the Office of Education regarding these cuts.

It is hard to believe, but the present budget proposes a 60-percent cut in the amount of funds the State of Utah would receive for impact aid assistance. I strongly object to these cuts, and will fight for restoration of full funding and exhaust every opportunity given in the Senate for voting on this appropriation.

It is incredible that at this time of a recognized crisis in school funding we would receive a proposal for such a substantial cut in one important aspect of education funding. Is this the kind of solution we are to expect from the President? The report of the President's own Commission on School Financing, 2 years in preparation, points out that local property taxes now carry 52 percent of the load of financing education in America's schools. The impact aid program is specifically designed to relieve communities of that burden where there are substantial numbers of Federal employees and Federal installations attending the local public schools, because there is no prop-

erty tax base from Federal installations. Certainly the action proposed to reduce impact aid funding flies in the face of the recommendation of the President's own Commission.

This is a "nonbureaucratic" program. The money goes directly to the school districts involved. The districts apply for the money and receive it directly. This is certainly the best of the "revenue-sharing" ideas, and it was adopted long before the current emphasis on revenue sharing.

I take this opportunity to announce my intentions. I plan to seek the earliest possible opportunity to amend the Education Appropriations Act to restore full funding for these programs. I know that the senior Senator from California (Mr. CRANSTON) has been very active in this field in the past. I hope to either introduce an amendment of my own or join with him in efforts to accomplish this purpose. The junior Senator from New Mexico (Mr. MONTOYA) has been active on the Appropriations Committee, securing adequate funding for these programs. I will work with all Senators who are interested in redressing the injury that would occur if the President's budget request for this item were accepted.

Thirty-four school districts in the State of Utah receive Public Law 874 funds. All 34 of these Utah districts would receive reductions under the proposal in the President's budget. Seven of these districts would receive the maximum cut allowed under the proposal. These are Morgan County, Box Elder County, Ogden City, Weber County, Davis County, Tooele County, and Grand County.

The Office of Education has just delivered detailed tables showing the distribution of funds under the new proposal throughout the country. I would point out that we must be somewhat cautious in interpreting these tables. The figures are based on 1971 data supplied from the school districts, and that data base will change as new information comes in. Nevertheless, these are good general estimates regarding the effect of the proposed cuts. On the basis on this 1971 data, the State of Utah would receive a cut of $4.2 million in impact aid. In fiscal 1972, the State of Utah received $7 million. A cut of this magnitude is a tremendous burden for any school district to absorb in one year.

Let me cite some of the most substantial examples in my State of Utah. Davis County received $1,811,476 in the fiscal year 1972 appropriation. Under the new proposal, Davis County would receive $859,751, or a cut of $951,725. The figures for Salt Lake City are $303,132 for fiscal 1972, $64,945 for fiscal 1973, for a loss of $238,187. For Box Elder County, the figures are $340,016 for fiscal 1972, $68,621 for fiscal 1973, for a loss of $271,395.

The President's budget request says that his education revenue sharing previously submitted would assure that no school district would lose money on any education programs. I believe that this is fine, but I also believe that it is improper to reduce any education programs until the proposed revenue-sharing bill, or some variation of it, is passed.

The President attempted to make substantial reductions in the impact aid program last year. In an amendment on the floor of the House, funds for these programs were restored to the level of funding provided in fiscal year 1971. In other words, no change was allowed in fiscal year 1972, though proposals were made to specifically cut the program. At present school districts receiving funds under section 3(a) of Public Law 874 will receive 100-percent funding if students qualifying under 3(a) constitute more than 25 percent of the school population. Otherwise, the school receives 90 percent of its entitlement for such students. Under section 3(b), a school district received 73 percent of its entitlement under the fiscal year 1972 act. This 73-percent figure is the crucial battleground and has been for the last 2 years. The President is proposing to reduce this category to zero percent, except for the children of military personnel and Indians.

I applaud the effort to place the highest priority on areas affected by military personnel and Indians, and will support such an effort. But this should be done as an additional item, and not at the unnecessary expense of other parts of the impact aid program. I will not support an effort to take any funds away from the category of military personnel and Indians. But it is not necessary to make this choice. All parts of the program should be funded.

I understand the motivation to restructure the impact aid program; there are some school districts, particularly those surrounding Washington, D.C., that do not seem to merit the money they get under this program. We should not, however, harm innocent school districts and the children they serve by using a rather inept measure to achieve such a change. If the basic law is wrong, then let us change it and do a proper job. The present proposal by the administration would harm many districts that deserve the money they are receiving. A better cure should be found.

I would hope that the House Appropriations Committee, since it is the first to take action, would redress this inequity immediately. If it does not, then I would hope for floor amendments in the House or amendments in the Senate committee. I would be prepared to support such amendments all the way through to the floor of the Senate. I ask unanimous consent that there be printed at the end of my remarks two documents: the first is an explanation by the Office of Education of the proposed action and a description of an accompanying table; the second item is the table for the State of Utah itself.

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

OFFICE OF EDUCATION

The President's budget for 1973 proposes a revised method of distributing Impacted Area Aid funds under existing legislation. The budget requests $415 million for 1973 compared with $592.6 million appropriated in 1972. While this is a reduction of $177.6 million, the distribution planned would return this program to the original intent of the legislation.

Initially this program was created to provide financial assistance to school districts heavily impacted by children associated with Federal government operations, primarily military. Gradually, over the past twenty years, the concept of providing funds to offset the loss of tax revenue in districts heavily impacted by the military has eroded and has developed into a situation where heavily impacted school districts constitute less than half of the districts receiving aid under the program. Moreover, increasing amounts of money are being provided for the children of Federal employees who reside in the "impacted" school districts and who contribute to the financing of the school systems through the local taxing system, just as do their neighbors who do not work for the Federal government.

The 1973 budget proposal attempts to return the progam to its original emphasis and will provide 100 percent of entitlement for military dependents and Indian children whose parents work or reside on Federal property. The budget also provides a hardship provision to ensure that no impacted district in 1973 receives less than 95 percent of their 1972 total school budget as a result of the reduction in impacted area aid.

Actual data on the number, composition (military, Indian, civilian), and per pupil expenditures for the 1973 school year will not be available until after the 1973 school year is completed. Information on 1972 is now being collected from applications submitted by each impacted school district. Therefore, it is not possible at this time to develop a reliable estimate of each school district's payment for 1972 or 1973.

However, to illustrate how the budget will affect each school district, the Office of Education compiled actual data for 1971 and then applied to this data, the method of payment currently in effect for 1972 and the proposed method of payment for 1973. This is essentially the information contained in the attached report. The 1971 data on which both payment plans are based were obtained from the local school districts' applications in 1971 and from additional information on children of Uniformed Services personnel for each school district supplied to the Office of Education from State departments of education. Reports were received from all jurisdictions except Massachusetts, Puerto Rico and the Virgin Islands.

In the attached report, no attempt has been made to project the 1971 actual data to 1972 or 1973 for each school district. Such projections are dependent on specific conditions in each district relating to changes in pupil enrollment, per pupil costs, and total school expenditures.

For the purposes of compiling the attached report, 1971 data have been used to compute payments under the funding arrangement provided in the 1972 appropriations and as proposed in the 1973 budget. Each column contained in the report is explained as follows:

"A Payment, 1972 Appropriation": A entitlement at 90% if A children comprise less than 25% of total children in the school district or A entitlement at 100% if A children comprise 25% or more of total children.

"A payment, 1973 proposal": A entitlement at 100%. Includes any B(1) Indian children as A children.

"B payment, 1972 Appropriation": B entitlement at 73%.

"B payment, 1973 proposal": Entitlement for military dependent B children at 100%.

"5% of TCE": 5% of 1970–71 total current expenditures as estimated by school districts on 1971 applications.

"Hardship": Amount of difference between 1973 and 1972 payments that exceeds 5% of total current expenditures.

UTAH, PUBLIC LAW 874, IMPACT AID—BY CONGRESSIONAL DISTRICT

State Apl. No. and school district name	(A) payment 1972 appro.	(A) payment 1973 prop.	(B) payment 1972 appro.	(B) payment 1973 prop.	5 percent TCE	Hardship	Total (A)+(B) 1972 appro.	Total (A)+(B) hard. 1973
UTAH								
802 Duchesne Co. S.D.	45,651	50,724	32,399	171	82,352	0	78,050	50,895
1501 Wayne S.D.	5,552	6,169	14,760	0	25,010	0	20,312	6,169
1502 Garfield Co. S.D.	10,795	11,995	31,023	342	41,635	0	41,818	12,337
1601 Morgan Co. S.D.	925	1,028	54,040	685	38,642	14,610	54,965	16,323
1701 Sevier S.D.	1,850	2,056	29,772	3,427	93,640	0	31,622	5,483
6 Box Elder Co. S.D.	30,537	33,930	309,479	8,568	271,395	26,123	340,016	68,621
1703 Alpine S.D.	307	342	108,955	24,333	439,050	0	109,262	24,675
901 Daggett S.D.	22,620	22,620	3,002	0	13,865	0	25,622	22,620
1802 Nebo S.D.	925	1,028	49,161	5,654	285,081	0	50,086	6,682
803 Emery Co. S.D.	1,541	1,713	42,781	2,056	70,169	0	44,322	3,769
902 Uintah S.D.	127,083	141,547	126,844	1,542	129,794	0	253,927	143,089
4 Bd. of Ed. of Ogden City	0	0	672,498	19,363	481,215	171,920	672,498	191,283
3 Weber Co. S.D.	17,890	19,878	996,113	0	536,690	457,435	1,014,003	477,313
2001 South Sanpete S.D.	2,466	2,741	17,888	0	21,233	0	20,354	2,741
2002 Piute Co. S.D.	0	0	5,879	0	21,578	0	5,879	0
2003 Carbon Co. S.D.	0	0	102,826	5,140	135,499	0	102,826	5,140
2 San Juan Co. S.D.	294,405	294,405	31,648	171	89,525	0	326,053	294,576
2005 Wasatch Co. S.D.	925	1,028	19,389	0	65,425	0	20,314	1,028
1201 Cache Co. S.D.	0	0	71,052	5,312	219,220	0	71,052	5,312
801 Kane Co. S.D.	5,243	5,826	14,135	685	30,250	0	19,378	6,511
7 Davis Co. S.D.	392,048	435,609	1,419,428	117,310	951,725	306,932	1,811,476	859,751
601 Grand Co. S.D.	7,093	7,882	86,689	342	45,982	39,576	93,782	47,800
201 Logan City Bd. of Ed.	0	0	28,521	8,053	131,611	0	28,521	8,053
Congressional District Total (23)	967,856	1,040,521	4,268,282	203,054	4,220,586	1,016,596	5,236,138	2,260,171
UTAH (002)								
2001 Washington Co. S.D.	10,795	11,995	61,045	1,199	121,427	0	71,840	13,194
1004 Juab S.D.	616	685	4,002	0	31,197	0	4,618	685
1901 Tintic S.D.	0	0	4,503	171	13,099	0	4,503	171
1805 Jordan S.D.	0	0	107,955	0	677,296	0	107,955	0
1804 Beaver Co. S.D.	1,233	1,370	2,251	685	41,087	0	3,484	2,055
1803 Iron Co. Bd. of Ed.	0	0	21,390	2,570	99,804	0	21,390	2,570
1401 Granite S.D.	0	0	566,795	37,870	1,646,552	0	566,795	37,870
1 Tooele Co. S.D.	210,984	235,112	430,194	4,798	211,223	190,045	641,178	429,955
1801 Millard Co. S.D.	307	342	10,757	1,199	76,706	0	11,064	1,541
1702 Bd. of Ed. of Salt Lake City	24,676	27,418	278,456	37,527	1,320,273	0	303,132	64,945
1402 Murray City S.D.	0	0	46,034	0	167,834	0	46,034	0
Congressional District total (11)	248,611	276,922	1,533,382	86,019	4,406,498	190,045	1,781,993	552,986
State total (34)	1,216,467	1,317,443	5,801,664	289,073	8,627,084	1,206,641	7,018,131	2,813,157

SEABEDS TREATY

Mr. HUMPHREY. Mr. President, an editorial in the April issue of the National Parks and Conservation magazine has been brought to my attention. The article discusses in some detail the importance of agreeing on a convention for the regulation and protection of the seas. At this moment the Seabeds Committee of the United Nations is meeting and as negotiations proceed it is important that the United States not bargain away its proposal. In fact, the need may be to strengthen it.

The article I have referred to makes this point very well, particularly with regard to the rapid establishment of a world agency to control the use of the seabeds. The United Nations Conference on the Law of the Sea meets in 1973 and, therefore, the deadline is approaching for agreement on a Seabeds Treaty. There are many difficulties which still need to be ironed out. We should give our delegation our strongest support and draw attention to the importance of this convention as part of an international campaign to save our environment.

Mr. President, I ask unanimous consent that the article from National Parks and Conservation magazine be printed in the RECORD.

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

THE LIFE OF THE SEAS

President Nixon's farsighted and commendable proposal of two years ago for the establishment of a world regime for the regulation of mineral extraction from the seabeds may be headed for trouble. As we write, the March sessions of the Seabeds Committee of the United Nations, to which the United States submitted its proposals, are about to convene. The U.S. delegation may be severely handicapped in the negotiations by domestic opposition.

Ahead will be further sessions of the Committee next summer, and thereafter the projected U.N. Conference on the Law of the Sea in 1973. The fate of the President's proposal, and the outcome of the Conference itself, could be settled in Committee, long before the Conference, and settled adversely.

The original plan, embodied in the President's statement of May 23, 1970, and made more specific in a Draft Convention deposited with the U.N. Seabeds Committee on August 3, 1970, contemplated that the natural resources of the seabed beyond the 200-meter depth line would become the common heritage of mankind. A world Authority would be established to license exploration and exploitation in the Common Heritage Zone. Within the main zone, along the coasts, and comprising the continental shelves and margins, a Trusteeship Zone would be established, in which the licensing powers of the Authority would be exercised in trust by the coastal states.

The Authority would consist of an Assembly, including representatives of all Signatories, a Council, a Tribunal, and a Secretariat. These organs would exercise licensing, revenue-collecting, rule-making, inspection, enforcement, adjudicative, and revenue-sharing powers. Revenues from licensing would accrue in part to the expenses of the Authority, making it an autonomous world agency, but in the main to development aid for the less affluent nations.

In a world compressed into a neighborhood by the accelerating technologies of transportation and communication, threatened by lethal armaments, deadly pollution, famine, and overcrowding, the national security and national interests of all nations, including those of the United States, compel the prompt emergence of world institutions of the kind the President has proposed.

For our part, in the NPCA, we endorsed the President's proposals wholeheartedly by editorial in our issue of August, 1970. There was widespread press and other approval throughout the Nation. Opposition, however, also gathered rapidly.

Existing international conventions assert the right of coastal states to exploit the mineral resources of the seas along their shores, out to the 200-meter depth line and as far beyond within the continental margins as technology can reach. A decade ago the 200-meter depth might have been the technological limit. This is no longer true, and the line is now largely meaningless to nations like the United States with equipment to go much farther if they choose.

A Subcommittee of the Senate Committee on Interior and Insular Affairs held hearings after the President advanced his proposal, and pronounced in effect, in a report dated December 21, 1970, that the national interests of the United States forbade assent to the 200-meter line limitation. The oil industry, looking toward the next round in the galloping exploitation and exhaustion of our national reserves of petroleum, seems to have mounted a strong attack upon the President's proposal. Environmentalists the world over should organize effective counter-initiatives.

The growing pollution of the seas imperils the survival of man. Surely it is common knowledge that the Mediterranean may be dying, the Baltic in terminal illness. Some experts believe that the oceans, the cradle of life, from which life would have to renew itself again if defeated on the continents, may be dead within 25 years if present trends continue.

The living creatures of the oceans can now be pursued and exploited with the aid of the most advanced technologies, unknown a

dozen years ago. They can be gravely depleted, or even wiped out, and the food resources of a hungry world can be greatly reduced.

The surviving ocean mammals are imperiled everywhere. Species which offer no exploitative profit (dolphins, porpoises) are none the less endangered incidentally in the capture of lucrative species. Man's ecological foundations, the foundations of all life in the ecosphere, are shaken.

Able students of international law and resources management, practical, experienced, prudent men, concerned for the national security and the national interests of America, would strengthen the President's proposals, rather than weaken them, in effect by enlarging the World Heritage Zone for environmental protection purposes up to low-water mark. We concur in the recommendation, and hope that the world environmental movement may take that position. The Trusteeship Zone could be moved back to the landward side of the 200-meter depth line only.

Most of the life of the seas occurs in the continental margins; the estuaries, remote from the deep seas, are the rich breeding grounds of the simpler marine organisms on which the structure of life is built in the oceans. Pollution from oil drilling, always a menace, capable of but partial containment at best, will be a greater danger in the territorial seas than the deep oceans.

The destructive exploitation of fish resources, benefitting none but the most rapacious commerce, and that but briefly, occurs heavily near the coast. The protection of the men and industries, and of the ultimate consumers, who live by this commerce and these commodities, requires rational and considerate regulation by a strong world agency.

The problems of marine pollution from the land would remain. The proposed Authority should be given the function of convening conferences, developing model national laws, recommending economic and financial methods of mutual aid, and looking toward enforceable covenants to deal with the issue expeditiously.

For the less affluent countries, the urge toward accelerated agricultural production and rapid industrialization will work against environmental protection unless compensatory financing can be provided from the World Community on the basis of the gross national product of each nation. The more affluent countries, which can afford to give such help, should understand that their own survival depends upon such financing.

The objectives for which the U.S. delegation to the U.N. Seabeds Committee should be bargaining in the Seabeds Committee, and for which it should have strong support, are obvious: access for our commercial and naval fleets through straits within territorial seas (whether 12 or 200 miles); access also for our distant-water fishing fleets (tuna, shrimp, etc.); protection for our anadromous fisheries in areas remote from our coasts (the Atlantic salmon off Iceland); a share through a world agency in the mineral wealth, including petroleum, of the continental margins of other continents; and revenue raising systems to finance the proposed Authority and provide funds for technical and economic assistance to help the less affluent nations get on their own feet and off the welfare rolls.

For a good bargain in these matters the United States should be prepared to accept world agency controls over all marine resources exploration and exploitation along the lines proposed by the President and farther, with the agency having direct authority seaward of the 200-meter depth line, and the coastal states having trust authority landward of that line to the low-water line. The United States would have great negotiating strength in such a position and could bring about the creation of the necessary world agency rapidly. Domestic opposition to the establishment of such a world agency weakens the bargaining position of the United States and endangers our national security and our national interests.

The President's plan is a good and necessary plan; it needs only to be strengthened. There should be no retreat by the U.S. delegation in the Seabeds Committee negotiations; more expansive claims should be asserted. The Administration which fathered the plan should stand by it and reinforce it. The interests which are opposed to it should examine their responsibilities to this Nation and to mankind.

ANTHONY WAYNE SMITH.

CONSUMERISM

Mr. MOSS. Mr. President, last December, A. Edward Miller, president of the Berlitz Schools of Languages, gave a speech entitled "The Mythology of Consumerism" at an Association of National Advertiser's Workshop on Research on Copy Effectiveness and Consumer Response. I would like to put Mr. Miller's remarks in the RECORD following my remarks because I find them rather interesting.

I think it would be appropriate, however, for me to comment on consumerism in general. Some date the dawning of the modern consumer movement with President John F. Kennedy's special consumer message 10 years ago. In that message the President reminded Congress that consumers are the largest economic group in the country, accounting for two-thirds of all spending. He urged that the Federal Government be alert to consumer needs and advance the consumer's interest. And to fulfill our obligations to the consumer, the President proclaimed four basic rights.

Contrary to Mr. Miller's comments, I believe that those four basic consumer rights serve to shape every piece of consumer legislation that passes before us. Those rights? First, the right to safety—to be protected against the marketing of goods which are hazardous to health or life; second, the right to be informed—to be protected against fraudulent, deceitful or grossly misleading information, advertising, labeling, or other practices, and to be given the facts needed to make an informed choice; third, the right to choose—to be assured, wherever possible, access to a variety of products and services at competitive prices and in those industries in which competition is not workable and in which Government regulations are substituted, an insurance of satisfactory quality and service at fair prices; fourth, the right to be heard—to be assured that consumer interest will receive full and sympathetic consideration in the formulation of governmental policy and fair expeditious treatment in its administrative tribunals.

Although that was 1962, it took Congress until 1966 to produce the first breakthrough in consumer legislation. That was the year of the auto safety law, the truth in packaging legislation and the year of the emergence of Ralph Nader.

In the intervening period, the Congress has produced not only the automobile and tire safety legislation and the packaging law, but flammable fabrics legislation, hazardous substances, toy safety legislation, natural gas pipline and electronic product radiation legislation, the act banning broadcast cigarette advertising, the law authorizing the creation of the National Commission on Product Safety, and laws requiring investigation of flaws in our system of automobile insurance.

Just last year, the Senate passed legislation to strengthen the Federal Trade Commission and to insure meaningful product warranties, as well as legislation to establish systematic limits on escalating cost on automobile repairs.

To what does American industry owe this outpouring of apparently punitive legislation? Is it simply political opportunism and demagoguery as some businessmen have suggested? Is it less a response to demonstrated consumer needs and more an exploitation by politicians of irrational consumer fears and prejudices?

The set upon businessmen is free, of course, to take refuge in that comforting belief, but in my judgment the forces unleashed and the pursuit of these legislative goals over the past half decade have presented a rather fundamental change in public consciousness and attitudes toward the basic private and public institutions serving our society.

Mr. President, I ask unanimous consent that Mr. Miller's remarks be printed in the RECORD.

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

MYTHOLOGY OF CONSUMERISM

(By A. Edward Miller)

Once upon a time there was a small school. It was a good school. It had a young and active headmaster. He loved his school and he loved his students. He was interested and involved in every aspect of his school so no detail was too small to escape his attention.

Early one morning he was in front of the school supervising the laying of concrete for a new sidewalk. The job was almost complete when two youngsters on the way into school could not resist putting a footprint into the still wet concrete.

When the headmaster saw this he flipped. He grabbed the two youngsters by the back of their necks—held them in mid-air screaming hysterically—"You monsters—you miserable brats"—and proceeded to knock their heads together.

At this point the mother of one of the two small monsters observed the hysteria and joined in screaming at the headmaster. "Sir"—she exclaimed "I have never seen such violent behavior. At the last parent teacher meeting I heard you preach about love—love for learning—love for each and every student—this doesn't look like love to me."

The headmaster dropped the two little boys—turned to her and said "Madam—I was speaking about love in the abstract—not in the concrete."

Today I'd like to talk about consumerism in the concrete not in the abstract. In my previous reincarnation—before foreign languages—I was in the dictionary business. I got in the habit of looking things up. I decided I better look up the title of this talk—"The Mythology of Consumerism."

While it has a nice cultural somewhat controversial ring to it—but what does it really

mean? My favorite dictionary tells me that mythology means—the science or study of myths or a telling of tales and legends—or a book or collection of myths. What are myths? A traditional story of unknown authorship; ostensibly with a historical basis, but serving to explain some phenomenon of nature, the origin of man or the customs, institutions, religious rites, etc. of a people—any fictitious story or unscientific account, theory, belief, etc. Finally—myths usually involve the exploits of gods and heroes—then the advent of the deification of Ralph Nader to replace Marshall McLuhan suddenly became clear.

I then moved on to "consumerism." To my chagrin there was no such word in the new Webster's New World Dictionary. The closest I could come was "consume". That means "to destroy; to do away with, to use; to spend wastefully, to squander, to eat or drink up, devour, to absorb completely." All of these add up to a fairly strong set of negative statements for what is essentially a positive process and a basic ingredient of our life cycle and our economic processes.

What does this all add up to? I guess I'll be telling you some phoney or fictional stories in pontifical fashion about waste and destruction. Perhaps that comes closer than either of us like to explaining and understanding the consumerism movement.

Having been frustrated by my very own dictionary I decided that this was too contemporary a thing for dictionaries. Instead I delved into more recent history. I didn't go too far back when I discovered a rather interesting message to the Congress of the United States made by President John F. Kennedy on March 15, 1962. Surprisingly this is now almost a decade ago and I suspect this almost forgotten message may have given birth to the Consumerism movement. It was entitled "A Message to the Congress on Protection for the Consumer." In his opening paragraph President Kennedy stated that Consumers are the largest economic group in the economy. "Two-thirds of all spending in the economy is by consumers. But they are the only important group in the economy who are not effectively organized, whose views are often not heard."

He delineated consumer problems in terms of inferior products, exorbitant prices, drugs which are unsafe or worthless and the need for freedom of choice on an informed basis.

He made some interesting comments which still have the ring of wisdom and truth—almost a decade later. The reasons for the need for increasing consumer protection were particularly interesting—first the match of technology—second the increasing impersonal nature of marketing with particular influence of mass advertising.

He proposed a four-point bill of consumer rights.

1. The right to safety
2. The right to be informed
3. The right to choose
4. The right to be heard

That bill of consumer rights has stood up remarkably well during this decade—indicating their basic wisdom.

However, I thought it might be interesting to get a contemporary slant on the phenomenon of consumerism so I wrote to 14 thoughtful leaders of the consumerism movement asking them to give me a simple definition of consumerism. The replies were interesting and revealing.

Ralph Nader replied with a 5-page talk on the Future of the Consumer Movement. However, he did not attempt to define consumerism.

It appears consumerism is almost impossible to define because it means different things to different people. As one respondent reported—consumerism means a chaotic, harassing, insatiable anti-business movement to many businessmen, it means a strong, revolutionary uprising for "rights" to many consumer advocates.

Mr. Woodrow Wirsig, head of the Metropolitan N.Y. Better Business Bureau, defines consumerism as increasing consciousness among all of us—businessmen, professionals and workers—that we must do better in our own production of products and services so that we can become more satisfied consumers of products and services.

The response from Secretary of Commerce Stans was simple—"The growing framework for expectations against which consumers view business behavior." Perhaps too simple.

Dr. Nelson Foote who heads the Sociology Department of Hunter College, and a former businessman writes "consumerism is the term which refers to the general tenor of various public critics of the goods and services purchased by consumers which fall in quality below their reasonable expectations." These critics bear down especially hard on businessmen and corporations with the implication at times of deliberate cheating or injury; other critics on the other hand, criticize government agencies, professors and even non-profit organizations.

Another thoughtful response from Dr. Milton Blum who is Director of the Program for the Study of Consumer Affairs of the University of Miami defines consumerism as a body of knowledge that studies consumer affairs which includes the interaction between a buyer and seller as well as the affairs that develop as a result of buyer-seller transactions but which are broader in scope and involve large numbers of people as well as social issues, ecology, etc.

His irrepressible sense of humor comes to the fore in further definitions—like "Executives believe that consumerism means that they appoint a lady who is often pretty as the Director and that solves all problems. Government uses this ploy too, but the lady is less pretty and makes lots of speeches."

One of the prettiest lady consumerists in government provided me with a rather direct and effective definition "The organization of citizens throughout the country to make certain that they are treated fairly by merchants."

An equally attractive Washington consumerist provided a rather thorough and sound definition. "Consumerism is nothing more and nothing less than a challenge to business to live up to its full potential—to give consumers what is promised, to be honest, to give people a product that will work and that is reasonably safe, to respond effectively to legitimate complaints, to provide information concerning the relevant quality characteristics of a product, to take into consideration the ecological and environmental ramifications of a company decision, and to return to the basic principle upon which so much of our nation's business was structured—'satisfaction guaranteed, or your money back.' "

John Mack Carter who edits the Ladies Home Journal defines consumerism as "the skill each of us exercises in responsibly judging the value of products and services for purchase."

Dr. Herbert Krugman of General Electric: "A trend of opinion which would change the character of the market place from one in which the buyer's fear of having made an inappropriate purchase outweighed the seller's fear of having made an inappropriate sale—to one in which the seller's fear outweighed that of the buyer." That definition takes some defining.

The Senators and Congressmen all ignored my request for a definition. I guess they are too busy working on the 700 odd bills lurking in Congress on consumerist issues to be writing definitions on the subject.

So much for definitions. It is interesting to at least superficially analyze them. It seems to me that most are oriented to opinion and attitude and not toward behavior. There are strong indications that the quality of products and services are deficient. There seems to be unanimity that consumerism is a consumer responsibility: There is no agreement on whether the consumer should look to the merchants or the maker for satisfaction. Finally there is a very proper concern with the difference between the aspirations or expectations of consumers and the realities of the world in which they live.

As a final note on this subject, Lou Harris ran a recent national poll on the subject of consumerism for Life Magazine and despite the daily headlines on the subject less than one half of the people in the country say they have heard of the term consumerism. More people say that they know who Ralph Nader is—than said they know about consumerism.

Most of our definitions tend to be abstractions—I guess definitions have to be. There are realities in consumerism. There are facts. The act of purchasing a product or service is rooted in behavior, in action. Therefore it is possible to make definitive measurements of the extent to which there are consumer abuses in the market place. Do products hold up and function? Are products serviced? Are warranties honored? Are delivery dates met? Are financing charges honest and legal and understood? I could go on.

For some reason there has never been a broad gauged systematic measurement of failures of products and services to deliver what has been promised. There is no continuing feedback system on the consumer in the market place. This is not a very complex measurement. I am sure that just about every research organization or department represented in this room is capable of making such measurements—yet except in isolated and very specific cases and on a very confidential basis these measurements have not been made. They are not available to businessmen, to consumers, or to legislators.

I spent many months in a hopeless attempt to get the United States Government to measure the experiences of the consumer in the market place on a sound factual basis. If we had this data we could have a sound basis for legislation, we would have a basis for persuading business to correct some abuses. We would be able to measure trends and know whether things are getting better or worse. Perhaps my timing was wrong. Perhaps business was not yet ready to put calipers on its sins. I predict it will happen whether they want it to or not.

The national Better Business Bureau has organized an effort to classify and to organize the rather impressive volume of complaint mail which they receive. That will never give us a full perspective on the problem. There are new efforts to self-discipline advertising claims and copy. These are constructive efforts but they are not substitutes for a sound continuing factual national measure of what is happening to the consumer in the market place. It should have the support of each of you even though it might uncover facts that may reflect unfavorably on your business or your industry. In the long run you will be better off dealing with fact and with reality than you will be when politics and opinion and subjective experience becomes the dominant force that determines legislation and control.

Some months ago I was having my own war with a major automotive company in getting my new car to function as it should. At the peak of my war I suddenly came to the realization that the automotive company had no vested interest in providing me with a bad product or poor service. The consumer failure which I was experiencing was the result of a producer failure.

It is very simple—perhaps too simple a concept. Every consumer failure is a function of a producer failure. Ironically the consumer

and the producer are one and the same people. On the one hand our failure—as producers create a consumer problem for someone else. If we all functioned perfectly as producers there would be no consumer problem.

Let me therefore turn to the subject of producerism. You won't find that in the dictionary either, so let me attempt a simple definition. By producerism I mean the development of products and services both quantitatively and qualitatively to serve the best interests of the consumer in our society within the framework of our economic system.

The problem of producerism in my opinion transcends the problems of consumerism. There are two basic aspects to this problem—both of which affect consumerism. The qualitative aspects of production determine the quality of the goods and services which find their way into the market place. In this area of consumerism we plunge headlong into the area of subjective measurements. When does a product become obsolete? How do you set objective standards in quality? How do you measure quality? The problems of quality are very much related to the problem of consumer expectations mentioned earlier. In this area I think it becomes essential to sort out problems created by the retailer from those which are the responsibility of the manufacturer.

There have been virtually no measurements of consumer satisfaction or dissatisfaction with specific products. Of course, buying behavior is a pretty good index over time. Despite the subjectivity of the measurement problem I believe it is possible to get meaningful measurements of consumer attitudes and behavior. I think that research which is being discussed on your program today is ample evidence that the skills required to make these measurements exist in this very room if we could persuade Government and business to finance such measurements. Time does not permit me to go beyond this comment at this time.

There is a second dimension to producerism as it affects consumerism which may even transcend the importance of consumerism—that is productivity. By productivity I mean the quantity of goods and services produced with a given unit of labor or effort. There are obviously two factors which determine productivity—one is the skill and motivation which labor brings to the process, the other is the machinery or plant or assembly line which capital investment brings to the process. In my non-professional opinion the decline in increasing productivity which settled into this nation about the year 1966 has been the cause of most of our inflationary and other economic ailments.

Until 1966, in each year since the Industrial Revolution increasing productivity more than compensated for the increased cost of labor so there were no inflationary pressures. Since 1966 the pattern of increasing productivity has been slower and less certain. As an example according to Business Week output per manhour in the private economy rose less than 1% in 1969. In 1970 it rose only ½%. It is now indicated that is 1971 the productivity increase will be 4%.

If we are to understand productivity I think we must do more than simply measure productivity, we must understand the variations and the reasons for the variations from year to year.

In the last 5 years in the U.S. output per man hour improved an average of 2.1% per year. Average hourly compensation increased 6% each year so we were losing the battle of inflation to the tune of 4% a year in increased unit labor costs. In contrast with this 4% figure in the U.S. the figure in West Germany for five years has been 3.2%, in Sweden 2.5%, in Japan 0.8% and in Switzerland—no change.

How does this happen? How does a national economy which each year since the Industrial Revolution managed to increase productivity suddenly find itself impotent? There are a number of possible reasons.

One rather significant factor is that our economy has been changing from a product economy to a service economy. That technology of mass production cannot be applied as well to service industries and activities. The productivity of such a meeting as this one is a case in point.

For another factor we seemed to have run out of technological magic to keep offsetting the increasing costs of labor with mechanical or electronic cost saving devices.

Finally and possibly most significantly there is the attitude, or the motivation which the employee brings to his job. I suspect that there has been substantial deterioration in employee attitudes and motivation—but I really don't know. The shocking thing is that no one seems to know. This extends beyond the industrial plant to the college campus and the government offices and the home and family as well. I think our value system as it affects work attitudes has undergone a revolution—but Al Toffler in "Future Shock" seems to be the only one to recognize it.

I wanted to find out how much the government and industry spend to research this problem of productivity. I suspected that one of the problems was that we have not given the problem the research attention it deserves.

A long time ago I discovered that one of the most effective means of getting answers to difficult questions is to write to your favorite informed and influential Senator. I wrote to Senator Javits who did indeed move quickly. He wrote to Mr. Leon Greenberg, Executive Director of the National Committee on Productivity in Washington. To my surprise—no answer. I wrote again, but Mr. Greenberg was on vacation. A month went by. I began to wonder about the productivity level of the Commission on Productivity. Finally he did answer by telephone. Believe it or not, the National Commission on Productivity has no data on the research investment which has been or is being made by the Government or industry to improve productivity. When I expressed some horror at this state of affairs, he went on to say that he was a little surprised too so he turned some researchers loose. They came up with a report by the National Science Foundation entitled "Federal Funds for Research, Development and Other Scientific Activities." I recommend that each of you get and read this document.

I could not separate out research on productivity but I did study it enough to come to the realization that one of our major problems in this area of productivity and in many other aspects of our lives is that we are spending a woefully inadequate proportion of our national resources on what I call people research as compared to physical science research. I know I'm probably guilty of oversimplification but let me give you a few facts.

A summary of Federal Funds for research actually spent in the year 1970 show that 2 billion dollars were spent for engineering science research. $215 million were spent for social science research. Over 1 billion dollars were spent for research in the physical sciences and $113 million was spent for research in psychology. These are 10 to 1 ratios for engineering or physical research compared to social or human research.

On a departmental basis the Department of Defense spent $7 billion $756 million for research in 1971. The Department of Health, Education and Welfare spent 1 billion 390 million. In contrast the Department of Commerce had a $144 million expenditure. When the $144 million expenditure is analyzed $82 million of it was for the National Oceanic and Atmospheric Administration, $34 million of it for the National Bureau of Standards. The Maritime Administration gets $12 million and that doesn't leave much for any consumer or producer research.

I submit this is an imbalance of a most serious order.

I would urge that the Research Committee of the Association of National Advertisers and all other major associations dig into the spending of the research funds of the U.S. I believe we need a better balance in the spending of our research resources. I think we must make our points of view known and effectively heard in Washington. As an example, how many of you knew there as a Commission on Productivity in Washington?

I know that a battle rages on whether our limited progress in productivity in recent years is a function of our reaching the limits of technology—or reaching the limits for capital investment or whether we have reached the limits of human capacity. I suspect the answer is that we have not reached our limits in any of these three dimensions.

I believe capital will flow into investment again. I believe our technological development will continue because of the great research capacity we have turned loose on space problems and problems of combat will ultimately help us in our productive capacity.

However, no one is turned on to the problems of people. People as consumers. People as producers. Frankly, I don't know why you as researchers—and that includes me as a former researcher—are content to eat the crumbs from the research table. Now as never before we must understand human behavior. We must understand the forces at work in human motivation. We must understand the forces at work in our young people. We must understand new or changing value systems. We must understand human communication. All of you have the skills to make significant contributions beyond testing of commercials or predicting the success of a new product, to make in these basic and important areas of human dynamics.

There are fears. Fears of manipulation. Fears of invasion of privacy. Fears of difficult measurements because dealing with the human mind and the human soul is not a very precise science. Perhaps it is not a science. But insight and understanding and communications can all be significantly improved through the use of your skills in these broader areas.

I don't think you can be coy or shy and wait to be asked. I think the leadership in marketing and in psychology and in the social sciences should be demanding a decent opportunity to show government and to show industry and to show people—people as consumers and producers—how much they can contribute.

I'm afraid I have taken advantage of the soap box you so generously proffered to stray a bit from the subject.

Let me bring you back to the beginning with a last definition of consumerism which more eloquently than I ever could states the need for fact. It is from Wade Nichols, the Editor of Good Housekeeping.

" 'Consumerism', both in concept and practice, has probably gone beyond the applicability of a single or simple definition. It has become an umbrella made of ambivalence, sheltering idealists and altruists along with opportunists and manipulators. It covers people's most basic needs and highest legitimate hopes, but also fronts for political cynicism, unrealistic claims and naive expectations. This umbrella, then, seems at once an instrument which sometimes fends off the fallout of customer frustrations—but also sometimes stabs the unwary in the eye. It depends quite a lot upon whose hands it's in."

DRUG TREATMENT AND REHABILITATION FOR FEDERAL OFFENDERS ON PROBATION AND PAROLE

Mr. BAYH. Mr. President, I wish to commend Senators who by voice vote on March 3, 1972, passed S. 2713, a bill to provide care for narcotic addicts and drug-dependent persons who are placed on probation, released on parole, or mandatorily released.

The bill was favorably reported by the Committee on the Judiciary on February 29.

The Narcotic Addict Rehabilitation Act—NARA—was enacted by the 89th Congress in response to the narcotic problem in this Nation during the mid-1960's. The act embraces the view that narcotic addiction is a disease that should be treated rather than viewed as a matter for punitive penal action. Its declaration of purpose in favor of civil commitment for treatment, in lieu of prosecution or sentencing, was a legislative landmark—a turning point in the Federal approach to drug addiction.

At least 30 percent of the 11,000 people annually committed to serve sentences in Federal prisons have drug-related problems, or have been convicted of drug-related crimes. However, NARA excludes the following adjudicated Federal offenders from authorized rehabilitation programs:

First. An offender who is convicted of a crime of violence.

Second. An offender who is convicted of unlawfully importing or selling or conspiring to import or sell a narcotic drug, unless the court determines that such sale was for the primary purpose of enabling the offender to obtain a narcotic drug which he requires for his personal use because of his addiction to such drug.

Third. An offender against whom there is pending a prior charge of a felony which has not been finally determined or who is on probation or whose sentence following conviction on such a charge, including any time on parole or mandatory release, has not been fully served: Provided, That an offender on probation, parole, or mandatory release shall be included if the authority authorized to require his return to custody consents to his commitment.

Fourth. An offender who has been convicted of a felony on two or more prior occasions.

Fifth. An offender who has been committed under title I of the Narcotic Addict Rehabilitation Act of 1966, under this chapter, under the District of Columbia Code, or under any State proceeding because of narcotic addiction on three or more occasions.

Consequently, only 1 or 2 percent of addicted or drug-dependent offenders have qualified under the special sentencing provisions of NARA.

There is an urgent need for legislation to assure that drug treatment and rehabilitation programs will be accessible to Federal offenders who are ineligible for treatment under NARA. Our bill meets this need.

S. 2713 authorizes an expansion of drug treatment and rehabilitation to those otherwise ineligible Federal offenders who are under community supervision or mandatory release. The community-treatment phase authorized by S. 2713 complements the drug abuse programs already undertaken by the U.S. Bureau of Prisons for non-NARA addicts in the institutions located in Lewisburg, Pa.; Terre Haute, Ind.; Petersburg, Va.; El Reno, Okla.; Lompoc, Calif.; and Fort Worth, Tex., under general authority to provide for the treatment, care, rehabilitation, and reformation of Federal offenders (18 U.S.C. 4001).

Yet, an institutional program cannot fully prepare these individuals for the return to the community. Aftercare and counseling in the community is essential to assist these non-NARA Federal offenders in establishing a drug-free and crime-free life style. S. 2713 authorities such aftercare as a necessary adjunct to the supervision already provided by U.S. Parole Officers.

S. 2713 also authorizes community-based drug treatment for offenders who have not taken part in an institutional drug program. Individuals on Federal probation or those released outright from a Federal prison would be eligible for treatment. U.S. probation officers would be provided an alternative to revocation of probation and incarceration of an addict or drug-dependent person.

As originally introduced by Senator HRUSKA, S. 2713 offered community drug treatment and rehabilitation only to narcotic addicts. Although I supported the bill as introduced, it was my judgment that the scope of S. 2713 should be expanded.

Through the series of hearings on amphetamine and barbiturate abuse conducted by the Juvenile Delinquency Subcommittee, of which I am chairman, I have become increasingly aware of the widespread abuse and dependency on these and other similar dangerous substances. Barbiturate addiction is often more severe and debilitating than heroin addiction. Considerable criminal activity is associated with the abuse of amphetamines and barbiturates and with efforts to obtain these dangerous substances.

My amendment, adopted by the Subcommittee on National Penitentiaries, and favorably reported by the Judiciary Committee, expands the community services available under S. 2713 to Federal offenders who are dependent on amphetamines, barbiturates, and other controlled nonnarcotic dangerous substances.

The rationale for this amendment is similar to that which led Congress to enact the Comprehensive Drug Abuse Prevention and Control Act of 1970, which authorized the expansion of treatment and rehabilitation programs under the Community Mental Health Center Act and the Public Health Services Act to include drug abusers and drug dependent persons as well as narcotic addicts.

I urge our colleagues in the House to act expeditiously and vote for the passage of S. 2713 to assure that the broadest range of treatment and rehabilitation is made available to narcotic addicts and drug dependent persons who are subject to Federal jurisdiction and control.

SAFETY APPLICATIONS OF SPACE SCIENCE TECHNOLOGY

Mr. ANDERSON. Mr. President, NASA has recently announced a number of important applications of space technology that will directly affect the lives of almost every person in the United States. The first of these involves the first development of a device for the nondestructive testing of automobile and aircraft tires. The importance of this to the safety of the people in our country is obvious. The B. F. Goodrich Co. is using this device to check new tire designs at speeds up to 400 miles per hour. It weighs less than 40 pounds and is small enough to be mounted on test automobiles.

The second application of great interest is the adaptation of techniques developed in NASA for spacecraft assembly to modern surgical procedure. When widely adopted, it is expected to substantially lower the risk of infection during surgery.

The third application is the announcement by NASA that recent flight tests verify the NASA supercritical wing. This new aircraft wing involves a totally new airfoil shape which will permit jet aircraft to operate more efficiently at speeds near mach 1.

Mr. President, I ask unanimous consent that three NASA releases more fully describing these applications of NASA technology to the everyday needs of our people be printed at this point in the RECORD.

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

[Release No. 72-24]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington, D.C. February 8, 1972.

NASA TECHNOLOGY CHECKS TIRE SAFETY

Ultrasensitive fast-scanning infrared optical equipment first developed by the National Aeronautics and Space Administration is seeing daily industrial use in testing the safety of new automobile and aircraft tires.

The first major tire firm to use the improved device was the B. F. Goodrich Company. Tire manufacturers are interested in the new equipment because it permits effective non-destructive testing of tires for the first time. This is an important consideration in the case of large, costly aircraft tires. Destructive testing to determine a tire's interior structure is expensive when any large number of samples must be destroyed.

The device, an infrared fast-scanning microscope, was first developed in the mid-1960s by Raytheon Company under a contract with NASA's Marshall Space Flight Center. It was originally designed for automated, non-destructive testing of miniaturized electronics circuits.

Produced by Dynarad, Inc., Norwood, Mass., the improved equipment used by Goodrich produces a real-time cathode ray tube picture of the heat in tires as they spin rapidly in the testing devices—up to 200 miles an hour in the case of automobile tires and as fast as 400 miles an hour for aircraft tires.

Hot spots in a tire are viewed as bright areas in the picture, indicating design or construction flaws needing correction. Goodrich uses the device in its Brecksville, Ohio, research center to check new tire designs.

The sensitive infrared camera is capable of reading the heat from 600,000 points on a tire every second, presenting a view as if

the spinning tire were stopped, Dr. Jacob E. Jansen, Goodrich vice president in charge of research and development said.

NASA's original research with Raytheon was responsible for the fast-scanning, high-resolution optics now adapted by Dynarad and other firms in infrared non-destructive testing equipment.

"Previous camera equipment that could 'stop' a spinning tire was too cumbersome to be used effectively in many test situations," Dr. Jansen said. "This new thermal evaluation tool is all electronic, weighs less than 40 pounds and is small enough to be mounted on test automobiles. Its lower power requirement permits it to operate from an automobile electrical system."

Such mobility will permit the device to be used on the firm's outdoor test track, Goodrich officials said.

"We anticipate that this highly accurate method of heat analysis will help us improve many of our products by testing them non-destructively," Dr. Jansen said. "Heat shortens the life of V-belts, shock mounts, brakes, rubber bearings and many other items besides tires."

Dynarad is one of a number of companies manufacturing infrared equipment for non-destructive testing of industrial products. More than 30 such devices were sold in 1971, ranging in price from $19,000 to $26,000 per testing unit. Other testing applications have been in quality control for electronic circuitry, for CO_2 gas laser research, and for void detection in honeycomb structures.

[Release No. 72-47]

SPACE TECHNIQUES HELP SURGEONS

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington, D.C., March 8, 1972.

A germ-control and dust-purging technique used in the production of spacecraft is helping surgeons at St. Luke's Hospital, Denver, Colo., lower the risk of infection in surgical procedures.

The technique uses portable equipment designed for the continuous removal of dust and germs from the surgical area. Equipment includes helmets that resemble those worn by astronauts and specially treated surgical garments that bacteria cannot penetrate.

The concept is based on techniques developed by the National Aeronautics and Space Administration and the aerospace industry for sterile spacecraft assembly and self-contained life support systems.

Surgeons are using the equipment during hip-joint replacements and other surgical procedures in which large incisions must remain open for several hours. Such surgery requires highly antiseptic conditions to protect the patient from infection.

The technique employs a 10-by-10 foot plexiglass and aluminium enclosure (technically known as a laminar flow clean room) that fits inside the conventional surgical room. When not in use, the collapsible enclosure can be folded and stored.

Air-circulating units force the air through a wall of filters that trap dust and bacteria. The air then moves in a gentle flow from the rear of the enclosure to the front.

Surgeons and nurses wear clear plastic helmets attached to vacuum lines. An opening in the top of each helmet permits air to flow into the helmet. Exhaled breath is removed by the vacuum lines. Headsets provide communication among members of the surgical team.

The team also wears disposable laminated paper clothing that is treated with a plastic through which bacteria cannot pass.

A control panel for the air circulation and communication systems is situated outside the enclosure.

The anesthetist works near the front of the enclosure. Since his expelled breath is circulated out of the enclosure rather than toward the patient, the anesthetist wears the traditional gauze mask instead of a helmet.

The medical application of the technique was conceived by surgeons at St. Luke's Hospital. Martin Marietta Corporation designed and furnished the equipment under contract to NASA's Office of Aeronautics and Space Technology, in cooperation with St. Luke's Hospital.

Johnson & Johnson Co., a surgical supply manufacturer; and the Envirco division of Becton & Dickinson Co., manufacturers of clean-room equipment, also participated in the development.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington, D.C., March 1, 1972.

FLIGHT TESTS VERIFY NASA SUPERCRITICAL WING CONCEPT

[Release No. 72-45]

Actual flight tests of the NASA Supercritical Wing have demonstrated that the new airfoil shape does permit jet aircraft to operate more efficiently at speeds near Mach one, the speed of sound.

This conclusion and other results from the flight tests of the new aeronautical concept were described Tuesday, Feb. 29 by the National Aeronautics and Space Administration at a one-day technical meeting at NASA's Flight Research Center, Edwards, Calif., which conducted the flight tests of the new wing on a modified F-8 jet fighter.

The NASA Supercritical Wing was developed and tested in wind tunnels under the direction of Dr. Richard T. Whitcomb at NASA's Langley Research Center, Hampton, Va. The top side of the new wing has been flattened and the rear portion of the underside is curved concavely.

The flight tests confirm the wind tunnel predictions that the aircraft would be able to fly at increased speeds before encountering a significant rise in aerodynamic drag, an adverse force on the aircraft. This means that the aircraft can fly faster without using more power.

Since its first flight on March 9, 1971, the F-8 with the Supercritical Wing has made a total of 27 flights reaching a top speed of Mach 1.2, about 1267 kilometers per hour (792 mph) and a peak altitude of 15 kilometers (51,000 feet).

Summarizing the flight test program, Joseph Weil, Director of Research at the Flight Research Center and Chairman of the afternoon session of the meeting said, "I feel that the overall performance goals of Dr. Whitcomb, as demonstrated by the delayed drag rise, have been achieved. Overall agreement between the wind tunnel and flight data is quite good."

Reporting on the piloting aspects of the new wing, civilian project pilot Thomas C. McMurtry said that the flight test program indicated that the piloting procedures and tasks at near sonic cruise speeds should be as routine as present day jet transport operations. He concluded, "The introduction of the Supercritical Wing is not expected to create any serious problems in day-to-day air transport operations."

For applications in which near sonic speed is not required, the advantages of the supercritical wing can be used to permit a thicker wing section, with a resultant saving in structural weight, and an increase in usable internal volume. At the meeting, a report on the flight tests of a thick supercritical wing mounted on a T-2C jet trainer was made by William E. Palmer of the Columbus Division of North American Rockwell who made the flights under joint NASA-US Navy sponsorship.

Future plans for the Supercritical Wing were also described at the meetings. These included the addition of side fairings for increased area ruling, a configuration more likely to be used with a supercritical wing on commercial jet aircraft, and the determination, by simulation, of the effects of wing roughness that might be caused by manufacturing imperfections. Plans for possible follow-on flight programs to further the readiness of new technology for application are currently being developed.

REVOLUTION IN HEALTH CARE

Mr. GAMBRELL. Mr. President, on February 1, 1972, Mr. Russell Richardson, director of the Governor's Special Council on Family Planning for the State of Georgia, testified in Atlanta before the Democratic National Committee Task Force on The Revolution in Health Care.

I invite the attention of Senators to Mr. Richardson's remarks and unanimous consent, that they be printed in the RECORD.

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

TESTIMONY OF RUSSELL RICHARDSON

Mr. Chairman, I am Russell Richardson, Director of the Governor's Special Council on Family Planning for the State of Georgia, a former chairman of the Georgia Council for Voluntary Family Planning Services, and formerly coordinator of the Metropolitan Atlanta Council for Health. Thank you for the opportunity to appear before you today to state my belief in the need for a comprehensive national health insurance program, and my views on how such a program could best serve the health needs of all people.

I believe our nation has demonstrated its poor health care record. On one hand, we have enormous outlays of funds for health. The Social Security Administration has just released statistics showing that the average health bill for each American in fiscal year 1971 was $358—up $31 from last year and ten times the amount spent at the end of World War II. In spite of some specialized shortages, we do have a favorable ratio of physicians to patients. We have, of recent years, a large increase in the number of individuals who have some sort of health insurance protection. Yet, we have a higher infant mortality rate and shorter life expectancy than many other industrialized nations. We are faced with dramatically and rapidly rising medical costs and, for the most part, inadequate insurance protection through private insurance plans. There are gross inequities in the availability of medical care between urban and rural areas. There are gross inequities, as well, between income groups. The poor, who have a higher rate of illness than other income groups, have the least access to quality health care and insurance protection. The Department of Health, Education and Welfare reports that half of the families with incomes of less thn $5,000 a year and two-thirds of those with annual incomes of less than $3,000 have no health insurance protection whatsoever.

Any new system of national health insurance must be both comprehensive and efficient. Furthermore, if we are talking about insuring the health of all persons—that is, in the sense of preventing illness—then I believe that all health services related to fertility, including full maternity and infant care, voluntary family planning services and infertility services, must be an integral part of any system of national health insurance.

Family planning is, first and foremost, a matter of preventive health care. We cannot dispute that a large proportion of infant mortality, mental retardation, congenital

malformation, prematurity, and brain damage are related to poor maternal health care and lack of adequate family planning services. We know that the incidence of these conditions rises alarmingly among women having too many closely spaced births, among older women and among first births to teenage women. We know also that the risks associated with pregnancy and childbearing are highest among the poor. Their inadequate care through childhood and puberty, a greater prevalence of illness or incapacitating situations, inferior and unsanitary housing, inadequate nutrition and prenatal care all compound the risks for mothers and infants. We know that fertility control offers the opportunity to prevent this continuing spiral of mortality and morbidity. It provides a prime example of why health care should concentrate on keeping people well instead of making people well.

The problems and risks of pregnancy although great among low-income families exist at all income levels. Most Americans who practice family planning do so under the direction and supervision of their private physician. Yet rarely is protection offered by private insurance plans to cover the principal costs of family planning health care, such as office visits, contraceptive drugs, and laboratory tests. The result is, in effect, to discourage persons from seeking this kind of preventive health care—partly because they are already burdened with the extraordinarily high costs of medical care for emergencies and illnesses. Furthermore, these plans cover only a fraction of the cost of maternity and pediatric care and thereby, inhibit the provision of adequate care by the practitioners and health institutions in this field.

Among the poor, on whom the health and economic burden is already far too great, there is practically no access to private or preventive health care. While Medicare and Medicaid have permited a greater number of poor persons to obtain health care for acute or catastrophic illesses and curative care, Medicaid has failed, with a few local exceptions to extend coverage to preventive care services. Medicaid coverage for family planning services has been demonstrated by several DHEW studies to range, nationally, from non-existent to inadequate. Eight States (Alabama, Arkansas, Louisiana, Mississippi, Oklahoma, South Carolina, Texas, and Wyoming) report categorical exclusion of family planning services from coverage under their plans. Most of the others, through restrictions on clinic services, have limitations on drugs and devices, or intricate administrative decisions which in effect perclude Medicaid patients from access to family planning services.

Under these conditions, it is not surprising that more than half of all American couples experience unwanted or accidental pregnancy. In a 1965 study by Dr. Charles Westoff, now Executive Director of the Congressional Commission on Population Growth and the American Future, unwanted births have been estimated to be as high as one million a year. Again the incidence of unwanted, unplanned pregnancy is much higher among the poor. The percentage of births which were estimated by the parents to have been unwanted at the time of conception was 32% among the poor as against 15% among more affluent couples. The adverse consequences of unwanted births are also much more severe when income and other resources are already strained. The consequences are borne, and sometimes tragically, by the parents, the child and the whole community. Since the majority of Americans want and need to plan their families, for health, economic and personal reasons, the opportunity to choose to do so must be made available to every person, regardless of income, age, marital status or parental status.

Preliminary research has been done on the cost to American society of complete coverage of all health services related to fertility. At the present time, as much as 85 percent of the cost of fertility services is presently financed by existing public health programs, public and private financing mechanisms, and individuals. The remainder to be financed, some 15 percent, could be immediately offset by reduced claims for maternity care alone, stemming from the prevention of unwanted pregnancies and births.

None of the national health insurance proposals now pending before Congress specifically provide for coverage of the complete range of fertility services. The Administration's proposal would cover maternity care and some pediatric services but it would limit coverage of family planning services to those families with incomes below $5,000 a year who are enrolled in the Family Health Insurance Plan. In addition, and this seems particularly shortsighted, services would be covered only for those individuals or couples who have already borne a child. Thus economic and financial barriers to the utilization of family planning services would remain for most American families.

The Health Security Act proposal comes closest to providing total comprehensive health care coverage for all individuals. While this proposal does not specify family planning health services, strong emphasis is placed on preventive care. In addition, except for certain limitations on the availability of drugs, this proposal provides for all necessary out-patient medical services and treatment, which are basic aspects of fertility care. The most important feature of the Health Security Act is its basic concept of providing one nationally-administered health insurance plan providing uniform coverage for all individuals. My experience indicates that even when the disadvantaged are singled out for special treatment they still receive inferior services and inadequate benefits, particularly in a bureaucracy with many fragmented programs. This tends to create a discontinuity that can be disastrous for a service such as fertility care, which needs to be continuously sustained if it is to be effective. All of the other health insurance plans pending before Congress perpetuate in some way this fragmentation of services and uneven quality of care and coverage. The other proposals vary in the degree of coverage and benefits but, no proposal other than the Health Security Act provides equality of coverage for all, regardless of income.

In closing, I would like to say that if we are to achieve a resolution of our national health care problems we must enhance the health and well-being of all persons on an equitable basis. The provision of fertility services is fundamental to preventive health care, and the complete range of these services—including maternity care, infant care, infertility services, and fertility control services—should be a vital component of any health financing system. A truly equitable, efficient, and comprehensive health insurance program must take into consideration the social, economic and personal costs of unwanted pregnancies as well as the costs of prenatal, delivery and infant care of children who are deeply wanted by their parents. I believe that the Health Security Act would be greatly strengthened by making explicit in the proposal what is now only implicit, that is, the full coverage of all fertility services—fertility control, maternity care and infertility services. This is particularly crucial since enactment of national health insurance would mean the phaseout of current maternal and child health programs and of existing family planning services authorized through Title V of the Social Security Act and Title X of the Public Health Service Act. Progress made in the past few years in the provision of family planning services could be eliminated by too abrupt a shift to general health financing unless all services related to fertility are specifically mandated in the law.

PEACE THROUGH CHANGE: THE RISK AND PROMISE FOR MAN'S FUTURE

Mr. HUMPHREY. Mr. President, on December 27, I had the privilege to address the annual meeting of the American Association for the Advancement of Science. The theme of my speech was how men of science and politics must work together to tackle the problems and challenges of man's future.

An article, based on my address, appeared in the February 18, 1972, issue of the AAAS magazine, Science. It is an attempt to discuss the scope of technological change and the resulting demands placed upon the institutions and entire makeup of our society. In the article, I offer some suggestions of how we can best grapple with the rapid technological developments we are now witnessing and those which we will inevitably face in the future. The crucial challenge for us is not to fight against potentially constructive change, but rather to channel dynamic conflict into forms of peaceful change.

The proposals I made, such as the establishment of an open system of national estimates and the creation of national institutes of peace and development, can best take root when we establish a peaceful condition in the world.

And yet, as I noted in my article, "peace is shockingly absent when the war in Southeast Asia continues." Calling for an all-out effort to end the war in Indochina, particularly ending American involvement in that war, is the first step among many to establish a situation conducive to peaceful change.

Mr. President, I ask unanimous consent that the entire article from the magazine Science be printed in the RECORD.

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

PEACE THROUGH CHANGE: THE RISK AND PROMISE FOR MAN'S FUTURE

(By Hubert H. Humphrey)

("The only mistake that history does not forgive in people is to scorn their dreams."—MAURICE SCHUMAN, 3 November 1971.)

To speak of peace is to speak of change. One is a part of the other. Their inseparability is rooted in their common allegiance to the progressive development of man's welfare within a compatible society. A condition of general peace, where institutions are controllable and people comprehensible, is, in my opinion, an ideal situation for effecting change. Not only is it ideal, it is a necessary condition.

Any other situation would create over time a perilous limbo between a repressive sort of inertia and the extremes of violent outbreak. We may very well be in that threatening kind of impasse today. Peace is shockingly absent when the war in Southeast Asia continues and is able to snuff out serious efforts for comprehensive reform in our own society. The desire for change is, I believe, as real as it ever was in the human mind, but the failure to bring about significant change frustrates all of us.

There is, therefore, as much risk in standing still as there is in moving destructively out of our present position. What we should be seeking is a means of moving forward, channeling dynamic conflict into forms of peaceful change. This effort will inevitably involve the reduction of human violence and the promotion of man's development. Development essentially involves the achievement of an improved standard of living and quality of life. Considered in the broader context, it is concerned with all paramount values—political, social, and economic. In practice, the process is still incomplete; vast inequalities continue to exist among nations. A new commitment is essential if the process is to continue.

If peaceful change is to be achieved, a new relationship must be established between science and politics. Politics at its best under a democratic system of government can be the vehicle for translating tensions in our society into social progress. It is an all-encompassing process whose strength comes from wide and solidly based participation.

As society grows more complex, the vitality of the political process depends to an increasing degree on the effectiveness and equity of the measures designed to achieve its basic values. Before the appropriate political decisions are reached, the need is greater than ever before to have the broadest possible knowledge base—knowledge oriented toward the future rather than toward the past. Science can create the knowledge base, the starting point for a close working relationship between science and politics.

The consequences of science for our age are profound. Increasingly, it is the basis of our technological systems, the most powerful means devised by man for controlling his environment.

From time to time, both science and politics come under attack, as is the case today. I am prepared to acknowledge their deficiencies, but we must also recognize their inherent value to society. Recognizing the weaknesses and the strengths, we must face squarely what is our common challenge: How can science and politics, each with its constructive role, work together more effectively to meet the needs and deal with the conflicts of our own people and of others?

A strong new commtiment will be necessary if adequate answers to this question are to be found. The scientific community will have to provide a more systematic knowledge base. But political leaders must also be prepared to address the issues. Let me offer one approach, which is not intended to be either exhaustive nor definitive, but rather a means of eliciting your ideas. The approach has three main parts: (i) a common agenda for science and politics, (ii) new institutional arrangements for the production and utilization of knowledge, and (iii) procedures for stimulating a similar commitment by other states.

COMMON AGENDA

The present conception of U.S. national interest is too often expressed in terms of military power and national security. Nearly half of all research and development is devoted to perfecting means of destruction. Worldwide, the research and development devoted to military purposes probably exceeds $2.5 billion. Alternative conceptions of our long-term interests could lead to a very different pattern of resource allocation. These alternatives must be worked out in collaboration between the scientific community and political leaders. In my view, the new directions would include increased attention to population, environment and growth, health and education, arms control and disarmament, a future international system, and conflict situations.

Throughout the world, population growth is taking place on an unprecedented scale. What are the implications for conflict and development? For any given level of population, may alternative patterns of distribution have significantly different implications?

Since World War II, the labor force in the United States has greatly increased in size, and the character of its knowledge and skills has undergone substantial changes. At the same time, there have been important shifts in the occupational structure from agriculture to manufacturing, and the service industries have expanded. What are the future implications for peace and security of the manpower trends of the past quarter of a century?

In the developing world, the birthrate remains relatively high, while the standard of social welfare struggles to keep pace. The absolute gap between the have and have-nots, nations continues to widen, while the world community grows smaller. Meanwhile, in the advanced states, frustration of the growing masses of the educated young appears to be on the rise. Can means be devised that would more fully match the needs of the former and the aspirations of the latter? What new dimensions of education are essential to equip our nation's manpower to play a more effective role in metropolitan and international institutions, as well as those of a national character?

Our technological capacity to modify the environment has multiplied a thousandfold, but a comprehensive appreciation of how to reshape the country's capacity to provide for both peaceful change and environmental quality is lacking. Equally important, what is the positive contribution of technology to peace and security? Systematic analysis of the nonmilitary elements of strength has not been attempted since the 1940's. A large number of excellent specialized studies exist, but it is impossible without a concerted effort to derive from these the nation's potential for moving toward its goals. Four areas illustrate the scope of the task.

1) General industrial capacity: The foundations of national security in the early 20th century—raw materials, manufacturing capacity, and specialized military production facilities—are no longer a sufficient measure of potential power and influence. Are there alternative patterns of adaptation and development to support policies for achieving security and development that can be worked out in detail and tested?

2) Energy: Energy requirements have mounted in the last two decades and are expected to rise further. Environmental considerations continue to loom ever larger. What will be the future energy needs of the United States? Of the world? As choices are made, what balance should be sought from the point of view of national strength? And how are these considerations affected by the growth of energy needs in other parts of the world and by the global pattern of energy resource development? In what sense is energy a strategic factor in shaping the global environment?

(3) Communication and transportation: The postwar world has experienced a revolution in the means of communication and transportation. Important new developments are expected in the next two decades. An appreciation—strategic in scope—of the potential contribution of communications and transportation to peaceful change and development is therefore essential. Are there credible technological options for meeting the knowledge needs of individuals in a manner that will contribute to peace and development?

(4) Technology transfer: Technology transfer, whether public or private, constitutes an important source of influence. As technology is diffused among nations, their relations change. In the case of advanced states, the process may reach a point where interdependence is maintained by a self-sustaining, reciprocal flow of technology which serves the interests of the participants. This kind of transfer has an important bearing on the possibilities for peaceful change.

Better provisions for health and education rank near the top of people's list of hopes and expectations. While research has provided the basis for major advances in health and learning, delivery of services in the United States remains unsatisfactory, and resources fall significantly short of requirements. Moreover, in many parts of the world the gap between what is technically possible and what is actually available is immense and may be widening. While the differences between our health and educational requirements and those of other countries are great, there is a certain amount of mutual interest. Sharing the problems helps to solve them and, in the process, reduces the flash points of tension between nations or regions. More account must be taken of this fact in dealing with these urgent national and international needs.

The arms control and disarmament talks are now in their third decade. Meanwhile, investment in weapons systems has continued apace. Ironically, survival has come to depend on the rationality of the adversary, expressed in terms of a strategy of deterrence. Now, in a war of hours rather than months, their destructive capacity may be measured in megatons. New agreements are promised as a result of the SALT (Strategic Arms Limitation Talks) talks, and these are to be welcomed. However, nothing is likely to emerge that will substantially reduce the role of civilian populations as hostages to the nuclear age. More fundamental approaches must be found if the persistent threat to our survival is to be removed. For one thing, a fundamental rethinking of the role and functions of the nation-state may be required.

Nation-states are still the major actors in the international system. They have developed an array of instruments to exercise influence within the system. These include, for example, diplomatic services for representation and negotiation, as well as information agencies to shape world opinion. Public opinion feeds back to this system by having some weight, varying in degree according to the nature of a particular national political system, in the determination of priorities and of the broad parameters within which leaders may act.

Significant functional institutions, such as the international monetary system, are nevertheless gradually emerging. Multinational corporations are among the most dynamic elements now on the scene. In addition, a large array of international, nongovernmental organizations of lesser scope have grown up. With the worldwide trend toward urban living, metropolitan areas share common goals, even as they experience common problems.

Finally, there exist among governments regional and global institutions. One of the most successful examples of a regional system is the Common Market. A potentially successful, specialized institution is the planned U.N. Commission on the Human Environment.

In what respects has this array of institutions kept pace with the new requirements of the postwar period? And in what respects have they lagged behind? How does their present condition and their potential for growth relate to our central concern for peaceful change and development?

Attributes of conflict situations vary widely, but common to all of them is the need for knowledge sufficient for constructive action to enable people to deal more predictably with other people. What then must be known for constructive action? Each conflict situation has a particular setting in time and space. Each has a unique set of participants for whom the situation has varying degrees

of impact. The testimony of many statesmen is that they respond to events. Are there, then, preferred ways for them to choose to what they will respond? What can be learned about situations in which taking the initiative is effective in reducing violent conflict?

Like other living things, man is a result of the experience of his species. However, to a degree that sets him apart from all other species, man has acquired the power to create his own experience. There may be as many views of reality as there are men. Given our parochial perception of reality, how can a persistent tendency to disregard the values of the adversary be reduced or overcome?

NEW INSTITUTIONAL ARRANGEMENT

Agreement on a common science-politics agenda for peace and development is merely a first step. Next it is necessary to provide the institutional capacity to delineate and implement a comprehensive program. The capacity, if it is to be effective, must be concerned not only with reliable scientific knowledge, but also with valid information for political action. For example, gathering enough knowledge to deal definitely with the population problem or the environmetal problem may be a long-term undertaking, but the time frame of political leaders is rather short. Actions are taken year by year. An arrangement is needed which will support both systematic long-term studies and sensible short-term actions. Here an enlightened bureaucracy, which has a somewhat longer perspective than the elected official, has an important part to play,

I doubt whether there is a single solution to providing an adequate institutional framework for peace and development. Let me instead suggest a number of complementary approaches that may be valuable.

First, for a broad knowledge base, we need a broad base of scientific inquiry. We have witnessed how technology develops with a momentum all its own, often with little benefit to society at large. Scientists and politicians together and seperately, must ask questions before they arrive at answers. Too often official research panels have had participants who know the answer before they study the problem—because they all agree. In most instances under governmental sponsorship, the diversity and confrontation that exist at public conscience and among political leaders are not duplicated at the scientific level.

While making as much use as possible of official institutions, our government should turn more and more to the unencumbered, independent scientific bodies. Edward David, science adviser to the President, discussed this problem with respect to his own committee, the National Science Foundation, and the National Academy of Sciences. He found that, despite their excellence, these institutions did not quite fit the bill. He stressed the need to turn to independent boards of inquiry or research. The AAAS has shown how effective this kind of approach can be. One example among many is the AAAS's herbicide assessment commission, whose report on herbicides has had a significant impact on Congress and hopefully will have a similar impact on the other two branches of government.

What I have in mind is the sort of multiplicity and diversity through which can come the balanced conclusions we need in our future-oriented policies. The job is not for one institution, any more than it is for one branch of government. Guidelines for the knowledge required for peaceful change should be a product of representative thinking.

Second, Congress should create a new institution to provide itself and the attentive public with *open* national intelligence estimates. At present, both Congress and the public must depend on fragmentary information derived from personal contacts, committee hearings concerned with particular topics, and selective information "leaked" to the press by the Executive Branch and by other governments. Facilities for open, systematic analysis and evaluation exist, but their activities are also fragmentary. Among these are the Legislative Reference Bureau of the Library of Congress, the Center for Strategic Studies in the United Kingdom, and the International Peace Research Institute in Sweden. In comparison with the secret intelligence-gathering facilities of all major governments, the open capacities for collection, analysis, and authoritative synthesis of policy-relevant information is very limited.

While all governments devote substantial resources to acquiring secret information, this practice poses special problems for a democracy. On balance, the Executive Branch acquires unintended special advantages. The utility of secret information cannot be denied, but there are also major disutilities. Undertakings may be initiated which, for lack of full discussion and participation by those with a stake in the outcome, may in the end damage the unity of the nation. One example among many was project "Camelot" in Latin America. Ostensibly a social science project, the real purpose of the program, to study the possibilities of revolution and the techniques of counterrevolution under CIA sponsorship, was ultimately disclosed. The result was a general suspicion of American social scientists in Latin America and increased tension in our relations with Latin America.

Open treatment of policy-relevant information will no doubt introduce some constraints in independent action, but it offers at least two advantages that I think have great potential. On the one hand, an open system would introduce a badly needed competitive element into the crucial process of defining what information is important for policy purposes. On the other hand, the availability of authoritative estimates could help to focus the endeavors of Congress and the private sector, thus reducing misdirected efforts to a minimum. Those outside the Executive Branch would have the benefit of more information than they are able to gather and assimilate under present procedures. Congress would have a better basis for responding to presidential initiatives. Commercial enterprise would have a better foundation for its investment decisions. The scientific community would have a better basis for orienting its applied research and technology assessment efforts. Interest groups would have access to a body of authoritative information not now available to many of them.

The estimates would focus on particular situations of either a geographic or functional nature involving major questions of public policy. Second, the estimates would not present a position on policy issues, but would seek to provide concise and authoritative information as a basis for congressional and public discussion. Third, while some estimates might focus on areas of potential crisis, others would seek to give an authoritative assessment of selected long-term developments. An example of the former would be an estimate of the emerging situation in Southeast Asia prepared well before the war broke upon an unprepared world. An example of the latter might be an assessment of the international implications of changes in population size and quality over the next decade. In either case, the summary estimate would seek to correlate existing knowledge in relation to a spectrum of policy alternatives.

The information would be stored in computer-based systems. The computers would also be capable of providing assistance in visualizing and simulating policy options.

National estimates ought to concern themselves with domestic as well as international situations. Part of the public concern and confusion about such problems as poverty, drugs, and crime, I am inclined to believe, stems from the lack of regular and authoritative assessment. Information and misinformation abound, but objective and authoritative estimates are rare.

By the way of institutional arrangements, I visualize a representative Board of Estimates with a relatively small, high-caliber professional staff consisting of social advisers who would be responsible for preparing the estimates. One of the initial tasks of the staff would be to develop channels of communication with scientists and research workers in all fields. Any research scientist, area expert, or individual who felt he had relevant knowledge should have an opportunity to contribute to an estimate. There should also be opportunities for criticism of estimates once they are issued.

Similarly, the users of these estimates in Congress and among the public should be expected to contribute to the process. If a policy-maker questioned a finding, the opportunity would be available to examine the material from which it derived.

A system of open national estimates could make an essential contribution to strengthening the now frayed links between public participation, political action, research and development, and the allocation of resources. Attention would be directed to common objectives, while leaving each of the various participants in the policy process free to make his own unique contribution.

Third, as congressional sources of information are expanded and modified, so must the institutional nature of the congressional process mature. Science and government can only work effectively together if there is a parallel and complementary structural adaptation. Science does not have the corporative integration that the government has developed over the years, but a conscious reordering of priorities in that area should be the main focus of reform. For much of the redirection, the impetus may have to come from Congress. For Congress to provide this force, it will need to resort to a revamping of its own system.

Certain congressional practices and facilities need to be updated. For a more detailed blueprint of reform, I have proposed that there be established a citizen's committee to study Congress. At the same time I have proposed that a joint committee on national security be established to study in an integrated way some of the urgent issues, such as defense, arms control, foreign development, and national priorities, that affect what is commonly referred to as our national security. The attempt here would be to fortify the constitutional separation of powers and joint participation in decision-making. National security, which until now has been a gray zone of ambiguity and surrender as far as the Congress is concerned, has come largely under the purview of the Executive Branch. The Congress has moved gradually into this area, but never in a clear, formalized manner. The joint committee would give dependable definition to the kind of reform and policies that our government should be instituting.

Fourth, I can envisage the creation of a series of national institutes of peace and development, charged with initiating new domestic and international programs and participating directly in the diplomatic process. At present, we are inadequately equipped with research and development capacity and commitment to deal with such problem areas as conflict resolution, population, and the environment, all of which are candidates for our common agenda.

The commitment cannot be stressed enough.

Private capacity to promote initiatives in international affairs should be strengthened.

This conclusion flows from a study project with which I was associated that surveyed the activities of 500 organizations and conducted interviews with leaders in all walks of life. Private diplomacy that is not burdened by the traditional inflexibilty of government is one important area for new initiatives. It has played a relatively important role in Vietnam, but it could be even more useful. It may be especially helpful in arranging preventive talks which help to keep conflict from coming to a head. From time to time a single individual whose integrity is respected can, by moving back and forth between adversaries, play a catalytic role.

With the building of a system of world education, the commitment I am talking about would be self-perpetuating. This might take the form of a multicentered world university, as advocated by Harold Lasswell, or of a world system of research centers, as suggested by Carl Kaysen, which in time might acquire a teaching function.

Fifth, I believe a joint commission created by Congress and the Executive Branch may be needed to begin now to identify the incentives for growth vital for the more important peace and development industries. The commission should be broadly representative of business, labor, science, and the public. Its primary task would be not merely to determine what the nature and pattern of growth is likely to be in the years ahead, but to document what is possible and to suggest what is preferable. With such an analysis, enterprises and urban centers could more readily appreciate the opportunities opening for them. Cities, for example, could begin to plan for their growth on the basis of peace and development industries in contrast with the past, when many have had to rely on weapons production and military installations.

STIMULATING RECIPROCAL ACTION BY OTHER NATIONS

Without complementary action by other nations, the commitment of the United States to strengthen its capacity for peaceful change may be aborted. The United States may exercise leadership in the undertaking, but a reciprocal response from others is vital.

The goal of stimulating other nations to commit talent and resources to peaceful, constructive change need not be left wholly to chance or "conventional wisdom," as is too often the case at present. With the creation of an effective, constructive capacity for peaceful change, the self-interest of other nations can be expected to lead them to respond. Moreover, in strengthening our capacity for peaceful change we need not rely on the power of example alone. Is it beyond the realm of possibility that systematic study and analysis would not demonstrate the feasibility of creating new complementary capabilities for peace and development?

In conclusion, let me enlarge on the challenge posed at the outset. Let us agree to commit our energy and talent:

To the goal of peace and development;

To a common agenda for science and politics in support of that goal;

To the creation of the institutional capacity essential for the production and utilization of knowledge in the pursuit of that goal;

And, finally, by example and design, to inducing other nations to establish complementary capabilities.

CHARGES AGAINST ITT

Mr. GOLDWATER. Mr. President, all of us cannot help being aware of what is going on before the Judiciary Committee in its supposed hearing wrapped around the Anderson charges against the ITT. Those of us who have taken the time to visit this usually very austere and sound committee—we have been appalled and disappointed by what has most obviously become a political playground for three of our colleagues.

Questions are asked, not once, but sometimes more than a dozen times. Innuendos are made without any background or without any reason. The whole thing has become a shambles and a mockery to decent committee activity, but I would suspect that one could not expect anything different from charges brought by Mr. Anderson. Instead of the ITT and officials of the Attorney General's office being raked over the coals, I would suggest it might be wise to have Mr. Anderson testify as to his unloyal activity in disclosing classified papers, but I suppose that is beside the point.

I ask unanimous consent that an editorial published in the Arizona Republic be printed in my remarks.

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

ANDERSON'S CHARGES BACKFIRE

Washington columnist Jack Anderson appears to have egg all over his face. That probably is to be expected from a columnist who learned the trade from Drew Pearson.

Anderson used a memorandum written by Dita D. Beard to smear the appointment of Richard Kleindienst as attorney general. Mrs. Beard promptly got herself admitted to a Denver hospital, apparently awaiting a heart attack, and the hospital attendant, Dr. Louis Radetsky, said it would be dangerous to interrogate her. However, her own physician for many years, Dr. Victor L. Liszka of Arlington, Va., told a Senate committee that Mrs. Beard acted irrationally from time to time because of circulatory ailments complicated by excessive drinking and tranquilizers.

Louis B. Nunn, former governor of Kentucky, told the committee that Mrs. Beard passed out at a party in Louisville due to a heart attack "combined with some other things—drinks and a few things."

The blow-up started when Anderson published a memorandum by Mrs. Beard connecting the out-of-court settlement of an anti-trust action against International Telephone and Telegraph Co. with an ITT grant of $400,000 to the Republican Party to help finance its coming national convention in San Diego. Anderson, in his column, tied Kleindienst into the matter.

Although he had already been cleared by the Senate committee for his appointment as attorney general, Kleindienst asked the Committee to reopen its hearings—a request that convinced most people that Kleindienst had nothing to hide.

Subsequent committee hearings have given no proof that Kleindienst had anything to do with the anti-trust settlement. A routine letter addressed to him by an ITT lawyer was referred to the proper department of the attorney general's office, which is hardly evidence of wrong-doing.

The alleged gift of $400,000 makes things look bad for ITT. However, the figure apparently is $100,000, not $400,000, and the gift was made by a hotel-operating subsidiary of ITT. Hotels usually chip in to bring conventions to town, because of the increased business. The Democrats, as well as the Republicans, sell advertising and get contributions to help pay for their conventions. On occasion, city councils have put up some of the required money.

If both parties gave up this source of revenue, the already bankrupt Democrats would find it hard to hold a national convention this year. However, the Republicans presumably will put a lid on giving, and ITT will stay under it.

In the meantime, the Democrats can be expected to make hay out of the Beard memorandum. At least until Mrs. Beard can be questioned. When she does make an appearance before the Senate committee, we'll probably find out her memo has no more value than any other self-seeking paper from a public relations person trying to ingratiate herself with her employers.

As for Anderson's position, he looks bad regardless of whether he published the memo without looking up Mrs. Beard's credentials or whether he knew about her erratic behavior and simply wanted to hurt Kleindienst.

In the end we believe Kleindienst will make his detractors look bad just as his fellow Arizonan, Supreme Court Justice Bill Rehnquist, did when the Eastern liberal establishment held hot irons to his feet during a similar confirmation wingding.

OUR DISPOSABLE SOCIETY: ECONOMIC AND ENVIRONMENTAL WASTE

Mr. MOSS. Mr. President, an early and constant voice of the conservation of our environment and more careful husbandry of natural resources has been that of the Senator from Wisconsin (Mr. NELSON).

Last year in testimony before the Senate Committee on Rules and Administration on two legislative proposals which I offered to increase the use of recycled paper in congressional documents, Senator NELSON stated:

For too many years we have attempted to ignore the consequences of living in a "disposable" society. With the arrogance of affluence and throwaway attitudes we have tried to buy convenience by deferring the ultimate costs of a devastated environment and a diminishing supply of natural resources. As we are now discovering, the environmental due bill for ill-considered actions cannot be avoided without a serious effect upon the quality of our lives.

This week Senator NELSON appeared before the Environmental Subcommittee of the Committee on Commerce to testify for his legislative initiative which would provide for a full environmental accounting for all the social costs associated with throwaway packaging. The Nelson proposal calls for a system of economic incentives combined with regulatory authority to encourage the return, reuse, and recycling of packaged materials.

As vice chairman of the Environment Subcommittee and a cosponsor of Senator NELSON's packaging proposal, amendment No. 861 to S. 1377, I share his concern for a strong national policy of "more rational and economic use of our natural resources—materials and energy—as well as the preservation of environmental quality."

In order that the entire Senate may consider the Senator's articulate presentation of the conservation philosophy inherent in a policy of recycling of materials, I ask unanimous consent that his excellent testimony before the Committee on Rules and Administration last August and his recent statement to the Environment Subcommittee of the Commerce Committee be printed in the RECORD.

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

SENATOR GAYLORD NELSON'S TESTIMONY BEFORE THE COMMITTEE ON RULES AND ADMINISTRATION OF S. 2266 AND S. 2267, AUGUST 3, 1971

Mr. Chairman, as a cosponsor of S. 2266 and S. 2267, I appreciate this opportunity to offer some remarks in support of these proposals to make recycled paper available for the official use of the Senate and the House of Representatives, as well as to require its use in the printing of the Congressional Record.

For too many years we have attempted to ignore the consequences of living in a "disposable" society. With the arrogance of affluence and throwaway attitudes we have tried to buy convenience by deferring the ultimate costs of a devastated environment and a diminishing supply of natural resources. As we are now discovering, the environmental due bill for ill-considered actions cannot be avoided without a serious effect upon the quality of our lives.

A case in point is our increasingly profligate use of virgin pulpwood.

About half of the trash and waste materials collected by cities throughout the United States is wood fiber discarded after one-time use. At present, far too little of this cellulose fiber is being salvaged or reclaimed from the trash barrel. Instead of recycling this waste fiber back into newsprint, building materials, coarse paper and fiberboard, and developing other new products, thereby reducing pulpwood demand and providing more raw material for industry, this valuable component of municipal waste must be collected and attempts made to dispose of it—both jobs at tremendous public cost. And more often than not, the attempts at disposal are esthetically and environmentally a disaster: polluting the air through faulty incineration; destroying the land and water through dumping or unsatisfactory landfill disposal.

The adverse environmental impact and increasing public expense created by discarded, unrecycled paper and wood fiber would, in my judgment, be sufficient reason alone to support efforts to encourage the recovery and reuse of wood fiber through legislation such as S. 2266 and S. 2267.

As we look to future projections of wood fiber requirements and wood fiber supply, however, an equally compelling argument is presented for vastly accelerating cellulose fiber recycling now. Under our present practices we are facing a situation where we will not have the pulpwood supply to meet our national demands in but a few years.

In a paper entitled *Increased Wood Fiber Recycling: A Must*, delivered at a Cellulose Solid Waste Seminar in March 1969, Wayne F. Carr, a chemical engineer at the U.S. Forest Service's Forest Products Laboratory at the University of Wisconsin's Madison campus, stated:

"Presently we are producing about 50 million tons of woodpulp per year, and about 1985 we will enter an era of 100 million tons per year production. If the United States merely continues the recycle rate it has maintained for the past 20 years, processing secondary fiber with little technological change, we are not going to have enough wood at an economic price similar to what is it today." Mr. Carr went on to state that, using the American Paper Institute's statistics on pulpwood production and demand for pulp, "sometime during the mid-1970's, if wood or pulp imports do not increase, the United States will not have the supply to meet the demand."

Thus while we presently have a sufficient supply of domestic pulpwood to meet our current needs, and it appears that Canadian imports of pulpwood can supply the demand for a few additional years, the situation will change rather dramatically in the next ten years or so.

Now there is research under way to grow trees twice as fast. On the surface that sounds like a very reassuring promise. The rub is that if we continue on our present course of action, we will have to grow trees twice as fast just to maintain the current rate of paper or wood fiber supply for each person. This startling prospect is a result of the decreasing ratio of forest land for each person in this country. In 1900 there were 11 acres of forest land for each person and now we are down to 3 acres for each of us. By 1985 that figure will be down to 1½ acres per person.

As Mr. Carr concluded: "This is really the fact of life: We must utilize as much of our waste as possible just to meet demands, unless there is to be a cost spiral for wood fiber that can create problems of gigantic proportions."

Now the recycling of paper is not a new idea or concept. During the latter years of World War II the paper industry recycled 35 percent of the paper we consumed. Today, that rate has been reduced to just about 20 percent, and is projected to decrease even further.

It is interesting to note that countries which are considered to be wood-poor such as Japan, Spain, the Netherlands, and West Germany are presently recycling wood fiber well above the 30 percent level. Even the wood exporting country of Austria recycled fiber above 35 percent according to 1967 figures. More recent data indicates that Japan is now near the 50 percent level and West Germany has passed 45 percent.

Thus it appears from the practices in countries which are already in a wood-poor situation similar to our prospects for the 1980's that the recommendation on fiber recycling made by the National Academy of Science in a 1970 report to the U.S. Department of Health, Education and Welfare entitled "Policies for Solid Waste Management" are certainly a realizable goal. The NAS report called for the recycling of 35 percent of the paper annually consumed by 1985. Other experts familiar with the wood and paper industry have publicly stated that "there is every reason to believe that with available technology and a bit of insight we can easily reach a 40 to 50 percent recycling rate in the United States."

I am happy to point out to the committee that much of the available technology and new technology in the recycling of paper has been developed and—more importantly—is being introduced and utilized in my state of Wisconsin.

A recent letter from the Forest Service of the United States Department of Agriculture pointed out that "thirty percent of the fiber in this sheet came from the city dump in Madison, Wisconsin. We have reclaimed refuse that is an eyesore and pollution problem in most American Communities."

The letter went on to report that the work of the Forest Products Laboratory in the Wisconsin state capital has found that there is an enormous supply of wood fiber in municipal rubbish for making paper products. In cooperation with two other federal agencies, the Forest Products Laboratory has been working on a cooperative research and development pilot project with the City of Madison to convert the paper and wood fiber—as well as cans, bottles and other components of the city's solid waste—into materials which can be reused and thus reenter America's economic lifestream instead of being discarded onto the nation's expanding trashpile.

While this particular project of the Forest Products Laboratory has produced letter paper from Madison trash, it is only one aspect of their comprehensive and continuing re- All of you have the skills to make significant techniques to better utilize the nation's wood fiber supply—both its discarded waste fibers as well as the annual supply of virgin pulpwood.

The Wisconsin effort has not just been one of government research and pilot demonstration projects, however. Two commercial companies in my state are presently making and marketing commercial grade letter quality paper that is 100 percent recycled paper. The Riverside Paper Corporation of Appleton, Wisconsin announced this spring the manufacture of their "Ecology" brand letter paper. As the watermark on each sheet proclaims: "Ecology—100%. Reclaimed Waste". Riverside's "Ecology" is primarily waste from milk cartons, paper cups and other plastic and wax coated "disposables," collected from manufacturers. The company has indicated that they are also studying the feasibility of collecting used milk cartons from schools and hospitals as a source of supply for "Ecology."

Using a newly patented process which they call "Poly-Solv," Riverside has found it economically feasible to strip the coatings from waste and reclaim the fiber to be recycled into fine quality printing and writing papers. As an added bonus, the Poly-Solv process is itself apparently environmentally clean. It is a closed system without air or water effluent and the coating residue which is stripped from the waste is used as a fuel supplement to run the plant.

Also manufacturing a 100% recycled letter paper is the Bergstrom Paper Company of Neenah, Wisconsin. Bergstrom's paper, "Recycle 100," is made from totally recycled waste paper without the ink or clays being removed. In addition to relieving the demand for virgin pulp, Bergstrom's ability to use waste paper while retaining the ink and clay has reduced the amount of solid waste which might otherwise end up as waste effluent into the Fox River.

Both Riverside and Bergstrom have received the attention of the entire nation and spurred the paper industry. Kimberly-Clark Corporation announced from their home office in Nenneth, Wisconsin on July 14th of this year that they are introducing two papers designed for business use made from 100 percent recycled paper. In this case, the waste paper to be used comes from recycled card and ledger stock, envelope clippings, and other higher quality discards.

As the first 100 percent recycled publication sheet, Bergstrom's Recycle 100 was chosen as the paper to be used for the July 1971 issue of Chem 26 Paper Processing. A leading publication in the pulp and paper field, Chem 26 claims credit as the first commercial magazine to be printed entirely on 100 percent recycled paper. Included in the July issue are two articles describing the hows and whys of Bergstrom and Riverside Paper Companies recycling efforts. I would request that the Committee incorporate these two articles into the hearing record along with the speech by Mr. Wayne Carr, referred to earlier in my remarks.

If the need for the recycling of our waste wood fibers is becoming an increasing concern for both present environmental reasons as well as projected economic demands, and if the technology and experience in recycling wood fiber is already available, what is holding us back?

Among other reasons, there is the need for the development of sustained markets and the acceptance of new recycled products whose characteristics may differ in some degree with similar products made out of virgin materials. As the American Paper Institute stated in their 1970 publication "The Paper Industry's Part in Protecting the Environment," "Taken as a whole, the national market for products made out of waste paper has been slow to expand. This fact together with economic and technical problems in collection and transportation, has limited the industry's use of waste paper. An appreciable expansion of such use will re-

quire the development of new products acceptable to the market."

It is to this goal of expanding the market for recycled paper and upgrading the status of products made from secondary materials that I think S. 2266 and S. 2267 speak. Obviously, the furnishing of recycled material for the official use of the Senate and the House of Representatives and the printing of the Congressional Record on recycled paper is not going to single-handedly reduce our national solid waste problems or relieve the pressure to find wood fiber sources for the next ten years. I must admit, however, that from the growing size of the Congressional Record and from the amount of paper that I observe coming into and being generated by a Senate office, I am convinced that every member of Congress has a special and personal obligation to foster the recycling of paper.

What this legislation will do is not only create a highly visible market for recycled papers, but give further indication that the Congress is willing to take the leadership in environmental matters and in the economic husbandry of our dwindling resources. I think that our constituents should expect nothing less.

STATEMENT OF SENATOR GAYLORD NELSON BEFORE THE SUBCOMMITTEE ON THE ENVIRONMENT, SENATE COMMERCE COMMITTEE, ON SOLID WASTE PACKAGING LEGISLATION MARCH 13, 1972

Mr. Chairman, I am particularly pleased that the Subcommittee has initiated this set of hearings to reemphasize Congressional concern about this nation's ever-growing problems of discarded packaging and solid waste.

There is increasing recognition throughout the country that our society's affluence and unprecedented capacity to transform natural materials and energy into consumer goods is not without waste and enormous environmental and economic costs. In the immediate glut and fervor of production and consumption, however, we have attempted to sweep the discarded commercial wastes under the rug.

We have also tried to ignore a portion of the total costs of these commercial activities. This occurs when we seek to defer the eventual public payment for the inevitable environmental results of imperfect production and consumption of consumer goods.

This attitude can no longer be tolerated. The residues of our disposable society—solid wastes—are now physically piling up in front of us. In addition to degrading our environment and misusing our limited natural resources, the growing piles of daily debris are exacting an unacceptable claim on the public pocketbook for inadequate solid waste management systems.

Much of the response to any recognition of our solid waste problems, particularly among those who are directly responsible for its production, appears as a form of ecological spin-the-bottle-or the can. That is, if there really is a problem, then it is somebody else's problem and responsibility.

A second sort of response involves an expensive nationwide advertising campaign to convince the consumer that a particular product or package really would combine convenience and conservation if the consumer would only cooperate in the process. The message is that when the consumer is left holding the bag—or the box—then it is up to him to see that they are properly disposed or returned.

The final response we have witnessed most recently, usually accompanied by a wistful look and a shrug of the corporate shoulders, is an appeal for a technological second-coming which will miraculously scour the land and return our resources to their proper natural forms.

The fact of the matter is that our mounting national trashpile is everybody's problem in this country, and it will not be solved by words, mystical appeals, or finger-pointing.

Two years ago Congress recognized the need to forego rhetorical posturing with solid waste problems and to take positive action. In overwhelmingly approving the Resource Recovery Act of 1970, the Congress authorized a dramatic reorientation of the Federal effort in solid waste management.

The Resource Recovery Act extensively rewrote and extended for three years the Solid Waste Disposal Act of 1965, shifting the emphasis from conventional waste disposal to the recycling and recovery of materials and energy from solid waste. The Act blended the need for accelerating federally directed research in resource recovery (Section 205) with a new action program to demonstrate innovations and new recycling techniques (Section 208).

This loud legislative response from Capitol Hill to our nation's solid waste problems may have been heard in communities throughout the country, but the message has apparently fallen on deaf ears only sixteen blocks down Pennsylvania Avenue.

Although the Resource Recovery Act of 1970 survived the threat of a pocket veto and became Public Law 91–512 on October 26, 1970, the program has been effectively blocked by a "pocketbook" veto.

The Act authorizes a $238.5 million federal solid waste effort in Fiscal Year 1973. The Administration has requested less than one-tenth of this amount in its 1973 budget, including none of the $140 million authorized for the innovative demonstration program in Section 208.

The action taken under Section 205, a provision authorizing an on-going study of important issues related to recycling of solid wastes—means of recovering materials and energy; changes in production and packaging practices, including disposal charges, to reduce wastes; the use of Federal procurement to develop market demand for recovered resources; and incentives and disincentives to recycling, including tax policies—have not fared any better. After two bureaucratic reorganizations it appears that we can finally expect the first annual report on this study later this year, almost two years since the law was passed.

In light of the recent experience with the Resource Recovery Act, it is especially important for the Congress to reemphasize its leadership role in providing new directions and answers for solid waste management and resource recovery. It is apparent that continual Congressional attention and focus on the issues involved will be necessary to promote accelerated federal actions and insure innovations in solid waste programs.

The need for this type of leadership is reinforced by the February 4, 1972 GAO Report to the Congress entitled "Demonstration Grant Program Has Limited Impact On National Solid Waste Disposal Problem". In its findings and conclusions, GAO stated "The grant program has been beneficial in improving existing technology to a limited extent, in stimulating public interest in proper solid waste disposal methods, and in solving a number of local solid waste disposal problems. Greater benefits could have been achieved if more emphasis had been placed on developing methods of recovering natural resources from waste for reuse (recycling) and on new or improved and more economical methods of disposal."

With the Resource Recovery Act of 1970 amending and redirecting the 1965 program while the review was underway, GAO specifically recognized in its report that there was an even greater need to apply the suggested corrective actions to see that the 1970 Congressional mandate is met. The report directly recommended that ". . . the Administrator, EPA, should place greater emphasis on the need to develop and demonstrate new methods, devices, and techniques of solid waste disposal—particularly those related to resource recovery and recycling—which have potential for national or wide-spread use."

Mr. Chairman, this Subcommittee's investigation and examination of the three new legislative proposals aimed at specifically reducing the quantity and improving the quality of solid wastes, particularly discarded packaging and beverage containers, reaffirms the intent of Congress to look for a new and improved means of solving our national solid waste problems. The hearings also call the public's attention to the need to implement programs and policies previously mandated by the national legislature.

As a general proposition regarding legislative proposals to find a better solution to our solid waste problems, we must seek to implement a philosophy of conservation in the production and consumption of consumer goods. Conservation in this sense means a more rational and economic use of our natural resources—materials and energy—as well as the preservation of environmental quality.

Environmental considerations must become an important factor at each point of decision in the manufacture, sale, use, and eventual discard of commercial goods. In addition, the complete environmental and economic costs to society represented by commercial products should not be hidden or disguised, but should be accurately reflected in the commercial market price of these goods so that the consumer can exercise an informed choice.

If the market price accurately reflects all the social and environmental costs associated with a consumer product, economic incentives will be operative to encourage the development and use of more environmentally sound consumer goods. These marketplace incentives should act to accelerate more economic husbandry of resources and environment through the return, reuse, and recycling of materials in consumer goods.

There is no doubt in my mind that there should be an environmental accounting for *all* goods which enter our national commerce. The price of *all* goods should reflect not only the costs of production of the product, but also the costs of disposal of the product after use, including any degradation of the environment or squandering of our valuable resources. At present, this is certainly not the case. In fact, we have very little applied experience with this type of accounting system.

It is time to introduce environmental accounting into the marketplace. Therefore, on February 3, 1972, I introduced Amendment #861 to S. 1377, and am pleased to have the Vice Chairman of this Subcommittee, Senator Moss, as an original cosponsor.

The scope of the application of environmental accounting is intentionally limited to packaging in Amendment #861. As a potential model for all solid waste, it would provide a coordinated system of economic incentives and regulatory mechanism to encourage the design, development, production and use in interstate commerce of packaging which conserves natural resources, which minimizes the adverse economic and environmental impact when discarded, and which is returned, reused, or recycled into the economy.

First of all, this amendment provides economic incentives for environmentally sound packaging through the imposition of a schedule of national packaging charges on all packaging manufactured or imported into the United States, charges which would become effective not later than June 30, 1973. This environmental accounting in the market price of commercial packaging would merely be an accurate reflection of the total

social costs that are presently hidden and being paid by the public on the long-term installment plan.

Several factors are to be considered in determining the direct and indirect social costs of packaging and the charge to be applied to a particular package. These factors are the amount of virgin and secondary materials contained in such packaging, the quantity of solid wastes which would result from such packaging in terms of weight and volume, the burden on solid waste disposal systems, the disposability of such packaging, and the toxicity and health effects of the disposal of such packaging. With the proper and accurate accounting of all these factors in the market price of a package, normal economic competition and consumer decisions will operate in favor of the environmentally superior package.

Amendment #861 provides that the funds collected each fiscal year as a result of these packaging charges shall be returned to local government agencies for the planning, improvement, and construction of resource recovery and solid waste disposal facilities. In light of the tremendous financial burdens on local governments, and the need to apply advanced resource recovery and recycling techniques on the municipal and regional level, these funds are badly needed just to meet existing problems. Furthermore, as environmentally sound packaging is introduced into commerce, the funds derived from the packaging charges would diminish, thus making this financial mechanism for local governments self-limiting and elastic to the scope of the problem.

Two years after the packaging charges are put into effect, Amendment #861 would require the publication of quantitative and qualitative national packaging standards to be put into effect one year later. This regulatory mechanism would build on two years of marketplace experience of environmental accounting and economic incentives for sound packaging and would be complementary and consistent with the charge mechanism and economic incentives.

Specifically, the standards would include: (1) minimum percentages of recycled materials which shall be contained by such packaging; (2) maximum permissible quantities of materials which produce adverse environmental effects when such packaging is discarded; and (3) specific packaging practices which shall be prohibited whenever the Administrator has found that the specific practice places an unreasonable burden on solid waste management systems or the environment, or such practice prevents the effective return, reuse, or recycling of such packaging.

Such a coordinated system of accurate environmental accounting in the marketplace, and national packaging standards to set limits for recycled materials and for practices which unreasonably inhibit recycling, should be advocated for *all* consumer goods which become part of the solid waste stream. These systems, however, need a firm base of experience and must be applied so that environmental integrity remains the primary goal, rather than mere simplicity of administration or revenue generation.

Because of the dearth of experience in the area of environmental accounting, and the number of factors which should be considered in determining the proper charge for a particular consumer product, this proposal and the mechanisms it suggests are focused upon consumer packaging. The ancient medical aphorism "primum non nocere" or "first of all do no harm" applies in the case of instituting a form of environmental accounting. In applying this procedure, we must make sure the remedy is no worse than the disease.

In making this system work with packaging, we will be able to do more than apply accurate economic marketplace incentives for the use of environmentally sound packaging. Thus while relieving a particularly egregious form of solid waste and misapplication of resources, we will also be perfecting a mechanism that can be applied to a broader spectrum of consumer goods.

In the last decade there has been a vast change in this country in the production and consumption of packaging. These changes, which have already resulted in greatly increased economic costs to the American public and which have contributed to the Nation's burden of solid wastes, are expected to continue to soar in the coming years.

In 1958, every person in the United States produced 404 pounds a year of discarded packaging. Eight years later this amount had risen over 25 percent to 525 pounds of packaging that each person discarded in a year, and by 1976 it is estimated that this figure will be 661 pounds per year of packaging—paper, glass, metals, wood, plastics, and textiles—for every man, woman, and child in this country.

The total amount of packaging consumption in the United States rose from 70,800,000,000 pounds in 1958 to 103,400,000,000 pounds in 1966 and will be 147,000,000,000 pounds by 1976. These astronomical amounts of solid waste due to packaging become particularly significant when it is realized that only 10 percent of the total amount is presently being recycled back into the economy. Thus, in 1966, 90 percent of those 103,400,000,000 pounds of packaging wastes wound up in the Nation's trashcan, or on her highways, or in her streams and waterways, or on her beaches, or blowing in the wind. A total of 93,600,000,000 pounds of packaging trash was dumped upon the beleaguered solid waste management systems of local government.

In 1966 almost 3½ percent of this Nation's entire gross national product was spent on all aspects of packaging. That is $25 billion of our country's productive wealth was for packaging. Of this amount, $16.2 billion represented packaging raw materials. With 90 percent of the packaging produced in the United States being discarded and not recycled, that means that in 1966 we tossed approximately $14.6 billion out the window and away.

In 1966, in addition to the loss of $14.5 billion in discarded packaging materials, the American public had to pay another $419 million for local governments to collect and dispose of the material. It would be expected that with the expenditure of $15 billion for the production, use, discard, collection, and disposal of packaging, the American public could expect some monumental and striking results. The only monuments we see, however, are the mountains of materials of such permanence that they may still be standing hundreds of years from now.

We must view with bitter irony the possibility that the pyramid for our affluent and productive age may prove to be a massive pile of indestructable bottles, cans, and plastic containers paid for by the collective sweat of the public brow. It may be that the signature of our culture will be the immortal aluminum can.

Future estimated costs indicate that the price tag which the public will have to pay because of discarded packaging wastes will escalate greatly in the next several years. The $15 billion that was paid in 1966, the last year for which figures are available, is expected to jump to $21,327,000,000 by 1976—$20.7 billion in unreturned, unrecycled packaging materials, and $600 million in the costs of collection and disposal.

Indicative of the mounting problems of packaging wastes is the growth in absolute numbers and change in the construction and composition of beverage containers in recent years. In 1957 returnable glass bottles represented over 60 percent of the fillings of the beverage industry. By 1976 it is estimated that returnable bottles will only have 20 percent of the fillings if present trends continue.

On the other hand, those one-way, no-deposit, no-return containers which will have 80 percent of the market will increase 127 percent between 1957 and 1976. This means that instead of the 25,600,000,000 non-returnable bottles and metal cans that we had to try and dispose of in 1958, we will be inundated by the disposal problem of 58,100,000,000 non-returnable bottles and cans in 1976.

A returnable glass container will make many trips to the market during its useful life, and most likely will be removed at the bottling plant and recycled and made into a new bottle without ever having to be collected and disposed of by local government's solid waste systems. On the other hand, the non-returnable can or bottle is purposely and expressly designed to be used one time and then discarded in the name of convenience.

The use of non-returnable beverage containers is not a sin qua non of modern living. As reported June 24, 1971, by the Brewers Warehousing Company Limited, Downsview, Ontario, over 97% of the beer sold to retail customers in this Canadian province is produced in reusable, returnable deposit-bearing bottles. The remaining three percent of the beer is sold in cans. Of the total annual production of beer in Ontario in the year ending March 31, 1971, 95.1 million gallons of beer were sold in the reusable bottles exclusively used in Ontario. This amounted to 1.26 billion bottles of beer of which 1.21 billion or over 96 percent were returned by customers for reuse. Beer bottles in Ontario are reused on an average of 25 times and when they are no longer usable, they are returned to glass companies to be used in the manufacture of new glass products. The same attitude of reuse and recycling applies to the beer cartons.

Not only is there a move away from the returnable container in the United States, but it is becoming more and more likely that the non-returnable replacement may be the ubiquitous aluminum can. Whereas the steel container can be magnetically separated from municipal trash and used again in the basic steel manufacturing process, aluminum must be manually separated if any recovery of this valuable metal is to be achieved. In Madison, Wisconsin, the daily trash load is presently being processed by initial pulverization and subsequent magnetic separation of the ferrous materials. In addition to recovering steel beverage cans, this process removes auto parts, bottle caps, pails, other cans and similar steel items from Madison refuse. All of this recovered ferrous material is then shipped and any tin is recovered before it is ready to be reprocessed back into steel.

During the first 9 months of 1971, 1.2 billion or 2.0 percent of the 46.5 billion steel cans which were produced in the country were recovered, mostly by magnetic separation. During the same period 346 million or 4.1 percent of the 5.3 billion aluminum cans were manually separated and recovered. While magnetic separation of steel cans from municipal refuse is still the exception rather than the rule, it is expected to dramatically increase. The failure to recover and recycle aluminum, however, represents a far more egregious problem of economic waste, energy loss, and environmental damage.

As Dr. Barry Commoner pointed out in a paper delivered at the annual meeting of the American Association for the Advancement of Science last December, the substitution of aluminum for steel is the substitution of a power-intensive process for a more power-thrifty one and contributes to the fact that while industrial consumption of electricity has been doubling every 14 years, the efficiency of its use has been steadily declining since 1947. Thus the replacement of the returnable bottle system with the throwaway represents a 4–5 fold increase in power consumption to produce the equivalent item.

And while the production of a ton of steel from ore requires about 2,700 KWHr, and the reclaimed steel from an electric furnace requires only 700 KWHr per ton, the production of a ton of aluminum requires over 17,000 KWHr.

In addition to the massive power consumption required, eighty-five percent of the ore used in the domestic production of aluminum is imported into the United States. Last year this amounted to 14 million tons of imported ore costing $165 million.

Thus when a ton of aluminum is used only one time for throwaway packaging materials, we rob the economy of $200 of valuable metal, are required to import 4 tons of bauxite ore to make up the loss, use 17,000 KWHr to convert the bauxite to one ton of aluminum, create 3 tons of mineral wastes, and scar our environment with a form of pollution which will not disappear or degrade for thousands of years.

This country's compulsive obsession with so-called convenience items and elaborate packaging is wasting an enormous amount of our natural and economic resources. It is becoming apparent to the public that we are going to have to change both our attitudes and our actions regarding the solid wastes which are an inevitable part of our present commercial process. A good beginning would be to provide a proper environmental accounting in the marketplace for the increasing amounts of packaging materials which are used in this nation. Unless competitive forces are harnessed for environmental quality now, our solid waste problems are not likely to diminish. If that is the case, and present projections are realized, more drastic controls and regulations will be required in the future.

UNEMPLOYED WOMEN DO MATTER

Mr. HUMPHREY. Mr. President, an important article written by Carolyn Shaw Bell, entitled "Unemployed Women: Do They Matter?" was published in the Wall Street Journal this morning. We are talking about a majority of our population, a majority that has long been systematically discriminated against in our labor force. At a time when we are focusing meaningful attention on equal rights for women it is central to this goal to provide expanded employment opportunities. Carolyn Bell has presented a thoughtful analysis of the status of women in our national work force. I believe her findings deserve the attention of my colleagues. Mr. President, I ask unanimous consent that the article be printed at this point in the RECORD.

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

UNEMPLOYED WOMEN: DO THEY MATTER?

(By Carolyn Shaw Bell)

While the recent high rates of unemployment have been hesitant to go away, there has been no lack of effort to explain them away. Typically, the explanations rest on the contention that unemployment among women is far less serious than it is among men.

Historically, unemployment rates for women have exceeded the rates for men, and the gap has widened in the past five years. So it is perfectly true that the current group of unemployed contains more women than a similar total formerly would have. This is scarcely surprising, since the proportion of women in the total labor force has been increasing. Women made up 43.4% of the labor force in 1971, compared with 37.8% in 1960.

Thus, the argument runs, we should pay less attention to the total unemployment rate, including all those women, and concentrate instead on the more favorable looking rate for married men. Or in other words, we should pay less attention to unemployment among women precisely because they have become a more important factor in the workforce.

The logic of this contention is not entirely obvious. Indeed, it would make more sense to argue that since women make up more of the labor pool than before, unemployment among them has become a more serious problem, not a lesser one. In fact, women workers are more important than ever before in maintaining their families' standard of living, in lifting poor families out of poverty, in serving as the sole breadwinner for many families and in contributing to economic production and growth.

EARNINGS OF WORKING WIVES

Half of all married women whose husbands are present have been employed at some time during the past year, and for the past four years such women have accounted for the largest increase in the labor force. (Single men are second.) It follows that many families no longer depend solely on the husband's employment for all, or most, of the income. In fact, the earnings of working wives amount to over 26% of total family income, and the median income for families where the wife is in the labor force was $12,276 in 1970, compared to $9,867 for all families.

The income figures deserve somewhat fuller examination than merely these averages. First, although the median earnings of working wives were only slightly over $3,000, median family income is only three times that amount. For many families, therefore, the sums earned by working wives spell the difference between poverty and scraping by. More than one million wives who earned between $2,000, and $4,000 in 1970 were married to men who earned less than $7,000. For other families, working wives contribute enough to ensure moderate comfort rather than merely scraping by. Almost 8 million wives earned between $4,000 and $7,000 in 1970, and two-thirds of their husbands received earnings of less than $10,000. Obviously, therefore, the 16.5 million families with working wives benefited considerably from their employment.

Next, working wives and their additions to family income come from all kinds of population groups. They are not confined to lower income classes: 41% of the families in the top 5% of the income distribution included wives in the paid labor force. Over one-fourth of women who themselves earned more than $10,000 annually were married to men earning more than $15,000. Clearly many families would not reach these higher income ranks without the earnings of working wives. Nor do such women come from childless couples: Mothers of 6- to 17-year-olds work more frequently than do wives without children, and about one-third of the mothers with children under 6 were in the labor force last year. The fraction is almost as great for mothers with children under three.

As these figures suggest, wives and mothers work primarily to benefit their families. Every survey that asks women why they work reports such mundane reasons as buying new glasses, paying medical bills, saving for the children's college education or, dramatically, "You ask why I work? Money! What else?"

One population difference should be emphasized. The past 15 years have seen a dramatic rise in the proportion of white women working and in the number of white working wives. No such rise has occurred, among black women because over half of them in the country have always worked, and their contribution to family income looms much larger than for whites. At every income level and with every type of family, more black women hold paid jobs than white women. The impact on family income stands out strikingly at very low levels. Among families (with husbands present) below the poverty line, both median income and average income per family member is higher for Negroes, despite their larger families, than for whites. This reflects the additional earnings of Negro wives.

The increase in the number of working women, representing chiefly more wives in the labor force, has contributed significantly to the growth in total national output. It is not generally realized that among all the men in the population, the proportion in the labor force has been dwindling steadily since the early '50s. (In 1950, 84% of all males over 16 years old were in the labor force; in 1970, the figure was 75%.) Since then, of course, the national product has more than doubled, even after allowing for price increases. Obviously this could only occur through the efforts of working women. Nor does this increase in female employment represent two women working part-time instead of one full-time male worker. Four out of five adult working women work full-time, and this percentage has not changed for over a decade. Among teen-agers, of course, part-time work is characteristic, but no more so for females than for males.

A recent analysis of our current unemployment suggests that, if the composition of the labor force today were the same as it was 15 years ago, the present level of economic activity would yield a much smaller rate of unemployment. What this argument ignores is the fact that if the labor force today hadn't been augmented by women who more than replaced the declining proportion of men, the level of economic activity today would be considerably lower, as would our total national output and income.

If, then, married women with husbands present are now employed in such numbers, and if their contribution not only to family income (and hence to total spending, economic expansion and employment) but to total production amounts to such magnitude, is there any justification for treating unemployment rates for women as of minor importance? I do not think so.

It remains true, of course, that married women move in and out of the labor force with greater frequency than do married men, so that the current method of calculating unemployment rates proves most unsatisfactory. The number of unemployed consists of people not holding jobs who are actively seeking work and are available for employment. To convert this to a rate of unemployment, we must also know the total number of people employed. Adding the two figures together produces a quantity known as the total labor force. The difficulty comes because the total labor force may rise for the same reasons that employment expands, leaving the unemployment rate little changed.

THE CONVENTIONAL WISDOM

The usual example refers to women. In good times, when jobs are plentiful and employment high, bored wives and harried mothers (so goes the conventional wisdom) come into the labor force looking for part-time work to occupy their days or to satisfy their egos. By so doing, they increase the labor force and, unless they instantly get a job, they also increase the number of unemployed. The unemployment rate rises, but somehow it isn't "real" unemployment. Because when jobs get scarcer, women simply forget this notion of finding something else to do, outside the home and family where they belong, so they retreat from the labor force and, more importantly, from the ranks of the unemployed. Such reasoning helps justify the Bureau of Labor Statistics index of employment for married men.

The facts, as opposed to this mythical construct, are that we have millions of people vital to the economy and to their families, whose employment status is not now well publicized. Worse, we allow some to suggest

that they comprise an adjunct, a casual and unimportant interference with our statistics, much like static on a radio, because they don't fit our preconceived classifications. Even worse, we probably understate the extent of deprivation, if not poverty, in this country by never collecting data that properly measure the impact of working wives on family income, or the impact of female unemployment on family income.

A second critical difficulty with the data as reported stems from the growing number of women who support other people. The model of the American family, the husband, wife, and two children—or even two and a fraction children—that occupies television commercials and popular articles about the average family now make sense for less than one-sixth of all American families. Almost as many families are headed by a single woman as conform to that out-dated model. For these families dependent on women, over six million of them, "female employment" or the lack of it is every bit as critical to the welfare of the entire economy as is unemployment among married men. Indeed, given the gap between women's and men's earnings (full-time, year-round women workers average 60% of what a full-time, year-round male worker gets), it is probably more crucial. Granted that 164 million people live in families where husband and wife are both present, there are 20 million in families headed by women, and half of them are dependent children.

LOOKING AT POVERTY

A look at poverty will again prove useful. Fifteen per cent of all the children under 18 live in poor families and over half of them have no fathers in the home. Put it another way, of the six million families headed by women, one-third are poor. Despite continuing unemployment, persistent grumbling that welfare recipients ought to get jobs also exists, so that it should be noted that of the 800,000 Negro families in this poverty group over half the mothers worked, and 17% of them held full-time jobs. Among the larger group of poor white families (over 1 million) work experience was much less usual. Only 5% of the mothers held full-time jobs, although almost 40% had worked at some time in the past year.

But unemployment among this group of women, responsible for their families, ran 39% for whites and 65% for Negroes. The number of "working poor" families with husbands present decreased sharply between 1960 and 1970—to some extent owing to the contributions of working wives. The number of poor families supported solely by working women did not decrease at all over the decade.

Against figures like this there is little cause for congratulation if the unemployment rate for married men drops from 3.1% to 3%. Women's jobs, and hence unemployment rates among women, have a significant impact on millions of people. The contribution of women to the economy deserves much wider recognition and analysis than it has yet received.

JUDGE RICHARD McLAREN AND THE ITT

Mr. BEALL. Mr. President, 3 weeks ago, Judge Richard McLaren was regarded as one of the most innovative, most progressive, most daring lawyers ever to head the Antitrust Division of the Justice Department. Now he is regarded by some as a man who has sold out his convictions to the supposed financial needs of his President's political party. And he has been tainted with that image on the basis of some of the thinnest, least convincing evidence that I have ever seen.

Why has this happened? Because certain members of the opposition party think it serves their own political interests to take questionable evidence from an even more questionable source and turn it into a 24-karat smear—because they think, having lost the support of the American people on both domestic and foreign issues, they need something—they need anything—to throw at President Nixon.

There are some simple facts which have been obscured in the wave of distortion upon distortion which our friends on the other side of the aisle have provided the American public:

First. Far from dropping the ITT antitrust case as has been charged, the Justice Department forced upon the company a very tough settlement requiring ITT to divest itself of six major corporations and to clear with the Justice Department any mergers they make for the next 10 years.

Second. This settlement, according to Dean Erwin Griswold of the Harvard Law School, now serving as Solicitor General of the United States, would probably not have been obtained had the case gone to the Supreme Court. Furthermore, this case went nowhere under the previous administration which refused to pursue it.

Third. What kind of preferential treatment did ITT get? The kind of preferential treatment which makes its stock drop 12 points the day after the settlement was announced and keeps that stock down despite the fact the Dow Jones averages are climbing 100 points. This is no cushy settlement. This is the kind of settlement the previous administration did not even dare to hope for when it was prosecuting the case—the kind of settlement the previous administration thought beyond its reach.

The reputation of the most vigorous antitrust lawyer to preside over antitrust activities in the Justice Department in this century has been smeared—for the sake of a jealous political party's dreams. It is extremely unfortunate that a dedicated public servant like Richard McLaren who has performed such a valuable service to the public should be subjected to almost slanderous accusations.

Indeed, rather than place a question mark over his record, we should be thanking Richard McLaren for a job well done as one of the most relentless trustbusters in modern times.

OPENING UP THE HIGHWAY TRUST FUND

Mr. KENNEDY. Mr. President, I want to take this opportunity to commend the Secretary of Transportation for his decision to finally break open the highway trust fund to permit the broad transportation needs of the Nation to be fulfilled.

The proposal to permit a portion of the funds to be used for urban mass transit is an important initiative. Although a single national transportation trust fund, permitting full discretion to the cities and States in deciding how to meet their transportation needs still is the most desirable approach, the Secretary's plan is a commendable and positive first step.

Secretary Volpe, who has endorsed the concept of a single trust fund as contained in legislation I introduced in both the last Congress and the current Congress, had a difficult time in obtaining approval for this step. His success represents a significant attempt to place Federal funds in line with national needs.

However, there are several aspects in the proposal which hopefully can be changed: First, the provision to carry out the Interstate System as designated is highly questionable. Over half of the $30 billion remaining to complete that project is for urban areas and many of those urban areas already have acted to prevent more highways destroying homes and businesses in their midst.

I would urge the funds for the urban portion of the Interstate System to be added to the single urban fund proposed by the Secretary so that localities can make intelligent decisions on how to meet urban transportation problems even if it means not building the highways as designated in the Interstate System.

Second, I would hope that we could permit operating costs of transit systems to be covered in some way by the single urban fund.

Finally, the 40-percent allocation to the States should be contingent on States establishing a single transportation agency to plan and administer those funds. Only in this way can comprehensive planning at the State level take place.

But the proposal of the Secretary now permits the Congress to deal realistically with the transportation needs of the Nation without blind adherence to the maintenance of the highway trust fund for highways alone. That in itself reflects a bold step forward in this Nation's efforts to produce a balanced transportation system.

WHICH WAY, AMERICA?

Mr. HUMPHREY. Mr. President, it has been my privilege to read an extraordinary address delivered on July 25, 1971, at the National Urban League conference, by Harold R. Sims. Mr. Sims served as acting director of the National Urban League, following the tragic death of Whitney M. Young, Jr., and until the assumption of leadership of this outstanding organization early this year by Vernon E. Jordan, Jr. Harold Sims performed a vital trusteeship service during this difficult period when the NUL faced a severe test of its ability to bear with dignity and fortitude the profound loss of one of the truly great men in American history, and to build upon its own remarkable 61-year history to expand its programs of decisive importance in the affirmation and service of human rights.

In his address, entitled "Which Way, America?" Mr. Sims challenges America to face "the plight of black workers who are experiencing depression unemployment in a trillion-dollar economy," as well as "the creeping cancer of housing abandonment" in deteriorating cities across America. And his central question

is left to each one of us to answer: "Which way, Americans—together up or apart down?"

The action agenda of the National Urban League as stated by Harold Sims, and to which I am fully committed, includes a call to commitment by the Federal Government to achieve goals of greatness in human development:

Now is the time for this Administration and this country to push forward on a humane, massive, non-partisan program to end poverty want, racial tensions, and urban and rural decay; to create a meaningful, well-paid job for every adult who can and will work; to build the houses for every family now lacking decent shelter; to create the schools and careers for every child in the land; to provide the health security that will leave no one uncared for and to create the framework of that society which every citizen can truly say is just and good.

Mr. President, I ask unanimous consent that the address by Harold R. Sims, delivered at Cobo Hall in Detroit, Mich., and keynoting the 1971 National Urban League Conference, be printed in the RECORD.

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

WHICH WAY, AMERICA?

(By Harold R. Sims)

This 61st Annual Conference of the National Urban League opens under the long, deep shadows of a loss so profound, a void-creation so great, that it defies reason, understanding and faith—the untimely and tragic death of our leader, colleague and friend—Brother Whitney Moore Young, Jr.

Whitney, the humanist, statesman, confidant of Presidents, yet, champion of youth, justice, and the poor; the giver of power, voice and hope and the fighter for equality of results; the greatest ambassador to all the racial, warring camps of our time—the bold leader, who built bridges between the races and unity among black people is no longer with us in the physical presence of this hour and in the imagery of our every day.

W. E. B. DuBois has written that "Throughout history, the powers of single black men flash here and there like falling stars, and die sometimes before the world has rightly gauged their brightness." The powers of Whitney Young blazed across the American firmament for a brief decade of national leadership—a shining star of inspiration—a black prince whose temporal existence was untimely ended, but whose work and meaning will live on so long as there are men who can dream and people who value justice and decency.

And so, in a very real sense, we meet not under the shadows of death, but in the bright sunshine of his life and the legacy he bequeathed us. He lives on through our deeds and commitment. He lives on through the voice, hope and power he gave to those who were voiceless, hopeless and powerless.

The spirit of Whitney Young is alive and well;

We only laid to rest his earthy shell;

His movement is marching on!

This great man dreamed bold dreams and charted the great voyages of spirit and hope that this society must take. His dreams are our dreams. His program is the Urban League's program. His hopes are our hopes. His cause is the Urban League's cause. Our identification with his life's work is total and complete, and our commitment to bringing it to fruition is all-encompassing.

He believed in an *open society*; a society founded not in narrow separatism nor in the cultural suicide of assimilation, but rather a society founded on mutual respect, cooperation and pluralistic group self-consciousness and pride, in which black people their fair share of the power, the wealth and the comforts of the total society. *Towards this we still strive.*

He called for a Domestic Marshall Plan; a massive public-private effort on the scale of that taken by this nation to rebuild the ruined remnants of post-World War II Europe; an undertaking that led to booming economies, full employment and new housing in the cities of our former enemies, while black veterans who fought in that war endured poverty, joblessness and slums at home. It was Whitney's idea for this nation to do at home whit it so willingly did abroad. He called for a massive reordering of national priorities so that the poor and non-white minorities would receive the resources and national commitment to make America's age-old promise of equality and decent living standards, come true for all, and not just for a majority, whose composition is determined by wealth and skin color. He wanted specific goals and time-tables set for reaching those goals. He wanted for Americans what this nation helped other people to achieve. *Towards this, we still go forward.*

He was the first to realize that it's not enough to talk about equal opportunities; there must be equal results. Equality is a sham if it does not mean that black people share equally in all aspects of society's rewards. His measure was that equality will have been reached when there are proportionately as many blacks as whites who succeed and who fail. *Towards achieving this condition, we will strive.*

He transcended the provincialism of "doing your own thing" in a vacuum; he refused to accept the limits of the microcosm of the minority community alone. He knew that we must transcend the boundaries imposed upon us, and forge solid unity within the black community and go forward from there to build action coalitions with other minorities and with all poor people. And from that base of shared interests and common power, to negotiate with the Establishment and build coalitions around issues that would bring power and equality to America's oppressed masses, finally bringing us truly together as a nation founded on equality and justice. *Towards this, we are committed.*

He believed in building strong black organizations and strong, black-led interracial coalitions which we, as a movement, exemplify.

Whitney's legacy is a dynamic, revitalized League, and this movement's achievements since his tragic death, amply demonstrate his unique and unprecedented achievement of building the strongest human rights organization in the history of the nation.

For the first time in our 61 years, we lost a leader in office—not just a leader, but the most effective spokesman of the poor and champion of black people in the country. His warmth and his humanity had suffused the movement. It was not just organizational pain we felt, but it was personal grief and anguish, as well. And it came at a time of great national crisis and organizational challenges.

Any other organization may have faltered and stumbled blindly, splitting apart in despair, in shallowness, and opportunism. Any other organization may have simply marked time, holding the fort and sat still waiting, . . . waiting, . . . waiting. But for the Urban League, at a time when the sufferings of black people and poor people are increasing we could not sit tight. At a time when the challenges facing the agency and the total society were mounting to unprecedented proportions, we could not mark time. At a moment when Whitney had been taken from us, his organization, his followers, his disciples who walked in his footsteps and who sharpened their skills to serve him, could not betray his legacy and the meaning of his life.

That could never be true of this agency and its freedom-fighters. Instead, these past 137 days have been covered with the glory of achievement and with the restless, energetic momentum of a united, determined movement—61 years in the struggle—out to exceed its previous grasp, and to carry its work forward to a new plateau of excellence.

This, we have done.

First, we met the enormous demands of the tragic interment, with a dignity and with a professionalism that served his memory well. Our respect and dedication remained in those difficult days that followed, as we worked to smooth the path for Whitney's treasured family, preserving their memorial options, and absolutely refusing to exploit his name or his memory.

Once we had done that, we promptly moved to assure a confused public that the Urban League was still in business, and Whitney's agenda was still in vogue. We spoke out forcefully on the issues and provided leadership in the nationwide campaign to create jobs and called attention to the plight of black workers who are experiencing depression unemployment in a trillion-dollar economy.

We continued through our programs to serve students, workers, welfare mothers, veterans, the unemployed . . . all of America's hungry and dispossessed. These Urban League programs continued to have results to the general society far out of proportion to their limited costs. Our Labor Affairs program places apprentices and journeymen, and every dollar spent on it generates $15 in benefits. The cost of each apprentice is almost equal to the taxes he pays in his first year of work. Every dollar spent on the On-the-job training program yields society $13; every dollar spent on our Veterans Affairs program multiplies by more than ten in its impact on society. These programs and our many others put green power into black hands and have a tremendous impact on making this a better country for all.

And we did more than keep the Urban League machine humming at full capacity—we expanded into new areas of concern, in response to the new challenges of these terrible times.

A major study of the creeping cancer of housing abandonment was published by the Urban League, focusing national attention on the way cities are dying today, unnoticed and unsung by the complacent majority. Our documentation of the death agonies of urban housing is a call to action that provides a testing ground of whether we will remain a great nation or whether this society's values and its meaning will, like its housing for the poor, be abandoned, desolate and rubble-strewn.

The Urban League Research Department, in concert with 53 of our affiliates, came up with a penetrating documentation of the employment crisis in black America that resulted in our call for the immediate designation of 53 cities as employment disaster areas. At this conference, we will also set forth a major statement on the strengths of the black family, on the nation's Census and on the perils of the situation facing the black aged—action research that we hope will lead to new paths for the League and for the nation.

We successfully met the challenge of financing our operations at a time of red ink and national recession. The League has implemented internal management strategies that make us by far the most efficient public or private agency in the field of human resources.

We became the first of our kind to initiate major programs in correctional system reform, new town development and construction and master planning for long-term results in meeting human needs.

And we have moved our program of effective partnership further ahead, employing the hard-earned nickels and dimes of black tax money for the benefit of black people. Shortly before his death, Whitney went to the White House and pointed out the irony and futility of federal spending to bail out private corporations with public money; the tragedy of disproportionate concern over physical resources while human resources were neglected.

Out of that meeting came a commitment to involve black-run community organizations in the implementation and evaluation of federal programs, and the Urban League has taken the lead in insuring that black people will benefit from the otherwise dormant dollars that could be the levers of change.

They represent an unprecedented return on the investment of private individuals, organizations and foundations in the Urban League over the last 61 years—a private investment which we know will not only be sustained but increased.

Some of these new commitments will enable us to expand our job training, health, and veterans programs. Some will result in demonstration projects that will innovate in new areas, such as the establishment of comprehensive centers in urban and rural areas. Others will involve the first black evaluation of federal programs, and still others will set the stage for major reforms in employment practices and in the system of criminal justice that discriminates against black people.

And we moved ahead on our total programming thrust that involved Urban Leaguers—on their own time—in changing their professions and the institutions they come in contact with. And on our total organizational strategy aimed at involving Urban Leaguers in every professional, ethnic and human rights organization important to the success of our program and our objectives.

We did these things because *we had to;* because the plight of black people is still profane and sacred, withdrawn and extroverted, overstudied and undermet; because we were determined not to sit still but to move forward.

For this is a bad year for blacks, browns, reds and the poor. Poverty for the first time in a decade is on the rise. Over a million people are now counted among the long term unemployed. Black unemployment, especially teen-agers, exceeds depression level averages in the core areas of major cities, and approaches ten percent overall. *Environmental deterioration continues. Access to quality health care lessens. Consumer protection is largely rhetoric. Housing starts are paltry and inaccessible to most blacks and lower income citizens. Career oriented jobs, where created, tend to be in suburban areas. Crime, dope and unrest run rampant. Cities teeter on the edge of bankruptcy.* Here in Detroit, as in many other big cities, public jobs go unfilled for lack of funds, while unemployment hits nearly one out of every six families.

Veterans return in increasing numbers from the slaughter of a war nobody wants and everybody hates. Trained to destroy, ill-cared for and job denied, they find that their blood has been spilled in vain, that jobs are closed to them and that the barred streets are their reward for heroism in battle, sacrifice in war.

This city offers us the story of one such black GI, one man who was called a hero one day, and tragically killed, a victim of his environment the next. His name was Dwight Johnson, and he grew up in a project in Corktown. He was an altar boy and an Explorer Scout. He overcame the grinding poverty and frustration of black ghetto life. He was called to the army and went to Vietnam. Sergeant Johnson served his country as he was told to; he became a hero, the winner of a Congressional Medal of Honor, the highest award a man can win. He went to the White House and received it from the President. He was also honored right here in Cobo Hall, at a massive dinner at which the Army Chief of Staff spoke. But the horrors of war pursued him. His sleep and his dreams were red with the blood he had spilled. And he was haunted by his memories and his uncertain future. The debts piled up, and the pressures on a black man from the ghetto mounted.

Dwight Johnson was killed in a grocery store the police said he had tried to hold up, but the real truth may have been that, as his mother was quoted in the newspapers, "Sometimes I wonder if he was tired of life and needed someone else to pull the trigger."

This tragic death of an American hero is not only a Detroit story; it is an American story; it's a black story of hope shattered against the rocks of adversity and of a fellow human being whose potential was warped in a manipulative, callous society. There are hundreds of thousands of Dwight Johnsons, and it is our solemn responsibility to change this society so that it cannot do to them what it did to him.

He stands as a symbol of how this society relentlessly crushes the aspiration of black people and other minorities. His story, and the challenges non-white people face today, places a great responsibility on the Urban League movement at this Conference.

Our task then is reflected in what the Black Coalition of Waterbury, Connecticut wrote me days after Whitney's tragic death.

"First," they wrote, "we think you should tell the politicians that kind words for the dead are not enough, that verbal commitment to black dreams is not enough, and that a wreath on the grave of a dead black man is not the same as a loaf of bread on the table of his live brother. We don't need the white man to teach us how to grieve for our dead. We have had plenty of practice.

"Second, we think you ought to make it clear to the black community that the struggle has not been won just because the President comes to our funerals. When he comes to our births, to our weddings, to our graduations, when he starts to share our life, not just our death, then we may be able to say things are changing.

"That has not happened yet. You can make it happen. Let us get on with the living; we have had enough of the dying."

And so we are asking at this assembly, this week, "Which way, America?" Which way, business? Which way, Labor? Which way, church? Which way, school? Which way, government? Which way, citizens? Which way, reds, blacks, yellows, whites and browns? Which way, Americans—together up or apart down? Will we continue down the road to separatism, conflict, hate, war, extinction, resegregation and repression? Or will we turn and head up the road to real togetherness, harmony, peace, love, survival, racial pluralism, liberty and justice? Will we put away our race prejudice or simply put the old hates in a new bottle? Will we banish the idea that one economic class must rule over another or will we sustain an unethical aristocracy? Will we accept the responsibilities and sown seeds of our realities, or will we continue to blame the victim and reap the harvest of fools?

We say that history, fact and vested interest leave us only one direction to travel—towards the free society we've died and suffered to attain—and that way is the way which requires us to demonstrate by example and through sharing—that the rights of the least or less privileged of our citizens are as worthy of the same protection as are those of our highest—that the principles of truth, justice and humanity cannot be reserved for rich folks and white folks only.

One way for America to go in mapping out this progressive and constructive route is to create partnerships for effective action in human development and use; partnerships among creditable and committed public and private sources in the interest of human resources and systems change; partnerships between decent, concerned people of all races in all our places, of all beliefs in all our kingdoms, of all faces and needs within a framework of result-oriented militancy which seeks to make life, liberty and happiness pursuits for all. Partnerships between groups with similar interest and like purposes; partnership for results beyond racism and philosophy.

The important thing in such partnerships or coalitions we think, is to be tough-minded and flexible enough to coalesce around the issues with those with whom you will not always agree. We must also in partnership-building, never lose sight of our goals and clearly separate in our minds and our rhetoric, tactics from strategy. There is a non-white agenda that we've got to pursue, a blueprint for building black, brown, red, yellow and poor folk power and equality within a framework of pluralism, and the test of our coalition or partnership tactics must be integrity and bulldog tenacity of our pursuit towards ultimate goals.

For the present system of applying patent medicines to society's open, bleeding wounds must be replaced by a bi-partisan, public-private commitment to meet society's unmet human priorities with a massive infusion of funds, brains and effort that will get at the root causes of America's urban and rural disintegration.

It is the work of this conference to find ways to help us mount strategies for the seventies to help us do this so that under the new leadership of our exceptionally able and experienced Executive-Director-Elect, Vernon E. Jordan, Jr., a trusted colleague and friend, we can move the Urban League movement into a new era of power and leadership in America.

My father always observed that, in the history of mankind, the nations that grew and prospered always acted in time. Arnold Toynbee proved that 26 great civilizations did not act in time and died internally from decay and rot. The seconds are ticking fast for America too, and the time is now. Rhetoric won't help; neither will promises of tomorrows. The tensions that threaten to split us apart—tensions between black and white, young and old, male and female, suburb and city—man and his machines—are all mounting and the clock keeps ticking—ticking with nuclear power and rocket speed. Now is the time; now is the moment for action and for courage.

Now is the time to expose the cancer of hate and deception that eats at the heart of this nation. For this is a country that tells black people who provided slave labor for 250 years and who, throughout its history have done the hardest, dirtiest and most back-breaking of America's tasks, that they're lazy. This is a nation that runs schools that teach Indian children that Columbus discovered America. This is a country that proclaims "all men are created equal" and then relegates every ninth citizen to the bottom rung of the ladder because his skin is black.

Now is the time for this country to face up to the hell it has created for its own people—not to mention those in distant lands—and to act with honor and dignity as befits a nation with pretensions to power, leadership and morality.

Now is the time for this Administration and this country to push forward on a humane, massive, nonpartisan program to end poverty, want, racial tensions, and urban and rural decay; to create a meaningful, well-

paid job for every adult who can and will work; to build the houses for every family now lacking decent shelter; to create the schools and careers for every child in the land; to provide the health security that will leave no one uncared for and to create the framework of that society which every citizen can truly say is just and good.

Now is the time to move beyond racism, beyond petty prejudice, beyond the stifling confines of a system based on exploitation and suspicion. Time to move beyond civil rights to human rights!

And now is the time for the Urban League to fulfill its broad, noble goal set forth last year, to build a lasting unity among black people; a unity that spans the generation gaps and ideological gaps; a unity that focuses on the many things that we share rather than on the few things that may divide us. For there is a brotherhood in blackness, in oppression, and in poverty that is the foundation stone of our coming strength and power.

And it is now time to start moving beyond the program of black unity to build a new unity among America's oppressed minorities—black, brown, yellow, red, and the millions upon millions of poor and exploited people who are white—to build an example of the United Nations Charter in action among ourselves so that we might really influence, through that example, the results of the one located within poor borders in New York City.

The shifting sands of current conditions and short-term tactics must not sway us from pursuing our ultimate goal of a pluralistic, open society with integrity, leadership and tenacity.

And now is the time for America to say to its black people, indeed to all its non-white minorities, what Whitney Young persistently said it must say; that "We believe in you, as you have believed in us through centuries of degradation and horror. Your faith has been betrayed in the past, but we, white America, now recognize that we are one people with a common destiny, and the fate of the man highest will be that of the man farthest down."

America must and should say this because it tolerated slavery for the few, and paid for it with the graves of many. It tolerated racism and segregation and is paying for it now in racial strife and mistrust. It tolerated organized crime and drug addiction that victimized black people, and is now paying for it in heroin in white suburban schools. It tolerated poverty and urban decay and is now paying for it in a wrecked economy and in a decline of its cities. It tolerated racism at home and now pays for it in suspicion by good Third World nations abroad. Truly, as Frederick Douglass said, "Crime, allowed to go unpunished, unresisted and unarrested, will breed crime." The crimes of the past and the present may yet kill this country's future. It is reaping that which it hath sown.

But descent to oblivion, like ascent to glory, is reversible. The tide can be turned if this nation will but steel itself to the effort.

Now is the time for the United States of America on the eve of the 200th Anniversary of its Declaration of Independence, to come forth with a Declaration of Interdependence—a declaration of unity that recognizes healthy, pluralistic diversity, a declaration that the needs of some must be the needs of all, an affirmation that 200 years late, the American dream will be the American reality; a Declaration of Interdependence, declaring, that all Americans will be free to work out our common destiny without the hate and the racism and the economic deprivations that have kept us chained to the ground. when we should be on the launching pad of greatness.

So, Which way, America? in the words of Blake, "He whose face gives no light will never become a star. The busy bee has no time for sorrow. What is now proved was once only imagined. When thou seest an eagle, thou seest a portion of Genius; lift up thy head."

Which way, America? Can we lift up our heads to the American eagle? Will it take our hopes and dreams and fly to freedom? Or will it, burdened by inequities and bigotry, fall down from the skies in which it hoped to soar?

For our sakes, for our children's sakes, for the sake of all mankind, let it soar high and bold, let it take Whitney Young's challenge and his program and with wings like that, it must span the heavens with that glory that only goodness and integrity command! So that the summary of Whitney's life, our life, America's life will not be a long foolish day's journey into night, but rather a long wise night's journey into day. In that way our deeds can become Whitney's legacy and his time our future.

THE VOTER REGISTRATION BILL

Mr. STENNIS. Mr. President, I am completely opposed to the proposal set forth in S. 2574, the voter registration bill, that the Federal Government undertake a massive effort to register voters by post card.

The registration of voters and the conduct of elections is a jurisdiction that by tradition and by long-standing practice belongs to the States. There has not been, and need not be, interference in this jurisdiction by the Federal Government unless there should be a denial of constitutional rights to individuals. This contingency is covered by existing law which is adequate to its purpose.

This bill would place a centralized Federal bureaucracy in a supervisory and consulting capacity over the procedures of the 50 States in the holding of Federal elections. Such an action is a clear infringement on what has been considered for 200 years to be an established right of the States.

This drastic departure from the customs of our Nation since its founding is to be made, it is said, in the name of increasing voter participation.

To vote is a right. Any right is accompanied by a responsibility. Those who seriously exercise the right also accept the responsibility seriously. They register, under the provisions of State laws, and if those laws require that the citizens appear in person to register, and identify themselves, they do so. They are then entitled to cast their ballots as a right of their citizenship. Those who do not take the right to vote seriously do not take the trouble to register, and having avoided that responsibility, forfeit the right to cast a ballot.

What is intended by this bill is that the responsibility to register be so lightened that it can be done by post card, presumably postage free. Those that take their responsibility so lightly will surely cast their ballots lightly also. Impulse registration will obtain impulse voters.

With postcard registration will come postcard fraud. When the registration form arrives with the throwaway mail, the opportunity for fraud is present and surely it will occur. We read in the papers of those who in order to prove a point have successfully applied by mail for various governmental benefits for the family dog. This appears to make the point very well that the requirement for application in person is a deterrent to fraud.

We are dealing here with a fundamental American institution—the vote. The right to participate stems from the Constitution. The bill raises constitutional questions. One must question why it has not been referred to the Senate committee that is charged with the responsibility for examining such matters—the Senate Judiciary Committee. Surely it is clear that the question before the Senate is not whether voter registration by mail shall be carried out by the U.S. Postal Service and the Bureau of the Census. The question is whether there shall be, or shall not be, registration by mail. I find it unfortunate that a unanimous-consent agreement, obtained in December by the distinguished assistant minority leader, to refer the bill to the Judiciary Committee, after consideration in Post Office and Civil Service, was voided because a clean bill was reported.

There are other questions, also, that deserve the attention of the Judiciary Committee, such as whether presidential electors are covered by this bill, for the Supreme Court has held that they act by authority of the States and are not Federal officials.

It is said that one master roll of voters will not be available at Federal level, because the Federal postcards are sent from the registrant to State agencies. As a practical matter, this should be little hindrance to the quick establishment of such a master roll, through political party lines at State and national levels. Electronic data transmission and data bank storage make it easy. This is the age of computers. Information becomes knowledge and knowledge becomes power. The implications of the existence of national rolls of registered voters are disturbing to an extreme.

Mr. President, unless the States capitulate to the proposed postcard registration system for their own State elections, there will be a dual registration system, and that will mean chaos for a long time to come. There is much to criticize in this bill, and little to commend it. I urge that it be rejected.

VOTER REGISTRATION ACT

Mr. INOUYE. Mr. President, I have been interested in and intrigued by the arguments which have been raised in opposition to S. 2574, the National Voter Registration Act. They seem to be of two kinds: The first, is that this measure should have been considered by some other committee than that to which it was properly referred by the parliamentarian.

As the original sponsor of universal voter enrollment legislation in the 91st Congress, I know that my bill was sent to the Post Office and Civil Service Committee. Subsequent measures on this subject were likewise sent to that committee and the measure before us now is an outgrowth of those earlier proposals.

It is true that the Judiciary Committee

has earlier considered legislation relative to the denial of the right to vote when this has been a civil rights matter. What is involved here is not a civil rights matter, however. It is rather a provision to simplify the voter registration process and thereby encourage broader citizen participation.

I participated in the full and detailed hearings held by the distinguished chairman of the Post Office and Civil Service Committee and I know that a great number of experts were heard and a number of alternative proposals were considered. The one which I had authored grew out of the Freedom To Vote Task Force which had been named by the Democratic National Committee in 1969 and was chaired by former Attorney General Ramsey Clark. We held numerous meetings on the subject of how we can make the right to vote more meaningful as a result of the failure of some 47 million Americans to participate in the electoral process in 1968. We found difficulty in getting registered the single greatest barrier to their participation.

The other major objection which has been raised has been the charge that simplified registration procedures would result in increased fraud. I contend this measure would have just the opposite effect.

Election fraud is encouraged when the number of voters is minimized. Any organized effort to sway the election through fraud is more likely to be successful when the total vote is reduced. Neither is there anything about appearing in person before a registrar which prevents false registration, should that be an individual's intent. We have had a long history of such efforts in some political jurisdictions and I have yet to hear that anyone found their physical appearance before a registration official the barrier to such false registration.

I cannot believe that election officials would find it difficult to ascertain whether those registering by mail are legitimately residing in a given election district and, therefore, qualified to vote. We find no great difficulty in permitting activities where the temptation may be far greater from being consummated by mail. A man can get credit cards worth thousands of dollars of credit by mail without difficulty. He can purchase many thousands of dollars of stock on credit with a mere phone call without any difficulty. Why then should we insist that in the act of voting we must somehow restrict participation to those who are willing to first hurdle a cumbersome registration procedure?

I urge support for S. 2547 because it is a forward step. I think it will go far to include in the electoral process many people who now find themselves on the outside and are frustrated thereby. While I do not support the philosophy that anyone should be forced to vote if he does not want to, I do strongly support the thesis that democratic government is strengthened by increased participation and involvement of a greater percentage of our citizenry in the electoral process. I am confident that S. 2574 will go a long way in helping to achieve that goal.

VOTER REGISTRATION REQUIREMENTS

Mr. SPONG. Mr. President, while I agree with the objective of easing voter registration requirements, I do not believe the bill reported by the Post Office and Civil Service Committee (S. 2574) is the proper way to go about it.

The defects of the bill are apparent from the very readiness of its sponsors to accept changes offered from the floor, but of particular concern to me, and I know to many other Senators, is the possibility that postcard registrations will lead to increased voter fraud. What will have been gained if in broadening voting opportunities through this device, we also broaden the opportunity to cheat at the polls and to deprive voters of their right to an honest election. The sole justification for having registration requirements at all is to minimize such fraud and I think we have to weigh that value very carefully in anything we do.

Another consideration is that the setting of voter registration requirements traditionally has been a prerogative of the States and it is my hope that it will remain so. I have been disappointed in some aspects of my own State's performance in this regard. It is especially important that the States follow through on the 26th amendment by facilitating registration of new young voters. If the States do not meet their obligations, I think they will have forfeited their claim to power over these matters and will have invited Federal legislation.

Again, I hope this will not prove necessary, but if it does I am confident that the Congress can enact better legislation that the proposal before us today.

POST CARD REGISTRATION

Mr. DOLE. Mr. President, if there is any one matter in political life on which the major parties can agree, it is that voter participation is essential for effective representative government. Any sound, feasible, practicable proposal which, therefore, has the effect of increasing voter participation calls for nonpartisan support. The post card registration, S. 2574, however, fails to meet these basic qualifications, and its manifest disadvantages and defects far outweigh any supposed benefits which would result from its passage.

BASIC PROVISIONS

At the outset it might be well briefly to outline what the bill proposes.

It would establish a national voter registration system operated by a Federal agency. This would be called the National Voter Registration Administration. The NVRA would be a new bureaucracy in the Bureau of the Census, Department of Commerce.

This agency would administer the services of the U.S. Postal Service to distribute Federal voter registration cards to every postal address in the United States no earlier than 45 days nor later than 30 days before Federal election. We assume that such cards would be addressed to "householder" or "resident."

The registrant would return the mail registration cards to the designated State or local government voter registration office. The State office would process the card, register the applicant as a voter in the next Federal election, and bill the Federal Government for the processing of the cards.

Under the bill, there is a 30-day durational requirement in a State for voting in Federal elections in that State.

Provision is made for assistance by the agency, on request, of State or local governments to put the registration system into effect.

Two different kinds of incentives are offered a State to establish a registration system for State and local elections similar to that for Federal elections. One would be 15 percent of the amount paid to the State for processing the registration cards. This would be increased to 30 percent if the State also adopts a 30-day durational residency requirement for its own elections.

State officials could call on the Federal Government if fraud is suspected in voter registration applications. Criminal penalties are provided for convictions of fraud.

The objectives of the bill are of course laudable. Unfortunately the problems that would be created by the bill, particularly at this time, would be most unfortunate, harmful to the people, and very possibly disastrous to the electoral process itself in a presidential year.

CONFOUNDING CONFUSION AT THE POLLS

Fundamental to an orderly presidential election is certainly in the rules that will apply to competing sides. The post card bill would create great uncertainty, endless confusion.

Consider the setting in which it would operate for the first time.

This legislation, obviously, no longer can affect the presidential primaries for 1972. The result is that the rules of the game under the bill would control only for the second half of the electoral process, that is, the general election. This in itself would make a mockery of a bill which is intended to apply to every step of the presidential nomination and election process.

Next, under the 26th amendment the States are undertaking to register hundreds of thousands of new young voters. No one can minimize the magnitude of this task in sheer numbers, in the complexity of problems as to who is a resident for voting, and in other respects. The courts already have enough problems to wrestle with and resolve before the next general election.

In addition, the States are struggling to extract some light and understanding from the various provisions of the Voting Rights Act Amendments of 1970. To cite merely a few of these problems—abolition of durational residency requirements—the maximum 30-day cutoff of registration—absentee registration and voting—voting by nonresidents who have recently moved from the State.

Let us for a moment put ourselves in the position of these harassed state officials and ask ourselves whether it would be fair to the voters to impose even greater burdens under still another new Federal program, affecting the electoral process, the impact of which no one can, no one dares, to predict. The post card

bill in these circumstances, would not improve the electoral process but impair it by confounding the existing confusion.

THE COST

The majority report on the bill admits that if 40 million Americans completed and returned registration forms, the cost of the process would be $26 million. The minority report concludes that because mailings would have to be made for State political conventions, as well as primary and general elections and others, the cost per presidential year may run in the neighborhood of $120 million and these cost estimates, the minority report points out, do not include numerous other items, to which apparently the majority report gives scant weight, if it has considered them. Even if we were to assume that the actual costs lie somewhere between the low and high estimates, there can be no escape from the fact that the cost will be very high. Experience should teach, however, that costs of any program in a very short time escalate far beyond even the most generous estimates.

ANTICIPATED RESULTS

Possibly there would be some justification even for the high cost of the proposed program if it could be expected to bring into the polling booths many new voters. This is not the case.

From a survey taken by the Bureau of the Census in November 1968, of 50,000 households, it appears that 53.2 percent of those not registered did not do so because they were not interested, never got around to registering, or disliked politics; 11.2 percent said they did not meet the residence requirement; 13.5 percent said they were ill, did not have transportation or could not get off from work; 10.6 percent were not citizens; 9.5 percent gave other reasons; and 2.2 percent did not know.

The results of this broad survey scarcely support the notion that existing State registration procedures are responsible for the majority of non-registration cases. Certainly the results of this survey fall far short of justifying such a huge expenditure of Government funds as S. 2574 would require. Such public funds can be used more profitably in more essential programs than one to spoonfeed a right to register for those who are merely indifferent to their obligations as citizens.

THE INADEQUACY OF THE PROPOSED REGISTRATION CARD

The heart of the bill is the registration postcard. Reference to it demonstrates what an experiment in futility the post card bill would create a veritable administraive nightmare which may make Congress the butt of ridicule and criticism throughout the Nation.

We are dealing here with a perforated double postcard of undetermined size. One side of one half of this post card will contain the following:

First. The ever-present instructions on how to complete it.

Second. A Census Bureau summary of all State voter qualification laws, except residency, applicable to all Federal, State, and local elections in that State.

Third. Space for registrant's name, address, and party preference.

Fourth. Statements that the registrant either, first, has been a resident long enough to qualify for State and local elections—remember that what those requirements are is not included in the summary of State laws—or second, will be a resident for 30 days before the next Federal election.

Fifth. A statement of the Federal and State penalties for fraudulent registration.

Sixth. A place for the individual to certify his qualifications.

This is one side of one half of the double post card.

I would ask each Senator to recall his State voter qualification laws and attempt to visualize all this on one side of a post card. In some States I doubt that a card 3 by 5 feet would be sufficient. Perhaps a junior billboard might suffice.

It is not clear what goes on the other side of this half of the post card. I get the impression these cards are supposed to go to the appropriate local voting registrar although the bill does not say so. If I am correct, the Census Bureau will have to determine which county or other appropriate local unit each post card recipient lives in. This is, no doubt, possible—at least where the cards are delivered to home addresses—but I suspect it will involve a tremendous search and a rather high printing cost.

Now we come to the other half of this double post card. On one side goes the name and address of the registrant. On the other side we have a series of printed statements:

First. That the individual is qualified to vote in all elections.

Second. That the individual is qualified to vote in Federal elections only.

Third. That the individual is not qualified. These are to be noted as appropriate and an explanation given if the individual is found not qualified. I do not know what happens if a State has different requirements for some State elections than for others. Perhaps no State has followed the lead of Congress when it prescribed different duration of residency requirements for school board elections in the District of Columbia than for the other elections. In any case, the explanation space may be large enough for the voting official to fill in such details.

I think it should also be noted that the burden of investigating the qualifications of a registrant is apparently on the local voting official. The postcard does not furnish him with date of birth, so he must investigate to determine age qualification. The postcard does not furnish him with length of residence, so he must determine this from his own sources. And, if I understand the bill correctly, he has no more than 30 days at best to investigate the eligibility of every registrant who returns the card. I seriously doubt that this is possible.

In short, it seems to me that this may be an attractive idea, but it is unlikely to work. It will very likely cripple State and local voting officials, the Census Bureau and the Post Office and produce chaos in our electoral process. We cannot afford the risk.

It is clear that S. 2574 is neither sound, feasible nor practicable. On those grounds alone I would be opposed to it.

But the bill has many other defects.

AN INTRUSION ON TRANSITIONAL STATE RIGHTS BY THE FEDERAL GOVERNMENT

It would be one thing if constitutional rights were being violated in the application of voter registration laws and practices by the States. Action by Congress in the field, and the cost, however heavy, could then be defensible. But this is not the case here. Rather the post card bill contemplates an intrusion by Congress into a field of voter registration qualifications which traditionally has been left to the States and administrated by them in a manner that complies with the Constitution.

THE PROSPECTS OF FRAUD

It would be one thing if registration by postcard under S. 2574 could be regarded as a device which might be conducive to reduction in voting frauds. The contrary is the case. The opportunity for fraud would be increased greatly by S. 2574. The residency requirement under the bill is only 30 days before election day and registration is by mail. However, there is no cutoff date for receipt of the registration cards in order for the voter to be put on the registration rolls. This gives little time for checking registration rolls, especially in precincts or voting districts with a large voter population. In many cases, registration list inspectors may have merely a few days to inspect such lists before election day—hardly enough to prevent large scale fraud.

How many elections and electoral votes will be thrown into question, how many controversies will rage over the next presidential election is hard to foretell. While a presidential election should be fought hard and fairly, it is our tradition that the results should be certain and when the election is over the people shall be united. Enactment of the post card bill would have the directly opposite result. After the election confusion would be rampant, fraud a universal complaint, and uncertainty the only order of the day.

It seems plain to me that more deliberate consideration should be given to registration programs by the Congress, and that the 1972 election should be the very last place to initiate an experiment that is so highly explosive and unpredictable.

The post card bill should be defeated.

And to further illuminate the deficiencies and defects of the post card bill, I would pose a number of questions for the Senator from Wyoming.

I believe it would be helpful if his responses to these questions could be made a part of the RECORD, and I ask unanimous consent that these questions and the Senator's replies be printed in the RECORD at this point.

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

QUESTIONS AND ANSWERS

Q. Absent a showing of discriminatory conduct or fraud on the part of state officials what provisions of the Constutition support federal legislation such as this which withdraws from the States authority it has traditionally exercised with respect to voting.

Q. The November 1968 survey by the Bureau of the Census of 50,000 households showed about 27,000 households reporting

that they did not register to vote. Of those not registered, 53.2 percent assigned as a reason they were not interested; 11.2 percent said they did not meet the residence requirement; 13.5 percent said they were ill, did not have transportation or could not get off from work; 10.6 percent were not citizens; 9.5 percent gave other reasons; and 2.2 percent did not know.

Upon what constitutional basis is Congress authorized to act on behalf of voters whose failure to register in large part stems solely from their own indifference, disinterest, and inaction?

Q. In section 401(3) the bill defines "Federal office" to mean, among others, the office of the President and Vice President, and in section 401(4), it defines "Federal election" to mean various elections for the purpose of nominating or electing candidates for any Federal office. In section 401(5) "State or local election" is defined to mean an election other than a Federal election. In section 403 the Administration is authorized to establish and administer a national voter registration solely for *Federal elections*. However the Supreme Court has held that presidential electors are not federal officials. *In re Green*, 134 U.S. 377, 379, (1890); *Ray* v. *Blair*, 343 U.S. 214, 224–225 (1952). Where does the bill authorize the Administration to establish and administer a national voter registration for presidential electors, who under these decisions are state officials?

The question as to who is a "resident of a State" entitled to vote is often a difficult matter to decide, depending on State laws and decisions of state courts based on the particular facts of a case.

Q. Merely because the individual states on his printed card that he has been "a duly qualified resident" does that mean that the state or local official will be bound by the individual's classification of himself?

An individual in good faith and entirely free from fraud may conclude that he is "a qualified resident" of the State. A state court might disagree with this conclusion. In such a case, fraud being absent, presumably such a person would not be subject to a criminal sanction and an injunction may not be granted.

Q. Does the bill contemplate that such a person's vote shall be counted, even though if there were time to litigate the question as to whether he is a "qualified resident to vote," a state court might hold that he is not?

Q. If his vote would nevertheless be counted in such a case, does it not suggest that the existing procedures in the 50 States for determining a challenge in an orderly way as to whether a person is a qualified resident for voting purposes should continue to be given effect, and not be superseded by the bill?

Presumably if the bill were passed, an out-of-state student at a University could complete the registration form as being a duly qualified resident of the State even though the Attorney General of the State has concluded that such students are merely transients in the State and not duly qualified residents of the State for voting purposes.

Q. In such a case, would the student's possession of the registration form be such prima facie evidence as to entitle him to vote?

Q. Would his voting in the face of the State Attorney General's opinion that out-of-state university students are not entitled to vote subject the student to the criminal sanctions of the bill?

Q. Does the bill intend that the injunction provisions of the bill should be invoked to nullify his vote, if cast?

Q. Does the bill intend that the State's Attorney General opinion shall not suffice to override the "prima facie case" made out by the filing of the registration statement under section 405(c)?

Q. Does the bill contemplate that if the local registration official suspects that the name on the registration card or the statements made thereon are fraudulent, he may deny the individual the right to register? If so, where does the bill make such provision?

Q. Does the bill contemplate that if the state or local official suspects fraud, that he may notify the individual whose name appears on the card to appear for a hearing and establish his qualifications under this bill?

Q. Does the bill intend that state law and procedures, including criminal sanctions for false registrations should be superseded, and that the federal law should be exclusive?

Q. Section 405(b), which deals with registration forms, provides that they may be a perforated double postal card, which may include on the first part of the card, a printed statement of the requirements of State law for voting. Do you agree that this will require the Administration to print up different postal cards for each of the 50 States?

Was the cost of these 50 different State printings included in the estimates of the costs of the program, which the majority report of the Committee states will amount to about $26 million?

Does the Committee's cost estimates include the expense of mailings for state political party conventions?

Does the Committee's estimate of $26 million include costs for processing the returned registration cards, payments to the States for bringing State and local election registration laws into line with the Federal mail voter registration system, staffing and other administrative costs required for the operation of the National Voter Registration Administration?

Q. Section 405(b)(3) provides that the registration form may include space for the individual to write his name, address, and "political party preference if *appropriate*."

Does this provision mean "appropriate" under state law? If not, under what law?

If the individual refused to indicate his political party preference on the form, would that be any ground for the state or local official to refuse to accept it as valid and to complete and return the form to the individual as required by section 405(c)?

Q. Section 405(c) provides that the possession by an individual of the registration form that he is entitled to vote in any Federal election for which he qualified shall be "prima facie" evidence that the individual is a qualified and registered elector entitled to vote.

Does this provision mean that this individual is entitled to vote even though the state or local official knows of his own knowledge and concludes that the individual is not a qualified resident or otherwise qualified to vote?

What provision, if any, is made in the bill to resolve a dispute of this kind between the state or local official and the person who asserts the right to vote?

Is it the intention of the bill that the individual who possesses the form must be allowed to vote, but that he may be subject to criminal sanctions if he has given false information?

What then happens to the vote which he cast? Is it not true that the bill makes no provision that votes based upon the state or local official's challenge shall be set aside and not counted pending the outcome of the criminal proceedings?

Q. During the debate on the bill on March 9, in answer to a question put by the Senator from California (Mr. Cranston), the Senator from Wyoming (Mr. McGee) stated that the bill "was very carefully drawn to make sure of one thing, and that is that the jurisdiction of States, the role of the State in keeping the control of its own electoral rolls, is not called into question nor is it challenged."

Are there any provisions in the bill expressly preserving the power of the States to pass on the qualification of voters in all elections, including federal elections?

Are there any provisions in the bill recognizing the power of state election officials to take evidence to determine the qualifications of voters?

If state election officials have no power to take such evidence to determine the qualifications of voters, and if, under section 405(c), the possession of the registration form by an individual is prima facie evidence that the individual is a qualified and registered voter, how can the State possibly be expected to overcome the prima facie case which the possession of the form represents?

And if the state official's lack of power to take evidence on the individual's qualifications to vote, how can the States as a practical matter continue to keep control of its own electoral rolls, as the Senator from Wyoming seems to believe?

The bill requires that registration cards are to be mailed out to postal addresses no earlier than 45 nor later than 30 days before the next federal election in any State. Sec. 406(c). However, the bill has no cut-off date as to when registration cards must be received by the registration office in order for the voter to be put on the registration rolls. Conceivably the cards could come in merely a few days prior to the election.

Q. If the state or local registration official suspects fraud, would there be time enough under these circumstances to investigate the case before election day?

Q. Will a state or local official be required to conclude that the individual is "a qualified elector," based wholly on the latter's self-serving statements, where the state or local official has no adequate opportunity prior to election to check the accuracy of the statements made in the registration form?

Section 406(d) of the bill delegates broad authority to the Administration, when it determines that the circumstances of a federal election present such difficulties of compliance with the provisions of section 406, as to justify an exception, to issue rules and regulations for the preparation and distribution of registration forms as it deems suitable.

Q. Does the bill intend that the Administration shall grant exceptions only after notice to state or local officials whose activities and duties may be affected thereby; and an opportunity by them to be heard?

Q. Would the Administration have authority under section 406(d) to reduce or increase the number of days set forth in subsection (c) of 406 "not earlier than 45 days or later than 30 days prior to the close of registration" within which the Postal Service shall distribute the registration forms to postal addresses and Army Force installations?

Q. Does the bill permit the state or local registration official to conduct an investigation to determine whether the individual who purports to sign the card exists and whether the information furnished is true?

Q. Does section 407(a) of the bill, in requiring the state or local official, who suspects a registration card to be fraudulent, to notify the Federal Administration and request his assistance, preclude the state or local official from refusing to register the individual until the Administration has had an opportunity to see whether fraud exists?

Q. Section 407(a) authorizes the Administration in such a case to "give reasonable and expeditious assistance as it deems appropriate in such cases." Does section 407(a) contemplate that the Administration may authorize the state or local officials to refuse registrations that appear fraudulent, or not to count votes cast of persons who have fraudulently registered?

Q. Section 407(b) provides that whenever the Administration or a State or local official determines that there is a pattern of fraudulent registration, or activity by individuals or groups of individuals to register persons to vote who are not qualified, the Administration or the State or local official may notify the Attorney General who would be au-

thorized to bring an action to enjoin the unlawful activity? Since there is no cut-off date under section 406(c) for return of the registration form, the registration forms could be received merely a few days prior to election.

Q. How would it be possible in so little time for a referral to be made to the Attorney General and for the latter to initiate his injunction suit prior to election?

Q. Even if the Attorney General should prevail in his injunction suit, in the event that judgment is entered after the election, what good would the injunction be if, as appears, the bill makes no provision for setting aside the fraudulent votes cast?

Section 407(b) would provide a federal civil remedy for injunctive relief, against individuals or groups of individuals to prevent fraudulent registrations and section 408 would impose a federal criminal sanction on an individual who gives false information in connection with his registration to vote.

Does the bill intend to preempt the field and preclude resort to state injunction and criminal proceedings for the same offense?

Although the registration forms will be printed by the Administration, it will contain the requirements of state law for voting in Federal, state and local elections, be distributed by state and local officials, returned to such officials, examined and processed by such officials, and registration lists will be preserved by state and local officials.

Q. Does the bill therefore intend that the registration form shall be regarded as a "federal" document?

If it is not a federal document, but a state or local document, could section 408(c) of the bill (which incorporates by reference 18 U.S.C. 1001) be said to apply? 18 U.S.C. 1001 would of course apply if the false registration form related to "a matter within the jurisdiction of any department or agency of the United States." But if, as the Senator from Wyoming has stated, the bill makes "sure" of one thing, which is that "the jurisdiction of States, the role of the State in keeping the control of its own electoral rolls is not called into question" (CONGRESSIONAL RECORD 7818, March 9, 1972), how would it be possible for 18 U.S.C. 1001 to apply?

Although the bill provides civil and criminal remedies against *individuals* who engage in fraudulent registration, no express provision is embodied in the bill requiring a State or political subdivision thereof to participate in the program.

Does the bill intend to permit participation by the States and their political subdivisions to be a voluntary matter, which leaves it open to them whether to cooperate?

What remedy, civil or criminal, or both can be invoked under the bill to require a State to participate?

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

URGENT SUPPLEMENTAL APPROPRIATIONS, 1972

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair lays before the Senate, House Joint Resolution 1097, which the clerk will please report.

The assistant legislative clerk read the joint resolution as follows:

A joint resolution (H.J. Res. 1097) making certain urgent supplemental appropriations for the fiscal year 1972, and for other purposes.

Mr. ELLENDER. Mr. President, a few weeks ago I met with Chairman MAHON of the Committee on Appropriations of the House of Representatives, and we agreed to take, from the supplemental bill that would be before us later, several items of an urgent nature which I shall mention in the course of my remarks.

Mr. President, the Committee on Appropriations met in executive session yesterday, for the purpose of considering this urgent appropriation resolution. It was reported by the House Committee on Thursday, March 9, and was passed by the other body yesterday. In the full Committee meeting yesterday, I was authorized by a unanimous vote to present this bill to the Senate immediately.

The amount recommended in the resolution is $957,476,059, which is the total of the budget estimates submitted in two documents, House Documents numbered 92–216 and 92–262. The resolution contains five items of sufficient urgency, in the Committee's view, as to warrant appropriation action in advance of the second supplemental appropriation bill, 1972, which is currently in the processing stages. It is my understanding that this latter bill will not be reported by the House Committee on Appropriations until shortly after the Easter recess. As a consequence, four of the items considered in connection with the pending resolution were excerpted from the supplemental budget estimates submitted with the administration's budget in January. The fifth request for claims and judgments was submitted in a separate document.

Two items relate to unemployment compensation—one, for Federal unemployment benefits and allowances, in the amount of $311,600,000, will provide for payments to eligible unemployed ex-Federal employees and ex-servicemen. Available funds will be exhausted by about March 20; hence, the necessity for these supplemental funds at this time.

The second such item is the $600 million recommended for advances to the extended unemployment compensation account, which appropriates necessary funds for estimated fiscal year 1972 payments to the States, as repayable advances, for extended unemployment benefits pursuant to Public Laws 91–373 and 92–224. The Committee also recommends concurrence in the House action designating these funds as a definite appropriation in lieu of the permanent, indefinite appropriation as requested in the budget estimate.

For the student loan insurance fund under the Office of Education, the committee recommends the full amount requested, $12,765,000, the same as the House allowance. No funds were requested for this appropriation in the regular fiscal year 1972 bill because it was estimated at that time that unobligated balances in the fund would be sufficient to meet requirements. The balances in the fund have now been exhausted. This supplemental request is based on a larger than expected number of student loans in repayment status—and, hence, subject to default—rather than on an increase in the default rate.

The next item is the recommendation of $28 million for payment of loan guaranties made by the Interstate Commerce Commission to repay a Government-guaranteed loan of $30 million to the Reading Co., of which $2 million has been repaid. The interest liability on this loan—at 6½ percent—increases at the rate of about $5,000 per day, and, as of March 15, 1972, interest costs will amount to $1,289,215.

The last item is the request for $5,111,059 for payment of claims and judgments. Of this sum, $2,905,682 is for judgments rendered by the U.S. Court of Claims and U.S. district courts, $2,115,240 for claims adjudicated by the Indian Claims Commission, and $90,137 for damage claims pursuant to law. The sum recommended is the amount of the budget estimate and the House allowance.

Mr. President, that concludes my remarks. I understand that there will be a vote at 11:45 on final passage.

Mr. MANSFIELD. That is correct.

Mr. ELLENDER. The committee is presently holding hearings on defense appropriations, and the Senator from North Dakota (Mr. YOUNG) is now presiding in my stead. He wishes for me to say to the Senate that he is absent because he is conducting hearings on defense appropriations, but that he completely concurs in the statement just made by me.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Chairman of the Interstate Commerce Commission, George M. Stafford, dated March 15, 1972, on this subject.

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

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., March 15, 1972.

Hon. ALLEN J. ELLENDER,
Chairman, Senate Appropriations Committee, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN ELLENDER: The following is submitted in response to your request for additional information on the guaranteed loan recently defaulted by the Reading Company.

1. With respect to the rights of the United States Government as a secured creditor of the Reading Company, upon payment of principal and interest by the United States pursuant to the terms of its guaranty under Part V of the Interstate Commerce Act, the trustee representing the lenders shall assign all rights and privileges in this loan to the United States. This includes collateral of $37,500,000 principal amount of first and refunding mortage bonds, with a present estimated market value of $10,800,000, and equipment trust certificates appraised at $9,900,000, secured by 57 diesel-electric locomotives. With respect to the bonds, the United States will become a secured creditor, and upon conclusion of the reorganization proceeding shall be treated equally with the said bondholders and will be entitled to all rights.

With respect to the equipment trust certificates, the United States will immediately obtain title to equipment. Unless the trustees of the railroad assume the obligation or reach some other satisfactory arrangement with the United States, which is represented by the Department of Justice, the equipment can be taken by the Government and sold to another party to recoup the price.

2. As for protecting the Government's interest after payment, Section 506(b) of Part V of the Interstate Commerce Act provides:

In the event of default on any such guaranteed loan, and payment in accordance with the guaranty by the United States, the

Attorney General shall take such action as may be appropriate to recover the amount of such payments, with interest, from the defaulting carrier, carriers, or other persons liable therefor.

Accordingly, the Attorney General has the responsibility of protecting the interest of the United States after payment on the loan. The Commission has officially referred the matter to the Attorney General, and on the staff level has made available to the staff of the Attorney General all documents and other information needed relative to said loan. Close liaison between the staff is maintained to assure full exchange of views and information which may be of benefit to protecting the Government's interest. The decision relative to any settlement of said claims of the Government rests however with the Attorney General.

At present the Attorney General is represented in Part V matters by Mr. James F. Dausch, Railroad Reorganization Unit, Civil Division.

If I can be of further assistance, please contact me.

Sincerely yours,

GEORGE M. STAFFORD,
Chairman.

The ACTING PRESIDENT pro tempore. What is the pleasure of the Senate?

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

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

The second assistant legislative clerk proceeded to call the roll.

Mr. 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, I have sought recognition to call to the attention of the Senate the problems affecting the employment of youth, which are terribly severe in terms of the unemployment rate which affects them, and the opportunity we have to do something about it in respect of the neighborhood youth corps program for jobs and recreation.

I shall not move an amendment to this bill, because I believe it would be counterproductive in terms of the very result I wish to achieve.

However, the matter is so urgent that I hope and pray something will be done by the Committee on Appropriations—which will consider it shortly—because I have no desire for an amendment if one is not necessary, if it is possible for the Appropriations Committee to do what ought to be done in this situation. I traditionally have been the particular Member who has interested himself in this situation, both when I was a member of the Appropriations Committee, as well as now. This is very understandable, as my State, being the principal industrial State of the country, is very heavily impacted in this regard and also as I am the ranking minority member of the Committee on Labor and Public Welfare which has substantive jurisdiction over these provisions.

Mr. President, the reason why I shall not move on this bill is that it is an urgent supplemental and despite the urgency of the summer job situation, raising it will introduce a new element of controversy which may impede all of these urgent matters. Its main provisions deal with critically important makeup in respect of extended unemployment compensation and unemployment benefits for veterans, especially for veterans in Federal employment. This is the principal amount of this bill, the overwhelming part of it. I am deeply concerned that if I raise this issue, it will interfere with the passage of the bill. It may even result in the item—even if carried here, and I am confident that it would be—being knocked out in conference, with prejudice to it. I would rather do my utmost to convince the Appropriations Committee of the need and to have the expectation that it will be satisfied in substance in the second supplemental, which they assure us is due up immediately after the Easter recess, which means less than a month away, than to run the risks which would be involved in making the motion now and being subject to the charge—which I think would be justified—that we were premature and that the committee really had not had a chance to consider what we had requested.

Therefore, in all fairness to the committee—and the Members have been sympathetic to this and have been people who have been far from stony-hearted about the unemployment problems of youth—I am hopeful we can take counsel together, and come up with a meaningful solution in the second supplemental.

Mr. President, the basic facts are these. I urge that the committee provide in the context of the second supplemental a total supplemental appropriation of $291.5 million for the neighborhood youth corps summer program, which request breaks down as follows:

$268.3 million for the job component; this amount together with the $175.7 million already available, would fund 947,928 10-week job opportunities for economically disadvataged youth ages 14 to 21 in urban and rural areas. The administration has requested a supplemental appropriation of $82.2 million for this purpose, to fund an aggregate total of 609,300 opportunities, the same total number of opportunities funded last year.

$1.3 million for related transportation necessary for such youths to participate in the job program; the administration would provide $1.4 billion out of existing funds.

$21.9 million for the recreational support programs—providing activities to children 6 through 12 years of age, and for which no funds are now available. The administration has requested a supplemental appropriation of $12.8 for these purposes, again the same aggregate amount as was made available last year.

My requests in each respect are documented on a city-by-city basis by the National League of Cities—U.S. Conference of Mayors which represents most of the public agencies which conduct these programs.

I ask unanimous consent that a letter dated February 23 from the league and accompanying documents be placed at this point in the RECORD; it shows in the job component a need for 410,035 opportunities in the 50 largest cities, and 537,893 in rural and other areas.

Mr. President, I ask unanimous consent to have printed in the RECORD the areas concerned, together with the needs calculated for 1972.

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

NATIONAL LEAGUE OF CITIES—
U.S. CONFERENCE OF MAYORS,
Washington, D.C., February 23, 1972.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: In response to your request for information, we have made inquiries as to the cities' 1972 needs for the summer Neighborhood Youth Corps slots. The information we have received from the 50 largest cities shows that the total number of slots these 50 large cities could effectively use this summer is 410,035.

On the basis of our contacts with a sample of smaller cities, we estimate that their needs and the number of slots these smaller cities could effectively utilize to total 537,893.

Combining these figures—the total for the 50 largest cities with estimated needs for the balance of the nation—the present real need for 1972 is 947,928 slots nationwide.

We trust that these statistics will be helpful to you in pointing up the critical need for an enlarged appropriation for the summer Neighborhood Youth Corps.

Sincerely,

PATRICK HEALY,
Executive Vice President, National League of Cities.

JOHN J. GUNTHER,
Executive Director, U.S. Conference of Mayors.

SUMMER NEIGHBORHOOD YOUTH CORPS

	Rank in size	Population	Slots 1971 need	Slots 1971 actual [1]	Slots 1972 need	Dollars, 1972 need
Region I: Boston	16	641,000	3,500	3,330	5,000	2,340,000
Region II:						
Buffalo	28	463,000	4,268	2,367	4,268	1,997,424
Newark	35	382,000	14,563	4,750	14,563	6,815,484
New York	1	7,868,000	77,500	40,541	77,500	36,270,000
Rochester	49	296,000	1,000	1,007	4,650	2,176,200
Region III:						
Baltimore	7	906,000	8,000	6,268	9,420	4,408,560
Norfolk	47	308,000	2,625	1,977	2,625	1,228,500
Philadelphia	4	1,949,000	12,500	6,189	12,500	5,850,000
Pittsburgh	24	520,000	2,500	6,164	9,265	4,336,000
Washington, D.C	9	757,000	36,000	11,689	36,000	16,848,000
Region IV:						
Atlanta	27	497,000	3,408	2,391	3,408	1,594,944
Birmingham	48	301,000	2,086	1,777	2,135	999,180
Dade County (Miami)	42	335,000	8,226	4,532	8,226	3,849,800
Jacksonville	23	529,000	[2]	927	1,735	811,980
Louisville	38	361,000	3,500	2,062	3,500	1,638,000
Memphis	17	624,000	2,394	1,598	2,394	1,120,400
Nashville	30	448,000	[2]	1,330	2,000	936,000
Tampa	50	278,000	2,887	4,335	6,514	3,049,020

Footnotes at end of table.

	Rank in size	Population	Slots 1971 need	Slots 1971 actual [1]	Slots 1972 need	Dollars, 1972 need
Region V:						
Chicago	2	3,367,000	40,000	25,695	40,000	18,720,000
Cincinnati	29	452,000	3,000	2,102	3,000	1,404,000
Cleveland	10	751,000	10,000	7,392	11,100	5,194,800
Columbus	21	540,000	2,000	1,184	2,000	936,000
Detroit	5	1,509,000	11,670	13,392	25,000	1,170,000
Indianapolis	11	745,000	2,500	1,217	2,500	1,170,000
Milwaukee	12	717,000	3,000	2,295	3,000	1,404,000
Minneapolis	32	434,000	2,735	1,589	2,735	1,280,000
St. Paul	46	310,000	1,025	787	1,025	479,700
Toledo	34	384,000	990	758	990	463,320
Region VI:						
Dallas	8	944,000	2,280	1,728	2,280	1,067,000
El Paso	45	322,000	1,125	830	3,000	1,404,000
Fort Worth	33	393,000	1,178	805	1,507	705,276
Houston	6	1,233,000	3,000	2,732	3,560	1,666,080
New Orleans	19	593,000	5,000	1,914	5,000	2,340,000
Oklahoma City	37	366,000	1,000	1,175	1,530	716,040
San Antonio	15	654,000	5,514	3,608	5,514	2,580,500
Tulsa	43	332,000	850	540	1,011	473,148
Region VII:						
Kansas City	26	507,000	4,000	2,345	4,000	1,872,000
Omaha	41	347,000	700	1,284	1,670	781,560
St. Louis	18	622,000	1,500	3,932	5,910	2,765,880
Region VIII: Denver	25	515,000	2,100	1,203	2,100	982,800
Region IX:						
Honolulu	44	325,000	2,191	513	2,800	1,310,400
Long Beach	40	358,000	20,000	17,983	25,000	11,700,000
Los Angeles	3	2,813,000				
Oakland	39	362,000	5,785	4,493	5,850	2,737,800
Phoenix	20	582,000	17,000	2,824	17,000	7,956,000
San Diego	14	697,000	2,500	3,136	4,510	2,110,680
San Francisco	13	716,000	5,000	3,107	8,000	3,744,000
San Jose	31	446,000	[2]	1,890	3,535	1,654,380
Region X:						
Portland	36	382,000	5,000	1,697	5,000	2,340,000
Seattle	22	531,000	5,000	2,682	5,000	2,340,000
50 largest, total			354,490	220,066	410,035	192,268,856
Balance			287,149	328,304	537,893	251,733,924
Total			641,639	548,370	947,928	444,002,780

[1] All figures shown are for 10-week slots.

[2] Included in top 50 as a result of 1970 census.

SAMPLING OF CITIES OTHER THAN 50 LARGEST

	Slots 1971 need	Slots 1971 actual [1]	Slots 1972 need	1972 need
Akron	612	694	1,137	$532,200
Albuquerque	600	745	1,000	468,000
Dayton	620	796	1,500	702,000
Gary	1,380	2,714	4,447	2,081,200
Jersey City	1,275	1,498	2,454	1,148,472
Paterson	1,200	900	1,500	702,000
Total	4,687	7,347	12,038	5,633,872

[1] All figures shown are for 10-week slots.

SUMMER YOUTH TRANSPORTATION PROGRAM

	Rank in size	Population	1971 actuals	1972 needs
Region I:				
Boston	16	641,000	$10,700	$20,000
Region II:				
Buffalo	28	463,000	7,500	13,000
Newark	35	382,000	23,437	39,500
New York	1	7,868,000	149,130	251,400
Rochester	49	296,000	7,500	12,000
Region III:				
Baltimore	7	906,000	21,100	35,000
Norfolk	47	308,000	7,500	12,000
Philadelphia	4	1,949,000	24,360	42,000
Pittsburgh	24	520,000	12,650	22,000
Washington, D.C	9	757,000	22,960	38,700
Region IV:				
Atlanta	27	497,000	12,080	30,000
Birmingham	48	301,000	13,790	24,000
Dade County (Miami)	42	335,000	12,000	23,000
Jacksonville	23	529,000	6,300	14,000
Louisville	38	361,000	7,500	12,500
Memphis	17	624,000	11,860	18,000
Nashville	30	448,000	7,000	12,000
Tampa	50	278,000	7,500	17,000
Region V:				
Chicago	2	2,367,000	42,240	70,000
Cincinnati	29	452,000	7,920	15,000
Cleveland	10	751,000	19,310	35,000
Columbus	21	540,000	8,640	17,000
Detroit	5	1,509,000	36,560	75,000
Indianapolis	11	745,000	8,480	15,000
Milwaukee	12	717,000	47,280	65,000
Minneapolis	32	434,000	12,380	20,000
St. Paul	46	310,000	7,500	12,500
Toledo	34	384,000	7,990	15,750
Region VI:				
Dallas	8	844,000	$19,340	$23,990
El Paso	45	322,000	38,900	58,900
Fort Worth	33	393,000	8,130	15,000
Houston	6	1,233,000	16,387	45,000
New Orleans	19	593,000	14,790	25,000
Oklahoma City	37	366,000	14,000	25,000
San Antonio	15	654,000	14,570	26,570
Tulsa	43	332,000	7,500	12,500
Region VII:				
Kansas City	26	507,000	13,970	50,000
Omaha	41	347,000	13,500	15,000
St. Louis	18	622,000	25,790	43,500
Region VIII: Denver	25	515,000	18,320	29,000
Region IX:				
Honolulu	44	325,000	7,500	15,000
Long Beach	40	358,000	7,500	16,000
Los Angeles	3	2,813,000	82,870	82,870
Oakland	39	362,000	15,000	28,000
Phoenix	20	582,000	11,740	23,000
San Diego	14	697,000	14,360	30,000
San Francisco	13	716,000	11,970	25,000
San Jose	31	446,000	7,500	8,160
Region X:				
Portland	36	382,000	8,580	13,000
Seattle	22	531,000	19,060	32,100
50 largest, total			954,394	1,608,940
Balance of 1971 participants			464,996	783,967
New cities				357,093
Total			1,419,390	2,750,000

SUMMER RECREATION SUPPORT PROGRAM (RSP)

	Rank in size	Population	1971 actuals	1972 needs
Region I: Boston	16	641,000	$168,000	$180,000
Region II:				
Buffalo	28	463,000	96,000	120,000
Newark	35	382,000	77,000	140,000
New York	1	7,868,000	1,836,000	2,934,000
Rochester	49	296,000	53,000	95,000
Region III:				
Baltimore	7	906,000	276,000	335,000
Norfolk	47	308,000	132,000	180,000
Philadelphia	4	1,949,000	528,000	700,000
Pittsburgh	24	520,000	168,000	165,000
Washington, D.C	9	757,000	228,000	364,000
Region IV:				
Atlanta	27	497,000	$143,000	$180,000
Birmingham	48	301,000	120,000	170,000
Dade County (Miami)	42	335,000	126,000	192,000
Jacksonville	23	529,000	84,000	175,000
Louisville	38	361,000	96,000	130,000
Memphis	17	624,000	264,000	305,000
Nashville	30	448,000	72,000	150,000
Tampa	50	278,000	132,000	175,000
Region V:				
Chicago	2	3,367,000	649,000	2,100,000
Cincinnati	29	452,000	120,000	175,000

SUMMER RECREATION SUPPORT PROGRAM (RSP)—Continued

	Rank in size	Population	1971 actuals	1972 needs
Cleveland	10	751,000	$163,000	$205,000
Columbus	21	540,000	132,000	211,000
Detroit	5	1,509,000	360,000	897,000
Indianapolis	11	745,000	130,000	195,000
Milwaukee	12	717,000	108,000	155,000
Minneapolis	32	434,000	60,000	96,000
St. Paul	46	310,000	36,000	58,000
Toledo	34	384,000	84,000	120,000
Region VI:				
Dallas	8	844,000	228,000	285,000
El Paso	45	322,000	144,000	200,000
Fort Worth	33	393,000	108,000	173,000
Houston	6	1,233,000	350,000	440,000
New Orleans	19	593,000	252,000	300,000
Oklahoma City	37	366,000	108,000	170,000
San Antonio	15	654,000	324,000	400,000
Tulsa	43	332,000	72,000	115,000
Region VII:				
Kansas City	26	507,000	108,000	130,000
Omaha	41	347,000	48,000	96,000
St. Louis	18	622,000	$240,000	$384,000
Region VIII: Denver	25	515,000	120,000	170,000
Region IX:				
Honolulu	44	325,000	60,000	99,000
Long Beach	40	358,000	72,000	125,000
Los Angeles	3	2,813,000	552,000	650,000
Oakland	39	362,000	84,000	125,000
Phoenix	20	582,000	144,000	200,000
San Diego	14	697,000	144,000	200,000
San Francisco	13	716,000	180,000	250,000
San Jose	31	446,000	85,000	100,000
Region X:				
Portland	36	382,000	84,000	135,000
Seattle	22	531,000	84,000	129,000
50 largest, total			9,966,000	15,928,000
Balance			2,834,000	4,530,000
New cities				1,500,000
Total			12,800,000	21,958,000

Mr. JAVITS. Mr. President, I urge that these amounts be provided for the following reasons:

First, the current national unemployment rate of 5.9 percent falls most heavily upon economically disadvantaged youth. The most recent available statistics released by the Department of Labor, February 24, 1972, show a jobless rate among teenagers in poverty neighborhoods of 25.7 percent in the last quarter of 1971 with the rate among black teenagers in such areas at 34.7 percent.

We are courting disaster with those kinds of figures. We have found, and Congress has been entirely willing, that the summer youth job opportunities have gone a very long way toward giving us social conditions which are infinitely more acceptable than those we would otherwise face, in view of the extremely high rates of unemployment.

Experience indicates that even if the overall employment situation improves, as I hope it will, youth—particularly poor youth—will continue to have unemployment ranging from four to five times the norm. As Secretary of Labor James D. Hodgson noted generally on February 17, 1972, in testimony before the Joint Economic Committee:

> The unemployment situation of teenagers vis-a-vis adults has deteriorated over the past decade. In 1962, the unemployment rate for teenagers averaged 3.1 times higher than for workers 25 years of age and over. Beginning in 1963, the ratio began to exceed 4 to 1, and in no year did it drop below 4 to 1; the average ratio of teenage to over-25 unemployment in the years 1963–71 amounted to 4.7 to 1.

There are already substantial signs that increases in the number of returning veterans, economic cutbacks, and other factors will aggravate further the youth unemployment situation in the coming summer.

The neighborhood youth corps job program is an appropriate mechanism to deal with the problem by funding work experience and related transportation for poor youth between the ages of 14 and 21 with public and nonprofit private agencies in the summer months, providing them with earnings enabling them to complete or continue their education.

Second, other special sources of refunding will not be adequate; the Emergency Employment Act of 1971, which will provide approximately 135,000 public sector job opportunities in this fiscal year and a similar number in the coming year will not focus upon the needs of poor youth; according to a preliminary survey taken by the Department of Labor only 14 percent of those now covered are in the age group below 21 years of age. It appears also that general economic conditions will continue to make it difficult for the private sector to take up the slack through such voluntary job programs as those conducted by the National Alliance of Businessmen. The National Alliance—which has not yet established a goal for this summer—was forced last summer to reduce its goal by 30,000 from the 180,000 goal of the previous summer.

Third, with respect to the duration of the program, I wish to emphasize that it was reduced from a 10-week to a 9-week program for the first time last summer, and then only as a temporary compromise to make very inadequate funds spread as far as possible.

To the poor the difference between 10 and 9 weeks is more than academic; beyond the desirability of providing meaningful experience for the greater portion of the summer, the fact is that poor youth depend upon the wages derived from the program to contribute to the costs of returning to school and, in many cases, to the support of their families.

Accordingly, I urge that it be maintained as a 10-week program, as has generally been the case in the past.

Fourth, in addition to transportation enabling youth to accept employment and retain their earnings, we must have in mind the needs of younger children—many of whom may be from the same families—for meaningful opportunities. There are approximately 3 million children in poverty in the age group covered by the recreational program; last year the program only reached 40,000 of them, less than 2 percent.

Mr. President, I shall urge the committee to consider these requests. While they represent substantial sums and will help enormously, even these sums will not meet the need. For example, in the job program, the 947,000 opportunities would reach less than one-half of those which the Department estimates could benefit from the program.

For these reasons, I deeply believe that the administration is falling far short of the need, that we have to follow the advice of the local officials, to wit, the mayors, and meet their calculations of the needs.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter which I sent to the Secretary of Labor and his response to me indicating the Department's intentions, together with the statement which I filed.

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

U.S. SENATE,
Washington, D.C., February 25, 1972.

Hon. JAMES D. HODGSON,
Secretary, Department of Labor,
Washington, D.C.

DEAR MR. SECRETARY: I am writing to urge the Administration to submit a revised supplemental budget request for additional funds for the Neighborhood Youth Corps summer job program, and for related transportation and recreational activities to meet the needs of poor youths in urban and rural areas during the coming summer.

As you know, the Neighborhood Youth Corps job program funds work experience and related transportation for poor youths between the ages of 14 and 21 with public and non-profit private agencies in the summer months, providing them with earnings enabling them to complete or continue their education; the recreational component provides summer recreational opportunities to poor children between the ages of 6 and 12.

The current national unemployment rate of 5.9 percent falls most heavily on economically disadvantaged youth. The most recent available statistics released yesterday show a jobless rate among teenagers in poverty neighborhoods of 25.7 percent in the last quarter of 1971 with the rate among black teenagers in such areas at 34.7 percent.

Experience indicates that even if the overall employment situation improves, as we hope it will, youth—particularly poor youth—will continue to have unemployment ranging from four to five times the norm. As you noted generally on February 17, 1972, in testimony before the Joint Economic Committee:

"The unemployment situation of teenagers vis-a-vis adults has deteriorated over the past decade. In 1962, the unemployment rate for teenagers averaged 3.1 times higher than for workers 25 years of age and over. Beginning in 1963, the ratio began to exceed 4 to 1, and in no year did it drop below 4 to 1; the average ratio of teenage to over-25 unemployment in the years 1963–71 amounted to 4.7 to 1."

Already, there are substantial signs that increases in the number of returning veterans, economic cut-backs, and other factors will aggravate further the youth unemployment situation in the coming summer.

The National League of Cities—U.S. Conference of Mayors, representing most of the public agencies which conduct the Neighborhood Youth Corps summer program, advises, on the basis of an extensive survey, that there will be a very real need for 947,928 ten-week job opportunities in the program for this summer, compared with the 641,639 which it projected at this time last year.

The National League of Cities estimates that a total of $444.0 million will be needed to provide the projected 947,928 opportunities, it is my understanding that the administration intends to provide only 609,300 nine-week opportunities, the same as last year, with a total appropriation for jobs of $257.9 million—which would consist of $175.7 million already available and an additional $89.2 million which it has requested in a supplementary budget request.

Thus there is a short-fall of $186.1 million and 338,628 opportunities in the job program for the coming summer, on a ten-week basis.

It should be noted that the National League of Cities survey relates to the number of job and recreational opportunities which could be effectively used; in fact the Department of Labor has estimated the "target group"—those who could benefit from the job program—in excess of 1.8 million youths.

I enclose a copy of a letter which I received, dated February 23, 1972, from the League, documenting these needs on a city-by-city basis.

Moreover, the National League of Cities estimates that there is an additional need for $1.3 million for related transportation and $9.1 million for the recreational support program, above the $1.4 million and $12.8 million respectively which the Administration hopes to make available.

Other special sources of refunding will not be adequate; the Emergency Employment Act of 1971, which will provide approximately 135,000 public sector job opportunities in this fiscal year and a similar number in the coming fiscal year will not focus upon the needs of poor youth; according to a preliminary sample taken by the Department of Labor only 14 percent of those now covered are in the age group below 21 years of age.

It appears also that general economic conditions will continue to make it difficult for the private sector to take up the slack through such voluntary job programs as those conducted by the National Alliance of Businessmen. The National Alliance of Businessmen—which has not yet established a goal for this summer—was forced last summer to reduce its goal by 30,000 from the 180,000 in the previous year because of general economic conditions similar to those faced today.

Accordingly, I urge the Department to submit a revised supplementary budget request responsive to these documented needs so that public and non-profit sponsors will be able to plan effectively programs which will provide youths with meaningful alternatives to continued frustration and restlessness in the coming summer.

Sincerely,

JACOB K. JAVITS.

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, D.C., March 9, 1972.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: Thank you for your February 25 letter concerning the 1972 Neighborhood Youth Corps Summer Program and other summer programs for young people.

I assure you that the Administration has given very careful consideration to the data which you cite in your letter. We feel that the appropriations level requested by the President in his January budget message to the Congress represents a responsible and adequate request which basically meets the problem and which we can afford. With the improvement in the economy we expect that more jobs will be available to youths this summer.

I am enclosing a copy of a brochure which describes our summer youth program. Please note that we plan to increase the summer job opportunities provided through our programs alone by 89,000 jobs.

As always, I appreciate your deep interest and concern with training and employment needs of our Nation's young people. However, in the face of the many priority demands for Federal dollars and the deficit, we must keep the NYC summer program at last year's level.

Sincerely,

J. D. HODGSON,
Secretary of Labor.

Mr. JAVITS. Mr. President, I have just stated the reasons why I am not moving an amendment to the bill. I hope very much that it will not be necessary to amend the second supplemental because the committee will have done what needs to be done in the present situation for summer youth employment and recreation.

Mr. President, one further point, we have constantly been running after a passing bus with respect to this matter. There have been occasions, in previous years, when appropriations came through as late as June or the end of June of a given year. Obviously, that is bound to be placed less effectively and to court all the deficiencies which we associate with Government programs which are the subject of the worst elements of bureaucracy. If we wait that long in order to meet a need, there is bound to be inefficiency, wastefulness, and even injustice.

In the second supplemental we will have an opportunity to act in a timely way. Certainly it would be great if we could act today but, obviously, for the reasons I have just described—and I understand them well—we cannot do so.

But we will be able to act the first 2 weeks of April, so that I hope very much the committee will see fit to go a long way toward meeting the recognized need for the slots that the mayors calculate they find essential at a minimum. I shall be glad if the Appropriations Committee feels it useful that I appear personally before it. I am sure that many other Senators will appear personally to testify to the situation in their particular area.

Mr. BYRD of West Virginia. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. BYRD of West Virginia. I know that the distinguished Senator from New York is expected to attend a meeting of a committee at this point. Therefore, I will presume—in the temporary absence from the floor of the distinguished manager of the bill, the Senator from Louisiana (Mr. ELLENDER) and the distinguished Senator from Washington (Mr. MAGNUSON) who, as a general rule, presides over this area of appropriations—to respond to the distinguished Senator from New York.

It is a matter of common knowledge that the Senator from New York has long been a champion of the program to provide jobs for youth during the summer. He has been successful, on many occasions, in prevailing upon the Committee on Appropriations to add appropriations over and above the budget request for the Neighborhood Youth Corps. I, in the past, have often joined him in that effort.

There was a time when I was chairman of the Subcommittee on Deficiencies and Supplementals Appropriations, so I am close to the issue. I know of the great concern of the Senator from New York. Upon those occasions, when I handled supplemental bills, I joined him at times in the effort to increase the amount, as I have indicated.

Now the Senator has stated the case precisely. There is a $175 million carryover for the program.

The budget request which will be considered in the second supplemental soon to come over from the other body—I assume right after the Easter recess—would amount to $95 million.

As the Senator from New York has indicated, this amount, together with the carryover, would not, in his opinion, be sufficient to meet the needs that exist, so that it will be his purpose to attempt to persuade the Committee on Appropriations and the Senate to increase that amount.

I believe that the committee will be not only considerate of his request, but will also be sympathetic toward it. And I think I could presume to assure the distinguished Senator from New York that the Appropriations Committee will be glad to hear him, if he so desires, although the hearings have already been conducted. The committee would certainly be glad to have any testimony that he would like to present to the committee. And I myself would like to join him for that purpose.

I feel that the committee will not only carefully consider the $95 million in the budget request, but will also consider the Senator's request for additional money. It will be glad to receive his views by way of letter, personal appearance, or otherwise in support of the need for increasing the amount over and above the budget request.

On behalf of the committee and its chairman I personally express appreciation to the Senator for his understanding and thoughtfulness in not pressing this matter today in connection with the urgent supplemental appropriation bill. He has stated quite rightly that to do so might delay action on the bill, might create problems in conference, and might in the end defeat the efforts to promptly appropriate moneys for the critical needs that are being met in the bill.

I appreciate on behalf of the committee the Senator's understanding in this respect, and along with that I think I can assure him that he will have ample opportunity to present his viewpoints with reference to the need for additional moneys for this very important and useful and effective and beneficial program of summer employment for youth.

I thank the Senator, and I will join with him when the time comes in attempting to get additional moneys over and above the budget request.

Mr. JAVITS. Mr. President, I am very

grateful to the Senator from West Virginia. He has joined with me before, and his joining has been, in my judgment, not only effective, but also on occasion decisive in respect to improving a situation.

Mr. President, I am very grateful to the Senator from West Virginia. I might say, too, that my office has consulted with the staff of the Senator from New Jersey (Mr. CASE) and the staff of the Senator from Washington (Mr. MAGNUSON), and they are extremely helpful in respect of the efforts I am making to do what can be done before the Appropriations Committee.

May I say, too, that a principal difference between my figure and the administration's figure is attributable to the fact that I contemplated a 10-week program and the administration contemplated a 9-week program.

I mention this because I want to spread the variables on the record. We think personally that a 10-week program is essential for the effectiveness of the program. However, the committee had on previous occasions shortened it to 9 weeks. The administration is now proceeding along that line. Those are the variables which are involved.

I am deeply heartened, and I think thousands of young people will be deeply heartened, by the support of the Senator from West Virginia and his assurance—which I know comes from knowledge—that we can expect to receive sympathetic treatment from the committee.

Mr. President, I have one wish that I would like to express publicly to the Senator. I hope that I do not have to amend the supplemental and that the committee does whatever anyone reasonably asks to be done and that we come in with an agreed upon program. It would be a much happier day for me and for all concerned.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield briefly to me?

Mr. JAVITS. I yield.

Mr. BYRD of West Virginia. Mr. President, I join with the Senator in expressing the hope that the committee will take this action, making unnecessary an amendment on the floor. I want to make it clear that I am in no position, of course—and I know the distinguished Senator from New York understands this—to commit the committee to increasing the amount over the budget request or even to allowing the full budget request.

I can only say that the committee will certainly be receptive to any testimony that the Senator from New York and other Senators might wish to offer. The committee will be sympathetic, I am confident, and will act on the basis of its judgment, reached after a proper consideration of those facts.

Mr. President, may I say also that it is my understanding—and I do not choose to differ with the Senator from New York, but I clearly want to support his effort—that in a figure I quoted a little while ago, I erred when I indicated that there was presently available, as a carryover, $175 million. I am advised that the presently available funds are $193,298,000, which, when added to the $95 million proposed, which will be considered in the supplemental to come from the other body, would make a total of $288,298,000.

Mr. JAVITS. Mr. President, I am very glad to hear that revised figure, which I now understand to include funds that may be reprogramed from other programs to be made available for this purpose. We, of course, would adjust our request accordingly, unless it is undesirable to reduce the program from which funds are to be taken. I thank the Senator.

The PRESIDING OFFICER. The bill is open to amendment.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RECESS TO 11:35 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until 11:35 a.m. today.

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

The request was agreed to; and at 11:17 a.m. the Senate took a recess until 11:35 a.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. GAMBRELL).

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

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

DIFFICULTY IN COMMITTEE ON FINANCE WITH CONSIDERATION OF H.R. 1

Mr. LONG. Mr. President, I regret to say that on today, as has been the case on, I suppose, four or five other occasions, at a minimum, the Committee on Finance was unable to proceed with the consideration of H.R. 1 because of a lack of a quorum.

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

Mr. LONG. I yield.

Mr. MANSFIELD. Was that the situation this morning, too?

Mr. LONG. Yes, I regret to say. The chairman was there and he was accompanied by the ranking Republican member, the Senator from Utah (Mr. BENNETT), who is anxious to get on with the business, and the Senator from Arizona (Mr. FANNIN) was there, but really we cannot proceed with a measure of this sort with just two Republican members and the chairman. It stands to reason that on rather controversial phases of the bill it is impossible to predict what some of our Democratic members would want to do about them. If we moved in their absence, we would have an occasion occur where some of our liberals would contend that something was put over on them or something was "pulled" in their absence by agreeing, even though tentatively, subject to confirmation by others, on something that might be controversial.

Mr. MANSFIELD. Will the Senator yield further?

Mr. LONG. Yes.

Mr. MANSFIELD. I believe the Senator mentioned something about a lack of a quorum on Monday.

Mr. LONG. Yes, we had the same problem Monday, and we have had the same problem on a number of other occasions.

Mr. MANSFIELD. Before the Senator proceeds, I think he ought to make it plain that the Senator from Connecticut (Mr. RIBICOFF) is necessarily absent because of the very serious illness of his wife.

Mr. LONG. The Senator is entirely correct. As a matter of fact, we were able to agree on some of Senator RIBICOFF's amendments in his absence, and the others we will be able to proceed with upon his return.

I do not like to complain about the matter, Mr. President, but I do feel that I may find it necessary, in the future, to present the list of those who were present and those who were not present for the benefit of the RECORD, in the hope that it will bring some pressure to bear upon the absent Members to make themselves available to help us move this important piece of legislation. In terms of dollars, this will be the biggest bill to be acted upon by this Congress.

Mr. MANSFIELD. Will the Senator yield?

Mr. LONG. I yield.

Mr. MANSFIELD. Mr. President, I commend the distinguished Senator from Louisiana, the chairman of the Committee on Finance, because he has been trying with might and main to live up to what he promised the Senate last year and early this year, to get a bill out. This is a most important measure. There will be a good deal of debate on it; it is a contentious piece of legislation.

All I want is for the RECORD to show that the chairman of the committee and the ranking Republican member have at least been trying to keep their word and get this measure before us, so that, as we had promised, we can take it up somewhere around the latter part of this month or the first part of next month, and I want the RECORD to be clear.

Mr. LONG. I thank the distinguished majority leader.

Mr. President, I know I have a commitment to the majority leader to bring this bill out. It should have been here already. I just want the RECORD to reflect that as far as the chairman is concerned, he is doing everything within his power to responsibly move this measure.

I do not propose to charge off half-cocked and do something without knowing what we are doing. The committee owes a higher responsibility than that to the Senate. But I do think, Mr. President, that the members of the committee ought to either be there and do their duty, particularly if they have no excuse for not being there, or else they ought to resign from the committee.

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

Mr. LONG. I yield.

Mr. DOLE. I appreciate the efforts of the distinguished Senator from Louisiana. I might suggest that there is quite a blockade in that particular hallway. There is a hearing of some sort going on in the Judiciary Committee—some sort of sideshow. Perhaps some of the Senators who tried to reach the Finance Committee room could never make it.

Mr. LONG. No; that had nothing to do with it. I looked in on the sideshow myself, on my way to the Senate Chamber, and it did not have anything to do with the fact that we did not have a quorum in the Finance Committee.

But I do think, Mr. President, that I ought to commend the diligence of the ranking member on the minority side (Mr. BENNETT). In addition to being one of the President's best friends, the Senator feels a responsibility toward this administration to see that its proposals are considered. He has done all within his power to obtain sufficient people present to move forward.

Mr. President, I am not going to insist that the Committee on Finance have a quorum in order to make progress, but I cannot responsibly urge the committee to go ahead and try to make even a tentative decision if the various points of view of the liberals, the conservatives, and the moderates do not have some representation there, so that we can have some reason to think that what those of us who operate in the absence of a quorum are doing is likely to reflect the views of a majority on the committee.

So I do hope this little exchange for the RECORD might cause some of my committee members to neglect some other duty, if they must neglect something, in order to be present at the Finance Committee sessions to help us do the work of the Senate on this measure, which is in my judgment the most important piece of unfinished business remaining before the Senate.

URGENT SUPPLEMENTAL APPROPRIATIONS, 1972

The Senate continued with the consideration of the joint resolution (H.J. Res. 1097) making certain urgent supplemental appropriations for the fiscal year 1972, and for other purposes.

NEED FOR ADDITIONAL UNEMPLOYMENT BENEFITS

Mr. BYRD of West Virginia. Mr. President, I wish to express my support for the Federal unemployment benefits and allowances contained in House Joint Resolution 1097, the urgent supplemental appropriations bill for fiscal year 1972.

There are several different items contained in this resolution to provide additional unemployment benefits, of which the first is for $311,600,000, to provide for a greater number of weeks of unemployment compensation and an increase in the average weekly benefits for ex-servicemen and for ex-Federal employees.

To qualify for these benefits, the veteran or the ex-Federal employee must be ready, available, and willing to work. If a job is offered to such an individual and he turns it down, he will not receive unemployment benefits—providing, of course, that the job offered to that individual was suitable work, according to the applicable State requirements. I might also point out that veterans who have received dishonorable discharges are not eligible for these benefits. If a veteran was discharged under conditions "less than honorable," however, his eligibility to receive these benefits must be adjudicated by the Veterans' Administration, which will take into consideration all of the facts relevant to his individual case.

The second item related to unemployment benefits included in this urgent supplemental is $600,000,000 for extended unemployment compensation benefits, authorized by Public Law 91-573, enacted August 10, 1971. Twenty-two States have been providing these extended benefit payments even though the Federal share has not been available. Therefore, part of this appropriation will be used to reimburse the States for their previous expenditures for this purpose. The total amount owed the States is $123,822,584, of which $10,168 is owed to my own State of West Virginia.

Normally, these unemployment benefits are financed from Federal Unemployment Tax Act receipts earmarked for this purpose. However, when receipts from this source are not sufficient to meet the full amount of extended benefit payments, the law requires that a request for a general revenue appropriations be made for the amount of the deficit. That is the reason this mandatory item of $600,000,000 is before us at this time.

I sincerely hope that the unemployment rate in this country will drop to the point where no extended benefits will be necessary. However, in the meantime, I do urge approval of House Joint Resolution 1097 in order that these existing needs may be met.

The PRESIDING OFFICER (Mr. GAMBRELL). The joint resolution (H.J. Res. 1097) is open to amendment. If there be no amendments to be proposed, the question is on the third reading of the joint resolution.

The joint resolution was read the third time.

The PRESIDING OFFICER. The hour of 11:45 a.m. having arrived and the joint resolution having been read the third time, the question is, Shall it pass?

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. Will the Chair state the question on which we are about to vote?

The PRESIDING OFFICER. The question is on passage of House Joint Resolution 1097, the urgent supplemental appropriation bill.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from Florida (Mr. CHILES) are necessarily absent.

I also announce that the Senator from Connecticut (Mr. RIBICOFF), is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Florida (Mr. CHILES), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

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

If present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

The result was announced—yeas 88, nays 0, as follows:

[No. 108 Leg.]

YEAS—88

Aiken	Ellender	Moss
Allen	Ervin	Nelson
Allott	Fannin	Packwood
Anderson	Fong	Pastore
Baker	Gambrell	Pearson
Bayh	Goldwater	Pell
Beall	Gravel	Proxmire
Bellmon	Griffin	Randolph
Bennett	Gurney	Roth
Bentsen	Hansen	Saxbe
Bible	Hart	Schweiker
Boggs	Hartke	Scott
Brock	Hatfield	Smith
Brooke	Hollings	Sparkman
Buckley	Hruska	Spong
Burdick	Hughes	Stafford
Byrd, Va.	Inouye	Stennis
Byrd, W. Va.	Javits	Stevens
Cannon	Jordan, N.C.	Stevenson
Case	Jordan, Idaho	Symington
Church	Kennedy	Taft
Cook	Long	Talmadge
Cooper	Magnuson	Thurmond
Cotton	Mansfield	Tower
Cranston	Mathias	Tunney
Curtis	McGee	Weicker
Dole	McGovern	Williams
Dominick	Miller	Young
Eagleton	Mondale	
Eastland	Montoya	

NAYS—0

NOT VOTING—12

Chiles	Jackson	Mundt
Fulbright	McClellan	Muskie
Harris	McIntyre	Percy
Humphrey	Metcalf	Ribicoff

So the joint resolution (H.J. Res. 1097) was passed.

Mr. ELLENDER. Mr. President, I move

that the vote by which the joint resolution was agreed be reconsidered.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL VOTER REGISTRATION ACT

The PRESIDING OFFICER (Mr. BYRD of Virginia). Under the previous order, the Chair now lays before the Senate S. 2574 which the Clerk will state.

The assistant legislative clerk read as follows:

S. 2574, to amend title 13, United States Code, to establish within the Bureau of the Census a National Voter Registration Administration for the purpose of administering a voter registration program through the mail.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The pending question is on agreeing to the motion of the Senator from Alabama (Mr. ALLEN) to lay on the table S. 2574.

On this question the yeas and nays have been ordered.

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate throughout this rollcall vote?

The PRESIDING OFFICER. The Senate will please be in order. The galleries will be in order.

The clerk will proceed to call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. CHILES), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I also announce that the Senator from Connecticut (Mr. RIBICOFF) is absent because of illness in family.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF), the Senator from Washington (Mr. JACKSON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Oklahoma (Mr. HARRIS), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from Florida (Mr. CHILES) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

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

If present and voting, the Senator from Illinois (Mr. PERCY) would vote "nay."

The result was announced—yeas 46, nays 42, as follows:

[No. 109 Leg.]

YEAS—46

Aiken	Boggs	Cotton
Allen	Brock	Curtis
Allott	Buckley	Dole
Baker	Byrd, Va.	Dominick
Beall	Cook	Eastland
Bennett	Cooper	Ellender
Ervin	Jordan, N.C.	Stafford
Fannin	Jordan, Idaho	Stennis
Fong	Miller	Stevens
Gambrell	Packwood	Taft
Goldwater	Pearson	Talmadge
Griffin	Roth	Thurmond
Gurney	Saxbe	Tower
Hansen	Scott	Weicker
Hatfield	Sparkman	
Hruska	Spong	

NAYS—42

Anderson	Hart	Montoya
Bayh	Hartke	Moss
Bellmon	Hollings	Nelson
Bentsen	Hughes	Pastore
Bible	Inouye	Pell
Brooke	Javits	Proxmire
Burdick	Kennedy	Randolph
Byrd, W. Va.	Long	Schweiker
Cannon	Magnuson	Smith
Case	Mansfield	Stevenson
Church	Mathias	Symington
Cranston	McGee	Tunney
Eagleton	McGovern	Williams
Gravel	Mondale	Young

NOT VOTING—12

Chiles	Jackson	Mundt
Fulbright	McClellan	Muskie
Harris	McIntyre	Percy
Humphrey	Metcalf	Ribicoff

So the motion to lay S. 2574 on the table was agreed to.

Mr. ALLEN. Mr. President, I move to reconsider the vote by which the bill was tabled.

Mr. GRIFFIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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 MANPOWER REQUIREMENTS, RESOURCES, UTILIZATION, AND TRAINING—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 92–192)

The PRESIDING OFFICER (Mr. BYRD of Virginia) 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 Labor and Public Welfare:

To the Congress of the United States:

This is the tenth annual Manpower Report of the President and the third of my Administration. The information in this volume, as in its predecessors, will help to deepen the Nation's understanding of manpower problems and issues and to point the way toward achievement of our human resources development goals.

The second decade of an active manpower policy, which begins in March of this year, is dedicated to attaining full opportunity for all American workers.

Our tactics for pursuing this objective are twofold: First, to accomplish much needed and long overdue reform of the manpower programs set up under the Manpower Development and Training Act and subsequent legislation and thus increase their effectiveness in enhancing the employability of jobless workers; and, second, to move toward a broader national manpower policy which will be an important adjunct of economic policy in achieving our Nation's economic and social objectives.

My Administration has made substantial progress in improving the operation of manpower programs under existing legislative authorizations, as described in this report. Fundamental reform of these programs, however, requires new legislation. For this reason, in the recent Special Message to the Congress which forms the first part of this volume I again urged speedy enactment of a Manpower Revenue Sharing Act, to make possible coordinated and flexible manpower programs administered by local governments in accordance with local needs.

The need for a comprehensive national manpower policy which is sensitive to the manpower implications of government actions in many fields is also documented in this report. There is hardly any major aspect of government policy which does not significantly affect the utilization, size, and skills of the country's work force.

Yet during the 1960's, efforts to appraise the employment impact of new and changing policies and programs were fragmentary, at best—leading to avoidable inefficiencies in program operations and unnecessarily severe adjustments for workers, industries, and local communities.

Both the efficiency of our economy and the well-being of the country's workers will be served by more systematic assessment of the manpower consequences of government policies and programs. Accordingly, I am instructing the Secretary of Labor to develop for my consideration recommendations with respect to the most effective mechanisms for achieving such an assessment and for assuring the findings receive appropriate attention in the government's decision making processes.

The upturn in employment late in 1971, in response to the New Economic Policy which I announced in August, is another subject discussed in this report. The outlook is now favorable for economic and employment expansion. However, as I said in my Economic Report in January, unemployment must be further reduced. This will be accomplished by the stimulus given to employment through our fiscal and monetary policies and by a number of special measures discussed in the present record, among them:

—The expansion in enrollments in federally assisted manpower programs to record figures, providing a substantial increase in opportunities for Negroes and other minorities:

—The new program of public service employment which serves two purposes simultaneously—opening transitional jobs for unemployed workers and filling unmet needs for essential public services;

—Better matching of workers and jobs through computerized Job Banks; and

—Special programs to aid the reemployment of veterans and persons displaced because of cutbacks in the defense and aerospace programs.

Teenage workers have by far the highest jobless rate of any group—more than four times the rate for adult workers in 1971. The remedial action underway and

needed to meet their special problems is discussed in depth in this report. In particular, we propose a special, lower, youth minimum wage to help overcome employers' reluctance to hire inexperienced young workers.

A new approach to career education in the public schools is also being developed. This would give young people more realistic career preparation and help to build an easier, more effective school-to-work transition, paving the way toward a real solution to the problems of jobless youth.

The final focus of the report is on the professions. Scientists and engineers, teachers, doctors, and other professional and technical personnel represent only about one out of every seven workers, but they carry a responsibility for the country's economic and social well-being, its defense and position of world leadership, out of all proportion to their numbers.

We have two major objectives with respect to professional personnel. In the immediate future, we must promote full utilization of their talents and training, and we are moving strongly toward that goal through the special programs we have undertaken to aid the reemployment of the relatively small numbers of scientists and engineers now out of work or underemployed.

In the longer view, we must assure a supply of new entrants into the professions adequate to meet national needs. As the findings of this report indicate, this objective is in process of accomplishment in the major professional fields, including the health professions. With the increased Federal funds for medical and nursing education that I have recommended to implement the new 1971 health manpower legislation, rapid progress will be possible in achieving a better standard of health care for all Americans.

I am pleased to transmit herewith a report on manpower requirements, resources, utilization and training as required under the Manpower Development and Training Act.

RICHARD NIXON.

THE WHITE HOUSE, *March 15, 1972.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. BYRD of Virginia) 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.)

MESSAGE FROM THE HOUSE— ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills;

S. 888. An act for the relief of David J. Crumb;

S. 1362. An act to authorize the Commissioner of the District of Columbia to enter into contracts for the payment of the District's equitable portions of the costs of reservoirs on the Potomac River and its tributaries, and for other purposes; and

S. 1977. An act to establish the Oregon Dunes National Recreation Area in the State of Oregon, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. ALLEN).

EQUAL RIGHTS FOR MEN AND WOMEN

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 662, House Joint Resolution 208, proposing an amendment to the Constitution of the United States relative to equal rights for men and women. I do this so that the joint resolution may be the pending business.

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

The assistant legislative clerk read as follows:

Calendar No. 662, a joint resolution (H.J. Res. 208) proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

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

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

MEDALS IN COMMEMORATION OF THE FIRST U.S. INTERNATIONAL TRANSPORTATION EXPOSITION

Mr. MANSFIELD. Mr. President, I ask unanimous consent for immediate consideration S. 3353, a bill to provide for striking medals in commemoration of the First International Transportation Exposition, which I understand needs action soon. Incidentally, it is supposed to make some money for the U.S. Government.

The PRESIDING OFFICER. The bill will be stated by title.

The bill was read by title as follows:

A bill (S. 3353) to provide for the striking of medals in commemoration of the First United States International Transportation Exposition.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

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

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

Mr. MANSFIELD. Mr. President, I yield to the Senator from Alabama, who will make a brief explanation of the bill which has previously been cleared on this side because of the urgency of the matter.

Mr. SPARKMAN. Mr. President, this bill has been urgently requested by the Treasury and more particularly by the Director of the Mint.

The PRESIDING OFFICER. The Senator will suspend until the Senate is in order. The Senate will be in order.

The Senator from Alabama may proceed.

Mr. SPARKMAN. Mr. President, the bill has just been reported but there is urgency for its early enactment. There is involved a sizable sale and it will make money for the Treasury.

I wish to say to my friend from Michigan that I cleared this matter with the Senator from Pennsylvania (Mr. SCOTT) earlier.

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

Mr. SPARKMAN. I yield.

Mr. GRIFFIN. The bill comes from the Committee on Banking, Housing and Urban Affairs?

Mr. SPARKMAN. Yes.

Mr. GRIFFIN. And how about the ranking minority member of that committee, the Senator from Texas (Mr. TOWER)?

Mr. SPARKMAN. It was reported unanimously.

Mr. GRIFFIN. I thank the Senator. If I seemed surprised, the bill is not on the calendar.

Mr. SPARKMAN. No. It was reported this morning.

Mr. GRIFFIN. I thank the Senator.

Mr. SPARKMAN. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report on the bill.

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

EXPLANATION OF THE BILL

S. 3353, authorizes and directs the Secretary of the Treasury to strike and furnish at cost to the Secretary of Transportation medals commemorating the First United States International Transportation Exposition ("Transpo 72"), to be held at Dulles Airport May 27 through June 4, 1972. The medals may be of such sizes, content, and designs as the Secretary of Transportation may determine, subject to the approval of the Secretary of the Treasury.

The bill also authorizes the Treasury to sell such medals to the general public, as a list medal of the mint, at a price sufficient to cover all costs of manufacture, including labor, materials, dies, use of machinery, and overhead expenses. The bill was approved unanimously by the Committee.

TRANSPO 72

The First United States International Transportation Exposition was authorized by Congress in section 709 of Public Law 91–142, the Military Construction Authorization Act, 1970, enacted Decembr 5, 1969. Intended originally as an aeronautical exposition, "with appropriate emphasis on military aviation," the concept of the exposition was subsequently broadened to include all aspects of transportation, and all forms of transportation equipment, systems, and technologies. Under Executive Order 11538, issued by President Nixon on June 29, 1970, authority for establishing and conducting the exposition was assigned to the Secretary of Transportation.

According to information received by your committee from the Department of Transportation, Transpo 72 will have two primary purposes:

First, to be a showcase of new technology to assist urban centers in finding solutions to major problems of congestion and developing new methods to increase mobility of people and goods, such as STOL (short

takeoff and landing) aircraft, magnetic levitation trains, tracked air cushion vehicles, et cetera.

Second, to stimulate the sale of American manufactured products to domestic and foreign buyers.

Aeronautics will, of course, play an important role in the exposition, including military aviation.

The exposition site will cover 360 acres on the Dulles Airport grounds.

Members of Congress serving on the Secretary of Transportation's Advisory Committee for Transpo 72 include Representatives F. Edward Hébert, John J. McFall, Harley O. Staggers, Leslie C. Arends, Silvio O. Conte, and William L. Springer; and Senators Warren G. Magnuson, John C. Stennis, Clifford P. Case, and Norris Cotton.

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

The bill (S. 3353) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in commemoration of the First United States International Transportation Exposition, to be held at Dulles Airport, May 27 through June 4, 1972, the Secretary of the Treasury (hereinafter referred to as the "Secretary") is authorized and directed to strike medals of suitable sizes and metals, and with suitable emblems, devices, and inscriptions to be determined by the Secretary of Transportation, subject to the approval of the Secretary.

SEC. 2. The Secretary shall furnish the medals to the Secretary of Transportation at a price equal to the cost of the manufacture.

SEC. 3. The Secretary shall also cause such medals to be sold by the mint, as a list medal, under such regulations as he may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROGRAM

Mr. GRIFFIN. Mr. President, I seek recognition in order to inquire of the distinguished majority leader if he might give us some information about the program for the rest of the day and the rest of the week.

Mr. MANSFIELD. Mr. President, in response to the inquiry of the distinguished acting Republican leader, it is the intention of the Senate to consider the conference report on the debt limit this afternoon, if the House completes it in time. There well may be a yea-and-nay vote on that report.

It is not anticipated much will be done on the equal rights amendment this afternoon, or for that matter tomorrow.

Tomorrow it is the intention of the leadership to call up Calendar No. 490, S. 1821, a bill to amend the Federal Aviation Act, as amended, on which I am informed by the Senator from Nevada (Mr. CANNON) there may be several rollcall votes.

On Friday, if the Senate concurs, the time limitation already agreed to would begin with respect to the equal rights amendment. This is only fair to the distinguished Senator from North Carolina (Mr. ERVIN) who has been most cooperative, but who has been on his feet in connection with practically every bill since the Senate convened on January 18.

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

Mr. MANSFIELD. I yield.

Mr. ERVIN. I thank the distinguished majority leader for his cooperation. That is satisfactory.

Mr. MANSFIELD. Before I yield to the Senator from Indiana, I made the following request.

ORDERS FOR ADJOURNMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 10 a.m. tomorrow.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow it stand in adjournment until 10 a.m. on Friday.

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

(Subsequently, these orders were changed to provide that when the Senate completes its business today it adjourn until 10 a.m. on Friday, March 17, 1972.)

PROGRAM

Mr. MANSFIELD. Mr. President, there is a treaty which has been reported by the Committee on Foreign Relations on which there will be a yea-and-nay vote on either Friday or Monday.

I now yield to the distinguished Senator from Indiana (Mr. BAYH), manager of the bill which is the pending business.

EQUAL RIGHTS FOR MEN AND WOMEN

The Senate resumed the consideration of the joint resolution (H.J. Res. 208) proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

Mr. MANSFIELD. Mr. President, before the Senator from Indiana begins his statement, I ask unanimous consent that in any consideration of the pending business the time do not begin to run until the conclusion of the morning business on Friday morning next.

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

Mr. BAYH. Mr. President, the Senator from Indiana expresses deep appreciation to the majority leader for the way in which he has cooperated with the Senator from Indiana and all of us who are concerned about the present constitutional amendment which is now the pending business.

This is a matter which has been under discussion in this country for some 43 or 44 years. It passed the House and it is now before the Senate. With the permission of the Senator from Montana I thought a word or two might be helpful to our colleagues.

As has been mentioned earlier, with the concurrence of the Senator from North Carolina (Mr. ERVIN) and the Senate, and the unanimous-consent agreement has been reached under which the time limitation on the pending constitutional amendment is as follows:

A total debate on the amendment itself of 16 hours, to be equally divided 8 hours on a side; a total time limitation of 2 hours on each amendment, to be equally divided, 1 hour on a side; and pursuant to the agreement just reached by the Senate, this time will begin to run as of Friday.

Inasmuch as this matter has been the subject of some debate over a period of many months both on the floor of the Senate and in the subcommittee of which the Senator from Indiana has the privilege of being the chairman, the Subcommittee on Constitutional Amendments of the Committee on the Judiciary, I am hopeful that the Senate will be on notice that as of Friday we will relentlessly pursue the debate on this issue to its final consummation.

I am convinced the Senator from North Carolina is sincere in his determination not to participate in any delaying or dilatory tactics. Hopefully the rest of the Senate concurs and we can have a vote on this important issue up or down as quickly as it is discussed by Members of this body.

Inasmuch as several of our brother Senators are involved in important activities elsewhere, I would like the record to show that as floor manager of this constitutional amendment I intend to use all parliamentary rights available to me to see that this matter is brought to a vote as quickly as possible, and hopefully we can resist the well-intentioned efforts that will be made by some to amend it, so that the issue can be decided once and for all as it now stands: Does the Senate share the concern expressed by the House that at long last discrimination that has existed for far too long against the women of this country will be put to an end?

I would like also to express one additional word of gratification to our assistant majority leader, the Senator from West Virginia (Mr. BYRD), who has resolutely participated in reaching the time limitation agreement that some thought was impossible, but because of his efforts and the efforts of the Senator from North Carolina the issue is now put and in the foreseeable future will be resolved.

Mr. BYRD of West Virginia. I thank the distinguished Senator. He is most gracious and charitable, as is his normal practice.

WAIVER OF GERMANENESS RULE

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the rule concerning germaneness be waived for the remainder of today.

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

QUORUM CALL

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

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.

TRANSPORTATION OF GOVERNMENT TRAFFIC BY CIVIL AIR CARRIERS — UNANIMOUS - CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, the distinguished majority leader has indicated that the Senate, on tomorrow, will proceed to the consideration of S. 1821, a bill to amend the Federal Aviation Act, as amended, with respect to the transportation of Government traffic by civil air carriers of the United States.

I have discussed this bill with respect to a time limitation thereon, with several Senators, including the distinguished Senator from Mississippi (Mr. STENNIS), the distinguished Senator from Louisiana (Mr. ELLENDER), the distinguished Senator from Washington (Mr. MAGNUSON), the distinguished Senator from Nevada (Mr. CANNON), the distinguished assistant Republican leader (Mr. GRIFFIN), and others. The distinguished majority leader has authorized me to propound at this time the following unanimous-consent request:

I ask unanimous consent that time for debate on S. 1821 be limited to 4 hours, to be equally divided between the distinguished majority leader and the distinguished minority leader, or whomever they may designate; provided further, that time on any amendment, debatable motion, or appeal be limited to 30 minutes, to be equally divided between the mover of such and the manager of the bill, except in any instance in which the manager of the bill may be in favor of such, in which instance the time in opposition thereto be under the control of the distinguished minority leader or his designee; ordered further, that time on an amendment which will be offered by the distinguished Senator from Louisiana (Mr. ELLENDER) be limited to 1 hour, to be equally divided between the distinguished mover of the amendment and the manager of the bill; provided further, that Senators in control of the time on the bill may yield therefrom to any Senator on any debatable motion, amendment, or appeal.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

RECESS UNTIL 2 P.M.

Mr. MANSFIELD. Mr. President, in view of the fact that the Senate has no business to transact at the moment and that the House is now in the process of considering the conference report on the raise in the debt ceiling, and because that is a very important measure at this particular time, as far as the fiscal policy and the financial stability of the U.S. Government is concerned, after talking it over, the joint leadership has decided that we ought to face up to that issue this afternoon.

Therefore, I move that the Senate stand in recess until the hour of 2 o'clock, and I would hope that, if this motion is agreed to by the Senate, Senators will be on notice and will be here, because there is a possibility of a rollcall vote.

Mr. GRIFFIN. Mr. President——

The PRESIDING OFFICER. Will the majority leader withhold putting his motion until the Senator from Michigan can speak

Mr. MANSFIELD. Yes.

Mr. GRIFFIN. Mr. President, I want to express my appreciation to the distinguished majority leader. I do not think any Senator, on either side of the aisle, particularly enjoys voting on the increase in the debt ceiling, but I think this is a good example of fine cooperation, and I want to indicate my appreciation to the distinguished majority leader.

Mr. MANSFIELD. I thank the Senator.

Mr. President, I renew my motion.

The PRESIDING OFFICER. The question is on the motion of the Senator from Montana to recess until 2 p.m.

The motion was agreed to; and at 12:38 p.m. the Senate took a recess until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FANNIN).

UNIVERSAL COPYRIGHT CONVENTION—REMOVAL OF INJUNCTION OF SECRECY

Mr. MANSFIELD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Universal Copyright Convention, as revised at Paris on July 24, 1971, together with two related Protocols—Executive G, 92d Congress, second session, transmitted to the Senate today by the President of the United States, and that the convention and protocols with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

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

The message from the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a certified copy of the Universal Copyright Convention as revised at Paris on July 24, 1971, together with two related Protocols. I transmit also, for the information of the Senate, the report of the Acting Secretary of State with respect to the Convention.

Essentially, the purpose envisaged in negotiating the Convention was to satisfy the practical needs of developing countries for ready access to educational, scientific, and technical works, without weakening the structure and scope of copyright protection presently offered by developed countries under the two multilateral conventions on copyright.

The 1971 revised Convention represents a fair and effective balance of different interests and will make a significant contribution to the solution of copyright problems. I recommend that the Senate give early and favorable consideration to the Convention and protocols.

RICHARD NIXON.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

VISIT TO THE SENATE BY MEMBERS OF THE KOMEITO PARTY OF THE JAPANESE DIET

Mr. SCOTT. Mr. President, it is my great honor to introduce to the Senate at this time some distinguished visitors whom the present Presiding Officer, the distinguished Senator from Arizona (Mr. FANNIN), and a number of other Senators had the pleasure of meeting when they visited Japan.

Our distinguished guests are members of the Komeito Party of the Japanese Diet. Acting as their interpreter is their distinguished Ambassador to the United States, Nobuhiko Ushiba.

Mr. President, let me introduce at this time the Chairman of the Komeito Party, Mr. Y. Takeiri. Then Mr. Y. Masaki and Mr. A. Kuroyanagi; and to say that we are very glad to have them here.

RECESS

Mr. President, I move that the Senate stand in recess for 5 minutes so that we may greet our distinguished visitors

(Applause, Senators rising.)

The motion was agreed to; and at 2:02 p.m. the Senate took a recess for 5 minutes.

The Senate reassembled at 2:07 p.m., when called to order by the Presiding Officer (Mr. FANNIN).

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

RESCISSION OF ORDER TO CONSIDER S. 1821 TOMORROW

Mr. MANSFIELD. Mr. President, earlier today, a unanimous-consent agreement was reached under which Calendar No. 490, S. 1821, would be brought up tomorrow.

Because of a detail which we overlooked, that will not be the case, but it is the intention of the joint leadership to call it up some time next week at an appropriate time; and at that time, the agreement relative to the limitation of time will prevail.

Mr. SCOTT. No objection.

ORDER FOR ADJOURNMENT TO 10 A.M. ON FRIDAY NEXT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 10 a.m. on Friday next.

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, it is my understanding that the conference report on the debt ceiling will arrive in the Senate Chamber at 2:15 or shortly thereafter today.

Mr. SCOTT. Mr. President, I want the record to show that sentries are posted, the outriders are prepared, the portcullis is up, the drawbridge is down; so that whenever the other body is ready to advance with troops, we will receive them joyfully.

Mr. MANSFIELD. Not only Democrats are missing today but a few Republicans as well.

Mr. SCOTT. I was not referring to absentees. I was referring to our happiness over meeting anything the other body sends over. I was referring to our happiness in greeting anything the other body would send over to us.

Mr. MANSFIELD. Well——

[Laughter.]

Mr. SCOTT. We are glad they are in session.

Mr. MANSFIELD. I have a suspicious feeling. [Laughter.]

CONSIDERATION OF EXECUTIVE CALENDAR NO. 19—INTERNATIONAL ATOMIC ENERGY AGENCY

Mr. MANSFIELD. Mr. President, it is the intention of the joint leadership to call up at an appropriate time, today, or Friday morning, Calendar No. 19 on the Executive Calendar, Executive C—92d Congress, second session—an amendment to paragraphs A, B, C, and D of article 6 of the Statute of the International Atomic Energy Commission, approved by the General Conference of the Agency on September 28, 1970, and I ask unanimous consent that the Senate grant unanimous consent that a vote be taken on this convention at 12 o'clock Friday, noon, next.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination at the desk, which was reported earlier today.

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

JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION OF ALASKA

The assistant legislative clerk read the nomination of Jack O. Horton, of Wyoming, to be a member of the Joint Federal-State Land Use Planning Commission for Alaska.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. HANSEN. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

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

LEGISLATIVE SESSION

Mr. HANSEN. Mr. President, I move that the Senate return to the consideration of legislative business.

The motion was agreed to; and the Senate resumed the consideration of legislative business.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, informed the Senate that Mr. GAYDOS had been appointed as a manager on the part of the House at the conference on the disagreeing votes of the two Houses on the bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, the General Education Provisions Act—creating a National Foundation for Postsecondary Education and a National Institute of Education—the Elementary and Secondary Education Act of 1965, Public Law 874, 81st Congress, and related acts, and for other purposes; vice Mr. SCHEUER, resigned.

The message announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12910) to provide for a temporary increase in the public debt limit.

TEMPORARY INCREASE IN PUBLIC DEBT LIMIT—CONFERENCE REPORT

Mr. LONG. Mr. President, I submit a report of the committe of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12910) to provide for a temporary increase in the public debt limit.

I ask unanimous consent for the present consideration of the report.

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

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

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of March 9, 1972, at page 7716.)

Mr. LONG. Mr. President, I will not ask for a vote at this moment. I am going to suggest the absence of a quorum before we vote on this matter because of the importance of the measure. However, I would like to say a word or two about the measure before I suggest the absence of a quorum.

As the Senators know, it was the the view of the Senate that there should be a spending limit amendment added to the bill. I did the utmost I could. In fact, I voted against removing the spending ceiling amendment from the debt limit bill. A considerable portion of it was language that the manager of the bill, the junior Senator from Louisiana, was successful in adding to the bill. Unfortunately the House did not agree with the Senate amendment. The House conferees were adamant in opposition to the parts I was successful in adding and a part of which was agreed to by a 6-to-1 margin.

The administration would agree to a spending limit, but to one in the form of the Senate amendment. The House was willing to consider certain parts of the amendment but not other parts. It was the view of the House conferees that the matter should be studied further; that there should be hearings on the subject; that neither the Committee on Finance of the Senate nor the Committee on Ways and Means of the House has jurisdiction over such legislation; and that there will be another debt limit bill before the end of the fiscal year in case the Senate wishes to legislate on a measure over which the Committee on Finance has jurisdiction. Of course, I would cheerfully admit that any Senator has the opportunity to offer his amendment again, and I also reserve that right for myself, when the debt limit measure comes before the Senate again, if anyone wishes to use the Finance Committee measure as a vehicle

to offer that spending limitation. It would be more appropriate that the Appropriations Committees conduct hearings on this matter and bring a recommendation before us, in view of the fact that if such a measure were introduced purely on its own merits in the Senate it probably would be referred to the Committee on Appropriations rather than the Committee on Finance.

The Committee on Finance and the Committee on Ways and Means have jurisdiction over the manner in which funds are to be raised. Therefore, although I voted against receding on this matter, I respect the view of the majority of my conferees who, as a group, probably felt more strongly in favor of a spending limitation than I did. I signed the conference report because I was convinced that I was incapable of imposing my will on the House, although I would like to have done so, had I been able to do so.

Both the House and the Senate versions of this bill provide a further temporary increase in the public debt limit of $20 billion throughout June 30, 1972. Combined with the present permanent and temporary limit this will raise the debt limit to $450 billion from the date of enactment of the bill through June 30. After that date the limit will revert to $400 billion, the permanent limitation on the debt.

Since the debt limit was the same in both bills this was not a matter at issue in the conference. As the Senators know, Senate action last week added two sections to the bill providing a limitation on expenditures by the Federal Government during fiscal year 1973. This includes the Roth amendment as modified by the Spong substitute and the provisions I offered and which the Senate accepted.

In brief, the Senate amendment would have accepted the President's proposed spending level of $246.3 billion as an expenditure ceiling for the fiscal year 1973 but provided two basic modifications in this ceiling. First, it would have provided that this ceiling could be adjusted upward or downward to the extent Congress, through action on appropriations bills, raised or lowered the expected expenditure level.

Second, four expenditure categories which account for major uncontrollable expenditure categories, together with two receipt categories, would have been excepted from the application of the expenditure ceiling but only to the extent that amounts spent for, or to the extent that receipts received from, these categories exceeded in the case of expenditures, or fell short of in the case of receipts, the amounts shown in the budget. However, this exception for expenditures exceeding, or receipts falling short of, the budget totals could have raised the expenditure ceiling by no more than $6 billion above the levels shown in the budget.

The uncontrollable expenditure categories where the excess over the budget would not have been taken into account are: The social insurance trust funds—that is, social security, medicare, unemployment insurance, and retirement programs; the national service life insurance trust fund; interest on the public debt; and farm price support payments by the Commodity Credit Corporation. The receipts where a decline from an amount shown in the budget would have been taken into account in this expenditure ceiling were receipts from leases on lands on the Outer Continental Shelf and sales of financial assets of programs administered by the Farmers Home Administration, the Veterans' Administration and agencies of HUD.

The Senate amendment also would have required the President to inform the Congress as to how he planned to reduce spending when necessary to bring the total within the ceiling limitation. Then Congress was given a 30-day period in which to substitute its own program for reducing spending to the expenditure ceiling.

The House conferees were unwilling to accept this Senate amendment providing an expenditure ceiling. In part this was because the House conferees stated that under their rules this amendment was not germane to an increase in the public debt limitation. In view of this they pointed out that it would have taken a separate vote of the House on such an amendment had they taken it back to the House.

They also pointed out that this was not a matter which came before the Ways and Means Committee of the House. They stated that the issue had been presented to the House Appropriations Committee by the administration but as yet the Appropriations Committee had taken no action on any such limitation.

In view of these considerations the House conferees were most reluctant to agree to any expenditure limitation. It also became clear in the conference that if an expenditure limitation were to be adopted the House conferees might have different views as to how such a limitation should be constructed. I should also add that the administration's representatives who attended the conference expressed their dissatisfaction with any expenditure limitation on this bill and particularly one which did not take the exact form proposed by the administration.

A factor which was persuasive with the Senate conferees in agreeing to omit this amendment related to a matter of timing. Since this is an expenditure limitation for the fiscal year 1973 and since the debt limitation provided by this bill relates to the fiscal year 1972 there will of necessity be another debt limitation bill before us before the beginning of the fiscal year 1973. As a result, the Senate will again have an opportunity before the beginning of the fiscal year 1973 to legislate an expenditure limitation as a part of a bill to provide for an increase in the public debt limitation should it care to do so. This is evident from the fact that the debt limitation at the end of June 30 will revert to $400 billion, while the debt estimated by the Treasury on that date is expected to amount to $443 billion. Obviously, this will require another consideration of the debt limitation before the end of June of this year and before an expenditure ceiling for 1973 would in any case come into operation.

There is the additional fact that if we wait for consideration of an expenditure ceiling until later in the year the Appropriations Committees, appropriately the committees to consider an expenditure ceiling, will have an opportunity to consider the matter and report to the Congress as to their notions of the best type of expenditure ceiling to consider.

In view of these considerations and because it was imperative that the Treasury borrowing authority be increased immediately, the majority of the Senate conferees concluded that they should not insist upon the Senate amendment at this time.

Mr. President if we are not to face the Treasury with a difficult and expensive problem in managing the public debt we must act upon this bill immediately. It is the only fiscally responsible thing to do. Mr. President I urge the Senate approve the conference report on H.R. 12910.

The only real point at issue between the House and the Senate was the spending limitation. We will offer the Senate further opportunities to conduct hearings, and the House will do so as well, and to vote again on this measure if that be the desire of Senators between now and the end of the session.

Mr. President, I now 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. LONG. 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. LONG. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. LONG. Mr. President, I ask unanimous consent that the requirement of the printing of the report of the conferees, as a report of the Senate be waived, in view of the fact that such a printing has occurred in the House of Representatives.

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

The question is on agreeing to the conference report. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from

Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I also announce that the Senator from Connecticut (Mr. RIBICOFF) is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

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

If present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

The result was announced—yeas 55, nays 33, as follows:

[No. 110 Leg.]

YEAS—55

Aiken	Dole	Moss
Allott	Fong	Nelson
Anderson	Griffin	Packwood
Baker	Hart	Pastore
Bayh	Hruska	Pearson
Beall	Hughes	Saxbe
Bellmon	Humphrey	Schweiker
Bennett	Inouye	Scott
Bentsen	Javits	Smith
Bible	Jordan, Idaho	Sparkman
Boggs	Kennedy	Stafford
Brooke	Long	Stevens
Burdick	Magnuson	Stevenson
Byrd, W. Va.	Mansfield	Tower
Cannon	Mathias	Tunney
Case	McGee	Williams
Cooper	McGovern	Young
Cranston	Miller	
Curtis	Montoya	

NAYS—33

Allen	Ellender	Pell
Brock	Ervin	Proxmire
Buckley	Fannin	Randolph
Byrd, Va.	Gambrell	Roth
Chiles	Goldwater	Spong
Church	Gurney	Stennis
Cook	Hansen	Symington
Cotton	Hartke	Taft
Dominick	Hatfield	Talmadge
Eagleton	Hollings	Thurmond
Eastland	Jordan, N.C.	Weicker

NOT VOTING—12

Fulbright	McClellan	Mundt
Gravel	McIntyre	Muskie
Harris	Metcalf	Percy
Jackson	Mondale	Ribicoff

So the conference report was agreed to.

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

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION—AMENDMENT TO STATUTE OF INTERNATIONAL ATOMIC ENERGY AGENCY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider Calendar No. 19, Executive C, 92d Congress, 2d session.

The PRESIDING OFFICER (Mr. ROTH). Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the amendment to paragraphs A, B, C, and D of article VI of the Statute of the International Atomic Energy Agency, approved by the General Conference of the Agency on September 28, 1970, which was read for the second time, as follows:

AN AMENDMENT OF ARTICLE VI OF THE STATUTE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY

(a) Replace sub-paragraphs A.1–A.3 by the following:

1. The outgoing Board of Governors shall designate for membership on the Board the nine members most advanced in the technology of atomic energy including the production of source materials, and the member most advanced in the technology of atomic energy including the production of source materials in each of the following areas in which none of the aforesaid nine is located:

(1) North America
(2) Latin America
(3) Western Europe
(4) Eastern Europe
(5) Africa
(6) Middle East and South Asia
(7) South East Asia and the Pacific
(8) Far East.

2. The General Conference shall elect to membership of the Board of Governors:

(a) Twenty members, with due regard to equitable representation on the Board as a whole of the members in the areas listed in sub-paragraph A.1 of this article, so that the Board shall at all times include in this category five representatives of the area of Latin America, four representatives of the area of Western Europe, three representatives of the area of Eastern Europe, four representatives of the area of Africa, two representatives of the area of the Middle East and South Asia, one representative of the area of South East Asia and the Pacific, and one representative of the area of the Far East. No member in this category in any one term of office will be eligible for re-election in the same category for the following term of office; and

(b) One further member from among the members in the following areas: Middle East and South Asia, South East Asia, and the Pacific, Far East;

(c) One further member from among the members in the following areas: Africa, Middle East and South Asia, South East Asia and the Pacific.

(b) In paragraph B:

(i) First sentence—replace "sub-paragraphs A—1 and A—2" by "sub-paragraph A—1"; and

(ii) Second sentence—replace "sub-paragraph A—3" by "sub-paragraph A—2";

(c) In paragraph C, replace "sub-paragraphs A—1 and A—2" by "sub-paragraph A—1"; and

(d) In paragraph D, replace "sub-paragraph A—3" by "sub-paragraph A—2", and delete the second sentence.

On behalf of the Director General of the International Atomic Energy Agency, I. S. Sugihara, Director of the Legal Division of the Secretariat, hereby certify that the foregoing is the text, in the Chinese, English, French, Russian, and Spanish languages, of the amendment of Article VI of the Statute approved by the General Conference, in accordance with the provisions of Article XVIII.C.(i) thereof, on September 28, 1970.

S. SUGIHARA.

NOVEMBER 19, 1970.

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

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I believe consent has already been granted to vote on the pending treaty at 12 o'clock on Friday next.

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time for the vote be changed from 12 o'clock to 1 p.m. on Friday afternoon next.

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

Mr. MANSFIELD. Mr. President, this amendment to the statute of the International Atomic Energy Agency would increase the membership of the Board of Governors of the International Atomic Energy Agency—IAEA—from 25 to 34 or, possibly, 35 members. The size of the Board can vary slightly depending upon the number of designated members.

According to the Department of State, the purpose of the amendment is to achieve more equitable representation on the Board of Governors of the IAEA for the countries of the lesser developed regions as well as to increase the representation of countries most advanced in the technology of atomic energy. Under its provisions, the number of members most advanced in the technology of atomic energy including the production of source materials which are designated by the Board is increased from five to nine. These five designated members of the Board have been the United States, the United Kingdom, the U.S.S.R., France, and Canada. By widespread, unwritten agreement among Agency members, the four additional designated members would be the Federal Republic of Germany, Italy, India, and Japan. The entry of the Peoples Republic of China into the Agency would, however, necessitate a review of the members in this category.

In addition, the amendment also continues the provision for representation by designated members of geographic areas not represented by the most advanced nine states, while it eliminates other categories of designated members.

The amendment will enter into force when two-thirds of the member states (68) have deposited their instruments of acceptance. Thus far, 28 states have accepted the amendment.

Mr. President, I should like to say—incidentally and in passing—that if this is the type of treaty which is supposed to occupy the concern of the Committee on Foreign Relations and to call for a two-thirds vote for ratification, then I think there is something wrong with our system, when there are other treaties of greater substance and more import than one having to do with increasing the board from 25 to 34 or possibly 35 members.

I would hope that this kind of treaty could be executed on the basis of an executive agreement and that many of the executive agreements could be executed in forms of treaties, so that they could be referred to the Committee on Foreign Relations and disposed of one way or the other by the Senate.

Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report of the Committee on Foreign Relations.

There being no objection, the ex-

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

PURPOSE

This amendment would increase the membership of the Board of Governors of the International Atomic Energy Agency (IAEA) from 25 to 34 or, possibly, 35 members. (The size of the Board can vary slightly depending upon the number of designated members.)

According to the Department of State, the purpose of the amendment is to achieve more equitable representation on the Board of Governors of the IAEA for the countries of the lesser developed regions as well as to increase the presentation of countries most advanced in the technology of atomic energy. Under its provisions, the number of members most advanced in the technology of atomic energy including the production of source materials which are designated by the Board is increased from five to nine. These five designated members of the Board have been the United States, United Kingdom, the U.S.S.R., France and Canada. By widespread, unwritten agreement among Agency members, the four additional designated members would be the Federal Republic of Germany, Italy, India and Japan. The entry of the Peoples Republic of China into the Agency would, however, necessitate a review of the members in this category.

In addition, the amendment also continues the provision for representation by designated members of geographic areas not represented by the most advanced nine states, while it eliminates other categories of designated members.

DATE OF ENTRY INTO FORCE

The amendment will enter into force when two-thirds of the member states (68) have deposited their instruments of acceptance. Thus far, 28 states have accepted the amendment.

COMMITTEE ACTION

The Committee on Foreign Relations held a public hearing on the Amendment to the Statute of the International Atomic Energy Agency on March 2, 1972. At that time, testimony in support of the amendment was received from Mr. John T. Trevithick, Director, Science and Technology, Bureau of International Organization Affairs, Department of State. His prepared statement is reprinted below.

On March 9, 1972, the Committee met in executive session and ordered the amendment reported favorably with the recommendation that the Senate give its advice and consent to ratification thereof.

STATEMENT OF JOHN P. TREVITHICK, DIRECTOR, SCIENCE AND TECHNOLOGY, BUREAU OF INTERNATIONAL ORGANIZATION AFFAIRS, DEPARTMENT OF STATE

Mr. Chairman, I am pleased to appear today to speak for the Department of State in support of the amendment to the Statute of the International Atomic Energy Agency on which the President has requested the Senate's advice and consent to acceptance.

The amendment which is before the Committee would increase the size of the Board of Governors, which is the principal executive body of the IAEA. It now has 25 members. The proposed amendment would expand the Board to 34 or 35 seats. The United States Representative on the Board, incidentally, is Ambassador T. Keith Glennan, former AEC Commissioner and first Administrator of NASA.

The amendment was negotiated over a period of two years between 1968 and 1970. It was approved by the General Conference of the Agency in September 1970. It must be accepted by two-thirds of the member states of the Agency before it can come into effect.

Essentially this amendment is responsive to two developments. On the one hand, the amendment responds to the growth in the membership of the IAEA from 58 nations in 1957 to 102 members today. On the other hand, the amendment responds to the intensified interest in the Agency on the part of the non-nuclear weapons states as a result of the Treaty on the Non-Proliferation of Nuclear Weapons. This amendment when it enters into force upon acceptance by the necessary two-thirds of the total membership of the Agency, will achieve a more equitable representation on the Board of Governors for the countries of the lesser developed regions as well as an increase in the representation of the countries most advanced in the technology of atomic energy.

Briefly summarized, the Board of Governors is made up of members designated annually by the outgoing Board and other members elected by the General Conference at its annual sessions. The categories of designated members would be adjusted as follows: those member states most advanced in the technology of atamic energy, including the production of source material, would increase from 5 to 9, and those most advanced in geographical areas not represented in the first category would be reduced from 5 to either 3 or 4 depending upon whether one or two members now in this second category moved into the top category. The number of elected members would increase from 12 to 22.

So far, 28 member states have deposited their instruments of acceptance to this amendment. Sixty-eight acceptances are required to bring it into effect.

The United States supported and co-sponsored this amendment, both in the Board of Governors and at the General Conference. I have noted before the role that the Treaty on the Non-Proliferation of Nuclear Weapons has played in the background to this amendment. The Department believes that the progress made by the IAEA in the negotiation and conclusion of safeguards agreements pursuant to the Non-Proliferation Treaty is encouraging and that the United States should proceed with ratification of this amendment. We anticipate that United States ratification will encourage ratification on the part of other countries, and thus help bring into effect the broader representation that the amendment would provide.

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

Mr. MANSFIELD. I yield.

Mr. DOMINICK. Did the Senator say at what time there might be a vote on this treaty? Having been to Vienna last September as a representative from the Joint Committee to the International Atomic Energy Agency, I think that the form of the agreements in setting up that agency requires a treaty. It seems to me that this is a very good one, and I fully support it.

I just wonder when we might have a vote on it.

Mr. MANSFIELD. The Senate has agreed to vote on it at 1 p.m. on Friday, March 17, 1972.

Mr. DOMINICK. Unfortunately, I will have to be out of town, but I do want to exhibit my full concurrence with that treaty proposal.

Mr. MANSFIELD. I appreciate the remarks of the Senator. My point was that it seems odd to have a treaty which increases the membership from 25 to 34 or 35, and that, in reality, is all it does. It takes up time when there are matters of greater substance which I think should take up the attention of the Senate.

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

Mr. MANSFIELD. I yield.

Mr. AIKEN. Mr. President, the Committee on Foreign Relations conducted a hearing on the proposed amendment to the treaty earlier this month and recommended that it be adopted without any opposition, to the best of my knowledge. Even though the IAEA might have been an agreement in the beginning, it was written originally as a treaty, and this is an amendment to the treaty. Therefore, I think it would have to have the same treatment. I know of no opposition to this.

More countries are coming into this organization, and it was felt advisable to increase the size of the board and the advisory committee.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the treaty be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which I would suggest that the clerk now report.

The PRESIDING OFFICER. If there be no objection, Executive C, 92d Congress, 2d session, will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will read for the information of the Senate.

The legislative clerk read as follows:

Resolved, (Two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Amendment to Paragraphs A, B, C, and D of Article VI of the Statute of the International Atomic Energy Agency, approved by the General Conference of the Agency on September 28, 1970 (Ex. C, 92–2).

The PRESIDING OFFICER. It has been agreed that the vote on this treaty will occur at 1 p.m. on Friday next.

LEGISLATIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER FOR RECOGNITION OF SENATOR PERCY ON TOMORROW VACATED AND TRANSFERRED TO FRIDAY

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order recognizing the distinguished Senator from Illinois (Mr. PERCY) on tomorrow for not to exceed 15 minutes be vacated and that the order be transferred to Friday, immediately following the recognition of the two leaders under the standing order.

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

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, for the information of the Senate, there will be no additional votes today.

It is my understanding that the distinguished senior Senator from Virginia (Mr. BYRD) wishes to address the Senate at this time. Following his address, if no other Senators seek recognition for any purpose, it will be the intention of the leadership to adjourn until Friday morning at 10 o'clock, under the order previously entered.

GRIFFIN AMENDMENT IS CONSTITUTIONAL

Mr. GRIFFIN. Mr. President, on March 1, the Senate came within one vote—48 to 47—of passing an amendment designed to withdraw jurisdiction from the Federal courts to order busing of schoolchildren on the basis of race.

Earlier a similar amendment offered by the junior Senator from Michigan (Mr. GRIFFIN) was first adopted on February 25 by a vote of 43 to 40, and then rejected on February 29 by a vote of 47 to 50.

In part the amendment read:

No court . . . shall have jurisdiction . . . to issue any order . . . to require that pupils be transported to or from school on the basis of their race, color, religion or national origin.

Mr. President, at the time some in the Senate argued that such an amendment, if enacted, would be unconstitutional. On the other hand, this Senator argued strongly that it is within the power of Congress under article III of the Constitution to limit the jurisdiction of Federal courts, including the Supreme Court, in the manner provided in the amendment.

Mr. President, I ask unanimous consent that a well reasoned, scholarly thesis on the general issue, written in 1966 by Michael Cronin in partial fulfillment of requirements for his law degree cum laude from Harvard Law School, be printed in the RECORD.

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

THE POWER OF CONGRESS TO RESTRICT THE APPELLATE JURISDICTION OF THE SUPREME COURT, THE ORIGINAL UNDERSTANDING

(By Michael Cronin)

It had long been generally assumed that the power of Congress concerning the extent of appellate Supreme Court jurisdiction was plenary.[1] Because the issue was more or less theoretical, many works on Constitutional Law completely overlook the entire question.[2] In recent years however, as a reaction to a Supreme Court decision in some area has developed, Congressional action to restore the status quo ante has increasingly involved attempted changes in the jurisdiction of the Court to hear any future case concerning the same point.

The Jenner Bill,[3] introduced in 1957 failed of passage in the Senate.[4] In 1964 a bill denying jurisdiction to the lower federal courts to hear cases questioning state legislative apportionment and to the Supreme Court to hear appeals from both federal and state courts concerning legislative apportionment, passed in the House.[5] The ease of statutorily restricting the Court's appellate jurisdiction in comparison with the time consuming process of amending the Constitution when it is desired by the Congress to restore past conditions, combined with the Court's continued reformist desires, give indications that if an unpopular decision occurs in the near future, Congress will again attempt to restrict the Court's jurisdiction.

Possibly because of the above Congressional action, and because of a reversal in traditional political views toward the Supreme Court, several recent articles and books have appeared questioning the extent of Congress' power [6] and attempting to mark its Constitutional limits far short of the Jenner or Tuck bills.[7]

This paper presents a historical study of the applicable Constitutional provisions in an attempt to fathom the original understanding of the Framers. The questions asked are two. (1) Was it intended that an individual has a Constitutional right to present his claim arising under the Constitution, a federal statute or a United States treaty in an appeal before the Supreme Court? [8] To this it is believed the answer is clearly No. (2) Was it intended that Congress have the authority to deprive the Supreme Court of all jurisdiction to hear a particular type of Constitutional claim, federal statutory claim or treaty claim? To this it is believed the answer is clearly Yes.[9] It will endeavor not to discuss the power of Congress to completely deprive the Supreme Court of all or nearly all of its appellate jurisdiction, but will center discussion on a limited deprivation analogous to the Tuck or Jenner Bills.[10]

INTRODUCTION

Power in Congress over the Supreme Court appellate jurisdiction flows in the first instance from Article III, sections 1 and 2 of the United States Constitution.[11] In addition Congressional power might also derive from Article I, section 8,[12] including the necessary and proper clause.[13]

Any argument asserting Congressional power over appellate jurisdiction is of necessity based primarily on the last sentence of paragraph 2, section 2 of Article III, the Exceptions and Regulations Clause. By its terms this clause grants Congressional power in the area of Supreme Court appellate jurisdiction. The first sentence of paragraph 2, section 2 of Article III in contra-distinction vests original jurisdiction in the Supreme Court and is silent as to Congressional control. The enumeration of cases where the Supreme Court is to have original jurisdiction is limited in comparison to those in which it is to have appellate jurisdiction, indicating an intent to make the Supreme Court's business mostly appellate.[14]

At first glance then of the bare words of the Constitution, appeals to the Supreme Court appear either (1) to the Constitutionality allowed in cases which fall within the judicial power of Article III (subtracting however cases affecting ambassadors and those in which a state is a party) but not Constitutionally required, or (2) Constitutionally required but with a power in Congress to regulate these appeals and to make exceptions from them in certain cases. Either interpretation, it should be noted, gives Congress power in this area. It may be argued however that the second, whereby a vested power is subject to limited Congressional divestment, is more restrictive on Congress than the first because it involves taking away of Constitutionally granted power from a co-equal branch. The first interpretation would apparently require affirmative Congressional action before any appeal at all could be heard, which would mean unlimited Congressional power over appeals. This is because the idea of legal compulsion on a legislature to pass a statute is unprecedented in Anglo-American history, i.e. if Congressional action is required before appeals can be heard, political theory indicates this action is within the discretion of Congress.

If treated as purely a matter of verbal interpretation than the indicated intent that the Supreme Court mostly be involved with appeals, plus the germ of an idea expressed by any exception power that something must pre-exist to be excepted from, combined with the concept that mandatory and compulsive legislature action is not a normal democratic theory, would seem to indicate that the second interpretation is the correct one.

Even if the first interpretation was intended, the scheme of government set up by the Constitution of a tripartite federal system of nearly co-equal branches, would seem to indicate that Congress would be compelled Constitutionally to give to the Supreme Court appellate jurisdiction subject only to certain exceptions and regulations it may desire, regardless of previous concepts of legislative theory. But who would force the Congress to act and pass a statute granting jurisdiction and how would this be accomplished. If the first interpretation was intended of necessity Congressional power must be plenary although the whole theory of American government would press on Congress the political requirement to use its power to establish as much appellate jurisdiction as possible. It is the conclusion of the author that the first interpretation was intended by the Framers with an understanding similar to that mentioned in the preceding sentence.

THE INTENT OF THE FOUNDERS

The discovery of any legislative intent is a very nebulous thing. Gouverneur Morris, a delegate to the Constitutional Convention of 1787, was asked years afterward what was the meaning of a certain phrase in the Constitution based on what he had heard at Philadelphia and remembered. He declined to answer saying:

"If I could [remember], it is most probable that a meaning may have been conceived from incidental expressions different from that which they were intended to convey, and very different from the fixed opinions of the speaker. This happens daily." [15]

To Morris' caution may be added several others. The records of this time are scanty, and the discussions confused. In late years as abstract Constitutional provisions became of concrete political importance, the personal interests of the Framers would be affected by an interpretation one way or the other. Their beliefs therefore of what was intended by a particular provision may have become so colored by their own immediate self-interest as to make their statements then very unreliable. This paper attempts to avoid this last danger by largely restricting research for intent to things that were said in the years 1787–1789.

(1) *The Constitutional Convention of 1787*

The determination of the meaning of the clauses in question, especially the Exception and Regulations Clause, requires first a search of the records of the Constitutional Convention of 1787. After assembling at Philadelphia in 1787, fears of later misuse of what was said in deliberating on the projected Constitution possibly based on observations similar to those of Gouverneur Morris, led the Convention to impose an oath of secrecy on all members.[16] In addition, at the Convention's end in September, William Jackson, the only paid employee, burned all papers in his charge.[17] Enough of the delegates kept private journals and papers however that some light can be shed on the proceedings drafting the Judiciary Article.

That a Supreme Court was desired by most members of the Constitutional Convention is beyond refute.[18] Most of the delegates also believed inferior federal courts were necessary at least to exercise admiralty jurisdiction, but while originally making their establishment constitutionally mandatory [19] on a motion of Rutledge rejected this and substituted discretion to establish these inferior tribunals in the Congress.[20] During the debate on the motion, Rutledge commented on the possibility of appeals from the state courts to the Supreme Court, making lower federal courts unnecessary.[21]

Footnotes at end of article.

Some delegates assumed that the judicial power would extend to declaring Congressional and state statutes Unconstitutional.[22] Proposals were advanced to give the Congress a veto power over state laws but these were defeated partially on the grounds that they would be too much of an interference with state legislatures and that the Supreme Court would have this power anyway, in its exposition of the laws.[23] Much discussion ensued concerning to what the judicial power should properly extend. Randolph moved that a Committee on Detail be established to draw up the judiciary powers. He admitted the great difficulty in finally determining what they should be.[24] Later the Convention as a whole slightly altered Randolph's proposals[25] and submitted their change to a newly created Committee on Detail.[26] Both Randolph's submission and those of the Convention as a whole were of an extremely general nature. It was obviously intended that the Committee on Detail have great discretion in drawing up the specifics of what the judicial power would be.[27]

Various stages of the work of the Committee on Detail show the development of the Clause which became Article III, section 2.[28] In the Committee on Detail papers, in the handwriting of Randolph with changes by Rutledge, the first qualification of the previously unfettered Supreme Court appellate jurisdiction appears.[29] A qualification appears again in the Committee on Detail papers in Wilson's handwriting with Rutledge again correcting, here for the first time using the words "with such exceptions and under such Regulations as the Legislative shall make".[30] In addition this draft permitted the Congress to assign this appellate jurisdiction in the manner and under the limitations it deemed proper to any inferior courts it should constitute.

Mr. Rutledge then delivered a printed copy of the final Committee draft to each member of the Convention.[31] This draft enumerated the jurisdiction of the Supreme Court and after specifying the few original jurisdiction cases, stated "In all the other cases before mentioned, it shall be appellate, with such exception and under such regulations as the Legislature shall make. The legislature may assign any part of the jurisdiction above mentioned (except the trial of the President of the United States) in the manner, and under the limitations which it shall think proper, to such Inferior Courts, as it shall constitute from time to time."[32]

On August 27, this part of the new Constitution came under discussion. Several amendments on the floor were made concerning the judicial power. Morris asked to know what the phrase about appellate jurisdiction meant and whether it included a review of facts as well as law. In response Dickenson moved for the insertion after the word appellate, the words "both as to law and fact", which was approved.[33]

It was then moved that the words "In all the other cases before mentioned the Judicial power shall be exercised in such manner as the Legislature shall direct", either be inserted or form the basis of an amendment to the draft Judiciary Article.[34] This was defeated by a vote of 6 to 2. This defeat arguably shows that Congress was to have no control over the (operation of the judicial power once an appeal reached the Supreme Court or an original action commenced in an inferior tribunal. However it does not show that the Congress was not to have control over what cases the Supreme Court or the lower federal courts would hear.[35] There is surely a distinction between the exercise of judicial power which the Founders possibly wanted beyond Congressional control and jurisdiction to exercise the judicial power.[36] Such distinction was more than likely contemplated by the Founders when they defeated the motion mentioned above while at the same time permitting the original Congressional grant of power over jurisdiction to stand.[37]

No reasons are discoverable in the records of the Constitutional Convention explaining the purpose of this clause. Obviously the members of the Committee on Detail who had great discretion had some reason when they changed the original propositions. Perhaps one purpose could have been that the Founders after realizing that Congress having a direct negative over Unconstitutional state laws would be "terrible to the states", decided to give this function solely to the Supreme Court which would be a less politically motivated institution and whose actions would be less likely to stir state emotions. At the same time, it may have been desired to allow Congress some control by giving it the right to activate the Supreme Court in this function when it thought a state law should be scrutinized, or deactivate the Supreme Court when it did not so think.[38] It also could have been the product of a compromise between those who desired no Federal review of state court decisions and those who desired total review. If a compromise, it would have resulted in a postponement of what was a very devisive issue at the Convention until the First Congress met to decide what the Supreme Court appellate jurisdiction would be. The fact that the action of the First Congress in passing the Judiciary Act of 1789 took place with much debate over this cleavage, lends some credence to this suggestion of a compromise.[39]

(2) *Pamphlets and newspaper articles, 1787–1789*

After the final draft of the completed Constitution was printed and signed by most of the delegates,[40] it was forwarded for action to the Continental Congress, still sitting in Philadelphia.[41] No reported debate took place on the provisions affecting appellate jurisdiction.[42] On September 27, 1787, the Constitution was referred with no new amendments to the states for ratification in accordance with its terms.[43]

During the period of the debates in the state conventions, called to consider the draft Constitution, many of Framers wrote pamphlets and newspaper articles, explaining provisions that had come into dispute and rebutting objections that were raised against certain of these provisions.

The main attack on the appellate jurisdiction clause asserted that it made the accepted colonial right to jury trial meaningless in the federal courts in civil cases.[44] This argument reasoned that if the Supreme Court had appellate jurisdiction as to questions of fact, it could overturn and reverse jury verdicts if the Judges of the Court disagreed on the meaning of the testimony or perhaps because they disagreed for political reasons.[45] Alexander Hamilton in Federalist #81, originally published as a newspaper article in 1788, attempted to answer this allegation. He contended that the appellate jurisdiction as to facts was inserted by the Constitutional Convention in order to allow Congress the right to vary the extent of appellate review depending on the mode of the trial court action, i.e. if a civil law action, historically reviewable by appeal as to facts, it could be made reviewable by Congress, but if a common law action, they could foreclose review. Because the different states varied in their trial court procedures and characterizations, no one definite standard could be constitutionally required without offending someone.[46] Also some important cases of national interest could not be left to the possibly prejudicial fact-findings of local juries. Congress was to be left to determine what appellate jurisdiction was needed as events progressed. That Congress was to have important power is clear from Hamilton's statement:

"To avoid all inconveniences, it will be safest to declare generally that the Supreme Court shall possess appellate jurisdiction both as to law and fact, and that this jurisdiction shall be subject to such exceptions and regulations as the national legislature may prescribe. This will enable the government to modify it in such a manner as will best answer the ends of public justice and security."[47]

Hamilton's argument of course failed to convince those who worried about the review of factual questions by the Supreme Court. Its thrust was to give Congress the power to allow the Supreme Court to review jury determinations and Congress could also be politically motivated. The Seventh Amendment of the Bill of Rights clearly preserved the right of trial by jury and forbade re-examination of facts in any appeal court, except to the limited extent historically exercised by the Common law courts.[48]

On review of questions of law, Hamilton assumed wide powers in the Congress. During discussion of the possibility of Congress setting up inferior federal courts, in answer to critics who worried about the Supreme Court overturning state court decisions, he advanced the proposition that appeals from state courts carried to the inferior federal courts, with no Supreme Court appeals at all, would be within the power of the Congress.[49] While arguing for the establishment of inferior federal tribunals, Hamilton advanced as one reason for their creation, that they would aid in making sure that "appeals may be safely circumscribed within a narrow compass" because an "unrestrained course to appeals" would be a "source of public and private inconvenience."[50] Hamilton in summary considered Congress' power "ample" in this area.[51]

Roger Sherman, who had been a delegate from Connecticut, shared the apprehension of many citizens that the judicial authority was the one most imprecisely limited by the new Constitution. He asserted, in calming this fear, that Congress would have full power to regulate it by law, and would surely vary these regulations as circumstances required.[52] He believed appeals would be limited to cases of great magnitude and importance, which Congress could not trust to the state courts.[53] Oliver Ellsworth joined Sherman in the belief that appeals should be limited to cases of "great magnitude".[54]

Several pamphlet writers were worried about appeals being used by one of the parties to a case as a time consuming device, or as a method of discouraging poorer parties, who could not afford to go to where the Supreme Court would hear the case. Most of them assumed however that Congress would have authority to forbid appeals of small dollar amounts.[55]

Richard Henry Lee, who did not attend the Constitutional Convention though nominated as a delegate, expressed the belief that Congress could "annihilate" the appellate jurisdiction if it wished and render the Supreme Court of "very little importance",[56] by use of its powers under the Exceptions and Regulations clause.

In summary, most of those who wrote about the clauses in question seemed to assume that Congress could and would limit the possibly oppressive and inconvenient appellate review of the Supreme Court.

(3) *Debates in the State conventions*

The debates in the State conventions were strenuous and at many times, their outcome was in doubt. The fear of the destruction of trial by jury because of the possibility of Supreme Court overturning of facts on appeal was used by opponents to attack the Constitution.[57] Answers similar to Hamilton's were put forth by those defending the new system of government.

James Wilson, who had been a member of the Committee on Detail, was asked to explain

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the Judiciary Article in the Pennsylvania Convention. In reply to those who saw dangers in appeals as to fact, he recounted occurrences under the Articles of Confederation where a prejudiced jury of a state had found against a out-of-stater in prize and capture cases. Only an appeal to the Supreme Court which could reopen this type of biased factual determination would serve the needs of justice. Because other types of parochial narrowmindedness might occur, Congress' power should be opened.[58]

In the Virginia Convention, Patrick Henry in rebutting an answer analogous to James Wilson's, argued that Congress would not have any rights to restrict the jurisdiction of the Supreme Court because to do so would give Congress power to amend the Constitution. When Congress organized the judiciary they would be required to vest the complete Article III jurisdiction in the Court and if they did not, the federal judges would declare any prohibition Unconstitutional.[59] The President of the Virginia Convention, Edmund Pendleton, answered Henry by arguing for a liberal interpretation of the Exceptions and Regulations Clause.[60] John Marshall added that Congress would act wisely and if they did not they could be changed by the people. He went on, "Where power may be trusted, and there is no motive to abuse it, it seems to be as well to leave it undetermined, as to fix it in the constitution".[61]

Marshall, a few moments later defined what he believed the word exception meant. He did so in language which echoes Hamilton in Federalist #81;

"What is the meaning of the term exception? Does it not mean an alteration and deminution? Congress is empowered to make exceptions to the appellate jurisdiction, as to law and fact, of the Supreme Court. These exceptions certainly go as far as the legislature may think proper, for the interest and liberty of the people." [62]

James Madison also participated in this discussion with Patrick Henry. He believed Congress could prevent appeals from jury verdicts entirely and remedy "vexatious" appeals.[63] Edmund Randolph, who had worried about the undefined power of the judiciary,[64] argued that this ambiguity and its own "cure". The same clause of the Constitution that granted this undefined power, granted the Congress power to define it. He had refused to sign the Constitution partly because of this vagueness but he stated that candor and fairness required him to refute Henry's statement.[65]

In the North Carolina Convention, Richard Spaight, a delegate at Philadelphia, stated that the different types of federal cases, equity, admiralty, and common law, required giving the Congress the right to set up juries and factual appeals as they saw fit because no one Constitutional standard was proper.[66] Several other speakers mentioned possible Congressional restrictions on appeals without contradiction by either of the two delegates at Philadelphia who were present.[67]

Rufus King, a delegate at Philadelphia, defended the judiciary article in the Massachusetts Convention. Fears of an "oppressive" court system were advanced. King countered such arguments by referring to the Exceptions and Regulations clause. He explained that Congress would decide when appeals would be allowed and that the Supreme Court "may or may not have appellate jurisdiction as the Congress shall direct".[68] Going on to answer an objection that trifling controversies could be carried all the way to the Supreme Court at great expense, King referred the complainant to the Massachusetts practice. This had not occurred in the state courts because the legislature had acted from time to time to prevent it. Congress could also be expected to enact laws tending to the "ease and happiness of the people".[69]

These speeches in the State Conventions all indicate that Congress when it met for the first time after ratification of the Constitution would have great discretion in setting up an appeal structure. Several of the speeches concern recommendations to Congress for possible limits on appeals. No mention of any Constitutional restriction on Congress' power is discoverable, except that of Patrick Henry.

(4) English and Colonial Practice

A study of the prevailing colonial practice in the matter of judicial appeals may shed some understanding on Constitutional interpretation for at least two reasons. First, it can be assumed that the common experiences of the Framers and the methods of government with which they were familiar would be expressed unconsciously in any new political system they proposed. Second, it is fairly clear that at least the Articles of Confederation and the Constitution of the State of New York were used as guides by the Committee on Detail.[70]

The Connecticut Charter of 1662, which vested power in the executive and his council, to establish "judicatories" as they thought "fit and convenient".[71] The Delaware Constitution of 1701 guaranteed that no person be obliged to answer any matter pertaining to property, unless appeals were hereafter by law appointed, which apparently required legislative action.[72] The Georgia Charter of 1732, granted the corporation, "full power and authority" to set up courts, implying legislative discretion to use this power.[73] The Georgia Constitution of 1789 vested power in the legislature to establish the mode of appeals, including the power to direct a new trial, with no appeal.[74] The Massachusetts Constitution of 1780 vested "full power and authority" in the general Court (legislative) to erect and constitute courts.[75] The New Hampshire Constitution of 1784 uses the same language as the Massachusetts Constitution.[76] The Pennsylvania Frame of Government of 1682 granted the Governor and Council the power to erect judicatories.[77] The Rhode Island Charter of 1663 vested power in the Governor and Company to appoint, order, direct, erect, and settle courts, "as they shall think fit".[78]

The only state Constitution which specifically guaranteed a right to appeal, was that of North Carolina. But even this is limited to a right to go to a second court which apparently is to be a local one.[79] No mention of appellate jurisdiction or legislative power is made in the Colonial Constitutions of Maryland, South Carolina, or Vermont.[80] In New Jersey the Governor and his Council were the court of appeal.[81] New York had a council of revision which included Supreme Court judges whose function was to vote on laws for constitutionality prior to legislative passage. In addition a court for the correction of errors, was established, under the regulation of the legislature.[82]

The Colonial experience, it appears, was one of large legislative control over the jurisdiction of the judiciary. Only North Carolina guaranteed appeals. In eight of the thirteen original Colonies, specific legislative power in the area of judicial jurisdiction appears in the colonial constitution. In one other the executive branch of government was itself the court of appeal.

The Articles of Confederation contain authority for a very limited judicial establishment, essentially narrowed to cases of admiralty. Article IX granted Congress the "sole and exclusive" right to establish courts for receiving and determining final appeals in all cases of maritime capture. No other appeals were authorized.[83]

The English practice prior to 1789 on control of appellate jurisdiction is confusing. Blackstone contended that the House of Lords, was the "dernier resort for the ultimate decision of every civil action," [84] which on its face seems to indicate an absolute right to hear appeals, uncontrollable by Parliament. In a dictum in *Cristie v. Richardson*,[85] Lord Kenyon stated that by the constitution of Great Britain every subject had a right to have his case reviewed by a court of error. As the House of Lords was also a powerful legislative body, as well as a court, the question of who controlled the right to appeals, court or legislature, is somewhat moot. Even Blackstone in his discussion of the writ of attaint, which was an appeal to reverse a jury verdict, admits the writ was very limited at common law and was only expanded by subsequent Parliamentary action. He also shows how the writ of error, an appeal of law, was not absolute but could only be pursued upon the posting of substantial bond, as required by statute.[86] Even a brief study uncovers many English statutes regulating and limiting appeals.[87]

(5) The Judiciary Act of 1789

(A) Arguments in the First Congress

Washington, after his election as President, convened the first Congress in April 1789. In his opening address he instructed the new Senators and Representatives that the complete organization of the judiciary was in their hands.[88] The first action of the Senate involved consideration of Senate Bill Number 1, a draft proposal for the judicial establishment. As many of the members of the First Congress had been members of the Philadelphia Convention, the content and structure of the Judiciary Act has long been recognized as a reflection of the meaning of the Judiciary Article as intended by the Framers.[89] The Senate bill formed the basis for the later Judiciary Act. Oliver Ellsworth, a member of the Philadelphia Committee on Detail, was responsible for the bill and was its main author.[90]

The most significant thing about the Judiciary Act of 1789 for our purposes is its very existence. It is a recognition that the judicial system as authorized in the Constitution was not self executing. Before the new judiciary could function at all, the hazy, general grants in Article III had to be given concrete specificity. The framing of these specifics required a statute,[91] which clearly points toward a Congressional power to draft the statute according to its discretion. If Congress did not have power over appellate jurisdiction, or only had power to make exceptions from it, there would have been no reason for a statute that by its terms, grants appellate jurisdiction.

Charles Warren, the leading historian of the passage of the judiciary bill, found that several arguments were made by opponents of the draft act, to the effect that Congress was required by the Constitution to vest the entire Article III judicial power in any lower federal tribunals it established. The rationale of this position was the lack of an Exception and Regulations clause in section 1 of Article III.[92] This argument failed to convince the sponsors of the bill.[93] Legislative discretion was believed to be nearly absolute in vesting jurisdiction in the lower federal courts regardless of the absence of any specific Constitutional provision. Specific authorization through the Exception and Regulation clause arguably can mean no less Congressional power over the appellate jurisdiction of the Supreme Court. If anything, it would indicate more power was intended.

No recorded speech in the House or Senate debates on the bill indicates recognition of any Constitutional limit on the power of Congress in relation to the Supreme Court. Senator Maclay pointed at the evils of appeals and how they could be abused.[94] In a speech in the House, Mr. Smith of South Carolina, argued that if the state courts heard federal causes an appeal to the Supreme Court must lie, but his argument was

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directed against the allowance of state court power over federal causes and appears to be based on policy grounds.[95] Shortly thereafter he pointed out that it was better to require federal causes to be brought in district courts because there the decisions could be made final in most cases.[96] Several other Congressmen communicated a desire for a local justice and a limit on appeals.[97]

The most stringent criticism of the Judiciary Bill in this area and the one of the most historical significance goes against any allegation of pre-existing Constitutionally vested appellate jurisdiction in the Supreme Court. Critics of the bill argued that Congress had no authority at all to establish an appeal from the state courts to the Supreme Court.[98] Section 25 of the bill did just this in a limited class of cases. The issue in controversy was therefore not whether appellate jurisdiction existed without Congressional action but whether even if Congress did act such appellate jurisdiction was Constitutional.[99] Any conception manifest in these debates of a limit on Congress' power was not in the direction of a Constitutional grant to the Supreme Court, immune to Congressional action. Rather the focus of Constitutional dispute was exerted, along with other contentions, in an effort to defeat section 25 and protect the principle of states rights. The fight here was over a hotly debated and disputed statutory grant. No awareness of a Constitutionally compelled automatic gesture is apparent either by the opponents of section 25 or the proponents.[100]

(B) The Structure of the Act

Even a brief study of the Judiciary Act, which eventually emerged after two months of debate, reveals how striking were the Congressional restrictions on the appellate power.[101] In adition, the whole tenor of the Act is one of statutory grant of authority, not of exception and regulation. The Supreme Court is treated analogous to the district and circuit courts created by the Act, not as a special creature with pre-ordained rights.[102]

The most complete foreclosure of Supreme Court power was in the review of federal criminal proceedings. There is no section of the act authorizing an appeal of either a conviction of crime or a dismissal of an indictment. Section 22 [103] provides for appeals in the federal courts for civil suits alone. This was in accordance with the traditional English practice and remained unchanged for nearly one hundred years.[104] Only by an exercise of section 14 habeas corpus power could the Supreme Court look into the physical confinement of an individual.[105] Marshall referred to the narrow extent of the review granted by a habeas corpus proceeding in *Ex Parte Bollman*.[106]

Section 9 authorized actions in the federal district court for a variety of different causes.[107] Except for admiralty actions, a writ of error was allowed to the circuit court if the sum in controversy exceeded $50. No appeal from the circuit court decision was authorized by the Judiciary Act, another example of total foreclosure.[108] Admiralty appeals to the circuit court required a $300 sum in controversy. An appeal to the Supreme Court was then allowed if the matter involved more than $2000.[109]

The circuit courts were granted authority to hear original actions in diversity cases involving more than $500, original actions in which the United States was plaintiff, original suits by aliens and trials for major federal crimes.[110] Appeal to the Supreme Court were, as in admiralty cases, limited to those where more than $2000 was involved.[111] This $2000 figure, in relation to the economics of the late Eighteenth Century was massively high. The predictable effect would be to forbid appeals in the over-riding majority of cases and obviously was responsive to some of the criticisms voiced during the ratification debates.[112]

Diversity cases under $500 remained exclusively in the state courts with no appeal authorized to the Supreme Court.[113] There is no section authorizing review of any court decision in the vast northwest region which had been established as a territory by Congress in 1787.[114]

Even in the cases authorized under section 22, the type of appellate reexamination by the Court was sharply restrictive. Congress did not authorize an "appeal" but a writ of error, which removes for reexamination only questions of law. No factual findings could be disturbed by the court. The sufficiency of evidence or bias of the judge or jury in the court below could not be a ground for reversal.[115]

The authorization for review of state court decision contains no jurisdictional amount.[116] Of all the statutory appellate grants, the one concerning the state court is the broadest in extent. But here also there is a reduction of the total possible power. Section 25 permits review only when the state court had upheld a state statute or the action of state officials in the face of a claim that they were repugnant to the Constitution, treaties, or laws of the United States, or when the state court had declared a federal law, treaty or authority invalid, or when the state court had found against a title, right, privilege or exemption claimed by a party under the treaties, laws or Constitution of the United States. If a state court construed a federal statute favorably to a party or upheld a right claimed under the Constitution, no Supreme Court power existed.[117] If a state court held a state statute unconstitutional, the losing party could not appeal. This would mean that the state court in this type case was made by Congress the final interpreter of the Constitution.[118] In those actions under section 25 in which the Supreme Court was clearly to have jurisdiction, the extent of its review was restricted to a greater degree than under section 22.[119] Not only was the review limited to a writ of error, but the court could only regard as a ground of reversal an error that appeared on the face of the record. This meant the state court were to be given an opportunity to rule on all Constitutional, statutory, and treaty issues.[120] No Constitutional questions could be raised for the first time on appeal, which arguably means the Supreme Court could be compelled to affirm an Unconstitutional decision. This particular requirement resulted in much difficulty for the Court in determining what the state court actually had done.[121] As the preparation of the record was largely in state hands and under state control, section 25 enabled the states to present Constitutional and statutory issues in terms most favorable to themselves.

The Judiciary Act of 1789 in summary lends credence to an argument that the Founders believed Congressional power was very extensive in the appellate jurisdiction field and that complete prohibitions on appeals were Constitutionally justified.

(6) Early judicial interpretation

Seven years after the passage of the Judiciary Act, the relatively new Supreme Court heard the first case requiring interpretation of the appellate grants. Of the six members of this court, three, Ellsworth, Wilson, and Paterson, had participated in both the Constitutional Convention and the First Senate.[122] The case of *Wiscart* v. *Dauchy* [123] involved a writ of error to review an equity case heard as an original matter by the federal circuit court sitting in Virginia. Jurisdiction was alleged to lie under section 22 of the Judiciary Act. The record, including the pleadings, depositions, and evidence was attached to the petition. The issue in controversy was whether the statement of facts by the circuit court was conclusive and binding on the Supreme Court or whether the entire record could be used in reviewing the decision below. The Judiciary Act contained no positive authorization for this type of review, but Congress had also not expressly forbidden it, except by providing for review by a writ of error, which had the meaning historically of allowing reconsideration of questions of law alone.[124]

On the merits, Ellsworth held that the facts as found by the circuit court were conclusive, while Wilson and Patterson held they were not. Ellsworth resolved the question of statutory interpretation by holding that only a writ of error was authorized in admiralty cases. In reply to a suggestion that review by appeal was traditionally the proper mode for rehearing admiralty cases, he answered:

"The constitution, distributing the judicial power of the United States, vests in the Supreme Court, an original as well as an appellate jurisdiction. The original jurisdiction, however, is confined to cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party. In all other cases, only an appellate jurisdiction is given to the court; and even the appellate jurisdiction is, likewise, qualified; inasmuch as it is given 'with such exceptions, and under such regulations, as the Congress shall make.' Here then, is the ground, and the only ground on which we can sustain an appeal. If Congress has provided no rule to regulate our proceedings, we cannot exercise an appellate jurisdiction; and if the rule is provided, we cannot depart from it. The question, therefore, on the constitutional point of an appellate jurisdiction, is simply, whether Congress has established any rule for regulating its exercise?" [125]

Further on in the opinion in discussing the alleged denial of justice by Congress' prohibition of a factual review, Ellsworth stated:

"But surely it cannot be deemed a denial of justice, that a man shall not be permitted to try his cause two or three times over. If he has one opportunity for the trial of all parts of his case, justice is satisfied; and even if the decision of the circuit court had been made final, no denial of justice could be imputed to our government . . ." [126]

Wilson, in dissent resolved the statutory question by finding that Congress had authorized an appeal in admiralty cases.[127] If they had not so authorized, the absence of a prohibition meant that the Constitution itself gave the Supreme Court appellate power for Congress had not exercised its power to make exceptions and regulations.[128] And finally Wilson significantly stated his belief that even if a positive restriction existed by law, it would in his judgment, be superceded by the superior authority of the Constitutional provision.[129]

In the next term of the Court, Patterson in *Jennings v. Brig, Perseverance* [130] expressed his agreement with Wilson's dissent in *Wiscart v. Dauchy* but on the ground of giving a "liberal construction to the act of Congress." [131] Patterson obviously felt little Constitutional qualms about Ellsworth's views because he followed the holding of *Wiscart v. Dauchy* and denied counsel's request for allowance to present factual evidence.[132] In addition, basing his dissent on the theory that a more liberal reading be given to the statute, could be considered a recognition by Patterson that the statute was the key to whether appellate jurisdiction existed and not the Constitution.

CONCLUSION

The overriding majority of existing evidence leaves but little room for doubt that the Framers expected Congress to exert great authority in determining Supreme Court appellate jurisdiction. The Federalist Papers, the Colonial experience, The Judiciary Act of 1789, and the writings of many of the Founders all point towards an expectation

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that Congress would have and would continue to have a large discretion in its structuring of the judicial establishment. It is the opinion of the writer that some reasons for this Congressional leeway were (1) the great difficulty in the Philadelphia Convention of working out a Constitutional system which would be satisfactory to all parties in the limited time then available, (2) a realization of the need to allow for changing feelings about the propriety and mode of appeals, (3) a decision to give Congress some method of guaranteeing the overturning of biased jury verdicts, (4) a decision to allow Congress discretion in determining what cases were of great enough magnitude to merit appeal, both on grounds of expense to the parties, and on grounds of national interest, (5) a realization that an appellate procedure was a complicated animal that required much more detail than was possible in a Constitution, (6) a desire to continue a practice with which the Founders were familiar, (7) perhaps an intention to give Congress an indirect method of determining when a state statute should be struck down and when it should not be, and (8) an idea that legislative control would best answer the ends of public justice and security and guarantee the liberty of the people against an unrepresentative and in theory undemocratic judicial institution.

In summary, Congress in exercise of its powers under the Necessary and Proper Clause and section 2 of Article III was intended to possess almost unlimited power in the area of the appellate jurisdiction of the Supreme Court.

FOOTNOTES

[1] Corwin, *The Constitution and What It Means Today* 117, 122 (8th ed., 1946); Mason and Beaney, *American Constitutional Law* 14 (1954); 2 Story, *Commentaries on the Constitution* sec. 1774 (5th ed., 1891); Richter, *A Legislative Curb On The Judiciary*, 21 Journal of Pol. Econ. 281, at 284–287 (1913); Roberts, *Now Is The Time*, 35 A.B.A. J. 1 (1949); Tweed, *Provisions of the Constitution Concerning the Supreme Court of the United States*, 31 B. U. L. Rev. 1 (1951).

[2] See e.g. Freund, Sutherland, Howe, and Brown, *Constitutional Law, Cases and Other Problems* (1961); Mason, *The Supreme Court* (1962); Choate, *Supreme Court of the United States. Its Place in the Constitution*, 65 Alb. L. J. 203 (1903).

[3] S2646, 85th Congress, 1st. Sess. (1957). The Jenner Bill would have denied to the Supreme Court, jurisdiction to hear on appeal any case involving 1) dismissal of Federal Government employees on security grounds, 2) state laws relating to subversive activities, 3) state rules and regulations relating to public school teachers, 4) state bar admission regulations and 5) matters pertaining to the jurisdiction and activities of Congressional committees. For a study showing how each one of these sections was in fact a Congressional attempt to overturn a specific Supreme Court decision, see Norris and Burke, *Congress and the Supreme Court's Appellate Jurisdiction*, 35 L.A.B. Bull. 212 (1960).

[4] The Bill was reported favorably by the Senate Committee on the Judiciary, *Report No. 1586* (1958), but never went to a vote in the Senate. For report of hearings see *Hearings Before the Subcommittee to Investigate the Administration of the Internal Security Act and Other Internal Security Laws of the Committee on the Judiciary*. 85th Congress, 1st and 2nd sess., parts 1 and 2 (1958).

[5] H.R. 11926, 88th Congress, 2nd sess. (1964) (also known as the Tuck Bill). The vote for passage was 218–175. As the date of passage was August 19, 1964 and the 88th Congress was drawing to a close, the House action may have been intended by many of its proponents merely as a warning of future legislation if the Supreme Court did not mend its ways. See *N.Y. Times*, Aug. 20, 1964. For the record of the debates on the floor of the House see *Congressional Record* 19580–19667 (1964).

[6] Historically the Supreme Court has been thought of as a conservative institution. Those who believed in popular democracy and/or progressive reform, traditionally argued for a doctrine of judicial inferiority. See e.g. Debates in the Senate mentioning Abolitionist bills to remove Supreme Court appellate jurisdiction over cases raising the question as the Dred Scott decision, *The Congressional Globe*, 35th Congress, 1st Sess. (1859); Socialist Party Platform of 1900, calling for the abolition of judicial review, Porter, *National Party Platforms* (1956); Corwin, *The Decline of the Supreme Court* (1938). Today the attacks on the Court are mostly from the political right and its defense is in the hands of the progressive community, which is over-represented on law school faculties and reviews. For a comment on this modern transformation of roles see testimony of Joseph L. Rauh, Chairman, Americans for Democratic Action in *Hearings, supra*, n. 4, 47–48.

[7] 1 Crosskey, *Politics and the Constitution* 612–617 (1953); Hart and Wechsler, *The Power of Congress to Limit the Jurisdiction of the Federal Court; An Exercise in Dialectic*, 66 Harv. L. Rev. 1362 (1953); Norris and Burke, *supra* n. 3; Ratner, *Congressional Power over the Appellate Jurisdiction of the Supreme Court*, 109 U. Pa. L. Rev. 157 (1960); Note, *Congress Versus Court: The Legislative Arsenal*, 10 Villanova L.R. 347 at 354 (1965). For a current example of the more traditional view see Lenoir, *Congressional Control over the Appellate Jurisdiction of the Supreme Court*, 5 Kansas L.R. 16 (1956). By far the most complete picture is the article by Ratner. As to his constitutional conclusions, the author of this article is greatly in disagreement.

[8] This assumes all other requirements such as standing, ripeness, justiceability, etc. were met. It is of course realized that many of these doctrines were later developed by the courts. What is postulated is a situation where the only thing in the way of an individual having the Supreme Court review his case is a Congressional statute denying this review or silent as to authority for it.

[9] This paper does not attempt to consider any argument alleging an individual's Constitutional right to judicial review of state or Federal action taken against his liberty or property or whether this judicial review, if constitutionally required, must be in a Federal Court, if a Federal question arises. See Hart and Wechsler, *supra*, n. 7 and 1 Crosskey, *supra*, n. 7. Only the right to appellate review before the *U.S. Supreme Court* is considered.

[10] This may prove impossible. Prof. Ratner in his article arguing against Congressional power in this area to Constitutionally pass the Jenner Bill, postulates that to admit the power in that case would allow Congress a) to deprive the Supreme Court of all appellate jurisdiction and abolish all the lower federal courts, or b) to deprive the Supreme Court of appellate jurisdiction and lower federal courts of all jurisdiction over all cases involving the validity under the Constitution of all state statutes or the conduct of all state officials or, c) to deprive the Supreme Court of all cases arising under the Constitution, laws, or treaties of the United States. See Ratner, *supra*, n. 7, at 158. Prof. Hart argues in a similar manner. Hart and Wechsler, *supra* n. 7, at 312. It is always difficult to argue against a power's existence by attempting to show how it can be abused. See *Martin v. Mott*, 12 Wheaton 19 at 32 (1827) (Justice Story). The Senate could possibly do the same things Prof. Ratner fears by failing to advise and consent to all Presidential appointments of Supreme Court justices for a long enough period. The President could also accomplish the same result by failing to nominate Supreme Court Justices. See U.S. Const. Art. II, sec. 2, par. 2. These possibilities are not very persuasive in an argument against the existence of the President's power or the Senate's authority.

Even Prof. Ratner admits that such action as he imagines is politically unlikely. See Ratner, *supra* n. 7 at 159. I am sure he would make short work of an argument against the Supreme Court's judicial power based on a contention that it could be abused by the Supreme Court declaring all Congressional statutes Unconstitutional. See also Dicey, *Law of the Constitution*, 76–77 (4th ed., 1893) for a discussion of the internal-external political checks limiting the exercise of all sovereignty.

[11] Sec. 1 "The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior, and shall, at stated Times, receive for their Services a Compensation which shall not be diminished during their Continuance in Office."

Sec. 2 After enumerating in para. 1 the cases to which the judicial power extends in para. 2 states, "In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make."

[12] "The Congress shall have Power . . . To constitute Tribunals inferior to the supreme Court." Whether this refers to the same thing as the power in Art. III, or denotes an additional power has never been answered. Congress has set up legislative tribunals to administer justice in the territories of the United States, but they seem to be justified as necessary and proper to carry out other enumerated powers. See Jaffe, *Administrative Law*, 103 (1961).

[13] "The Congress shall have power . . . To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers [Art. I, sec. 8 powers], and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Office thereof."

By its plain words, this clause gives Congress some control over the judicial Power. Congress has exercised this power greatly in the area of admiralty and maritime jurisdiction which appears only as a grant of judicial power. See Note, *Judicial Grant to Legislative Power*, 67 Harv. L. Rev. 1214 (1954). Whether Congress could exercise similar power in the area of diversity jurisdiction is complicated by holding in *Erie Railroad* v. *Tompkins*, 304 U.S. 64 (1938) part of which is based on Constitutional grounds. It can be argued that Erie applies only to the Supreme Court unilaterally making law in the diversity field or in fact is not a Constitutional decision at all but only a statutory reinterpretation of the Judiciary Act of 1789.

[14] Hamilton in Federalist #81 states, "We have seen that the original jurisdiction of the Supreme Court would be confined to two classes of cases, and those of a nature rarely to occur". *The Federalist Papers 488* (Rossiter ed. 1961).

[15] 2 *Diary and Letters of Gouverneur Morris* 441 (Morris ed. 1888).

[16] Farrand, *Records of the Constitutional Convention* 15 (1911) (Hereafter cited as Farrand). See also 1 *Life and Correspondence of Rufus King* 255 (1894). King worried about misuse by those who would desire to prevent ratification of the Constitution.

[17] Conway, *Edmund Randolph* 72 (1888).

[18] See Randolph's resolutions, 1 Farrand

21–22; Patterson's propositions in substitution for Randolph's, 1 Farrand 244; both propositions criticized by Hamilton and his own substituted, 1 Farrand 292. All three groups of suggested resolutions vested jurisdiction (the extent of which varied with the plan) without any mention of Congressional control. All three specified that most of the Court's jurisdiction would be appellate.

After discussion of all plans, the concept of a Supreme tribunal was agreed to unanimously. 2 Farrand 37. See also 2 Farrand 432 (Col. Mason's papers).

In addition see The Pinckney Plan, 3 Farrand 600. This also gave Congress no control over the Supreme Court's jurisdiction.

[19] Farrand 95, 104–105, 119.

[20] Farrand 124–125, 127–128.

[21] 1 Farrand 124, 128. As this debate revolved around Randolph's propositions (which did not include any Congressional power over the Court's appellate jurisdiction) Madison's report of "Mr. Rutledge . . . arguing that the State Tribunals might and ought to be left in all cases to decide in the first instance the right of appeal to the supreme national tribunal being sufficient to secure the national rights and uniformity of Judgments," which arguably suggests that this appeal was a matter of Constitutional right not controllable by Congress, is not indicative of the meaning of the Article III, sec. 2 clause which later was added. Pierce's report of the same speech by Mr. Rutledge, at 1 Farrand 128, "Mr. Rutledge was of the opinion that it would be right to make the adjudications of the State Judges, appealable to the national Judicial" if the more accurate of the two reports gives the impression that even when the Supreme Court's jurisdiction was not by the bare words of the proposition in debate under the control of Congress, Congress either still had the option to permit appeals from the state courts or not, or in order to give the Supreme Court jurisdiction over state courts further Constitutional provisions were needed.

[22] 1 Farrand 97, 109, 138–140; 2 Farrand 76, 298–299, 391.

[23] 1 Farrand 21, 54; 2 Farrand 27–29, 390–391.

[24] 1 Farrand 238. Randolph's submission to the Committee on Detail granted to the Federal Judiciary jurisdiction extending to cases of national revenue, impeachment of national officers, and questions which involve the national peace and harmony. These are very general categories.

[25] These altered provisions stated that the jurisdiction of the national Judiciary shall extend to cases arising under the laws passed by Congress and to other questions involving national peace and harmony, 2 Farrand 39, 46.

[26] The Committee on Detail, which singlehandedly drafted the Judiciary Article, was composed of five members. They were Oliver Ellsworth of Connecticut, Nathanial Gorham of Massachusetts, Edmund Randolph of Virginia, John Rutledge of South Carolina, and James Wilson of Pennsylvania.

[27] See Barry, *Mr. Rutledge of South Carolina* 335–336 (1942). Barry's work is the sole source of any of the writings of John Rutledge, which to this day remain in Philadelphia unpublished.

[28] 2 Farrand 132–133, 146, 157, 173.

[29] 2 Farrand 146–147. In this draft the jurisdiction of the supreme Tribunal is extended to all cases arising under laws passed by the general Legislature, to the impeachment of officers, and to such other cases as the national legislature may assign, as involving the national peace and harmony. (Here listed revenue cases, disputes between citizens of different states, disputes involving citizens of other countries, and cases of admiralty jurisdiction.) The draft goes on and states that the jurisdiction shall be appellate only unless the legislature makes it original. The legislature in addition was granted authority to organize the jurisdiction.

[30] 2 Farrand 173. There are no records of what the discussions of the Committee on Detail were or why these qualifications were added.

[31] 2 Farrand 177.

[32] Farrand 186–187. The position of this clause allowing Congress to assign jurisdiction to lower courts coming immediately after the exception and regulation clause could be construed as evidencing an intent to allow Congress for the sake of convenience to relieve the Supreme Court of some appellate cases if it desired and assign these cases to lower federal courts. There were reasons why Congress might find such a power useful which came out during the ratification debates. See parts 2 and 3, *infra*.

[33] 2 Farrand 430–431.

[34] Compare 2 Farrand 425, where the Journel states it was an amendment and 2 Farrand 432 where Madison's minutes state there was a motion to insert this phrase.

[35] Prof. Ratner puts great stress on this rejected phrase. He argues "Its passage would have given Congress plenary control over the appellate jurisdiction of the Supreme Court. Had the Convention desired to give Congress such power, the reasonable course would have been to adopt the unequivocal language of the amendment in place of the more ambiguous phrasing of the Committee's draft." Rather, note 7 *supra*, at 173. But this overlooks that the lower federal courts also exercise judicial power while their very existence and total jurisdiction at the same time depends on Congressional action. U.S. Const., Art. III, sec. 1. If this rejected amendment means that Congress cannot restrict the Supreme Court's appellate jurisdiction, it also means it cannot refuse to vest the same complete jurisdiction in the lower Federal Courts.

In addition the defeat of this proposal could have been motivated on the grounds that it was superfluous as Congress already had control over the judicial power, through the Exception and Regulation Clause.

[36] See Warren, *Congress and the Supreme Court* 214 (1925), where the distinction is made that authority to control jurisdiction does not include authority to control judicial power. See also *United States v. Klein*, 80 U.S. 128 (1872). See also the first printed draft of the Judiciary Article which was reported by the Committee on Detail, sec. 1 of which vests the Judicial Power while sec. 3 speaks of jurisdiction of the Supreme Court. 2 Farrand 186.

[37] It of course can be argued that the Founders were extremely naive. Authority to prevent cases from being heard can be an effective control of the judicial power. However it is possible that the Founders realized this and felt that the limitation of Congress' jurisdictional power to that of making only exceptions and regulations would be a sufficient safeguard. Or possibly they believed Congress would act rationally and there would be no problem.

[38] Mr. Johnson of N.Y. when debating in the House of Representatives in 1789 on the merits of the Judiciary Act, argued, "Under the old form of Government, Congress had no compelling Judiciary; no power of reversing the decrees of the State Judges; but it is contended that they have, or ought to have more under the present system. It is allowed, sir, that Congress shall have the power in the fullest extent, to correct, reverse, or affirm any decree of a State court; and assuredly the Supreme Court will exercise this power". 1 *Annals of the Congress* 814 (1834).

[39] Charles Warren, after reviewing all the records of the First Congress concludes that the Judiciary Act of 1789 was itself a compromise between these two groups. Warren, *New Light on the History of the Judiciary Act of 1789*, 37 Harv. L. Rev. 49, at 54 (1923).

John Jay, in a charge to a federal grand jury in 1790, mentions the great difficulty in balancing the judicial power between state and federal government. He considered it a continuing task, which would be embarrassing, and ardous 3 *Corresponding and Public Papers of John Jay* 390–391 (Johnston ed., 1891). If it was to be a continuing task, we can assume the Framers would have meant for Congress to do the balancing in the future.

Gouverneur Morris believed the judicial article to be equivocal, but states that it passed without cavil. 3 Sparks, *Life and writings of Gouverneur Morris* 323 (1832).

Barry in his biography of Rutledge, reasons from the study of the changes in the drafts of the Judiciary Article by the Committee on Detail that Rutledge whom he credits with a large part of the responsibility for these changes, deliberately decided not to define the authority of the Supreme Court too carefully. Barry, note 27 *supra*, at 350. If true, this may have been from a desire not to arouse any strong emotions at that time and leave to later, the working out of jurisdiction.

[40] Among the non-signers were Ellsworth and Randolph of the Committee on Detail.

[41] Richard Henry Lee reported that so many members of the Continental Congress were also delegates to the Constitutional Convention that only five states were represented in Congress that summer. 8 *Letters of Members of the Continental Congress* 643 (Burnett ed. 1936).

[42] 33 *Journal of the Continental Congress* 487–548 (1936); *Melancton Smiths' Minutes of Debates on the New Constitution*, 64 Col. L.R. 26 (1964).

[43] U.S. Constitution, Art. VII.

[44] Jury trial in criminal cases was guaranteed by the U.S. Const., art. III, sec. 2, para. 3. No appeals were customary in criminal trials in Colonial times.

[45] This appears to be one important reason why some of the delegates to the Convention opposed this clause. See Luther Martin, *The Maryland Journel*, March 21, 1788, reproduced in Ford, *Essays on the Constitution* 362 (1892) (hereafter referred to as Ford, *Essays*); Eldridge Gerry, *The New York Journel*, April 10, 1788, in Ford, *Essays* 131. For criticism of Luther Martin's stand on this issue, see Oliver Ellsworth, *The Maryland Journel*, Feb. 29, 1788 in Ford, *Essays*, 185.

[46] This statement is partially confirmed by George Washington. In discussing in a letter in 1788, why the right to trial by jury was not included in the Constitution, Washington said: ". . . it was only the difficulty of establishing a mode which should not interfere with the fixed modes of any of the states, that induced the Convention to leave it, as a matter of future adjustment". 29 *Writings of Washington* 478–479 (1944).

[74] Federalist #81, *The Federalist Papers*, *supra* n. 14, at 490.

[48] It can be argued that the Seventh Amendment acts to completely repeal Congress' authority under Art. III to regulate appeals as to the review of facts. But the terms of the Seventh Amendment would still leave open the right of Congress to restrict appellate review of facts to something less than the extent historically exercised by common law courts. In fact in the Judiciary Act of 1789, Congress did so limit factual reviews of state court cases by narrowing grounds for reversal to those errors which were apparent on the face of the record only. Act of Sept. 24, 1789, ch. 20, sec. 25, 1 Stat. 85.

[49] "I perceive at present no impediment to the establishment of an appeal from the State courts to the subordinate national tribunals and many advantages attending the power of doing it may be imagined. It would diminish the motives to the multiplication of federal courts and would admit of arrangements calculated to contract the appellate jurisdiction of the Supreme Court.

The State tribunals may then be left with a more entire charge of federal causes and appeals, in most cases in which they may be deemed proper, instead of being carried to the Supreme Court may be made from the State courts to district courts of the Union. Federalist #82, *The Federalist Papers, supra* n. 14, at 495.

[50] Federalist #81, *ibid.*, at 486.

[51] Federalist #80, *ibid.* at 481. George Washington, who never violated his oath not to divulge what went on at the Convention at Philadelphia, was not reticent in endorsing the views of others concerning what the new Constitution meant. He was quick to recommend the Federalist as a true picture of the Constitution. 29 *Writings of Washington, supra* n. 29, at 323–324, 404, 466.

[52] *The New Haven Gazette*, Dec. 4, 1788, in Ford, *Essays, supra* n. 44, at 235.

[53] *The New Haven Gazette*, Dec. 25, 1788, in Ford, *Essays*, 241.

[54] *The Connecticut Courant*, Dec. 10, 1787, in Ford, *Essays*, 165.

[55] Noah Webster, *An Examination*, Oct. 10, 1787, in Ford, *Pamphlets on the Constitution* 53–54 (1888) (hereafter referred to as Ford, *Pamphlets*); Alexander Hansen, *Remarks on the Proposed Plan* in Ford, *Pamphlets* 238. While these two writers and several others soon to be referred to were not at the Convention that drafted the Constitution, their statements may shed some light on what those present intended. They were in contact with many of the Framers during this period.

[56] Lee, *IV Letters of a Federal Framer*, Oct. 12, 1787, in Ford, *Pamphlets*, 311.

[57] 2 Elliot, *Debates in the State Conventions* 127–128 (2nd ed. 1836) (hereafter referred to as Elliot) (Massachusetts Convention); 374 (New York Convention); 3 Elliot 515, (Virginia Convention).

[58] "There are other cases in which it will be necessary, and will not Congress better regulate them as they arise from time to time, than could have been done by the convention? Besides, if the regulations shall be attended with inconvenience, the Congress can alter them as soon as discovered. But any thing done in convention must remain unalterable but by the power of the citizens of the United States at large." 2 Elliot 458.

[59] 3 Elliot 492. Prof. Hart advances an argument which almost verbatim parallels that of Patrick Henry. Hart and Wechsler, *supra* n.7, at 1365.

[60] 3 Elliot 500.

[61] 3 Elliot 504. This expression of a belief in unlimited Congressional power, subject only to popular control, in the area of Supreme Court appellate jurisdiction is extremely significant. If the strongest believer of judicial independence in U.S. history acknowledged large legislative power, the claim to that power must have been very strong indeed.

[62] 3 Elliot 508.

[63] 3 Elliot 487, 490.

[64] Letter of October 16, 1787, Ford, *Pamphlets supra* n. 55, at 275. Randolph expresses a hope in this letter that Virginia will be successful in introducing an amendment that would limit and define the judicial power.

[65] 3 Elliot 519. Randolph desired that amendments be passed Constitutionally forbidding appeals of jury verdicts and appeals in small amounts and not leaving it to the "virtue" of Congress. 3 Elliot 552.

[66] 4 Elliot 154.

[67] 4 Elliot 157 (appeals should be limited to cases of great importance); 161 (Congress will make such regulations as will secure the "liberty of the people"); 164 (appeals should be regulated so not to be oppressive); 161 (Congress could require juries in the Supreme Court on appeal). Besides Richard Spaight, William Davie, participated in this discussion of the appellate power. Both had been at Philadelphia.

[68] 1 *Life and Correspondence of Rufus King supra* n. 16, at 306.

[69] *Ibid.*, 307.

[70] Farrand, *Framing of the Constitution* 127–129 (1913).

[71] Charter of Connecticut (1662).

[72] Charter of Delaware, art. 7 (1701). See *Lewis v. Hazel*, 4 Harrington 470, 478 (1847) (act of assembly having embraced subject everything left out excluded from appellate jurisdiction).

[73] Charter of Georgia (1732). Compare Georgia Constitution of 1776, art. XL which guarantees appeals in all cases with no mention of legislative control. However, the "appeal" consisted only in a new jury trial from which no appeal was allowed.

[74] Georgia Constitution of 1789, art III, sec. 2 and 3.

[75] Constitution of Massachusetts, Chap. 1, art. III (1780).

[76] Constitution of New Hampshire, Part II (1784). Compare Commission for New Hampshire (1680), which guaranteed an appeal to the King of England if the judgment was for more than 50 pounds.

[77] Frame of Government of Pennsylvania, art. V, art. XVII (1682).

[78] Rhode Island Charter (1663).

[79] North Carolina Fundamental Constitution of 1669, arts. 62, 63, 65.

[80] Maryland Constitution (1776) (art. LVI establishes a Court of Appeal); South Carolina Constitution (1776) (No provision for a Supreme Court in Constitution); Vermont Constitution (1777). (sec. XXI allows the legislature to grant additional powers to the supreme court).

[81] New Jersey Constitution, art. IX (1776).

[82] New York Constitution, art. III, XXXII, (1777).

[83] Articles of Confederation, art. IX (1777).

[84] 3 Blackstone, *Commentaries*, * 411.

[85] 3 T.R. 78, 100 Eng. Rep. 465 (K.B., 1789).

[86] 3 Blackstone, *Commentaries*, chap. 25, Proceedings in the Nature of Appeals * 402–411.

[87] 27 Eliz., c. 8, 1585 (appeal court changed from Parliament to Exchequer); 32 Hen. VIII, c. 30, 1540 (colorless appeals disallowed); 8 Hen. VI, c. 12, c. 15, 1429 (justices permitted to amend appeal records); 14 Edw. III, c. 6, 1340 (no appeal annulled by copying mistake). See also statutes cited in 3 Blackstone, *op. cit.*

[88] "The complete organization of the Judicial Department was left by the Constitution to the ulterior arrangement of Congress. You will be pleased therefore to let a supreme regard for equal justice and the inherent rights of the citizens be visible in all your proceedings on that important subject." 30 *Writings of Washington* 304 (Fitzpatrick ed. 1944).

[89] In the Senate, serving on the Judiciary Committee, seven of ten members, Pinckney, Ellsworth, Davie, Few, Paterson, Strong and Wingate had been at Philadelphia.

[90] The handwriting of secs. 10 through 23 of the original Draft Bill is that of Ellsworth, Warren, *supra* n. 39, at 50. See also Maclay, *Sketches of Debate in the First Senate* 90 (1880) where Maclay refers to the Judiciary Bill as a child of Ellsworth.

[91] Warren, *supra*, n. 39, at 57.

[92] *Ibid*, 68. See n. 11, *supra*. Justice Story shared this view. *Martin* v. *Hunter's Lessee*, 1 Wheat. (U.S.) 304, at 323 (1816).

[93] The final Judiciary Act severely limited the jurisdiction of the district and circuit courts. See part 5, *infra*. In the 20 years following 1789, Congress vested the state courts with a large variety of cases; including suits by the United States for penalties, suits to recover custom duties, prosecutions of crimes against the United States, and taxation actions. Warren, *supra* n. 39, at n. 49, 70. In 1801, Congress granted jurisdiction to the lower federal courts to hear all cases arising under the Constitution, laws, and treaties of the United States. Act of Feb. 13, 1801, chap. 4, sec. 11, 2 Stat. 92. This jurisdictional grant was almost immediately repealed. Act of March 8, 1802, chap. 8, sec. 1, 2 Stat. 132.

[94] Maclay, *supra* n. 90, at 102–104. Maclay voted against the bill because he believed it took too much power away from the states. Maclay, *op. cit.* 95, 112.

[95] 1 *Annals of Congress, 1789–1790* 798–799. Smiths' argument is extremely relevant in the consideration on policy grounds of a bill limiting Supreme Court jurisdiction. He mentions the necessity of uniformity of decision, the necessity of a single authority to collect and focus decisions, and the possibility of state obstruction of Federal policy. He also concedes the great danger of Supreme Court control of state court decisions and its potentiality for the sapping of the Federal system.

[96] *Ibid.* 799.

[97] *Ibid.* 802–803, 817, 819.

[98] *Ibid* 818.

[99] The right of Congress to grant to the Supreme Court appellate power remained under heavy attack for nearly thirty years. In 1815, the Virginia Court of appeals held section 25 unconstitutional. On appeal to the Supreme Court, this decision was reversed. *Martin v. Hunters Lessee, supra*, n. 92. During his long discussion of the Judiciary Article and Judiciary Act, Justice Story said at 326–327: "Hence its powers [the Constitution's] are expressed in general terms, leaving to the legislature, from time to time to adopt its own means to effectuate legitimate objects and mould and model the exercise of powers as its own wisdom, and the public interest should require".

To this day, the power of Congress to pass sec. 25 is infrequently questioned. It is now well established, however that such authority was intended by the Framers. See Thayer, *The Origin and Scope of the American Doctrine of Constitutional Law* in Legal Essays I (1908); Beard, *The Supreme Court and the Constitution* (1912).

Absent sec. 25, Supreme Court power to declare state laws Unconstitutional, which is completely without specific Constitutional foundation, would also be without statutory justification. Sec. 25, a slim enough thread on which to base the holding of *Martin v. Hunters Lessee*, would not have been available to Justice Story. It is difficult to believe this case would even have arisen without sec. 25. If it had, *Martin* v. *Hunters Lessee* would surely have gone the other way if only on grounds of public policy, based on a fear of state nullification and possible subsequent dissolution of the Union. Because Story could point to Congressional action that he was upholding, the states would concentrate their attack on the decision on Congress and not on the Court.

[100] A reading of the debates in the House gives this impression. See 1 *Annals of Congress, supra*, n. 95, at 781–834. In the Senate a similar atmosphere prevailed. Maclay, *supra*, n. 90, 89–111.

[101] Warren believed that the friends of the Constitution in the First Congress restricted the appellate jurisdiction in a more drastic and extreme manner than even their opponents had advocated. Warren, *supra*, n. 39, at 102.

[102] Sec. 1 set the number of justices to sit on the Supreme Court, the number required for a quorum, and the time and place of meeting of the Court; sec. 7 empowered both the circuit courts and Supreme Court to appoint clerks; sec. 8 required the Supreme Court justices and the district judges to take an enumerated oath; sec. 13 required in certain cases a jury in the Supreme Court and granted appellate jurisdiction "in the cases herein after specially provided"; sec. 14 granted the district court and the Supreme Court habeas corpus power; sec. 15 authorized all courts to require books and writings

of the parties to be brought into court; sec. 17 grants all courts rule making and contempt powers; sec. 22 specifies appellate power for the circuit court and the Supreme Court and sets time limits for appeals; sec. 23 authorizes costs to be assessed by the circuit courts and the Supreme Court; sec. 26 provides for jury trial of damages in all courts; sec. 24 provides reversal procedures for both the circuit courts and the Supreme Court; sec. 27 authorizes the appointment of marshals for all courts; sec. 30 provides that modes of proof for all the courts be the same.

In April, 1802, Congress amended sec. 1 by abolishing the August term of the Supreme Court and requiring all appeals to be delayed until February, 1803. Act of April 29, 1802, chap. 31, sec. 1, 2 stat. 156. This action was probably the most extreme historically under the Exception and Regulation power, involving a complete foreclosure of all appeals for nearly one year.

[103] Act of Sept. 24, 1789, ch. 20, sec. 22, 1 Stat. 84. (This Act will be hereafter referred to as The Judiciary Act.)

[104] See Plunkett, *A Concise History of the Common Law* 202 (1948). The Act of Feb. 6, 1889, ch. 113, sec. 6, 25 Stat. 655 permitted an appeal for capital convictions only. In *United States v. More*, 7 U.S. (3 Cranch) 159 (1805), the Supreme Court held that it could not review a dismissal of an indictment because no such procedure was authorized by the Judiciary Act of 1789.

[105] The Judiciary Act, sec. 14, 1 Stat. 81. The availability of the writ of habeas corpus was limited to persons in custody under or by color of the authority of the U.S., or committed for trial before some court of the same, or needed in a U.S. court to testify. See *Ex parte Bollman*, 8 U.S. (4 Cranch) 75 (1807) where the Constitutionality of sec. 14 was challenged. Marshall rejected an argument that the habeas corpus power was analogous to the mandamus power held Unconstitutional in *Marbury v. Madison*. He also rejected an assertion that the habeas corpus authority was not something separate but was auxiliary to powers granted in other sections of the Judiciary Act, and as the Supreme Court had no such powers to which this could attach, it had no habeas corpus right at all.

The proviso clause of section 14 could arguably be interpreted to forbid habeas corpus power of the Supreme Court after conviction. In 1833, Congress extended habeas corpus to persons confined under the authority of a federal court. Act of March 2, 1833, ch. 57, sec. 7, 4 Stat. 634.

[106] *Ex Parte Bollman op. cit.*, at 96–97.

[107] Minor crimes and offenses against the U.S., admiralty actions, actions for penalties under the laws of the U.S., suits at common law when the U.S. was plaintiff, suits against vice-counsels of foreign countries, and actions in tort by aliens. The Judiciary Act, sec. 9, 1 Stat. 76.

[108] The Judiciary Act, sec. 22, 1 Stat. 84. This state of affairs was changed by the Act of March 3, 1803, ch. 40, sec. 2, 2 Stat. 244 which made these cases capable of appellate review by the Supreme Court if the $2000 amount in sec. 22 was met. But see *United States v. Mourse*, 31 U.S. (6 Pet.) 470 (1832).

[109] The Judiciary Act, secs. 21, 22, 1 Stat. 83–84.

[110] Authority to hear as an original matter cases where the U.S. was plaintiff, suits by aliens, and diversity suits were concurrently granted to the state courts, the district courts, and the circuit courts by the Act. See The Judiciary Act, secs. 9, 11, 1 Stat. 76, 78–79.

[111] There was no allowance of appeal for federal crimes tried originally in the circuit courts. See text accompanying nn. 102–104 *supra*.

[112] See nn. 55, 69 *supra*. In 1925 Congress finally removed the requirement of a jurisdictional amount on appeal. Act of Feb. 13, 1925, ch. 229, sec. 240, 43 Stat. 938–939.

[113] Sec. 25 allowed appeals of state court decisions only in the so called federal question cases. Diversity was not considered a federal question. The Judiciary Act, sec. 25, 1 Stat. 85. Today the limit is $10,000, and those cases under this figure are still unappealable unless the appellant alleges a separate Federal question ground.

[114] The Northwest Ordinance had been enacted under the Articles of Confederation. It was carried forward by the First Congress. 1 Stat. 50 (1789). In *Clarke v. Bazadone*, 5 U.S. (1 Cranch) 212 (1803) the Supreme Court dismissed a writ of error from the general court of the Territory. The court held that no appeal was authorized as Congress had not so specified in the Judiciary Act, even though to deny the appeal was against "actual justice".

[115] An appeal historically allowed review of both law and facts while a writ of error was restricted to questions of law. This again reflects Congressional awareness of some of criticism directed at the judicial power during ratification. See nn. 44, 45 *supra*.

This restriction of the Supreme Court should be compared with the lack of a similar restriction on review by the circuit courts in admiralty cases. The Judiciary Act, sec. 21, 1 Stat. 83.

The Seventh Amendment precludes appellate review of facts beyond common law standards in jury cases. Sec. 22 extends this and precludes factual review of equity cases and admiralty libels.

[116] The Judiciary Act, sec. 25, 1 Stat. 85.

[117] See Ratner, *supra*, n. 7, at 185 for an explanation how these two holdings deny to the party who lost on the issue his rights under federal law or the Constitution. This losing party was entitled to no review of his claim by the Supreme Court under Sec. 25.

[118] In 1914 Congress finally granted to the Court authority in these situations. Act of Dec. 23, 1914, chap. 2, 38 Stat. 790. Prof. Ratner traces the events leading up to this action. Ratner, *op. cit.* 187–188. N.Y. had declared its state workmens compensation law Unconstitutional and review to the Supreme Court was foreclosed by the descendant of sec. 25. Congress under public pressure realizes that sec. 25 left the state courts too much Constitutional interpretation power.

[119] See n. 115 and accompanying text, *supra*.

[120] Which if the state court favored the federal claim, would result in no appeal in the case.

[121] See *Crowell* v. *Randall*, 10 Peters 368 (1836); *Menard v. Aspasila*, 5 Peters 505 (1831); *Jackson* v. *Lamphire*, 3 Peters 280 (1830).

[122] Ellsworth and Paterson were members of the Judiciary Committee of the Senate and together were largely responsible for the first draft of the bill. See nn. 89, 90 *supra;* Warren *supra, n.* 39, at 50. Wilson also played some part in the Judiciary Act debates. Maclay, *The Journal of William Maclay* 98 (1928). Both Ellsworth and Wilson were members of the Committee on Detail. See n. 26, *supra*.

[123] 3 U.S. (3 Dall.) 321 (1796).

[124] The opinion in *Wiscart* v. *Dauchy* apparently was written in deciding a previous case with a slightly different fact situation. This case, *Pinado* v. *Berned*, was not reported because of the absence of the court reporter. It involved a petition for review from an admiralty decision below and the question was primarily one of statutory interpretation of the Judiciary Act. The appellant argued that sec. 21 and sec. 22 of the Act taken together authorized an appeal in admirality cases while the appellee contended that sec. 22 must be read alone and only a writ of error was permitted. See 3 U.S. (3 Dall.) 325. *Wiscart* v. *Dauchy* involves a review of an equity decision which clearly was limited by sec. 22 to a writ of error. The dissenting opinion of Justice Wilson refers only to the admiralty case.

[125] 3 U.S. (3 Dall.) 327. This statement by the drafter of the Judiciary Act and the Judiciary Article expresses a belief in absolute Congressional control over the appellate jurisdiction, which if not exercised by the Congress, completely shuts off appellate review in the particular area. It also strongly negates the concept of a Constitutionally vested appellate jurisdiction subject only to limited Congressional veto.

[126] 3 U.S. (3 Dall.) 329.

[127] *Ibid.*, 325–326.

[128] *Ibid.*, 326.

[129] *Ibid.*, 325. This final statement of Wilson's merits comparison with his answer at the Philadelphia Convention in 1787, *supra* pg. 24–25, where in response to someone who worried about the Supreme Court overturning jury verdicts, he gave the example of admiralty cases as ones where Congress should have the authority to determine when a factual appeal should be allowed or denied. See discussion concerning the difficulty of determining original intent for a possible explanation of Wilson's change of opinion, *supra* pg. 9–10.

[130] 3 U.S. (3 Dall. 336) (1797).

[131] *Ibid.*, 337.

[132] *Ibid.*, at 337. However Wilson also went along and joined in Patterson's opinion.

Mr. BYRD of Virginia. Mr. President, the distinguished junior Senator from Michigan (Mr. GRIFFIN) just made reference to the rollcall vote of a week ago in which his antibusing proposal was defeated by just one vote.

Yesterday, the people of the great State of Florida, some 2 million strong, spoke out and expressed their views as to compulsory busing to achieve a racial balance.

The people of Florida, by a 75-percent vote, went on record as telling the government of their State and the Government of the United States that they do not approve of this policy dictated by the Federal courts and, to some extent, by the Department of Health, Education, and Welfare in Washington, D.C.—that the people of Florida do not approve, by an overwhelming majority, of such action.

Mr. President, I cannot speak for any other State, but I believe if such a proposal were on the ballot in the State of Virginia, the people of Virginia, likewise, by a vote of 75 percent, would register their disapproval of the court-dictated edicts on compulsory busing to achieve an artificial racial balance.

That minority of Senators in this Chamber who supported the amendment offered by the Senator from Michigan (Mr. GRIFFIN) are in closer touch with the sentiments of the people than are the majority of Senators who voted against his amendment.

RECONFIRMATION OF FEDERAL JUDGES

Mr. BYRD of Virginia. Mr. President, I have introduced an amendment to the Constitution which would provide that all Federal judges be subject to reconfirmation by the Senate after a term of 8 years in office.

Federal judges are appointed for life. They are accountable to no one.

It is time that we restored balance in

the Government by making Federal judges more responsible to the people.

In recent years the Federal courts have assumed more and more power—power which under the Constitution, was reserved to the Executive, the legislature, the States, and the people themselves.

This misuse of power was not envisioned by the Founders of this Republic. I believe that it is time that the judiciary be made, once more, a coequal branch of the Government, rather than the self-appointed supervisor of nearly every aspect of our country's existence.

Today, we find the executive branch and the Supreme Court assuming more and more power, and the elected representatives of the people having less and less power.

Part of this clearly is the fault of the Congress for not facing its responsibilities. But part of the erosion of congressional authority results from usurpations of power by the other branches of the Government.

Today, I believe we have an imbalance of power as among the three branches. The amendment I have proposed is directed to correcting part of the imbalance created by unwarranted judicial assumption of power.

If representative government is to continue, if our democratic processes are to have the meaning intended by the Constitution, then this imbalance must be corrected—and now.

I have enormous respect for the men who drafted our Constitution 184 years ago. I believe that, had the Supreme Court followed the role designed for it by those framers of the Constitution, an amendment such as this would be unnecessary.

A careful review of the debates of the Constitutional Convention makes clear several points.

First, the convention was unanimous in its desire that the Federal courts should be an independent branch of the Government. Thus, provision was made for lifetime appointments, limited only by good behavior.

Second, it is obvious that the men who drafted the article on the judiciary never for a moment intended that the courts should attempt to act as a legislative body in seeking solutions to every social problem facing this country. In discussing the scope of judicial authority, not even the strongest of the federalists ever suggested that the Federal courts should, or could, extend Federal law into the domain reserved for the States and the legislative branch of Government.

Third, by specifically refusing to allow Congress the power to remove judges from the bench, except by the very difficult route of impeachment, the convention placed the disciplining of the courts into the hands of the individual judges.

For the better part of this Republic's existence, the unwritten canon of judicial restraint, as expressed by such great Justices as Holmes, Brandeis, Stone, Hughes, Cardozo, and Frankfurter, was one of our most hallowed legal principles.

In furtherance of that doctrine, the Supreme Court enunciated several rules: The Court refused to pass on political questions; it deferred to State common law principles; it refused to enunciate constitutional rulings, unless absolutely necessary; it refused to rule upon moot questions; it deferred to a State's interpretation of its own constitution and statutes; and it strictly interpreted the rules concerning "standing" to bring a lawsuit.

In recent years, the Federal courts have ignored or discarded each of these wise doctrines. Now the Court, acting under the premise that the Constitution is whatever the judges say it is, has plunged into what its admirers like to call a "revolution."

One of the greatest scholars of the modern judiciary recognized the Court's unique position in our governmental arrangement. Dissenting in the reapportionment decision, Baker against Carr, Mr. Justice Frankfurter stated:

> The court's authority—possessed of neither the purse nor the sword—ultimately rests on sustained public confidence in its moral sanction.

Mr. Justice Frankfurter's views on judicial self-restraint, if adhered to, would have precluded much of the criticism suffered by the Court.

Unfortunately, the era of judicial self-restraint appears to be over. The tragic result of this is that the judiciary, accountable to no one, has run rampant in asserting its authority over the daily lives of all Americans.

It was never intended that the Federal judiciary should have the power to rewrite the Constitution. Chief Justice Marshall, one of the great activists of the Court, stated that, "It is a Constitution we are expounding." He did not use the word "expanding."

I believe, as did Mr. Justice Cardozo—

> That Justices are not commissioned to make and unmake rules at pleasure, in accordance with changing views of expediency or wisdom.

I believe, as Mr. Justice Frankfurter asserted, that the Court should not repudiate "the experience of our whole past in asserting destructively novel judicial power."

Mr. Justice Holmes asserted that Supreme Court Justices must be careful not to let the Constitution become the mere partisan of their own set of ethical or economic principles.

If the Justices are permitted to substitute their personal sense of justice for rules of law, the reign of law will end, Mr. Cardozo noted, and the rule of benevolent despots will begin.

Is not that about where we find ourselves today?

Thomas Jefferson recognized the danger of government by men rather than by laws when he counseled:

> In questions of power, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution.

Mr. President, I like that quotation from Thomas Jefferson so much that I want to read it again:

> In questions of power, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution.

Our constitutional system is based upon a respect for the rights of the individual. But it is a logical inconsistency and a social impossibility for every individual to have unlimited rights against all other individuals.

Only with the restraint of law impartially applied, can there be justice, tranquility, welfare, and freedom for all. And respect for the law in a democracy is a respect for justice, tranquility, welfare, and freedom.

In recent times, however, we find that respect for the law has been eroded.

One of the factors which has contributed to this decline of respect for law and order has been the recent trend of decisions rendered by the Supreme Court.

Too often the hallmark of the modern court has been the voice of power, not the voice of reason.

Listen to a recent member of the Supreme Court, Mr. Justice Harlan:

> This court can increase respect for the Constitution only if it rigidly respects the limitations which the Constitution places upon it (the Court).

The court-created revolution which began in the Supreme Court has permeated the lower Federal courts. The flagrant abuse of injunctive powers of Federal district judges, has grown over the last few years to the point where, in each section of our country the daily lives of the citizens are subject to regulations by single Federal district judges.

These men have, in many cases, arrogantly assumed unto themselves the prerogatives of lords of the middle ages. Nothing in our system at present exists to control these judges. Their passions of the moment are totally unrestrained, even by the collective wisdom of fellow judges.

In case after case, local Federal district judges have taken it upon themselves to intervene in areas set aside by the Constitution for State and local action. They have interfered with the operation of schools and universities. They have set forth detailed regulations for the administration of State penal facilities; they have dictated to local school boards, and in some areas, they have even gone so far as to suggest that local governing bodies should make appropriations of moneys for projects which the judges feel are necessary.

Only recently a Federal court ordered a State to forego the election of local officers—even when this issue never had been presented to the court by any of the parties involved.

One Federal judge has ordered the consolidation of the school systems of two counties and one city.

Unless this decision is reversed, what is to prevent the judicial enforcement of total mergers of cities and counties?

No one has expressed the problem of the Judiciary better than former Justice Harlan, dissenting in the decision which overturned both State and Federal welfare residency laws, when he stated:

> Today's decision, it seems to me, reflects to an unusual degree, the current notion that this Court possesses a peculiar wisdom all its own, whose capacity to lead the nation out of its present troubles, is contained only by the limits of judicial ingenuity in contriving new Constitutional principles to meet each problem as it arises.

Mr. President, when the Federal courts have cast aside the bonds of self-restraint and have taken it upon themselves to legislate, the hour has come for the legisla-

tive branch of the Government to assert itself, and bring the Court back into line with the original desires of the drafters of the Constitution.

I fully support the concept of an independent judiciary. The legislation I introduced simply provides a method by which the courts might be made more accountable to the people.

My amendment states that judges could serve in office for a term of 8 years, at the end of which term, they would be automatically nominated for reconfirmation by the Senate. If reconfirmed by the Senate, they would continue to serve for another 8 years.

Of course, this amendment contains the standard "grandfather clause" and would not apply to judges who are presently sitting.

Every State in the Union, except Massachusetts, provides for periodic reconfirmation of State judges. This has not destroyed the independence of State judges. I see no reason why a provision of reconfirmation would destroy the independence of the Federal judiciary.

Why should any official in a democracy have a lifetime appointment?

Too many Federal judges have come to ignore all of the principles of judicial self-restraint. This has been recognized even by members of the Court itself.

Mr. Justice Harlan, in June, 1969, stated:

> Swept up in a Constitutional revolution of its own making, the Court has a tendency to lose sight of the principles that have traditionally defined and limited its role in our political system.

Since it is impossible, by an amendment to the Constitution, to restore the time-honored doctrine of judicial self-restraint, the amendment which I have introduced will provide the people, through the Senate, an opportunity to review, every 8 years, the actions of individual judges.

This period of time is long enough for the decisions of that judge to be weighed as a whole. There is little danger that the Senate might be influenced by any single decision. The length of the term and the makeup of the Senate should preclude the injection of partisan politics into the decision as to whether a judge should be reconfirmed.

There would be no chance that the renomination would be subject to a filibuster, since the amendment provides that the judge would remain in office until the Senate reached a decision.

In order that the financial independence of the judiciary might be maintained, I have proposed that if a judge were not reconfirmed, he would be retired at full pay. As a companion to my constitutional amendment, I introduced a bill to that effect.

The people of the United States, through their power to ratify amendments to the Constitution, should be given an opportunity to express their views as to whether Federal judges should be made more responsible to the people.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, March 15, 1972, he presented to the President of the United States the following enrolled bills:

S. 888. An act for the relief of David J. Crumb;

S. 1362. An act to authorize the Commissioner of the District of Columbia to enter into contracts for payment of the District's equitable portions of the costs of reservoirs on the Potomac River and its tributaries, and for other purposes; and

S. 1977. An act to establish the Oregon Dunes National Recreation Area in the State of Oregon, and for other purposes.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUMPHREY. 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 remarks that Mr. HUMPHREY made at this point on the introduction of several bills are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

QUORUM CALL

Mr. GRIFFIN. 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.

AUTHORITY FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE HOUSE OF REPRESENTATIVES DURING THE ADJOURNMENT OF THE SENATE

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that during the adjournment of the Senate until 10 a.m. on Friday, the Secretary of the Senate be authorized to receive messages from the House of Representatives.

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

AUTHORIZATION FOR THE PRESIDENT PRO TEMPORE TO SIGN DULY ENROLLED BILLS AND JOINT RESOLUTIONS DURING THE ADJOURNMENT OF THE SENATE

Mr. BYRD of West Virginia. I ask unanimous consent that during the adjournment of the Senate until 10 a.m. on Friday, the President pro tempore be authorized to sign duly enrolled bills and joint resolutions.

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

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the Senate will next convene on Friday at 10 o'clock a.m.

After the two leaders have been recognized under the standing order, the distinguished Senator from Illinois (Mr. PERCY) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes, at the conclusion of which the Senate will resume consideration of House Joint Resolution 208, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

A time agreement has been entered into with respect to House Joint Resolution 208, the time agreement providing for 16 hours of debate on the resolution, 2 hours on any amendment, and 30 minutes on any debatable motion, appeal, or point of order. Rollcall votes could possibly occur on House Joint Resolution 208 on Friday with respect to any amendments which might be offered thereto.

In any event, at 1 o'clock p.m., on Friday, a yea-and-nay vote will occur on a treaty, Executive C, 92d Congress, second session, after which the Senate will resume consideration of the equal rights for women amendment.

Mr. President, conference reports can also be brought up, of course, at any time on Friday. The conference report on the drug bill, for example, could conceivably be taken up. If that should occur, a rollcall vote could be had thereon.

ADJOURNMENT UNTIL 10 A.M., FRIDAY, MARCH 17, 1972

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. on Friday next.

The motion was agreed to; and at 3:40 p.m. the Senate adjourned until Friday, March 17, 1972, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate March 15, 1972:

DIPLOMATIC AND FOREIGN SERVICE

Charles S. Whitehouse, of Virginia, a Foreign Service Officer of class 1, to hold the rank of Ambassador while serving as Deputy Ambassador to the Republic of Vietnam.

U.S. NAVY

Vice Adm. Noel A. M. Gayler, U.S. Navy, for appointment to the grade of admiral for the duration of his service in duties determined by the President to be of importance and responsibility within the contemplation of subsection (a), title 10, United States Code, section 5231, for which duties I have designated Admiral Gayler.

CONFIRMATION

Executive nomination confirmed by the Senate March 15, 1972:

JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA

Jack O. Horton, of Wyoming, to be a member of the Joint Federal-State Land Use Planning Commission for Alaska.